File ID Number: HWCB2016487 DEQ/DWM/Hazardous Waste Section

NCD/NCR (other) Number: NCS000000231

Facility Name: Heaven Clothing

Address: 1500 Central Ave. **City:** Charlotte

County: Mecklenburg

File Date Range: 6/21/01—1/3/03

Document Type (s)

_____ Inspection Reports

_____ *NOV (See Comments)

_____ * Compliance Orders/Settlement Agreement (See Comments)

*(Provide NOV Type, Docket Number and Date of NOV in Comment Section)

X Correspondence/Letters

_____ Pictures (Tape to a full sheet of paper)

_____ ** Name Change and Date of Change

** (Write Name Change Information in Comment Section)

_____ Sampling Data

_____ Other Information (See Comments)

Comments:

Box ID Number:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Shannon Brice
The Peach
1500 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 8/9/01

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Hand delivered 8am 8/9/01

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

7000 0600 0024 1963 7634

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAKE LURE, NC 28746 JUN 22 2001 USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Shannon Brice / The Peach

Street, Apt. No.; or PO Box No.
1500 Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carolyn Barber
Reggae Central
1506 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 8/9/01

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Hand delivered - BAM 8/9/01

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

7000 0600 0024 1963 7696

eturn Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ ~~1.96~~ .55
Certified Fee	1.80
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.95

LAKE LURE, NC 28746
JUN 22 2001
USPS
Postmark Here

Recipient's Name (Please Print Clearly) (to be completed by mailer)
Carolyn Barber / Reggae Central
Street, Apt. No.; or PO Box No.
1506 Central Ave
City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Century Furniture
1508 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Allyson Speaks

B. Date of Delivery

C. Signature
X
☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7573

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7573

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here
LAKE LURE NC 28746
JUN 28 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Century Furniture
Street, Apt. No.; or PO Box No.
1508 Central Ave
City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DIALLO Cherif
DIALLO INC.
1506-B CENTRAL AVE
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* DIALLO ABDOULRAZ

B. Date of Delivery JUL 09 2001

C. Signature

X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7597

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7597

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here: LAKE LURE, NC 28746 JUN 28 2001 USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
DIALLO Cherif / DIALLO Inc.
Street, Apt. No.; or PO Box No.
1506-B Central Ave
City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

John Rainey
Alternative Arts Tattoo
1502 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 8/9/01

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Hand delivered - Ben 8/4/01

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

7000 0600 0024 1963 7627

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

LAKE LURE, NC 28746
Postmark Here
AUG 22 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
John Rainey / Alternative Arts Tattoo
Street, Apt. No.; or PO Box No.
1502 Central Ave
City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sladjana Novakovic
Nova Bakery
1511 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 8-09-01

C. Signature

X Marita Perez

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1 n Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7689

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAURE, NC JUN 22 2001 USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Sladjana Novakovic / Nova Bakery

Street, Apt. No.; or PO Box No.
1511 Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Fuel Pizza
1501 Center Ave
Charlotte NC
28205

2. Article Number *(Copy from service label)*

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* | B. Date of Delivery 8/9/01

C. Signature
X
☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Hand delivered - BAM 8/9/01

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7665

Postage	$ .55
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.95

LAKE LURE, NC 28746
Postmark Here
JUN 22 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Fuel Pizza
Street, Apt. No.; or PO Box No.
1501 Center Ave
City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7832

Postage	$ 3.74
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here

LAKE LURE, NC 28746
JUN 20 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
THOMAS GRIFFIN

Street, Apt. No.; or PO Box No.
401 S. TRYON ST suite 300

City, State, ZIP+4
Charlotte NC 28202

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas Griffin
Parker Poe Adams Bernstein
401 S Tryon St, Suite 3000
Charlotte NC 28202

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Ron Medeiros

B. Date of Delivery 1/31

C. Signature

X Ron Medeiros

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0026 1496 6744

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

THOMAS GRIFFIN
PARKER, POE, ADAMS, BERNSTEIN
401 S TRYON ST. SUITE 300
CHARLOTTE NC
28202

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Olga Keep

B. Date of Delivery 6/2

C. Signature

X Olga Keep

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7232

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LAURA NANNS
HEALTH Compliance Office
901 Blair Hill Rd Suite 200
Charlotte NC
28217-1570

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1943 7472

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAKE LURE, NC 28746
JUN 22 2001
USPS

Recipient's Name (Please Print Clearly) (to be completed by mailer)
LAURA MANNS / DOL

Street, Apt. No.; or PO Box No.
901 BLAIR Hill Rd ; Suite 200

City, State, ZIP+4
Charlotte NC 28217-1579

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rusty Connell
Dukon Paints
1218 Gordon St.
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* R. Connell

B. Date of Delivery 6-23-01

C. Signature

X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7224

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAKE LURE, NC 28746
JUN 22 2001
USPS

Recipient's Name (Please Print Clearly) (to be completed by mailer)
Rusty Connell / Duron Paints

Street, Apt. No.; or PO Box No.
1212 Gordon ST

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Albert Pickett
5631 mt Olive Church Rd
Charlotte, NC
28279

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery
6-21-01

C. Signature
X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7825

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 7963 7825

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

LAKE LURE, NC 28746
JUN 20 2001
Postmark Here
USPS

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Albert Pickett

Street, Apt. No.; or PO Box No.
5631 Mt Olive Church Rd

City, State, ZIP+4
Charlotte NC 28275

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

W. Stanley Russell
1506-A Centrale Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 7-5-01

C. Signature
X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7580

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7580

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here

LAKE LURE, NC 28746
JUN 28 2001
USPS

Recipient's Name (Please Print Clearly) (to be completed by mailer)
W. Stanley Russell

Street, Apt. No.; or PO Box No.
1506-A Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MS Juanita Aughtry
WATER-N-Health
1225 Gordon St
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 6-23-01

C. Signature

X Juanita Aughtry

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1943 7779

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAKE LURE, NC 28746
JUN 22 2001
USPS

Recipient's Name (Please Print Clearly) (to be completed by mailer)
Juanita Aughtry / Water-N-Health

Street, Apt. No.; or PO Box No.
1229 Gordon St

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SUSAN COOPER
Kilpatrick, Stockton
301 S. College Street
Charlotte NC
28202-6001

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery 6/21/01

C. Signature

X Kerween Fils

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7856

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 7943 7854

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here

LAKE LURE, NC 28746
JUN 20 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Susan Cooper

Street, Apt. No.; or PO Box No.
301 South College St

City, State, ZIP+4
Charlotte NC 28202-6001

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Stanford Bair
100 N Tryon ST
Charlotte NC
28202-4006

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Dave Wat...

B. Date of Delivery 6/22/01

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7845

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7849

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

Postmark Here

LAKE LURE, NC 28746
JUN 20 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Stanford Baird

Street, Apt. No.; or PO Box No.
100 N. Tryon St, 42 Floor

City, State, ZIP+4
Charlotte NC 28202-4006

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

James Fundenburk
Urban Evolution
1500 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Anthony Tuen JUL 1 0 2001

B. Date of Delivery

C. Signature

X

☑ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7458

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

LAKE LURE, NC 28746
JUN 22 2001
USPS

Postmark Here

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
James Funderburk

Street, Apt. No.; or PO Box No.
1500 Carmel Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bisous Cafe
1509 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Deborah Bagnat

B. Date of Delivery 1/7/08

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article

PS Form

595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0400 0024 1963 7702

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

Postmark Here

LAKE LURE, NC 28746
JUN 22 2001
USPS

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Bibbus Cafe

Street, Apt. No.; or PO Box No.
1505 Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Uncommon Home
1510 Central Ave
Charlotte NC
28205

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 1963 7566

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 1963 7594

Postage	$ 34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.74

LAKE LURE, NC 28746
JUN 28 2001
USPS

Postmark Here

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Uncommon Home

Street, Apt. No.; or PO Box No.
1510 Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0400 0024 1963 7941

Postage	$ 55
Certified Fee	190
Return Receipt Fee (Endorsement Required)	150
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 395

LAKE LURE, NC 28746
JUN 22 2001
USPS

Postmark Here

Recipient's Name *(Please Print Clearly) (to be completed by mailer)*
Safari International

Street, Apt. No.; or PO Box No.
1504 Central Ave

City, State, ZIP+4
Charlotte NC 28205

PS Form 3800, February 2000 See Reverse for Instructions

Subject: **Funderburk, Heaven Clothing CLOSED**
Date: Thu, 30 Jan 2003 11:43:20 -0500
From: Roberta Proctor <rhp177@bellsouth.net>
Reply-To: roberta.proctor@ncmail.net
Organization: Hazardous Waste Section
To: Jill Pafford <Jill.Pafford@ncmail.net>,
BUD MCCARTY <BUD.MCCARTY@ncmail.net>,
Doug Holyfield <Doug.Holyfield@ncmail.net>, Jesse Wells <jesse.wells@ncmail.net>,
Allison Corum <Acorum@mail.jus.state.nc.us>,
Mark Burnette <mark.burnette@ncmail.net>
CC: Joe Parker <Joe.parker@ncmail.net>

Attached is the letter closing this site out
!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Heaven closure letter.doc	**Name:** Heaven closure letter.doc **Type:** Winword File (application/msword) **Encoding:** base64

Roberta Proctor <roberta.proctor@ncmail.net>

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

January 31, 2003

Mr. James Funderburk
1500 Central Avenue
Charlotte, North Carolina 28205

Dear Mr. Funderburk:

Re: Heaven, LLC. Vs. DENR, DWM
01 HER 1257, DWM Docket number 2001-043

I have reviewed the closure report that was sent via facsimile for the clean up of lead contaminated sandblasting media at the Central Avenue site(s). The plan has been determined to be complete and the remediation requirements of the Settlement Agreement for the Compliance Order fulfilled. No further action is required for this site.

If you have any questions, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Bud McCarty
Jesse Wells
Allison Corum
Central Files

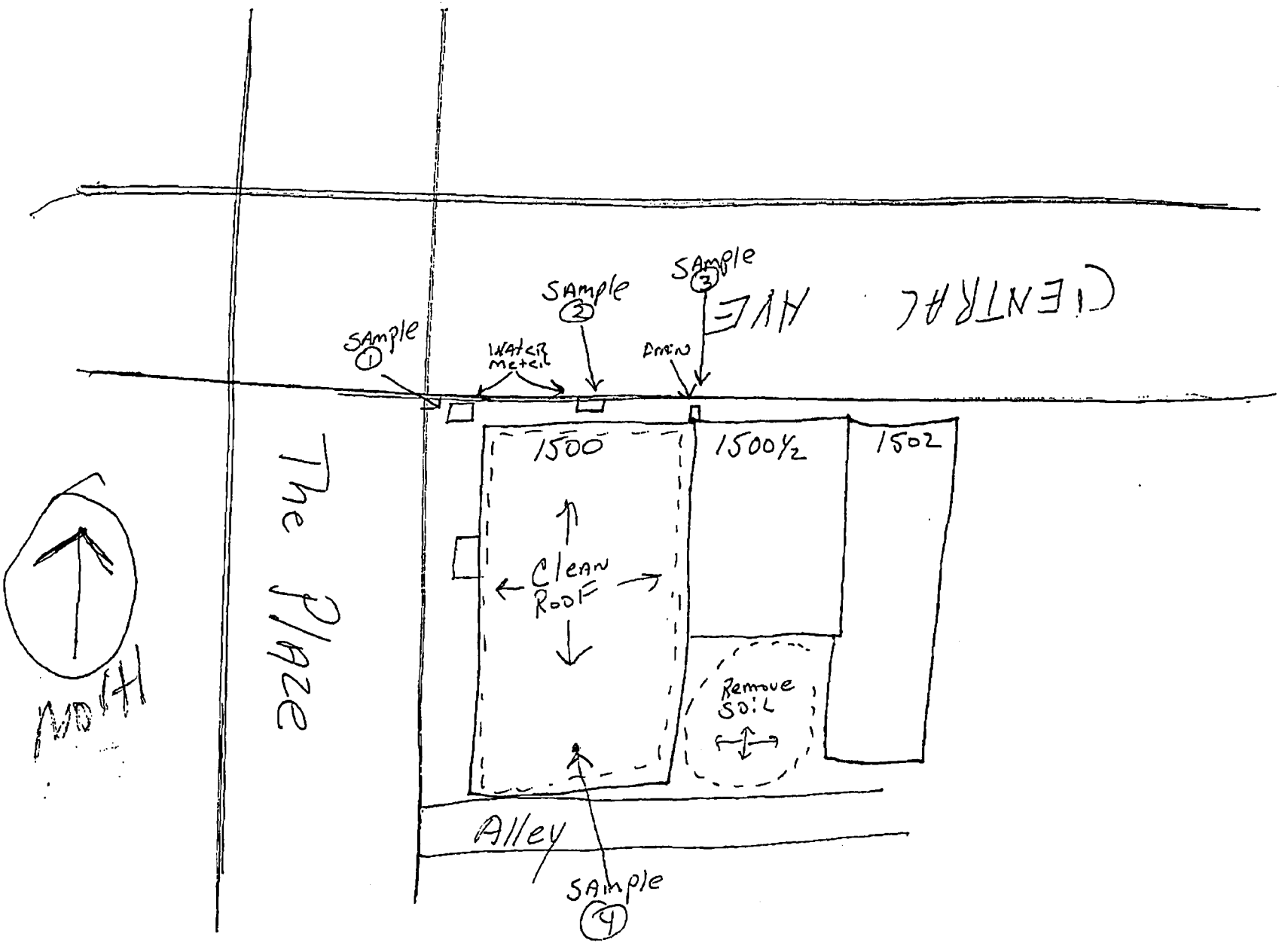
PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

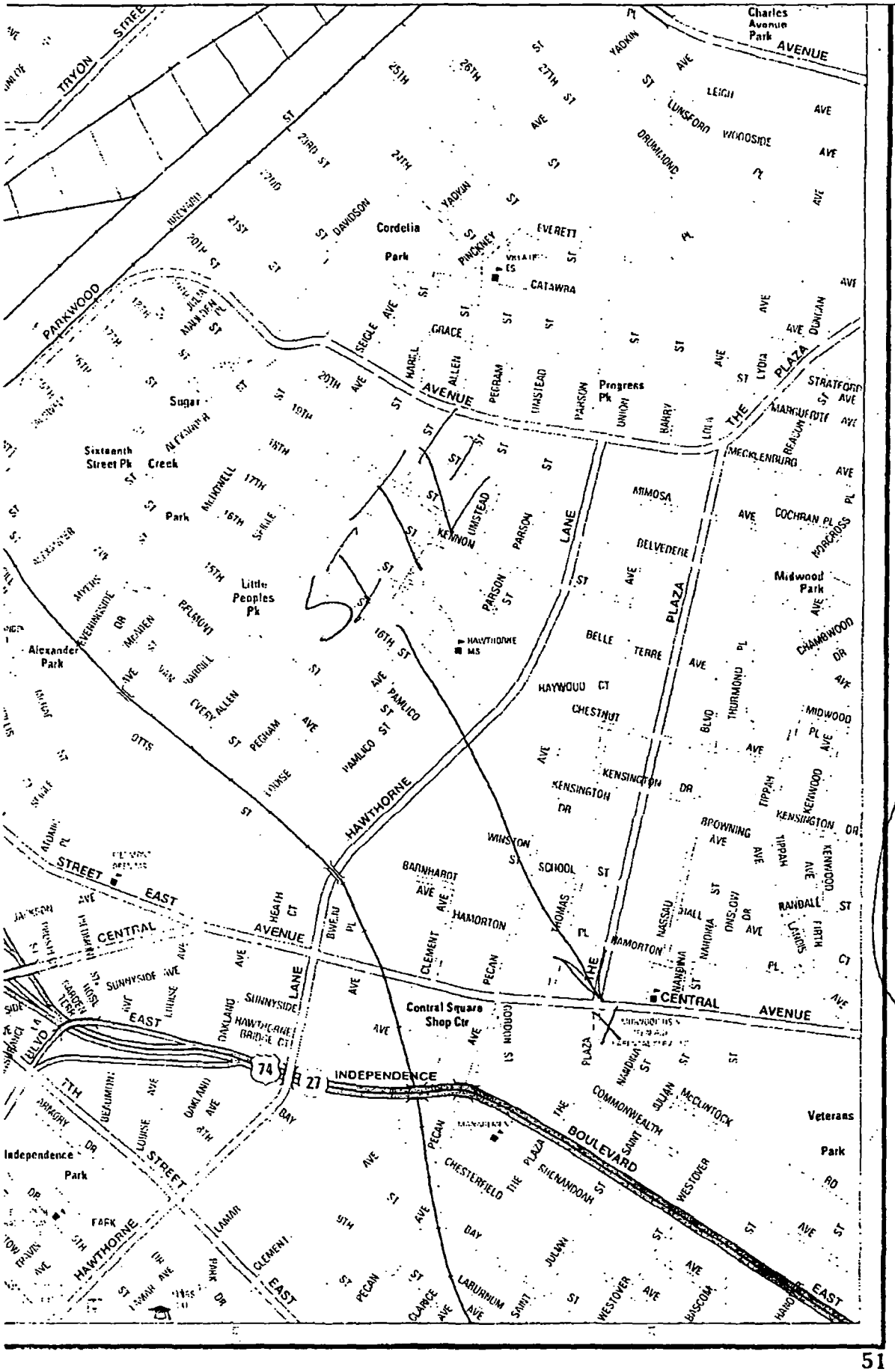
AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER – 50% RECYCLED POST CONSUMER PAPER

Robin,

These are the results for Heaven, LLC at 1500 Central Avenue, Charlotte, NC. I am also sending the reports to you as some of them are hard to read.

Thanks
James Funderburk


CENTRAL AVE
Sample 1
Water Meter
Sample 2
Drain
Sample 3
1500
1500½
1502
Clean Roof
Remove Soil
Alley
Sample 4
The Plaza
North



Jan 28 03 01:23p URBAN EVOLUTION 704-332-5711 p.3

ENVIRONMENTAL CONSULTING SERVICES, INC. EHS 08-02 0012 LABORATORY SUBMISSION FORM
6189 ST. ANDREWS ROAD # 15, COLUMBIA, SC 29212 803/772-1079 FAX 803/218-0800

CONSULTANT: JON BOND LICENSE # SUBMITTED TO: EMS

OF SAMPLES: 4 WIPE, TTCLP FAX RESULTS: YES DATE SENT TO LAB 7/31/02

CLIENT: GWC APPLIED ARCHITECTURE CONTACT NAME: G. CULVER

PROJECT NAME: CENTRAL AVE Pb CLEAN UP PROJ #:

PHYSICAL ADDRESS:

TYPE OF ANALYSIS: PCM PLM TEM LEAD AIR LEAD BK OTHER: Pb WIPES - TCLP TURN TIME: ASAP

SAMPLE #	MATERIAL SAMPLED AND SAMPLE LOCATION	IF ASBESTOS BULK AMOUNT	LIN.F.F	CONDITION
01	WIPE SAMPLE - WATER METER BOX 1500 CENTRAL AVE.			
02	WIPE SAMPLE - WATER METER BOX 1502 CENTRAL AVE			
03	WIPE SAMPLE - ROOF DRAIN SPOUT BY REGGAE CENTRAL			
04	WIPE SAMPLE - ROOF AREA ABOVE 1500 AND 1500 1/2 CENTRAL AVE			
01	TCLP - SOIL SAMPLE			
	OPEN AREA BEHIND ULTRAVIOLET ARTS TATTOO PARLOR			
	SAMPLES SUBMITTED TO ECS BY CLIENT			

Relinquished by: [illegible] Received by: [illegible]
Relinquished by: Received by: [illegible] INSPECT-1
8/1/02 1:30

Greenville Technical College

506 S. Pleasantburg Drive, Greenville, South Carolina 29606 (864) 250-8000

GEORGE CULVER

209-1015 Charlotte Avenue, Rock Hill, South Carolina 29730

262-89-8376

has met the requirement and passed the examination and hands-on skills assessment for

Lead Supervisor Refresher Training Course

Spartanburg, SC

38-051
Certificate Number

October 15, 2001
Course Date(s)

October 15, 2001
Examination Date

April 15, 2002
EPA Interim Certification Expiration Date

Miguel Roldan, Principal Instructor

Joy N. Finch, Training Manager

October 15, 2003
NC Expiration Date

George Culver
209-10015 Charlotte Ave
Rock Hill, SC 29732

05-05-1983	M	6'0"	240

SUPERVISOR	130064	SU 10-15-2001	10-31-2032

TRENT SERVICES
2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stl-inc.com
STL Tallahassee

LOG NO: T1-31282
Received: 02 MAY 01
Reported: 09 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven,LLC
Sampled By: Client
Code: 130910511
Page 1

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31282-1	RT-1	05-01-01/09:50

PARAMETER	31282-1
Lead (6010), mg/kg dw	500
Analysis Date	05.09.01

ALLIED WASTE

GENERATOR WASTE PROFILE SHEET

Waste Profile #

Requested Disposal Facility: _____
an Allied Waste Company

I. Generator Information — Date:

Generator Name: James Funderburk
Generator Site Address: 1500 - 1500½ & 1502 Central Ave
City: Char. H. | County: Mecklenburg | State: N.C. | Zip:
Generator State ID Number: | SIC Code Number:
Generator Mailing Address (if different):
City: | County: | State: | Zip:
Generator Contact Name: James Funderburk
Phone Number: 704-968-3655 | Fax Number:

II. Transporter Information

Transporter Name: Still Enterprise
Transporter Address: P.O. Box 493
City: Mt. Holly | County: Gaston | State: N.C. | Zip: 28120
Transporter Contact Name:
Phone Number: | Fax Number:
State Transportation Number:

III. Waste Stream Information

Name of Waste: Lead Dust & Dirt.
Process Generating Waste:
Type of Waste: ☐ INDUSTRIAL PROCESS WASTE or ☐ POLLUTION CONTROL WASTE
Physical State: ☐ SOLID ☐ SEMI-SOLID ☐ POWDER ☐ LIQUID ☐ OTHER: ____
Method of Shipment: ☐ BULK ☐ DRUM ☐ BAGGED ☐ OTHER: ____
Estimated Annual Volume: ☐ CUBIC YARDS: ____ ☐ TONS: ____ ☐ OTHER: ____
Frequency: ☑ ONE TIME ☐ DAILY ☐ WEEKLY ☐ MONTHLY ☐ OTHER: ____
Special Handling Instructions:

IV. Representative Sample Certification — ☐ NO SAMPLE TAKEN

Is the representative sample collected to prepare this profile and laboratory analysis, collected in accordance with U.S. EPA 40 CFR 261.20(c) guidelines or equivalent rules? ☐ YES or ☐ NO

Sample Date: 7-31-03 | Type of Sample: ☑ COMPOSITE SAMPLE ☐ GRAB SAMPLE
Sampler's Employer: HEAVEN LLC
Sampler's Name (printed): JAMES FUNDERBURK | Signature: [signature]

© Allied Waste Industries, July 2001

ALLIED WASTE

GENERATOR WASTE PROFILE SHEET (continued)

Waste Profile #

V. Physical Characteristics of Waste

Characteristic Components % by Weight (range)

1.
2.
3.

Color:	Odor (describe):	Free Liquids: ☐ YES or ☐ NO Content ____%	% Solids:	pH:	Flash Point: ____ °F	Phenol ____ ppm

Attach Laboratory Analytical Report (and/or Material Safety Data Sheet) Including Required Parameters Provided for this Profile

Does this waste or generating process contain regulated concentrations of the following Pesticides and/or Herbicides: Chlordane, Endrin, Heptachlor (and it epoxides), Lindane, Methoxychlor, Toxaphene, 2,4-D, or 2,4,5-TP Silvex as defined in 40 CFR 261.33?	☐ YES or ☐ NO
Does this waste or generating process cause it to exceed OSHA exposure limits from high levels of Hydrogen Sulfide or Hydrogen Cyanide as defined in 40 CFR 261.23?	☐ YES or ☐ NO
Does this waste contain regulated concentrations of Polychlorinated Biphenyls (PCBs) as defined in 40 CFR Part 761?	☐ YES or ☐ NO
Does this waste contain regulated concentrations of listed hazardous wastes defined in 40 CFR 261.31, 261.32, 261.33, including RCRA F-Listed Solvents?	☐ YES or ☐ NO
Does this waste contain regulated concentrations of 2,3,7,8-Tetrachlorodibenzodioxin (2,3,7,8-TCCD), or any other dioxin as defined in 40 CFR 261.31?	☐ YES or ☐ NO
Is this a regulated Toxic Material as defined by Federal and/or State regulations?	☐ YES or ☐ NO
Is this a regulated Radioactive Waste as defined by Federal and/or State regulations?	☐ YES or ☐ NO
Is this a regulated Medical or Infectious Waste as defined by Federal and/or State regulations?	☐ YES or ☐ NO
Is this waste generated at a Federal Superfund Clean Up Site?	☐ YES or ☐ NO

VI. Generator Certification

I hereby certify that to the best of my knowledge and belief, the information contained herein is a true and accurate description of the waste material being offered for disposal. I further certify that by utilizing this profile, neither myself nor any other employee of the company will deliver for disposal or attempt to deliver for disposal any waste which is classified as toxic waste, hazardous waste or infectious waste, or any other waste material this facility is prohibited from accepting by law. Our company hereby agrees to fully indemnify this disposal facility against any damages resulting from this certification being inaccurate or untrue. I further certify that the company has not altered the form or content of this profile sheet as provided by Allied Waste Industries, Inc.

JAMES FUNDERBURK — AUTHORIZED REPRESENTATIVE NAME AND TITLE (Printed)

Heaven LLC — COMPANY NAME

AUTHORIZED REPRESENTATIVE SIGNATURE

8/21/02 — DATE

VII. Allied Waste Decision

☐ Approved ☐ Rejected Expiration: _____

Conditions:

Name, Title Signature Date

© Allied Waste Industries, July 2001

ENVIRONMENTAL HAZARDS SERVICES, L.L.C.

7455 WHITE PINE ROAD · RICHMOND, VA 23237
804-275-4788 FAX 804-276-4907

TCLP (LEAD) ANALYSIS SUMMARY

CLIENT: Environmental Consulting Services, Inc.
8168 St. Andrews Road #150
Columbia, SC 29212

DATE OF RECEIPT: 01 AUG 2002
DATE OF ANALYSIS: 02 AUG 2002
DATE OF REPORT: 05 AUG 2002

CLIENT NUMBER: 48-1881 A
EHS PROJECT #: 08-02-0012
PROJECT: GWQ Applied Abatement; Central Ave. Pb Clean-up

EHS SAMPLE #	CLIENT SAMPLE #/ LABORATORY GROSS DESCRIPTION	SAMPLE WEIGHT (g)	INITIAL pH	CONCENTRATION PPM (mg/L)
01	01/ Soil, Sand	100	7.80	<0.50

QUALITY CONTROL DATA

BATCH#:	0802027-1
INCLUSIVE EHS SAMPLE NUMBERS:	01
Initial Calibration Verification (5.00ppm Pb)	101% Recovery
Continuing Calibration Verification 5 (5.00ppm Pb)	101% Recovery
Laboratory Control Standard	106% Recovery
Matrix Spike	106% Recovery
Duplicate Relative Percent Difference	0.00 RPD
Regulatory Limit	5.00mg/L
Reporting Limit	0.500mg/L
Method Detection Limit	0.034mg/L

METHOD: SW846 1311/3010A/7420

ANALYST: Bayard Vandegrift

Reviewed By Authorized Signatory:

Howard Varner, Laboratory Director
Irma Pastewyk, Quality Assurance Coordinator
David Xu, MS, Senior Chemist
Feng Jiang, MS, Senior Geologist
Michael A. Mueller, Quality Assurance Manager

Method EPA SW846 1311 recommends 100g for analysis.

Results represent the analysis of samples submitted by the client. Sample location, description, area, volume etc., was provided by the client. This report shall not be reproduced, except in full, without the written consent of Environmental Hazards Services, L.L.C.
California Certification #2310 NY ELAP #11714

LEGEND: g = gram; ug = microgram; ppm = parts per million; ml = milliliter; Pb = lead; mg/L = milligrams per liter

tclpb1.1 04/08JAN2002/ dpb

Please print or type
Form designed for use on elite (12 pitch typewriter)

ALLIED WASTE INDUSTRIES, INC

NON-HAZARDOUS WASTE MANIFEST

1. Generator's US EPA ID No.

Manifest Document No.

2. Page 1 of

GENERATOR

3. Generator's Name and Mailing Address

Truck No.

4. Generator's Phone

5. Transporter 1 Company Name | 6. US EPA ID Number | A. Transporter's Phone

7. Transporter 2 Company Name | 8. US EPA ID Number | B. Transporter's Phone

9. Designated Facility Name and Site Address | 10. US EPA ID Number | C. Facility's Phone

BFI/CMS
5105 Morehead Rd.
Harrisburg, NC 28075

(704) 782-2004

11. Waste Shipping Name and Description	12. Containers No	Type	13. Total Quantity	14. Unit Wt/Vol
a.				
b.				
c.				
d.				

D. Additional Descriptions for Materials Listed Above

E. Handling Codes for Wastes Listed Above

15. Special Handling Instructions and Additional Information

TRANSPORTER

16. **GENERATOR'S CERTIFICATION:** I certify the materials described above on this manifest are not subject to federal regulations for reporting proper disposal of Hazardous Waste

Printed / Typed Name | Signature | Month | Day | Year

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed / Typed Name | Signature | Month | Day | Year

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed / Typed Name | Signature | Month | Day | Year

FACILITY

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of waste materials covered by this manifest except as noted in item 19.

Printed / Type Name
BFI/CMS

Signature | Month | Day | Year

AWI Form # 121

TO: North Carolina Department of Environment and Natural Resources (NCDENR)

FROM: George W. Culver

REF: 1500, 1500 ½, & 1502 Central Ave.
Lead Based Paint Residual Dust Contamination and Soil Contamination

To Whom It May Concern:

- Per a directive issued by NCDENR concerning the above-mentioned properties, lead based paint dust contamination and lead (Pb) contaminated soils were abated from 7/16/02 to 7/17/02.

- Previously, the facilities had been sandblasted during painting renovations. Paints removed by abrasive blasting were later revealed to be lead (Pb) based (i.e. greater than 0.06% lead by weight) based on analysis results of suspect lead paint samples collected by NCDENR.

- Materials removed in compliance with the directive were as follows:

  A) Lead based paint contaminated sandblasting media from the water meter box @ 1500 Central Avenue.
  B) Lead based paint contaminated sandblasting media from the water meter box in front of 1502 Central Avenue.
  C) Contaminated sandblasting abrasive from a roof downspout outfall beside Reggae Central
  D) Contaminated media from the roof area above 1500 and 1500 ½ Central Avenue.
  E) Lead based paint contaminated soil from an open area to the rear of the Alternative Arts Tattoo Parlor.

- Certified lead workers, under the direction of George W. Culver (certified lead supervisor, #1364) utilized wet wiping and HEPA vacuuming work procedures to capture the lead contaminated dusts and abrasive media from the aforementioned locations. These certified personnel also removed approximately 4 inches of contaminated soil. TCLP results indicated residual lead contamination in the soil to

be less than or equal to 270 parts per million (PPM) as required by NCDENR in the directive.

All cleaning materials (rags, mops, etc.) as well as recovered lead contaminated dusts, soils, and sandblasting abrasive media were containerized, labeled, and properly disposed of in accordance with all federal, state, and local requirements as applicable.

Please find enclosed all disposal documentation as well as TCLP testing results for the soil and surface wipe sampling results.

If I can be of further assistance, please contact me at 803-417-6214.

Thank you,

George W. Culver

To: Danny Still

From: James Funderburk

Hi Danny,

Here are the samples from the stuff you removed.

These are the sample ID and log numbers

We are only required to deal with these samples and others included on the test results were not required to be removed.

ID #	Location of Sample	Lead Sample Analysis (mg/kg)
SS-3	at water meter at urban evolution	2500.00
SS-4	at water meter at Tattoo Parlor	450.00
SS-5	at end of downspout at Reggae Central	270.00
SS-6	Center, rear of Tattoo Parlor	790.00
RT-1	West Side of roof at 1500 Central Ave.	500.00

I guess now we need to complete a closure certification report in a form approved by the DENR. Please call Robin Proctor with the state, as she is in charge of this removal. Her number is 828-625-0171 so we can get this completed to the states requirements.

Talk to you soon,

James

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

ROY COOPER
ATTORNEY GENERAL

Reply To: Allison S. Corum
Environmental Division
(919) 716-6600
(919) 716-6939
Email: acorum@mail.jus.state.nc.us

December 16, 2002

Mr. James Funderburk
1500 Central Avenue
Charlotte, North Carolina 28205

RE: Heaven, LLC v. DENR, DWM
01 EHR 1257, DWM Docket No. 2001-043

Dear Mr. Funderburk:

The Division of Waste Management has asked me to contact you to inquire as to the status of Heaven, LLC's remediation efforts at the 1500 Central Avenue Site per the settlement agreement executed on February 13, 2002.

On August 27, 2002, Roberta Proctor, Environmental Chemist, with the Division of Waste Management, Hazardous Waste Section, wrote you a letter setting forth additional information needed from you in order to close out the 1500 Central Avenue site cleanup. Ms. Proctor has not received the requested information and you have not responded to her subsequent attempts to contact you.

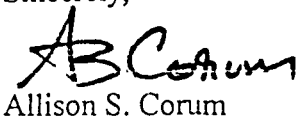
It is very important that you submit this information to Ms. Proctor immediately. The settlement agreement which you signed required you to complete the site cleanup and submit the closure certification report in a form approved by the Division within 180 days of the February 13, 2002, the date of the execution of the settlement agreement. These 180 days have long since passed and the information needed to close the site has not yet been submitted to the DWM.

You currently are in breach of the settlement agreement. If the required information is not submitted soon, the Division will take any necessary legal steps to enforce the settlement agreement.

For your convenience, I am enclosing a copy of Ms. Proctor's August 27, 2002 letter setting forth the items needed from you to close the site.

Please contact Ms. Proctor immediately. Her phone number is 828-625-0171.

Sincerely,



Allison S. Corum
Assistant Attorney General

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

August 27, 2002

Mr. James Funderburk
1500 Central Avenue
Charlotte, North Carolina 28205

Dear Mr. Funderburk:

I have reviewed the report you sent via facsimile for the clean up of lead at the Central Avenue site. There are several items I will need from your contractor before I can adequately review the plan and close out the site. These items are listed below:

1) A map showing: where soil samples collected were located, areas that were cleaned or remediated, locations and area of soil removal.
2) A more complete description of cleaning activities.
3) A description of the procedure used to collect the wipe samples to determine if the lead was adequately abated.
4) Chain-of custody documentation for all samples collected must be submitted.
5) Analytical results for all samples collected (soil and wipe-samples).
6) A description of soil sample collection methods.
7) A description of soil excavation methods, including area and depth of soil removed.
8) It is not clear if post-excavation samples were collected after the soil was removed. If post-excavation samples were collected a map showing their location and the analytical results for each sample must be submitted.
9) Post excavation soil samples must be analyzed using analytical methods for total analysis instead of TCLP.
10) The report states that the clean-up level for soil is 270 mg/kg TCLP. This is incorrect. The level for no further action in the soil is 270 mg/kg total lead. Soil destined for disposal may be analyzed using TCLP methods. Any soil containing lead above 5 mg/kg TCLP is deemed a hazardous waste.
11) Bills-of-lading and/or manifests for all wastes, including soil, that was disposed.
12) Volumes of soil and wastes disposed.

If you have any questions, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Bud McCarty
Jesse Wells
Allison Corum
Central Files

PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

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

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

August 27, 2002

Mr. James Funderburk
1500 Central Avenue
Charlotte, North Carolina 28205

Dear Mr. Funderburk:

I have reviewed the report you sent via facsimile for the clean up of lead at the Central Avenue site. There are several items I will need from your contractor before I can adequately review the plan and close out the site. These items are listed below:

1) A map showing: where soil samples collected were located, areas that were cleaned or remediated, locations and area of soil removal.
2) A more complete description of cleaning activities.
3) A description of the procedure used to collect the wipe samples to determine if the lead was adequately abated.
4) Chain-of custody documentation for all samples collected must be submitted.
5) Analytical results for all samples collected (soil and wipe-samples).
6) A description of soil sample collection methods.
7) A description of soil excavation methods, including area and depth of soil removed.
8) It is not clear if post-excavation samples were collected after the soil was removed. If post-excavation samples were collected a map showing their location and the analytical results for each sample must be submitted.
9) Post excavation soil samples must be analyzed using analytical methods for total analysis instead of TCLP.
10) The report states that the clean-up level for soil is 270 mg/kg TCLP. This is incorrect. The level for no further action in the soil is 270 mg/kg total lead. Soil destined for disposal may be analyzed using TCLP methods. Any soil containing lead above 5 mg/kg TCLP is deemed a hazardous waste.
11) Bills-of-lading and/or manifests for all wastes, including soil, that was disposed.
12) Volumes of soil and wastes disposed.

If you have any questions, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Bud McCarty
Jesse Wells
Allison Corum
Central Files

PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

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

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

August 27, 2002

Mr. James Funderburk
1500 Central Avenue
Charlotte, North Carolina 28205

Dear Mr. Funderburk:

I have reviewed the report you sent via facsimile for the clean up of lead at the Central Avenue site. There are several items I will need from your contractor before I can adequately review the plan and close out the site. These items are listed below:

1) A map showing: where soil samples collected were located, areas that were cleaned or remediated, locations and area of soil removal.
2) A more complete description of cleaning activities.
3) A description of the procedure used to collect the wipe samples to determine if the lead was adequately abated.
4) Chain-of custody documentation for all samples collected must be submitted.
5) Analytical results for all samples collected (soil and wipe-samples).
6) A description of soil sample collection methods.
7) A description of soil excavation methods, including area and depth of soil removed.
8) It is not clear if post-excavation samples were collected after the soil was removed. If post-excavation samples were collected a map showing their location and the analytical results for each sample must be submitted.
9) Post excavation soil samples must be analyzed using analytical methods for total analysis instead of TCLP.
10) The report states that the clean-up level for soil is 270 mg/kg TCLP. This is incorrect. The level for no further action in the soil is 270 mg/kg total lead. Soil destined for disposal may be analyzed using TCLP methods. Any soil containing lead above 5 mg/kg TCLP is deemed a hazardous waste.
11) Bills-of-lading and/or manifests for all wastes, including soil, that was disposed.
12) Volumes of soil and wastes disposed.

If you have any questions, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Bud McCarty
Jesse Wells
Allison Corum

PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

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

TO: North Carolina Department of Environment and Natural Resources (NCDENR)

FROM: George W. Culver

REF: 1500, 1500 ½, & 1502 Central Ave.
Lead Based Paint Residual Dust Contamination and Soil Contamination

To Whom It May Concern:

- Per a directive issued by NCDENR concerning the above-mentioned properties, lead based paint dust contamination and lead (Pb) contaminated soils were abated from 7/16/02 to 7/17/02.

- Previously, the facilities had been sandblasted during painting renovations. Paints removed by abrasive blasting were later revealed to be lead (Pb) based (i.e. greater than 0.06% lead by weight) based on analysis results of suspect lead paint samples collected by NCDENR.

- Materials removed in compliance with the directive were as follows:

  A) Lead based paint contaminated sandblasting media from the water meter box @ 1500 Central Avenue.
  B) Lead based paint contaminated sandblasting media from the water meter box in front of 1502 Central Avenue.
  C) Contaminated sandblasting abrasive from a roof downspout outfall beside Reggae Central
  D) Contaminated media from the roof area above 1500 and 1500 ½ Central Avenue.
  E) Lead based paint contaminated soil from an open area to the rear of the Alternative Arts Tattoo Parlor.

- Map of location of samples
- manifests (bill of lading for waste disposal) (all waste)
- lab data - TCLP not app. for soil and notes - total above 270 in soil if TCLP results are ≡ high.

- Certified lead workers, under the direction of George W. Culver (certified lead supervisor, #1364) utilized wet wiping and HEPA vacuuming work procedures to capture the lead contaminated dusts and abrasive media from the aforementioned locations. These certified personnel also removed approximately 4 inches of contaminated soil. TCLP results indicated residual lead contamination in the soil to

be less than or equal to 270 parts per million (PPM) as required by NCDENR in the directive.

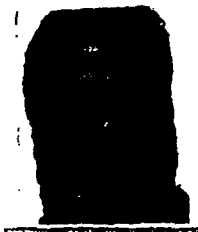
All cleaning materials (rags, mops, etc.) as well as recovered lead contaminated dusts, soils, and sandblasting abrasive media were containerized, labeled, and properly disposed of in accordance with all federal, state, and local requirements as applicable.

Please find enclosed all disposal documentation as well as TCLP testing results for the soil and surface wipe sampling results.

If I can be of further assistance, please contact me at 803-417-6214.

Thank you,

George W. Culver



George Culver
209-10015 Charlotte Ave
Rock Hill, SC 29732

05-05-1963	M	6'0"	240

SUPERVISOR	130064	SU 10-15-2001	10-31-2002

I TCLP K

ENVIRONMENTAL CONSULTING SERVICES, INC. EHS 08-02-0012 **LABORATORY SUBMISSION FORM**

8189 ST. ANDREWS ROAD # 150 COLUMBIA, SC 29212 803/772-1070 FAX: 803/216-9908

CONSULTANT: DON COBB LICENSE #: SUBMITTED TO: EHS

OF SAMPLES: 4 WIPE, 1 TCLP FAX RESULTS: YES DATE SENT TO LAB: 7/31/02

CLIENT: GWC APPLIED ABATEMENT CONTACT NAME: G. CULVER

PROJECT NAME: CENTRAL AVE Pb CLEANUP PROJ.#:

PHYSICAL ADDRESS:

TYPE OF ANALYSIS: PCM | PLM | TEM | LEAD AIR | LEAD BK | OTHER: Pb WIPES - TCLP | TURN TIME: ASAP

SAMPLE #	MATERIAL SAMPLED AND SAMPLE LOCATION	IF ASBESTOS BULK: AMOUNT	L.H-NF,F	CONDITION
01	WIPE SAMPLE - WATER METER BOX 1500 CENTRAL AVE			
02	WIPE SAMPLE - WATER METER BOX 1502 CENTRAL AVE			
03	WIPE SAMPLE - ROOF DOWNSPOUT BY REGGAE CENTRAL			
04	WIPE SAMPLE - ROOF AREA ABOVE 1500 AND 1500 1/2 CENTRAL AVE			
01	TCLP - SOIL SAMPLE			
	OPEN AREA BEHIND ALTERNATIVE ARTS TATTOO PARLOR			
	SAMPLES SUBMITTED TO ECS BY CLIENT			

Relinquished by: [signature] Received by: [signature]

Relinquished by: Received by: [signature] 8/1/02 9:30

INSPECT-1

TRENT SERVICES
STL Tallahassee
2846 Industrial Plaza Dr • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stl-inc.com

LOG NO: T1-31282
Received: 02 MAY 01
Reported: 09 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven,LLC
Sampled By: Client
Code: 130910511

REPORT OF RESULTS

Page 1

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31282-1	RT-1	05-01-01/09:50

PARAMETER	31282-1
Lead (6010), mg/kg dw	500
Analysis Date	05.09.01

TRENT SERVICES
STL Tallahassee
2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stl-inc.com

LOG NO: T1-31272
Received: 01 MAY 01
Reported: 09 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven,LLC
Sampled By: Client
Code: 130910511

REPORT OF RESULTS

Page 4

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31272-15	SS-3	04-30-01/11:20
31272-16	SS-5	04-30-01/11:30
31272-17	SS-1	04-30-01/11:10
31272-18	SS-6	04-30-01/11:45
31272-19	SS-4	04-30-01/11:25

PARAMETER	31272-15	31272-16	31272-17	31272-18	31272-19
Lead (6010), mg/kg dw	2500	270	84	790	450
Analysis Date	05.08.01	05.08.01	05.08.01	05.08.01	05.08.01

D.K.

ENVIRONMENTAL HAZARDS SERVICES, L.L.C.

7483 WHITE PINE ROAD · RICHMOND, VA 23237
804-275-4788 FAX 804-275-4907

TCLP (LEAD) ANALYSIS SUMMARY

CLIENT: Environmental Consulting Services, Inc.
8169 St. Andrews Road #150
Columbia, SC 29212

DATE OF RECEIPT: 01 AUG 2002
DATE OF ANALYSIS: 02 AUG 2002
DATE OF REPORT: 05 AUG 2002

CLIENT NUMBER: 42-1931 A
EHS PROJECT #: 08-02-0012
PROJECT: OWO Applied Abatement; Central Ave. Pb Clean-up

EHS SAMPLE #	CLIENT SAMPLE #/ LABORATORY GROSS DESCRIPTION	SAMPLE WEIGHT (g)	INITIAL pH	CONCENTRATION PPM (mg/L)
01	01/ Soil, Sand	100	7.80	<0.50

QUALITY CONTROL DATA

BATCH#:	080202T-1
INCLUSIVE EHS SAMPLE NUMBERS:	01
Initial Calibration Verification (5.00ppm Pb)	101% Recovery
Continuing Calibration Verification 5 (5.00ppm Pb)	101% Recovery
Laboratory Control Standard	106% Recovery
Matrix Spike	106% Recovery
Duplicate Relative Percent Difference	0.00 RPD
Regulatory Limit	5.00mg/L
Reporting Limit	0.500mg/L
Method Detection Limit	0.034mg/L

METHOD: SW846 1311/3010A/7420

ANALYST: Bayard Vandegrift

Reviewed By Authorized Signatory:

Howard Varner, Laboratory Director
Irma Pazzaglia, Quality Assurance Coordinator
David Xu, MS, Senior Chemist
Feng Jiang, MS, Senior Geologist
Michael A. Mueller, Quality Assurance Manager

Method EPA SW846 1311 recommends 100g for analysis.

Results represent the analysis of samples submitted by the client. Sample location, description, area, volume etc., was provided by the client. This report shall not be reproduced, except in full, without the written consent of Environmental Hazards Services, L.L.C.
California Certification #2319 NY ELAP #11714

LEGEND			
	g = gram	ug = microgram	ppm = parts per million
	ml = milliliter	Pb = lead	mg/L = milligrams per liter

lcppb1.1dot/08JAN2002/ dpb

Greenville Technical College

506 S. Pleasantburg Drive, Greenville, South Carolina 29606 (864) 250-8000

GEORGE CULVER

209-1015 Charlotte Avenue, Rock Hill, South Carolina 29730

262-89-8376

has met the requirement and passed the examination and hands-on skills assessment for

Lead Supervisor Refresher Training Course

Spartanburg, SC

38-051
Certificate Number

October 15, 2001
Course Date(s)

October 15, 2001
Examination Date

April 15, 2002
EPA Interim Certification Expiration Date

Miguel Roldan, Principal Instructor

Joy N. Finch, Training Manager

October 15, 2003
NC Expiration Date

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

Eric Pickett
5621 Mt Olive Church Road
Charlotte, North Carolina 28278

Re: Settlement Agreement 01 HER 1332/ Compliance Order Docket Number 2001-122

Dear Mr. Pickett:

I have received the analytical results for the post-excavation sample collected at your site and the documentation of the appropriate disposal of soil/ sand blasting debris. The results show a level of lead at 60 mg/kg, which is well below the Hazardous Waste Section's Soil Screening Level (SSL) of 270 mg/kg. The SSL is a level that has been calculated to be safe for human health and protective of the underlying groundwater. As all contaminated soil and sand blasting debris have been properly disposed and the level of lead is well below levels that have been determined to be safe, no further action is necessary at this site and the remediation requirements of the settlement agreement have been met.

If you have any questions concerning this matter, please contact me at 818-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Jesse Wells
Alison Corum
Central Files

PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

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

North Carolina
Department of Environment and Natural Resources
Division of Waste Management
Hazardous Waste Section

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

NCDENR

Eric Pickett
5621 Mt Olive Church Road
Charlotte, North Carolina 28278

Re: Settlement Agreement 01 HER 1332/ Compliance Order Docket Number 2001-122

Dear Mr. Pickett:

I have received the analytical results for the post-excavation sample collected at your site and the documentation of the appropriate disposal of soil/ sand blasting debris. The results show a level of lead at 60 mg/kg, which is well below the Hazardous Waste Section's Soil Screening Level (SSL) of 270 mg/kg. The SSL is a level that has been calculated to be safe for human health and protective of the underlying groundwater. As all contaminated soil and sand blasting debris have been properly disposed and the level of lead is well below levels that have been determined to be safe, no further action is necessary at this site and the remediation requirements of the settlement agreement have been met.

If you have any questions concerning this matter, please contact me at 818-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

Cc: Jill Pafford
Doug Holyfield
Jesse Wells
Alison Corum
Central Files

PO Box 384. Lake Lure, North Carolina 28746
Phone/Fax 828-625-0171 e-mail: Roberta.Proctor@ncmail.net

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

ROY COOPER
ATTORNEY GENERAL

State of North Carolina

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

FACSIMILE TRANSMITTAL SHEET

DATE: May 9, 2002

TO: Robin Proctor
DENR, DWM

FAX#: 828-625-0171

FROM: Allison S. Corum
Assistant Attorney General
Phone No.: (919) 716-6600
FAX No: (919) 716-6939

SUBJECT: Heaven and Pickett properties

NO. OF PAGES INCLUDING TRANSMITTAL SHEET: 4

COMMENTS:

Per your request, enclosed are copies of the Heaven, LLC and Albert Pickett settlement agreements.

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above by U.S. postal service. Thank you.

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
01 EHR 1332

ALBERT ERIC PICKETT Petitioner, v. N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WASTE MANAGEMENT Respondent.	)	SETTLEMENT AGREEMENT

The North Carolina Department of Environment and Natural Resources ("DENR"), through its Division of Waste Management (the "Division"), and Albert Eric Pickett hereby enter into this Settlement Agreement to amicably resolve matters in controversy between them. This matter arose out of the issuance of a Compliance Order with an Administrative Penalty, Docket No. 2001-122, (hereinafter "Compliance Order"), by the Division in the amount of $20,000 against Albert Eric Pickett, jointly and severally with James Costner d/b/a Morningstar Sign and Sandblasting. The administrative penalty was assessed on June 26, 2001, for alleged violations of Article 9 of Chapter 130A of the North Carolina General Statutes and the North Carolina Hazardous Waste Management Rules, as more fully described in the Compliance Order.

In this matter, the Division and Albert Eric Pickett have reached the following settlement:

1. Albert Eric Pickett owns real property located at 5631 Mt. Olive Church Road, Charlotte, Mecklenburg County, N.C. This real property is referred to in the above-described Compliance Order as the Pickett Property. In the Compliance Order, the Division found and concluded that there was D008 hazardous waste in the form of lead-contaminated soil located on the Pickett Property as a result of sandblasting debris deposits made by James Costner d/b/a Morningstar Sign and Sandblasting. Subsequent to the issuance of the Compliance Order, some assessment and remediation work was performed at the Pickett Property by environmental consultants retained by Heaven, L.L.C. and/or James Costner d/b/a Morningstar Sign and Sandblasting. However, remaining work needs to be done to complete the assessment and remediation of the Pickett Property.

2. Albert Eric Pickett agrees to complete the assessment and remediation of those

NC ATTORNEY GENERAL Fax:919-716-6939 May 9 '02 11:23 P.02

portions of the Pickett Property contaminated by the sandblasting debris deposits made by James Costner d/b/a Morningstar Sign and Sandblasting to levels compliant with Article 9 of Chapter 130A of the North Carolina General Statutes, the State's Hazardous Waste Management Rules, codified at 15A N.C.A.C. 13A, and the Division's "Guidelines for Determining Soil and Groundwater Clean-up Levels at RCRA Hazardous Waste Sites." Albert Eric Pickett agrees to complete this assessment and remediation by May 1, 2002 and to submit to DENR a closure certification report in a form approved by the Division by June 15, 2002.

3. Albert Eric Pickett will pay to the Division: (a) a recomputed penalty in the amount of one thousand dollars ($1000); and (b) a recomputed annual storage, treatment, disposal facility activity fee of five hundred ($500) in settlement of the Administrative Penalty and Fee assessed by the Division Director in the Compliance Order. Full payment of this recomputed penalty and fee shall be made on or before April 15, 2002. Payment shall be in the form of two separate checks or money orders (one for the penalty and one for the fee), payable to the Division of Waste Management, and mailed to Mr. Jim Edwards, Hazardous Waste Section, Division of Waste Management, 401 Oberlin Road, Suite 150, Raleigh, NC 27605.

4. Albert Eric Pickett expressly agrees not to pursue any further hearings or appeals in OAH Case No. 01 EHR 1332 which case was dismissed on November 30, 2001 by the Honorable Augustus B. Elkins, II., Administrative Law Judge in an Order of Dismissal and Final Decision.

5. The Division agrees

(A) that the activities described in paragraphs 2 will satisfy Albert Eric Pickett's obligations to perform work or address conditions required by the Compliance Order; and

(B) to recompute and remit and the administrative penalty in the Compliance Order to one thousand dollars ($1000) against Albert Eric Pickett.

(C) to recompute and remit the twelve hundred dollar ($1200) annual storage, treatment, disposal facility activity fee due from Albert Eric Pickett to five hundred dollars ($500) .

6. The Division does not hereby waive any right the Division has to inspect for or to allege in future proceedings or enforcement actions against Albert Eric Pickett any new, subsequent or repeat violation of Article 9 of Chapter 130A of the North Carolina General Statutes, and the State's Hazardous Waste Management Rules, codified at 15A N.C.A.C. 13A.

7. The Division's agreement herein to recompute and remit the administrative penalty and fee against Albert Eric Pickett as described above does not apply to penalties or fees assessed against any other person or entity including but not limited to Multi-Video, Inc., James Costner d/b/a Morningstar Sign and Sandblasting and Heaven, LLC, and nothing in this Agreement shall operate as a waiver or release by the Division or Albert Eric Pickett of any rights or claims with respect to any person or entity not a party to this Agreement.

NC ATTORNEY GENERAL Fax:919-716-6939 May 9 '02 11:24 P.03

8. Albert Eric Pickett expressly stipulates and acknowledges that, by entering into this Settlement Agreement, it waives for purposes of collection of the above-described administrative penalty and fee, any and all defenses to the underlying assessment of said penalty and fee; and that the issue in any action to collect said penalty and fee will be limited to the payment or non-payment thereof in accordance with the terms of this Settlement Agreement.

9. This Agreement contains the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and supersedes and replaces any and all prior written or oral negotiations, proposed agreements or agreements. Each party acknowledges that no other party, or any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the party to execute this Agreement, and each party acknowledges that it has not executed this Agreement in reliance on any such promise, representation or warranty not contained herein.

FOR THE DIVISION OF WASTE MANAGEMENT:

Dexter R. Matthews
Director
Division of Waste Management

Date: 4-11-02

ALBERT ERIC PICKETT

Date: 4.5.02

EP-52481

NC HIGHWAY GENERAL Fax:919-716-6939 May 9 '02 11:24 P.04

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
01 EHR 1257

HEAVEN, LLC Petitioner, v. N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WASTE MANAGEMENT Respondent.	)	SETTLEMENT AGREEMENT

The North Carolina Department of Environment and Natural Resources ("DENR"), through its Division of Waste Management (the "Division"), and Heaven, LLC ("Heaven") hereby enter into this Consent Agreement and Settlement to amicably resolve matters in controversy between them. This matter arose out of the issuance of a Compliance Order with an Administrative Penalty, Docket No. 2001-043, (hereinafter "Compliance Order"), by the Division in the amount of $20,000 against Heaven, jointly and severally with James Costner d/b/a Morningstar Sign and Sandblasting and Multi-Video, Inc. The administrative penalty was assessed on June 26, 2001, for alleged violations of Article 9 of Chapter 130A of the North Carolina General Statutes and the North Carolina Hazardous Waste Management Rules, as more fully described in the Compliance Order.

Without any trial of fact or law in the above-styled manner, without any admissions of liability, and in consideration of the recitals, promises, covenants and agreements contained herein, the Division and Heaven have reached the following settlement:

1. Heaven operates a clothing store at 1500 Central Avenue, Charlotte, Mecklenburg County, North Carolina, in a building owned by Multi-Video, Inc. This building and affected surrounding areas are referred to in the above-described Compliance Order as the Heaven, LLC site (hereinafter Heaven Site). Sampling has revealed the presence of lead at the following outside areas at the Heaven Site: (A) sandblasting media at the following locations: (i) the water meter box in front of 1500 Central Avenue, (ii) the water meter box in front of 1502 Central Avenue, (iii) the outfall of a roof downspout beside Reggae Central, and (iv) on the roof above 1500 and 1500½ Central Avenue, and (B) in a sample taken of soil in an open area to the rear of Alternative Arts Tattoo. Sampling has also revealed the presence of lead-containing dust inside

NC ATTORNEY GENERAL Fax:919-716-6939 May 9 '02 11:24 P.05

certain stores on Central Avenue.

2. Heaven agrees (i) to remove the sandblasting media and associated lead-contaminated soils related to the sandblasting activities from the locations described in paragraph 1(A), and (ii) to remove the lead-containing soil that is related to the sandblasting activities in the area of the sample described in paragraph 1(B) to a level of 270 mg/kg total lead, or to such other levels as are agreed upon with DENR. Heaven will dispose of the media and soil in accordance with applicable law and regulations. Heaven agrees to complete the above-described work and to submit to DENR a closure certification report in a form approved by DENR within 180 days of the execution of this agreement.

3. Because of Heaven, LLC's financial condition as indicated in the financial documentation submitted, and in consideration of the additional constrictions Heaven's assessment and cleanup obligations at the Heaven Site have placed on its finances, the Division agrees to the following:

(a) that the activities described in paragraph 2 will satisfy Heaven's obligations to perform work or address conditions required by the Compliance Order and to address matters at the Pickett Farm Site; and

(b) to recompute and remit and the administrative penalty in the Compliance Order to zero dollars ($0) against Heaven.

4. The Division does not hereby waive any right the Division has to inspect for or to allege in future proceedings or enforcement actions against Heaven any new, subsequent or repeat violation of Article 9 of Chapter 130A of the North Carolina General Statutes, and the State's Hazardous Waste Management Rules, codified at 15A N.C.A.C. 13A.

5. The Division's agreement herein to recompute and remit the administrative penalty against Heaven as described above does not apply to penalties assessed against any other person or entity including but not limited to Multi-Video, Inc., James Costner d/b/a Morningstar Sign and Sandblasting and Albert Eric Pickett, and nothing in this Agreement shall operate as a waiver or release by the Division or Heaven of any rights or claims with respect to any person or entity not a party to this Agreement.

6. Heaven agrees to withdraw the petition for a contested case hearing which is currently pending before the Office of Administrative Hearings within 15 days of receipt of a fully executed original of this Consent Agreement and Settlement.

7. Heaven expressly stipulates and acknowledges that, by entering into this Settlement Agreement, it waives for purposes of collection of the above-described administrative penalty, any and all defenses to the underlying assessment of said penalty; and that the issue in any action to collect said penalty will be limited to the payment or non-payment thereof in accordance with the terms of this Settlement Agreement.

NC ATTORNEY GENERAL Fax:919-716-6939 May 9 '02 11:25 P.06

8. Heaven denies liability or responsibility for the matters described in the Compliance Order under any applicable state, federal or local law, rule or regulation. By entering into this Agreement, Heaven does not admit any allegations contained in the Compliance Order, nor does it admit any issue of law or fact related to the subject matter of this Agreement.

9. This Agreement may be amended or modified in whole or in part at any time and from time to time upon mutual written consent of the parties.

10. Heaven represents that all necessary corporate formalities have been complied with for purposes of its signing and entering into this Settlement Agreement.

11. This Agreement contains the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and supersedes and replaces any and all prior written or oral negotiations, proposed agreements or agreements. Each party acknowledges that no other party, or any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the party to execute this Agreement, and each party acknowledges that it has not executed this Agreement in reliance on any such promise, representation or warranty not contained herein.

FOR THE DIVISION OF WASTE MANAGEMENT:

Dexter R. Matthews
DM ~~Interim~~ Director
Division of Waste Management

Date: 2-13-02

FOR HEAVEN, LLC:

James Funderburk

Date: 02/05/2002

EP-52339

CLT:593310.1

Please print or type
(Form designed for use on elite (12 pitch typewriter)

ALLIED WASTE INDUSTRIES, INC.

Ticket # 324603 ~~324600~~

NON-HAZARDOUS WASTE MANIFEST	1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	26368

GENERATOR

3. Generator's Name and Mailing Address
Heaven Clothing Store (ERIC PICKETT)
5671 Mt. Ol. Ch. Rd. CLT, NC 28278
4. Generator's Phone ( )

Truck No.

5. Transporter 1 Company Name	6. US EPA ID Number	A. Transporter's Phone
ERIC PICKETT		
7. Transporter 2 Company Name	8. US EPA ID Number	B. Transporter's Phone
9. Designated Facility Name and Site Address	10. US EPA ID Number	C. Facility's Phone
BFI/CMS 5105 Morehead Rd. Harrisburg, NC 28075		(704) 782-2004

11. Waste Shipping Name and Description	12. Containers No	Type	13. Total Quantity	14. Unit Wt/Vol
a. Spent sand blasting Media	1			
b.				
c.				
d.				

D. Additional Descriptions for Materials Listed Above

E. Handling Codes for Wastes Listed Above
F31 Y2 4875

15. Special Handling Instructions and Additional Information

TRANSPORTER

16. **GENERATOR'S CERTIFICATION:** I certify the materials described above on this manifest are not subject to federal regulations for reporting proper disposal of Hazardous Waste.

Printed / Typed Name	Signature	Month	Day	Year
(ERIC PICKETT) Heaven clothing		6	23	02

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed / Typed Name	Signature	Month	Day	Year
ERIC PICKETT		6	23	02

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed / Typed Name	Signature	Month	Day	Year
ERIC PICKETT		6	23	02

FACILITY

19. Discrepancy Indication Space

20. Facility Owner or Operator: Cerification of receipt of waste materials covered by this manifest except as noted in item 19.

Printed / Type Name	Signature	Month	Day	Year
Beth BFI/CMS	Beth	10	24	02

AWI Form # 121

TRANSPORTER

CMS LANDFILL
5105 MOOREHEAD RD
HARRISBURG NC 28075

070999
CASH CUSTOMER - MECKLENBURG

SITE	TICKET	GRID
05	324603	WEIGHMASTER
DATE IN		TIME IN
DATE OUT 06/24/02		TIME OUT 12:46
VEHICLE 06/24/02		ROLL OFF 12:48
REFERENCE MECCASH	ORIGIN 01 - MECKLENBURG	

Manual Gross Weight 31340 LB
Manual Tare Weight 16180 LB
Net Weight LB

Inbound - Cash ticket

QTY.	UNIT	DESCRIPTION	RATE	EXTENSION	TAX	TOTAL
7.58	TON	miscelan/40.00	40.00	303.20	0.00	303.20

REFERENCE F31Y24875

NET AMOUNT
TENDERED 303.20
CHANGE 303.20
CHECK NO 0.00

SIGNATURE

3348

Please print or type
(Form designed for use on elite (12 pitch typewriter)

ALLIED WASTE INDUSTRIES, INC.

Ticket # 323996

NON-HAZARDOUS WASTE MANIFEST	1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	26369

GENERATOR

3. Generator's Name and Mailing Address
Heaven Clothing Store (ERIC PICKETT)
5021 Mt. Ol. Ch. Rd. CLT, NC 28278
4. Generator's Phone (704) 277-9811

Truck No.

5. Transporter 1 Company Name: ERIC PICKETT
6. US EPA ID Number:
A. Transporter's Phone: 704.277.9811

7. Transporter 2 Company Name:
8. US EPA ID Number:
B. Transporter's Phone:

9. Designated Facility Name and Site Address
BFI/CMS
5105 Morehead Rd.
Harrisburg, NC 28075
10. US EPA ID Number:
C. Facility's Phone: (704) 782-2004

11. Waste Shipping Name and Description	12. Containers No	Type	13. Total Quantity	14. Unit Wt/Vol
a. SPENT SAND BLASTING MEDIA	1	T		
b.				
c.				
d.				

D. Additional Descriptions for Materials Listed Above

E. Handling Codes for Wastes Listed Above: F31 Y2 4875

15. Special Handling Instructions and Additional Information
None

TRANSPORTER

16. **GENERATOR'S CERTIFICATION:** I certify the materials described above on this manifest are not subject to federal regulations for reporting proper disposal of Hazardous Waste.

Printed / Typed Name	Signature	Month	Day	Year
ERIC PICKETT / Heaven Clothing		6	21	02

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed / Typed Name	Signature	Month	Day	Year
ERIC PICKETT		6	21	02

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed / Typed Name	Signature	Month	Day	Year
ERIC PICKETT		6	21	02

FACILITY

19. Discrepancy Indication Space

20. Facility Owner or Operator: Cerification of receipt of waste materials covered by this manifest except as noted in item 19.

Printed / Type Name	Signature	Month	Day	Year
Beth BFI/CMS	Beth	06	21	02

TRANSPORTER

AWI Form # 121

CMS LANDFILL
5105 MOOREHEAD RD
HARRISBURG NC 28075

070999
CASH CUSTOMER - MECKLENBURG

SITE	TICKET	GRID
05	323996	WEIGHMASTER
DATE IN		TIME IN
DATE OUT	06/21/02	TIME OUT 12:33
VEHICLE	06/21/02	ROLL OFF 12:56
REFERENCE	MECCASH	ORIGIN

01 - MECKLENBURG

Scale 1 Gross Weight 33640 LB
Manual Tare Weight 16160 LB
Net Weight 17480 LB

Inbound - Cash ticket

QTY.	UNIT	DESCRIPTION	RATE	EXTENSION	TAX	TOTAL
8.74	TON	miscelan/40.00	40.00	349.60	0.00	349.60

NET AMOUNT
TENDERED 349.60
CHANGE 349.60
CHECK NO. 0.00

REFERENCE F31Y24675

SIGNATURE

Lab Report

PRISM LABORATORIES, INC.

Full Service Analytical & Environmental Solutions

7/25/02

Eric Pickett
5621 Mt. Olive Church Rd.
Charlotte, NC 28278

Customer Project ID: **Eric Pickett**
Customer Sample ID: **PICKETT**
Prism Sample ID: **AC50135**
Login Group: 1537K1
Sample Collection Date/Time: 7/16/02 13:37
Lab Submittal Date/Time: 7/16/02 14:02

The following analytical results have been obtained for the indicated sample which was submitted to this laboratory:

TEST PARAMETER	TEST RESULT	UNITS	REPORTING LIMIT	METHOD REFERENCE	DATE/TIME STARTED	ANALYST
METALS DIGESTION METHOD 3050	Completed			SW846-3050	7/18/02 08:40	MBS
LEAD, TOTAL	60	mg/kg	1.0	SW846-6010B	7/22/02 18:11	MSC

Sample Comments:

Angela D. Overcash, V.P. Laboratory Services

449 Springbrook Road ▲ P.O. Box 240543 ▲ Charlotte, NC 28224-0543
Phone: 704/529-6364 ▲ Toll Free Number: 1-800/529-6364 ▲ Fax: 704/525-0409

CHAIN OF CUSTODY RECORD

PRISM LABORATORIES, INC.

Full Service Analytical & Environmental Solutions

449 Springbrook Road • P.O. Box 240543 • Charlotte, NC 28224-0543

PAGE 1 OF 1 QUOTE # TO ENSURE PROPER BILLING: _____

Project Name: _____

Short Hold Analysis: (Yes) (No) UST Project: (Yes) (No)

*Please ATTACH any project specific reporting provisions and/or QC Requirements

Invoice To: _____

Address: _____

Purchase Order No./Billing Reference _____

Requested Due Date ❑ 1 Day ❑ 2 Days ❑ 3 Days ❑ 4 Days ❑ 5 Days ❑ 6–9 Days ❑ Standard 10 days

Samples received after 15:00 will be processed next business day.
Turnaround time is based on business days, excluding weekends and holidays.

(SEE REVERSE SIDE FOR RUSH TURNAROUND FEES)

Client Company Name: ERIC Pickett

Report To/Contact Name: _____

Reporting Address: 5621 MT. OL. CH. RD, Charlotte NC 28278

Phone: 704-377-9811 Fax (Yes) (No): _____

Site Location Name: 5621 MT. OL. CH. RD.

Site Location Physical Address: Charlotte NC

LAB USE ONLY

	YES	NO	N/A
Samples INTACT upon arrival?	✓		
Received ON WET ICE? Temp 24°		✓	
PROPER PRESERVATIVES indicated?			✓
Received WITHIN HOLDING TIMES?	✓		
CUSTODY SEALS INTACT?			✓
VOLATILES rec'd W/OUT HEADSPACE?			✓
PROPER CONTAINERS used?	✓		

TO BE FILLED IN BY CLIENT/SAMPLING PERSONNEL

Certification: NELAC ____ USACE ____ FL ____ NC ____ SC ____ OTHER ____ N/A ____

Water Clorinated: YES ___ NO ___

Sample Iced Upon Collection: YES ___ NO ___

CLIENT SAMPLE DESCRIPTION	DATE COLLECTED	TIME COLLECTED MILITARY HOURS	MATRIX (SOIL, WATER OR SLUDGE)	SAMPLE CONTAINER *TYPE SEE BELOW	NO.	SIZE	PRESERVATIVES	ANALYSES REQUESTED						REMARKS	SUB LAB CERT. ID NO.	PRISM LAB ID NO.
Pickett	7/16/02	13:39	soil	P	2		NA	Pb								50135

PRESS DOWN FIRMLY - 3 COPIES

Sampler's Signature [signature] Sampled By (Print Name) Eric Pickett Affiliation Owner

Upon relinquishing, this Chain of Custody is your authorization for Prism to proceed with the analyses as requested above. Any changes must be submitted in writing to the Prism Project Manager. There will be charges for any changes after analyses have been initialized.

Relinquished By: (Signature)	Received By: (Signature)	Date	Military/Hours
Relinquished By: (Signature)	Received By: (Signature)	Date	
Relinquished By: (Signature) [signature]	Received For Prism Laboratories By: [signature]	Date 7/16/02	14:02

Method of Shipment: NOTE: ALL SAMPLE COOLERS SHOULD BE TAPED SHUT WITH CUSTODY SEALS FOR TRANSPORTATION TO THE LABORATORY. SAMPLES ARE NOT ACCEPTED AND VERIFIED AGAINST COC UNTIL RECEIVED AT THE LABORATORY.

❑ Fed Ex ❑ UPS ❑ Hand-delivered ❑ Prism Field Service ❑ Other _____

Log-In Group No. 1537K1

Additional Comments:

PRISM USE ONLY

Site Arrival Time:

Site Departure Time:

Field Tech Fee:

Mileage:

NPDES:	UST:	GROUNDWATER:	DRINKING WATER:	SOLID WASTE:	RCRA:	CERCLA:	LANDFILL:	OTHER:
❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC
❑	❑	❑	❑	❑	❑	❑	❑	❑

SEE REVERSE FOR TERMS & CONDITIONS

FINAL REPORT COPY

*CONTAINER TYPE CODES: A = Amber C = Clear G = Glass P = Plastic; TL = Teflon-Lined Cap VOA = Volatile Organics Analysis (Zero Head Space)

Terms and Conditions

Confidentiality: All work will be performed in strict confidence. Results are released only to the client or his designated agent. Prism must receive a written request from our client to release data to an independent third party. Confidentiality agreements will be gladly provided and executed upon request.

Payment Terms: We require a credit application from each customer. For our clients with credit approved by our company, payment terms are Net 10 Days upon receipt of the invoice. An interest charge of 1.5% per month applies to all overdue balances. Payment in advance is required if credit has not been established or if payment terms have not been met. We reserve the right to withhold laboratory results on accounts past 60 days overdue or if credit limit is exceeded.

Warranty and Limits of Liability: Our warranty is limited to the accuracy of the analysis of samples as received. We assume no responsibility for the purposes for which the client uses the test results nor liability for any other warranties, express or implied, including warranties of the fitness for particular purpose or for merchantability made by the client. These terms and conditions shall supersede any conflicting terms and conditions stated on any purchase order or other order of work submitted by the client.

Fee Discounts: Fee discounts apply to long-term contractual work, special projects and quotations, and large volume requests. Discounts do not apply to RUSH work.

Hazardous Wastes: Prism Laboratories reserves the right to return any samples determined to be hazardous, acutely toxic, or radioactive. It will be the client's responsibility to dispose of these samples in accordance with federal regulations. A sample disposal fee may be charged by Prism laboratories, Inc.

Billings: There is a minimum reporting fee of $45.00. All fees are billed directly to the client. If billing is to go to a third party, Prism requires a statement signed by the third party accepting responsibility of payment.

Litigation: All costs associated with compliance to any subpœna for documents, for testimony in a court of law, or for any other purpose relating to work performed by Prism Laboratories, in connection of work performed for that client shall be paid by that client. These costs may include, but are not limited to, hourly charges for persons involved in responding to subpœnas, travel and accommodations, mileage, attorney's preparation of testifier and advice of counsel in connection with response to subpœnas, and other expenses associated with such litigation.

Retention of Samples: Excess samples not used in analysis will be retained at the laboratory after report of analysis according to the following schedule unless other arrangements can be made. Potable water: Discarded immediately. All other Samples: 30 days.

Retention of Reports: After results have been reported to the client, Prism will retain copies for a period of at least five years; after which such reports may be destroyed.

Special Reports: All standard prices reflect Level I Quality Control Program Report. Level II and III QC Reports, and additional copies of reports are available upon request at an additional charge.

Rush Turnaround: Available with prior approval from Prism. The following price premium multipliers will apply unless quoted otherwise in a Prism Analytical Quotation: Less than 1 Day = 3x / 1 Day - 2x / 2 day - 1.5x / 3 day - 1.25x / 4 day - 1.2x / 5 day - 1.15x / 6–9 days - 1.10x. Turnaround time is based on business days excluding weekends and holidays. Samples received after 3:00 pm will be considered received the next business day.

CHAIN OF CUSTODY RECORD

PRISM LABORATORIES, INC.

Full Service Analytical & Environmental Solutions

449 Springbrook Road • P.O. Box 240543 • Charlotte, NC 28224-0543

PAGE 1 OF 1 QUOTE # TO ENSURE PROPER BILLING: _____

Project Name: _____

Short Hold Analysis: (Yes) (No) UST Project: (Yes) (No)

*Please ATTACH any project specific reporting provisions and/or QC Requirements

Invoice To: _____

Address: _____

Purchase Order No./Billing Reference _____

Requested Due Date ❑ 1 Day ❑ 2 Days ❑ 3 Days ❑ 4 Days ❑ 5 Days ❑ 6–9 Days ❑ Standard 10 days

Samples received after 15:00 will be processed next business day. Turnaround time is based on business days, excluding weekends and holidays.

(SEE REVERSE SIDE FOR RUSH TURNAROUND FEES)

Client Company Name: Eric Pickett

Report To/Contact Name: _____

Reporting Address: 5621 Mt. Ol. Ch. Rd, Charlotte NC 28278

Phone: 704-377-6811 Fax (Yes) (No): _____

Site Location Name: 5621 Mt. Ol. Ch. Rd.

Site Location Physical Address: Charlotte NC

LAB USE ONLY

	YES	NO	N/A
Samples INTACT upon arrival?			
Received ON WET ICE? Temp_____			
PROPER PRESERVATIVES indicated?			
Received WITHIN HOLDING TIMES?			
CUSTODY SEALS INTACT?			
VOLATILES rec'd W/OUT HEADSPACE?			
PROPER CONTAINERS used?			

TO BE FILLED IN BY CLIENT/SAMPLING PERSONNEL

Certification: NELAC ____ USACE ____ FL ____ NC ____ SC ____ OTHER ____ N/A ____

Water Clorinated: YES ___ NO ___

Sample Iced Upon Collection: YES ___ NO ___

CLIENT SAMPLE DESCRIPTION	DATE COLLECTED	TIME COLLECTED MILITARY HOURS	MATRIX (SOIL, WATER OR SLUDGE)	SAMPLE CONTAINER *TYPE SEE BELOW	NO.	SIZE	PRESERVA-TIVES	ANALYSES REQUESTED						REMARKS	SUB LAB CERT. ID NO.	PRISM LAB ID NO.
Pickett	7/16/02	13:27	Soil				NA									

PRESS DOWN FIRMLY - 3 COPIES

Sampler's Signature [signature] Sampled By (Print Name) Eric Pickett Affiliation _____

Upon relinquishing, this Chain of Custody is your authorization for Prism to proceed with the analyses as requested above. Any changes must be submitted in writing to the Prism Project Manager. There will be charges for any changes after analyses have been initialized.

Relinquished By: (Signature)	Received By: (Signature)	Date	Military/Hours
Relinquished By: (Signature)	Received By: (Signature)	Date	
Relinquished By: (Signature) [signature]	Received For Prism Laboratories By: [signature]	Date 7/16/02	14:02

Method of Shipment: NOTE: ALL SAMPLE COOLERS SHOULD BE TAPED SHUT WITH CUSTODY SEALS FOR TRANSPORTATION TO THE LABORATORY. SAMPLES ARE NOT ACCEPTED AND VERIFIED AGAINST COC UNTIL RECEIVED AT THE LABORATORY.

❑ Fed Ex ❑ UPS ❑ Hand-delivered ❑ Prism Field Service ❑ Other _____

Log-In Group No.

Additional Comments:

PRISM USE ONLY

Site Arrival Time:

Site Departure Time:

Field Tech Fee:

Mileage:

NPDES:	UST:	GROUNDWATER:	DRINKING WATER:	SOLID WASTE:	RCRA:	CERCLA:	LANDFILL:	OTHER:
❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC	❑ NC ❑ SC
❑ _____	❑ _____	❑ _____	❑ _____	❑ _____	❑ _____	❑ _____	❑ _____	❑ _____

*CONTAINER TYPE CODES: A = Amber C = Clear G = Glass P = Plastic; TL = Teflon-Lined Cap VOA = Volatile Organics Analysis (Zero Head Space)

SEE REVERSE FOR TERMS & CONDITIONS

CUSTOMER COPY

Terms and Conditions

Confidentiality: All work will be performed in strict confidence. Results are released only to the client or his designated agent. Prism must receive a written request from our client to release data to an independent third party. Confidentiality agreements will be gladly provided and executed upon request.

Payment Terms: We require a credit application from each customer. For our clients with credit approved by our company, payment terms are Net 10 Days upon receipt of the invoice. An interest charge of 1.5% per month applies to all overdue balances. Payment in advance is required if credit has not been established or if payment terms have not been met. We reserve the right to withhold laboratory results on accounts past 60 days overdue or if credit limit is exceeded.

Warranty and Limits of Liability: Our warranty is limited to the accuracy of the analysis of samples as received. We assume no responsibility for the purposes for which the client uses the test results nor liability for any other warranties, express or implied, including warranties of the fitness for particular purpose or for merchantability made by the client. These terms and conditions shall supersede any conflicting terms and conditions stated on any purchase order or other order of work submitted by the client.

Fee Discounts: Fee discounts apply to long-term contractual work, special projects and quotations, and large volume requests. Discounts do not apply to RUSH work.

Hazardous Wastes: Prism Laboratories reserves the right to return any samples determined to be hazardous, acutely toxic, or radioactive. It will be the client's responsibility to dispose of these samples in accordance with federal regulations. A sample disposal fee may be charged by Prism laboratories, Inc.

Billings: There is a minimum reporting fee of $45.00. All fees are billed directly to the client. If billing is to go to a third party, Prism requires a statement signed by the third party accepting responsibility of payment.

Litigation: All costs associated with compliance to any subpœna for documents, for testimony in a court of law, or for any other purpose relating to work performed by Prism Laboratories, in connection of work performed for that client shall be paid by that client. These costs may include, but are not limited to, hourly charges for persons involved in responding to subpœnas, travel and accommodations, mileage, attorney's preparation of testifier and advice of counsel in connection with response to subpœnas, and other expenses associated with such litigation.

Retention of Samples: Excess samples not used in analysis will be retained at the laboratory after report of analysis according to the following schedule unless other arrangements can be made. Potable water: Discarded immediately. All other Samples: 30 days.

Retention of Reports: After results have been reported to the client, Prism will retain copies for a period of at least five years; after which such reports may be destroyed.

Special Reports: All standard prices reflect Level I Quality Control Program Report. Level II and III QC Reports, and additional copies of reports are available upon request at an additional charge.

Rush Turnaround: Available with prior approval from Prism. The following price premium multipliers will apply unless quoted otherwise in a Prism Analytical Quotation: Less than 1 Day = 3x / 1 Day - 2x / 2 day - 1.5x / 3 day - 1.25x / 4 day - 1.2x / 5 day - 1.15x / 6–9 days - 1.10x. Turnaround time is based on business days excluding weekends and holidays. Samples received after 3:00 pm will be considered received the next business day.

Subject: Sandblasting matter - Pickett Farm remediation
Date: Tue, 10 Jul 2001 16:06:15 -0400
From: "Cooper, Susan" <SCOOPER@KilpatrickStockton.com>
To: "Roberta Proctor (E-mail)" <rhp@blueridge.net>
CC: "Thomas N. Griffin III (Business Fax)" <IMCEAFAX-Thomas+20N+2E+20Griffin+20III+40+2
"Ed Stephens (E-mail)" <ed_stephens@awareenvironmental.com>

Robin, this email is to follow up our telephone call today. As we discussed, we have learned that the disposal company (Envirorite in Canton, Ohio) is just this week performing the necessary analysis on the sand sample Aware sent them two weeks ago. So, we will not have their approval on accepting the waste until probably Friday. The subcontractor will not start the removal until it has approval from the disposal company. Thus, assuming we get approval on Friday, the subcontractor will perform the removal at Pickett on Monday the 16th and confirmatory samples will be taken. We will strive to get you the report as soon as possible, but will keep you updated in the interim. I understand this is acceptable to you.

Thanks for your help - Susan

Susan H. Cooper
Kilpatrick Stockton LLP
3500 One First Union Center
301 South College Street
Charlotte, NC 28202
704.338.5102
fax 704.338.5125

Subject: Re: [Fwd: Sandblasting matter - Pickett Farm remediation]
Date: Wed, 11 Jul 2001 08:42:17 -0400
From: Doug Holyfield <doug.holyfield@ncmail.net>
Organization: NC DENR Hazardous Waste
To: Roberta Proctor <rhp@blueridge.net>
CC: "Wells, Jesse" <jesse.wells@ncmail.net>, Joe Parker <Joe.Parker@ncmail.net>

Thanks for the info....

Roberta Proctor wrote:

> *Just to keep you updated. they are getting bids on cleaning the businesses on*
> *Central Ave. and should have a plan for me by the deadline we set.*
>
> *"Cooper, Susan" wrote:*
>
> > *Robin, this email is to follow up our telephone call today. As we*
> > *discussed, we have learned that the disposal company (Envirorite in Canton,*
> > *Ohio) is just this week performing the necessary analysis on the sand sample*
> > *Aware sent them two weeks ago. So, we will not have their approval on*
> > *accepting the waste until probably Friday. The subcontractor will not start*
> > *the removal until it has approval from the disposal company. Thus, assuming*
> > *we get approval on Friday, the subcontractor will perform the removal at*
> > *Pickett on Monday the 16th and confirmatory samples will be taken. We will*
> > *strive to get you the report as soon as possible, but will keep you updated*
> > *in the interim. I understand this is acceptable to you.*
> >
> > *Thanks for your help - Susan*
> >
> > *Susan H. Cooper*
> > *Kilpatrick Stockton LLP*
> > *3500 One First Union Center*
> > *301 South College Street*
> > *Charlotte, NC 28202*
> > *704.338.5102*
> > *fax 704.338.5125*

--
Doug Holyfield, Head
RCRA Compliance Branch
Hazardous Waste Section - Div. Waste Management
N.C. Dept of Environment and Natural Resources
Winston-Salem Regional Office
Voice:336-771-4608x222
Doug.Holyfield@ncmail.net

Subject: **Remediation at Pickett Farm**
Date: Wed, 18 Jul 2001 11:00:23 -0400
From: "Cooper, Susan" <SCOOPER@KilpatrickStockton.com>
To: "Roberta Proctor (E-mail)" <rhp@blueridge.net>
CC: "Ed Stephens (E-mail)" <ed_stephens@awareenvironmental.com>,
"Tom Griffin (E-mail)" <tomgriffin@parkerpoe.com>

Robin, this is to confirm our telephone conversation this morning and so Tom and Ed are in the loop on this. I called to tell you that one truck load of sand was hauled off yesterday and that 6 additional representative soil samples were taken from the remaining sand left on site to determine if there was any lead left. Because expedited turnaround costs for these samples will be an additional $600 (analyses are for total and tclp), I requested if we could use standard turn around time. Standard turn around time should have the sample results back by Wed or Thursday next week and expedited would provide results by this Friday. You stated that standard turn around time would be fine. We will fax you the results when they are received. Thanks for your cooperation. Susan

Susan H. Cooper
Kilpatrick Stockton LLP
3500 One First Union Center
301 South College Street
Charlotte, NC 28202
704.338.5102
fax 704.338.5125

Subject: **Pickett Property**
Date: Mon, 23 Jul 2001 16:38:34 -0400
From: Doug Holyfield <doug.holyfield@ncmail.net>
Organization: NC DENR Hazardous Waste
To: Joe Parker <Joe.Parker@ncmail.net>,
"linda.culpepper@ncmail.net" <linda.culpepper@ncmail.net>, jill.pafford@ncmail.net,
"Jesse.Wells" <Jesse.Wells@ncmail.net>
CC: rhp <rhp@blueridge.net>

Afternoon. I just got off the phone with Eric Pickett (Heaven, Morningstar, Pickett) and we have agreed to meet on Friday, August 3 at the MRO at 9:30 am to discuss his role in the enforcement case. Joe is able to meet that day; let me know who else is able to attend if possible. Robin, I wanted to check with you regarding the cleanup at the Pickett property. He indicated that they started digging, but quit and left a wastepile? Let me know something. Talk to you later.

--
Doug Holyfield, Head
RCRA Compliance Branch
Hazardous Waste Section - Div. Waste Management
N.C. Dept of Environment and Natural Resources
Winston-Salem Regional Office
Voice:336-771-4608x222
Doug.Holyfield@ncmail.net

Subject: Re: Pickett Property
Date: Tue, 24 Jul 2001 08:03:46 -0400
From: Roberta Proctor <rhp@blueridge.net>
Organization: Hazardous Waste Section
To: Doug Holyfield <doug.holyfield@ncmail.net>

Yes they did leave two piles of sand temporarily. The money is running short for clean-up because there was more material under the sand that was thought. It turned out the sand was put in a lower point that had solid waste- stumps etc. dumped in there so that increased the cost greatly. I checked this story with Joe and it jibed with what was told to him last year Kostner thinks that the piles that remain came from sandblasting wooden signs and are not hazardous so I allowed them to take samples for a waste analysis. They will dispose of them appropriately when they find out if they are HW or not. The samples should be in by the end of this week.

Doug Holyfield wrote:

> *Afternoon. I just got off the phone with Eric Pickett (Heaven,*
> *Morningstar, Pickett) and we have agreed to meet on Friday, August 3 at*
> *the MRO at 9:30 am to discuss his role in the enforcement case. Joe is*
> *able to meet that day; let me know who else is able to attend if*
> *possible. Robin, I wanted to check with you regarding the cleanup at*
> *the Pickett property. He indicated that they started digging, but quit*
> *and left a wastepile? Let me know something. Talk to you later.*
>
> --
> *Doug Holyfield, Head*
> *RCRA Compliance Branch*
> *Hazardous Waste Section - Div. Waste Management*
> *N.C. Dept of Environment and Natural Resources*
> *Winston-Salem Regional Office*
> *Voice:336-771-4608x222*
> *Doug.Holyfield@ncmail.net*

Roberta Proctor

Subject: RE: Remediation at Pickett Farm and Central Ave
Date: Thu, 9 Aug 2001 10:37:09 -0400
From: "Cooper, Susan" <SCOOPER@KilpatrickStockton.com>
To: "'Roberta Proctor" <rhp@blueridge.net>
CC: "Tom Griffin (E-mail)" <tomgriffin@parkerpoe.com>

Yes, I sent the results to you on July 27 by fax. Please let me know if you did not get them. As you may recall, I called you to discuss the results because one sample was above the clean up level you had set, but passed the TCLP. We have gotten estimates for disposal of this sand and hope to have that shipped off soon.

I understand that Heaven is working on additional estimates for Central Ave. But, as I discussed with you, we would very much like to have your comments on the plan we submitted so we have an accurate scope of work for contractors to bid on. Have you finished your review of the plan for Central? Thanks for your assistance. Susan

-----Original Message-----
From: Roberta Proctor [mailto:rhp@blueridge.net]
Sent: Thursday, August 09, 2001 7:53 AM
To: Cooper, Susan
Subject: Remediation at Pickett Farm and Central Ave

Have the results come in on this yet? Have you gotten the other estimates on the
Central Ave. clean-up? Please let me know the status of both of these sites.

"Cooper, Susan" wrote:

> *Robin, this is to confirm our telephone conversation this morning and so* Tom
> *and Ed are in the loop on this. I called to tell you that one truck load* of
> *sand was hauled off yesterday and that 6 additional representative soil*
> *samples were taken from the remaining sand left on site to determine if*
> *there was any lead left. Because expedited turnaround costs for these*
> *samples will be an additional $600 (analyses are for total and tclp), I*
> *requested if we could use standard turn around time. Standard turn around*
> *time should have the sample results back by Wed or Thursday next week and*
> *expedited would provide results by this Friday. You stated that standard*
> *turn around time would be fine. We will fax you the results when they are*
> *received. Thanks for your cooperation. Susan*
>
> *Susan H. Cooper*
> *Kilpatrick Stockton LLP*
> *3500 One First Union Center*
> *301 South College Street*
> *Charlotte, NC 28202*
> *704.338.5102*
> *fax 704.338.5125*

Subject: **Remediation at Pickett Farm and Central Ave**
Date: Thu, 09 Aug 2001 07:52:45 -0400
From: Roberta Proctor <rhp@blueridge.net>
Organization: Hazardous Waste Section
To: "Cooper, Susan" <SCOOPER@KilpatrickStockton.com>

Have the results come in on this yet? Have you gotten the other estimates on the Central Ave. clean-up? Please let me know the status of both of these sites.

"Cooper, Susan" wrote:

> *Robin, this is to confirm our telephone conversation this morning and so Tom*
> *and Ed are in the loop on this. I called to tell you that one truck load of*
> *sand was hauled off yesterday and that 6 additional representative soil*
> *samples were taken from the remaining sand left on site to determine if*
> *there was any lead left. Because expedited turnaround costs for these*
> *samples will be an additional $600 (analyses are for total and tclp), I*
> *requested if we could use standard turn around time. Standard turn around*
> *time should have the sample results back by Wed or Thursday next week and*
> *expedited would provide results by this Friday. You stated that standard*
> *turn around time would be fine. We will fax you the results when they are*
> *received. Thanks for your cooperation. Susan*
>
> *Susan H. Cooper*
> *Kilpatrick Stockton LLP*
> *3500 One First Union Center*
> *301 South College Street*
> *Charlotte, NC 28202*
> *704.338.5102*
> *fax 704.338.5125*

Roberta Proctor

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

ROY COOPER
ATTORNEY GENERAL

DATE: 2/21/02

FACSIMILE TRANSMITTAL SHEET

TO: Robin Proctor

FAX NO.: 828 625 0171

FROM:

- ___ Judith Robb Bullock, Special Deputy Attorney General
- ___ Lauren Murphy Clemmons, Assistant Attorney General
- X Allison Corum, Assistant Attorney General
- ___ Kimberly W. Duffley, Assistant Attorney General
- ___ W. Wallace Finlator, Jr., Assistant Attorney General
- ___ Jay L. Osborne, Assistant Attorney General
- ___ Tom Pitman, Assistant Attorney General
- ___ Nancy E. Scott, Assistant Attorney General
- ___ William Stewart, Assistant Attorney General
- ___ Kathleen M. Waylett, Assistant Attorney General

PHONE NO: (919) 716-6600
FAX NO: (919) 716-6939

P.O. BOX 629
Raleigh, N.C. 27602-0629
114 West Edenton Street

SUBJECT: Pickett

NO. OF PAGES INCLUDING TRANSMITTAL SHEET ___

COMMENTS: Doug asked me to fax this to you. He is going to call you re: a call he got from Eric Pickett

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above by U.S. postal service. Thank you.
wp\28361

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

ROY COOPER
ATTORNEY GENERAL

Reply To: Allison S. Corum
Environmental Division
(919) 716-6600
(919) 716-6939

February 8, 2002

Mr. Albert Eric Pickett
5631 Mt. Olive Church Road
Charlotte, North Carolina 28278

RE: Albert Eric Pickett v. N.C. Dept. of Environment and Natural Resources, Division of Waste Management
01 EHR 1332
DWM Docket # 2001-122

Dear Mr. Pickett:

Enclosed are two copies of a proposed settlement agreement in the above-referenced matter. If you are satisfied with this agreement, please sign both copies and return both copies so that I can then obtain Mr. Matthews' signature. I will then send you a copy signed both by you and by him.

Please contact me if you have questions or concerns.

Thanks for your cooperation in this matter.

Sincerely,

Allison Corum

Allison S. Corum
Assistant Attorney General

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
01 EHR 1332

ALBERT ERIC PICKETT Petitioner, v. N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WASTE MANAGEMENT Respondent.	)	SETTLEMENT AGREEMENT

The North Carolina Department of Environment and Natural Resources ("DENR"), through its Division of Waste Management (the "Division"), and Albert Eric Pickett hereby enter into this Settlement Agreement to amicably resolve matters in controversy between them. This matter arose out of the issuance of a Compliance Order with an Administrative Penalty, Docket No. 2001-122, (hereinafter "Compliance Order"), by the Division in the amount of $20,000 against Albert Eric Pickett, jointly and severally with James Costner d/b/a Morningstar Sign and Sandblasting. The administrative penalty was assessed on June 26, 2001, for alleged violations of Article 9 of Chapter 130A of the North Carolina General Statutes and the North Carolina Hazardous Waste Management Rules, as more fully described in the Compliance Order.

In this matter, the Division and Albert Eric Pickett have reached the following settlement:

1. Albert Eric Pickett owns real property located at 5631 Mt. Olive Church Road, Charlotte, Mecklenburg County, N.C. This real property is referred to in the above-described Compliance Order as the Pickett Property. In the Compliance Order, the Division found and concluded that there was D008 hazardous waste in the form of lead-contaminated soil located on the Pickett Property as a result of sandblasting debris deposits made by James Costner d/b/a Morningstar Sign and Sandblasting. Subsequent to the issuance of the Compliance Order, some assessment and remediation work was performed at the Pickett Property by environmental consultants retained by Heaven, L.L.C. and/or James Costner d/b/a Morningstar Sign and Sandblasting. However, remaining work needs to be done to complete the assessment and remediation of the Pickett Property.

NC ATTORNEY GENERAL Fax:919-716-6939 Feb 21 '02 14:26 P.03

2. Albert Eric Pickett agrees to complete the assessment and remediation of those portions of the Pickett Property contaminated by the sandblasting debris deposits made by James Costner d/b/a Morningstar Sign and Sandblasting to levels compliant with Article 9 of Chapter 130A of the North Carolina General Statutes, the State's Hazardous Waste Management Rules, codified at 15A N.C.A.C. 13A, and the Division's "Guidelines for Determining Soil and Groundwater Clean-up Levels at RCRA Hazardous Waste Sites." Albert Eric Pickett agrees to complete this assessment and remediation by April 1, 2002 and to submit to DENR a closure certification report in a form approved by the Division by May 15, 2002.

3. Albert Eric Pickett will pay to the Division: (a) a recomputed penalty in the amount of one thousand dollars ($1000); and (b) a recomputed annual storage, treatment, disposal facility activity fee of five hundred ($500) in settlement of the Administrative Penalty and Fee assessed by the Division Director in the Compliance Order. Full payment of this recomputed penalty and fee shall be made on or before March 15, 2002. Payment shall be in the form of two separate checks or money orders (one for the penalty and one for the fee), payable to the Division of Waste Management, and mailed to Mr. Jim Edwards, Hazardous Waste Section, Division of Waste Management, 401 Oberlin Road, Suite 150, Raleigh, NC 27605.

4. Albert Eric Pickett expressly agrees not to pursue any further hearings or appeals in OAH Case No. 01 EHR 1332 which case was dismissed on November 30, 2001 by the Honorable Augustus B. Elkins, II., Administrative Law Judge in an Order of Dismissal and Final Decision.

5. The Division agrees

(a) that the activities described in paragraphs 2 will satisfy Albert Eric Pickett's obligations to perform work or address conditions required by the Compliance Order; and

(b) to recompute and remit and the administrative penalty in the Compliance Order to one thousand dollars ($1000) against Albert Eric Pickett.

(c) to recompute and remit the twelve hundred dollar ($1200) annual storage, treatment, disposal facility activity fee due from Albert Eric Pickett to five hundred dollars ($500).

6. The Division does not hereby waive any right the Division has to inspect for or to allege in future proceedings or enforcement actions against Albert Eric Pickett any new, subsequent or repeat violation of Article 9 of Chapter 130A of the North Carolina General Statutes, and the State's Hazardous Waste Management Rules, codified at 15A N.C.A.C. 13A.

7. The Division's agreement herein to recompute and remit the administrative penalty and fee against Albert Eric Pickett as described above does not apply to penalties or fees assessed against any other person or entity including but not limited to Multi-Video, Inc., James Costner d/b/a Morningstar Sign and Sandblasting and Heaven, LLC, and nothing in this Agreement shall operate as a waiver or release by the Division or Albert Eric Pickett of any rights or claims with respect to any person or entity not a party to this Agreement.

NC ATTORNEY GENERAL Fax:919-716-6939 Feb 21 '02 14:27 P.04

8. Albert Eric Pickett expressly stipulates and acknowledges that, by entering into this Settlement Agreement, it waives for purposes of collection of the above-described administrative penalty and fee, any and all defenses to the underlying assessment of said penalty and fee; and that the issue in any action to collect said penalty and fee will be limited to the payment or non-payment thereof in accordance with the terms of this Settlement Agreement.

9. This Agreement contains the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and supersedes and replaces any and all prior written or oral negotiations, proposed agreements or agreements. Each party acknowledges that no other party, or any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the party to execute this Agreement, and each party acknowledges that it has not executed this Agreement in reliance on any such promise, representation or warranty not contained herein.

FOR THE DIVISION OF WASTE MANAGEMENT:

_____
Dexter R. Matthews
Director
Division of Waste Management

Date: _____

_____
ALBERT ERIC PICKETT

Date: _____

EP-52481

NC ATTORNEY GENERAL Fax:919-716-6939 Feb 21 '02 14:27 P.05

AWARE Environmental Inc.®
9305-J Monroe Road
Charlotte, North Carolina 28270

Fax Cover Sheet

DATE:	October 4, 2001	**TIME:**	10:57 AM
TO:	Mr. Tom Griffin Parker, Poe, Adams & Bernstein	**FAX:**	
FROM:	Ed Stephens AWARE Environmental® Inc.	**PHONE:** **FAX:**	(704) 845-1697 (704) 845-1759
RE:	Pickett's Farm Sample Analytical Results Summary (Preliminary) 3621 Mt. Olive Church Road Site AEI Project No. N435-02		

Number of pages including cover sheet: 3

Message:

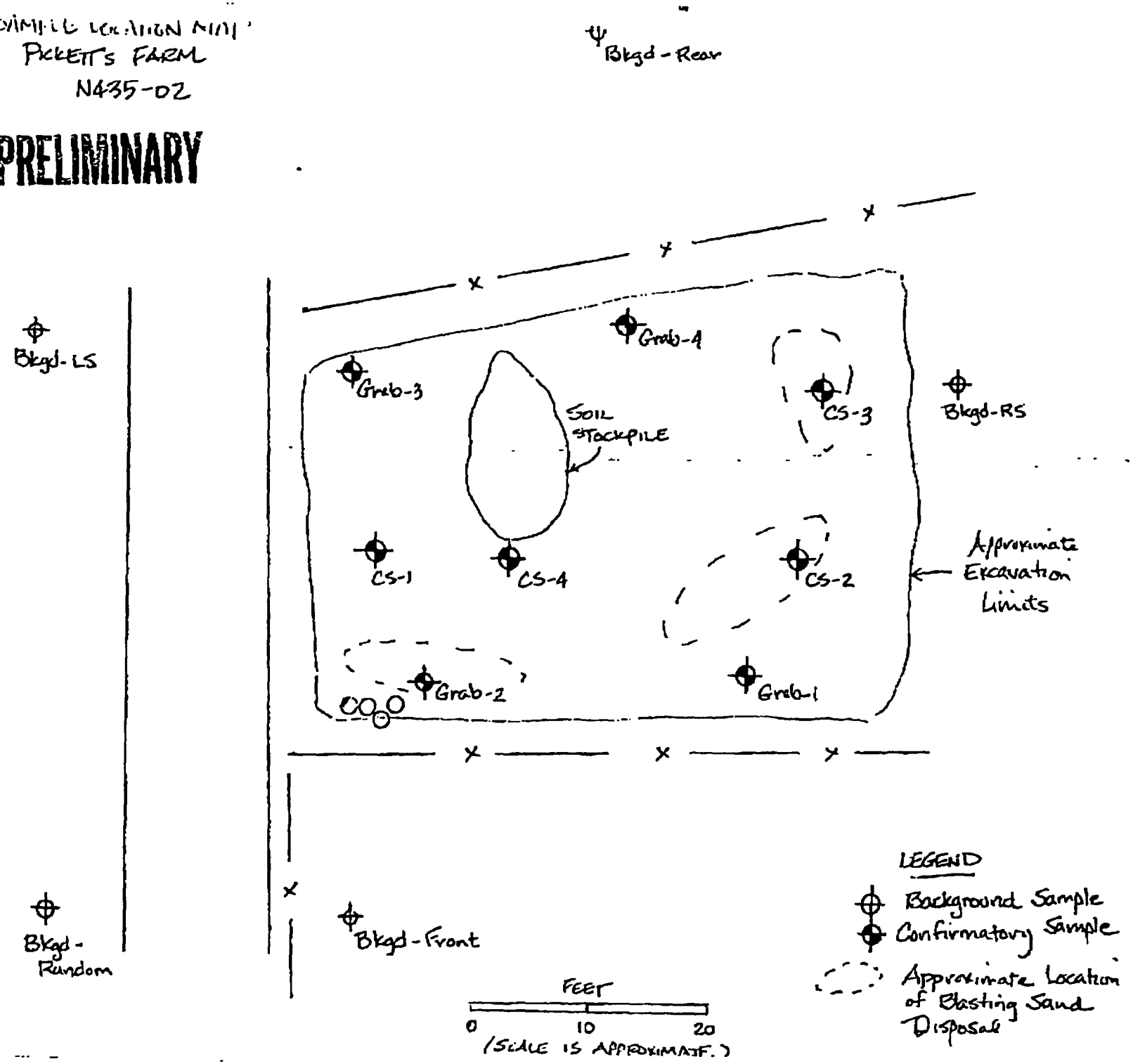
Tom:
Per your request, please find attached a preliminary sample analytical data summary for the Pickett's Farm disposal site and a sample location map. Call with any questions.
Thanks, Ed.

Hard Copy To Follow? [ ] [X]
Yes No

NOTICE
THE INFORMATION CONTAINED IN THIS FACSIMILE IS PRIVILEGED AND/OR CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE PERSON TO WHOM IT IS ADDRESSED. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT (OR SUCH RECIPIENT'S EMPLOYEE OR AGENT), YOU ARE HEREBY NOTIFIED NOT TO READ, DISTRIBUTE OR COPY THE MATERIALS ATTACHED HERETO WITHOUT THE PRIOR WRITTEN CONSENT OF THE SENDER. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE SENDER BY COLLECT TELEPHONE CALL AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS BY U.S. POSTAL SERVICE AND WE WILL REIMBURSE YOU FOR THE REQUIRED POSTAGE. THANK YOU.

FIG. 2 - SAMPLE LOCATION MAP
PICKETT'S FARM
N435-02

PRELIMINARY



FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO: Robin Proctor

FAX NO.: (828) 625-0171

FROM: Tom Griffin

DATE: October 24, 2001

NO. OF PAGES: Four (4)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Robin, James Funderburk asked that I fax you another copy of the sampling data from the Pickett Farm site. My file shows that I faxed this to you on October 5, but I am going ahead and sending it again in case you did not receive the first copy. I apologize if you now have two sets of the data in your files. Please feel free to call me if you should have any questions about this data or need anything further from me or James concerning this project.

Thanks as always for your help.

Tom Griffin

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

PRELIMINARY

Table 1
Sample Analytical Data Summary for Blasting Sand Disposal Area
5621 Mt. Olive Church Road, Charlotte, NC
AEI Project No. N435-02

Sample ID	Sample Date	Sample Location	Total Pb	TCLP Lead	DENR Cleanup Criteria
Background Samples					
Bkgd-LS	5/9/01	West of Disposal Area	25 mg/kg	Not Analyzed	Not Applicable
Bkgd-RS	5/9/01	East of Disposal Area	24 mg/kg	Not Analyzed	Not Applicable
Bkgd-Rear	5/9/01	North of Disposal Area	280 mg/kg	Not Analyzed	Not Applicable
Bkgd-Front	5/9/01	South of Disposal Area	54 mg/kg	Not Analyzed	Not Applicable
Bkgd-Random	5/9/01		13 mg/kg	Not Analyzed	Not Applicable
Blasting Sand Disposal Area Samples					
Pb-TCLP	5/9/01	Sand in Blue Drum	Not Analyzed	45 mg/l	Not Applicable
DA-1	5/9/01	See Figure 2	900	Not Analyzed	270 mg/kg
Post-Excavation Confirmatory Soil Samples					
Grab-1	7/17/01	See Figure 2	76 mg/kg	<0.20 mg/l	270 mg/kg
Grab-2	7/17/01	See Figure 2	100 mg/kg	0.26 mg/l	270 mg/kg
Grab-3	7/17/01	See Figure 2	100 mg/kg	0.21 mg/l	270 mg/kg
Grab-4	7/17/01	See Figure 2	190 mg/kg	4.6 mg/l	270 mg/kg
Pile-1	7/17/01	Soil Stockpile	400 mg/kg	0.28 mg/l	270 mg/kg
Pile-2	7/17/01	Soil Stockpile	61 mg/kg	0.27 mg/l	270 mg/kg
CS-1	9/21/01	See Figure 2	61 mg/kg	Not Analyzed	270 mg/kg
CS-2	9/21/01	See Figure 2	13 mg/kg	Not Analyzed	270 mg/kg
CS-3	9/21/01	See Figure 2	6.3 mg/kg	Not Analyzed	270 mg/kg
CS-4	9/21/01	See Figure 2	270 mg/kg	Not Analyzed	270 mg/kg

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO: Robin Proctor

FAX NO.: (828) 625-0171

FROM: Tom Griffin

DATE: October 5, 2001

NO. OF PAGES: Four (4)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

AWARE Environmental Inc.®
9305-J Monroe Road
Charlotte, North Carolina 28270

Fax Cover Sheet

DATE:	October 4, 2001	**TIME:**	10:57 AM
TO:	Mr. Tom Griffin Parker, Poe, Adams & Bernstein	**FAX:**	
FROM:	Ed Stephens AWARE Environmental® Inc.	**PHONE:** **FAX:**	(704) 845-1697 (704) 845-1759
RE:	Pickett's Farm Sample Analytical Results Summary (Preliminary) 3621 Mt. Olive Church Road Site AEI Project No. N435-02		

Number of pages including cover sheet: 3

Message:

Tom:
Per your request, please find attached a preliminary sample analytical data summary for the Pickett's Farm disposal site and a sample location map. Call with any questions.
Thanks, Ed.

Hard Copy To Follow? [ ] Yes [X] No

NOTICE
THE INFORMATION CONTAINED IN THIS FACSIMILE IS PRIVILEGED AND/OR CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE PERSON TO WHOM IT IS ADDRESSED. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT (OR SUCH RECIPIENT'S EMPLOYEE OR AGENT), YOU ARE HEREBY NOTIFIED NOT TO READ, DISTRIBUTE OR COPY THE MATERIALS ATTACHED HERETO WITHOUT THE PRIOR WRITTEN CONSENT OF THE SENDER. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE SENDER BY COLLECT TELEPHONE CALL AND RETURN THE ORIGINAL FACSIMILE TO US AT THE ABOVE ADDRESS BY U.S. POSTAL SERVICE AND WE WILL REIMBURSE YOU FOR THE REQUIRED POSTAGE. THANK YOU.

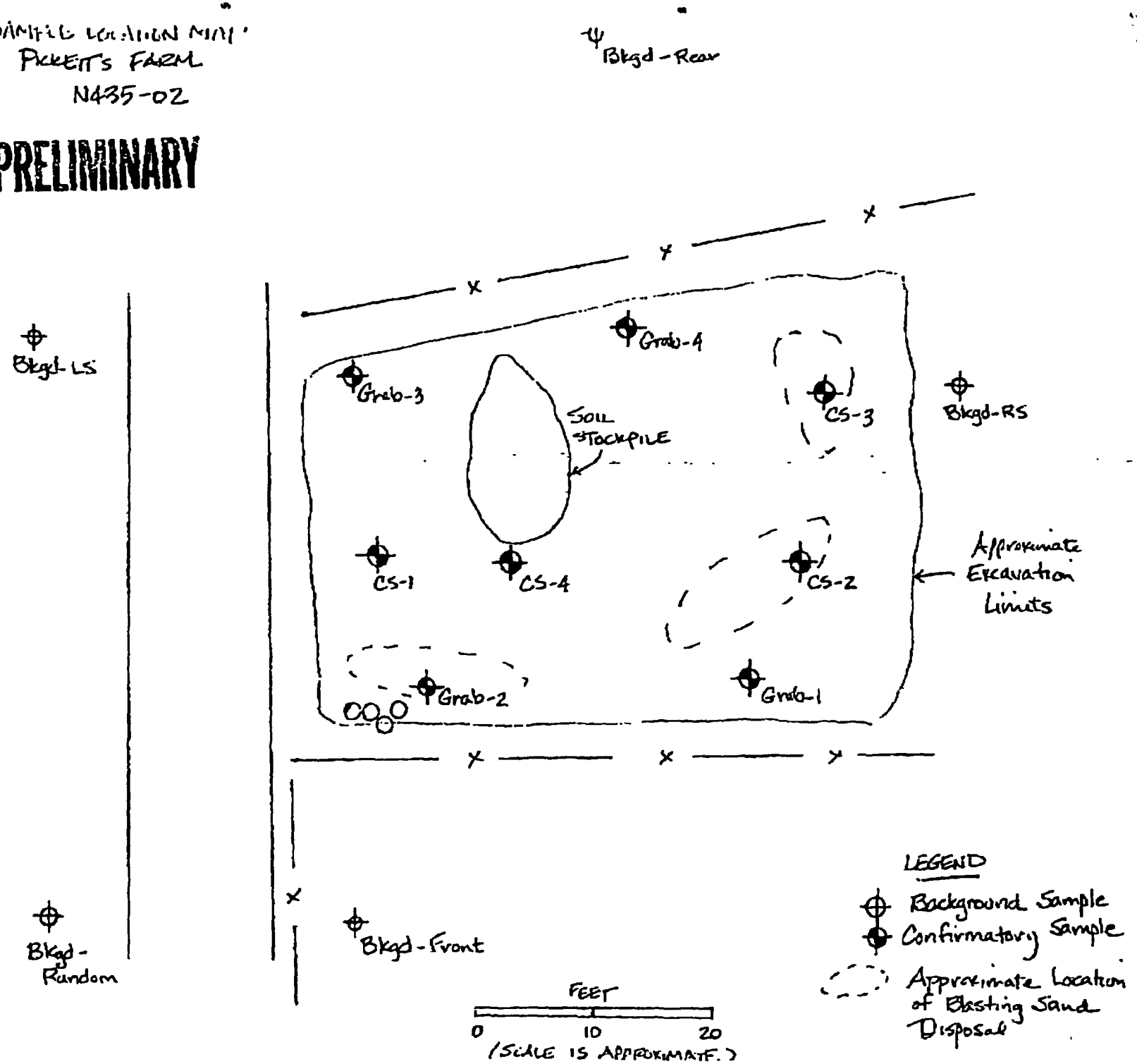
PRELIMINARY

Table 1
Sample Analytical Data Summary for Blasting Sand Disposal Area
5621 Mt. Olive Church Road, Charlotte, NC
AEI Project No. N435-02

Sample ID	Sample Date	Sample Location	Total Pb	TCLP Lead	DENR Cleanup Criteria
Background Samples					
Bkgd-LS	5/9/01	West of Disposal Area	25 mg/kg	Not Analyzed	Not Applicable
Bkgd-RS	5/9/01	East of Disposal Area	24 mg/kg	Not Analyzed	Not Applicable
Bkgd-Rear	5/9/01	North of Disposal Area	280 mg/kg	Not Analyzed	Not Applicable
Bkgd-Front	5/9/01	South of Disposal Area	54 mg/kg	Not Analyzed	Not Applicable
Bkgd-Random	5/9/01		13 mg/kg	Not Analyzed	Not Applicable
Blasting Sand Disposal Area Samples					
Pb-TCLP	5/9/01	Sand in Blue Drum	Not Analyzed	45 mg/l	Not Applicable
DA-1	5/9/01	See Figure 2	900	Not Analyzed	270 mg/kg
Post-Excavation Confirmatory Soil Samples					
Grab-1	7/17/01	See Figure 2	76 mg/kg	<0.20 mg/l	270 mg/kg
Grab-2	7/17/01	See Figure 2	100 mg/kg	0.26 mg/l	270 mg/kg
Grab-3	7/17/01	See Figure 2	100 mg/kg	0.21 mg/l	270 mg/kg
Grab-4	7/17/01	See Figure 2	190 mg/kg	4.6 mg/l	270 mg/kg
Pile-1	7/17/01	Soil Stockpile	400 mg/kg	0.28 mg/l	270 mg/kg
Pile-2	7/17/01	Soil Stockpile	61 mg/kg	0.27 mg/l	270 mg/kg
CS-1	9/21/01	See Figure 2	61 mg/kg	Not Analyzed	270 mg/kg
CS-2	9/21/01	See Figure 2	13 mg/kg	Not Analyzed	270 mg/kg
CS-3	9/21/01	See Figure 2	6.3 mg/kg	Not Analyzed	270 mg/kg
CS-4	9/21/01	See Figure 2	270 mg/kg	Not Analyzed	270 mg/kg

FIG. 2 - SAMPLE LOCATION MAP
PICKETT'S FARM
N435-02

PRELIMINARY



State of North Carolina

ROY COOPER
ATTORNEY GENERAL

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

DATE: 10/5/01

FACSIMILE TRANSMITTAL SHEET

TO: Robin Proctor FAX NO.: 828 251 6452

FROM:

- ___ Judith Robb Bullock, Special Deputy Attorney General
- ___ Lauren Murphy Clemmons, Assistant Attorney General
- X Allison Corum, Assistant Attorney General
- ___ Kimberly W. Duffley, Assistant Attorney General
- ___ W. Wallace Finlator, Jr., Assistant Attorney General
- ___ Robert R. Gelblum, Assistant Attorney General
- ___ Jay L. Osborne, Assistant Attorney General
- ___ Tom Pitman, Assistant Attorney General
- ___ Nancy E. Scott, Assistant Attorney General
- ___ William Stewart, Assistant Attorney General
- ___ Kathleen M. Waylett, Assistant Attorney General

PHONE NO: (919) 716-6600
FAX NO: (919) 716-6939

P.O. BOX 629
Raleigh, N.C. 27602-0629
114 West Edenton Street

SUBJECT: James Costner expenditures

NO. OF PAGES INCLUDING TRANSMITTAL SHEET ___

COMMENTS: ___

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above by U.S. postal service. Thank you.

wp\28361

KILPATRICK STOCKTON LLP

Attorneys at Law
3500 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6001
Telephone: 704.338.5000
Facsimile: 704.338.5125
Web site: www.kilpatrickstockton.com

SUSAN H. COOPER
E-mail: SCooper@KilpatrickStockton.com
Direct Dial: 704.338.5102

August 7, 2001

VIA FACSIMILE AND US MAIL

Ms. Allison S. Corum
Department of Justice
State of North Carolina
Environmental Division
P. O. Box 629
Raleigh, North Carolina 27602

RECEIVED
AUG 9 2001
N.C. ATTORNEY GENERAL
Environmental Division

Re: Compliance Orders with Administrative Penalties
James Costner d/b/a Morningstar Wooden Sign
Docket Numbers 2001-122 and 2001-043

Dear Allison:

This letter is to follow up our informal settlement conference last Thursday regarding additional information you requested. We appreciated you and your colleagues' time and consideration in meeting with us and felt it was a productive meeting.

As we discussed, my client, James Costner, did not know that the paint Heaven Clothing wanted him to sandblast contained lead-based paint. Mr. Costner understood from Mr. Funderburk of Heaven Clothing that the paint was latex and Mr. Costner had actually seen the mural being painted in the recent past and thus had no reason to believe it contained lead based paint. Further, as Mr. Costner explained, had he known the paint underneath contained any lead, he would not have taken the job just as he turned down a job earlier when he asked and learned that the paint contained lead.

Mr. Costner has endeavored to comply with the requests from the Department regarding investigation and remediation. He and Heaven Clothing have performed an investigation at Central Avenue and the surrounding area, investigated the Pickett Farm location, and performed remediation at Pickett Farm. Thus far, Mr. Costner has split the costs with Heaven Clothing. As you know, Mr. Costner has limited financial means and has had to work out payment plans with the contractors and recently Heaven Clothing. The actual contract for the sandblasting, however, states that Heaven Clothing is responsible for

NC ATTORNEY GENERAL Fax:919-716-6939 Oct 5 '01 10:58 P.02

all liability due to dust, noise, and sand associated with the sandblasting. See attached contract. While we realize this is a private contract that the Department does not have to honor under the RCRA framework, it is important for your consideration because Mr. Costner has tried his best to cooperate with the Department's requests despite the contract.

As discussed at the meeting, Mr. Costner has limited financial means. He is currently in seminary school and works only part time at a church for $500 a month. His wooden sign business has been very sporadic and he has received very little income from that business this year. And typically, his worst months are November and December so he does not anticipate much change for the rest of the year. He still has three children at home and his wife works at his youngest child's pre school. Last year she made $5000 and will make about the same amount this year. Currently, Mr. Costner estimates both their incomes this year will combine for at most $20,000, and it could very easily be less.

Thus far, Mr. Costner has paid approximately $1558.89 for investigation costs, has set up a payment plan of $50 to $100 a month for approximately $5,500, and expects additional costs of almost $6,000 to complete the remediation at Pickett Farm. Attached is a breakdown of the invoices, a copy of the invoices and an estimate from Aware regarding some additional unanticipated costs for remediation at the Pickett Farm site. ***In all, Mr. Costner's current costs for the investigation at Central Avenue and Pickett Farm, and remediation at Pickett Farm, are approximately $13,000. Furthermore, remediation costs for the Central Avenue site remains.*** One estimate we received was for $100,000, but we are getting other estimates and hope the remediation costs will be less. Thus, as requested at the meeting on Thursday, due to Mr. Costner's limited financial means, we request that all penalties and fees contained in both compliance orders be waived. To the extent that Mr. Costner can continue to contribute financially to the required investigation and remediation, he requests that his contribution go to actual work instead of the penalties and fees.

We appreciate your consideration of this information and look forward to hearing from you soon. If you have any questions, please do not hesitate to call me.

Sincerely,

Susan H. Cooper

SHC/pld
Enclosures
Cc: Mr. James Costner d/b/a Morningstar Wooden Sign Co. (w/enclosures)
Lisa Flowers

Invoices Received by Mr. Costner – Attachment to August 7, 2001 correspondence to Allison Corum

1/3/01	Aware	$1773.74	Costner paid $886.87
2/28/01	Aware	$952.49	Costner paid $476.24
3/27/01	Aware	$390.58	Costner paid $195.78
5/23/01	Aware	$6976.29	Costner's share is $3488.14 and has set up payment plan for this invoice and remaining invoices with Aware
6/20/01	Aware	$706.28	Costner's share is $353.14
7/19/01	Aware	$2474.58	Costner's share is $1237.29
7/19/01	Aware	$221.86	Costner's share is $110.93

Total invoiced to date from Aware and paid/owed by Mr. Costner is $6748.39

Additional Estimated Costs for Pickett Farm Remediation for Mr. Costner is $6239.08: The originally proposed Picket Farm remediation cost from EMS was $4931.15 and Mr. Costner is paying half of that or $2465.58, to Heaven Clothing. However, more sand was encountered and the new anticipated costs are summarized in the attached letter from Aware to Tom Griffin. Additional costs include approximately $4200 from Aware ($2200 plus $2000 for additional sand), and $2840 from EMS to ship the sand as non-hazardous material to a landfill. Thus, Mr. Costner's share of this additional costs is approximately $3520.

EPA ID No. for Pickett Farm - $507.00 invoice from NCDENR – Costner's share is $253.50

Total Costs for Past Work and Pickett Farm for Mr. Costner is: $12,987.47

Additionally, there is still the costs involved for remediation at Central Avenue site. One estimate from a contractor was over $100,000, but we are working on additional bids.

NC ATTORNEY GENERAL Fax:919-716-6939 Oct 5 '01 10:59 P.05

Attorneys at Law
3500 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6001
Telephone: 704.338.5000
Facsimile: 704.338.5125

E-mail: SCooper@KilpatrickStockton.com
Direct Dial: 704.338.5102

KILPATRICK STOCKTON LLP

July 27, 2001

Facsimile

Roberta Proctor
TO

828.625.0171
PHONE NO.

828.625.0171
FACSIMILE NO.

NCDENR
COMPANY

Asheville, North Carolina
CITY, STATE, COUNTRY

CONFIDENTIALITY NOTE:
The information contained in this facsimile message is being transmitted to and is intended for the use of the individual named above. If the reader of this message is not the intended recipient, you are hereby advised that any dissemination, distribution or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and destroy this facsimile message.

Susan H. Cooper
FROM

7
PAGES (WITH COVER)

9033
REFERENCE NO.

99993.253052
CLIENT/MATTER NO.

PLEASE CALL 704.338.5122 IF YOU HAVE DIFFICULTY WITH THIS TRANSMISSION.

Comments

Robin,

As we discussed.

Susan

JOB CODE_____

TO BE COMPLETED BY KS OPERATIONS CENTER

TRANSMISSION/RECEIPT DATE/TIME: _____

COMPLETED BY: _____

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com
STL Tallahassee

LOG NO: T1-22062
Received: 18 JUL 01
Reported: 23 JUL 01

Mr. Edward Stephens
Aware Environmental, Inc
5305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N635-02/Heaven,LLC
Sampled By: Client
Code: 101810724

REPORT OF RESULTS

Page 1

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
32062-1	Grab-1	07-17-01/10:10
32062-2	Grab-2	07-17-01/10:15
32062-3	Grab-3	07-17-01/10:20
32062-4	Grab-4	07-17-01/10:25
32062-5	Pile-1	07-17-01/10:30

PARAMETER	32062-1	32062-2	32062-3	32062-4	32062-5
TCLP extraction - non-volatile (1311)					
TCLP Extraction Date	07.18.01	07.18.01	07.18.01	07.18.01	07.18.01
Lead (TCLP), mg/l	<0.20	0.26	0.21	4.6	0.28
Analysis Date	07.20.01	07.20.01	07.20.01	07.20.01	07.20.01
Lead (6010), mg/kg dw	76	100	100	190	400
Analysis Date	07.19.01	07.19.01	07.19.01	07.19.01	07.19.01

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com

STL Tallahassee

LOG NO: T1-32062
Received: 18 JUL 01
Reported: 23 JUL 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N415-02/Heaven,LLC
Sampled By: Client
Code: 153210724
Page 2

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
32062-6	Pile-2	07-17-01/10:40

PARAMETER	32062-6
TCLP extraction - non-volatile (1311)	
TCLP Extraction Date	07.18.01
Lead (TCLP), mg/l	0.27
Analysis Date	07.23.01
Lead (6010), mg/kg dw	61
Analysis Date	07.19.01

2846 Industrial Plaza Dr • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 5504 • www.stl-inc.com
STL Tallahassee

LOG NO: T1-32062
Received: 18 JUL 01
Reported: 21 JUL 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1499

Project: N435-02/Heaven, LLC
Sampled By: Client
Code: 101810724
Page 3

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , QC REPORT FOR SOLID/SEMISOLID	DATE/ TIME SAMPLED
32062-7	Method Blank	
32062-8	Accuracy (%Rec)	
32062-9	Precision (%RPD)	

PARAMETER	32062-7	32062-8	32062-9
Lead (6010), mg/kg dw	<0.50	100 %	2.0 %
Analysis Date	07.19.01	07.19.01	---

spected to have
observed
Result to
STL Tallahassee

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com

LOG NO: TL-32062
Received: 18 JUL 01
Reported: 23 JUL 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-02/Heaven,LLC
Sampled By: Client
Code: 151210724
Page 4

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , QC REPORT FOR SOLID/SEMISOLID	DATE/ TIME SAMPLED
32062-10	TCLP Extraction Fluid Blank	
32062-11	Regulatory Limit	

PARAMETER	32062-10	32062-11
Lead (TCLP), ug/l	<0.20	5.0
Analysis Date	07.20.01	---

These test results meet all the requirements of NELAC. All questions regarding this test report should be directed to the STL Project Manager who signed this test report.

Method: EPA SW-846, Update III.
NC Certification No. 389

Janet B. Pruitt, Project Manager

REGISTERED ENVIRONMENTAL CONSULTANT PROGRAM

Rules and Implementation Guidance

June 2001

Department of Environment and Natural Resources
Division of Waste Management
Superfund Section
Inactive Hazardous Sites Branch

401 Oberlin Road - Suite 150
Raleigh, North Carolina 27605
(919) 733-2801

Attorneys at Law
3500 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6001
Telephone: 704.338.5000
Facsimile: 704.338.5125

E-mail: scooper@kilpatrickstock.on.com
Direct Dial: 704.338.5102

KILPATRICK STOCKTON LLP

February 28, 2001

Facsimile

RECIPIENT/ PHONE NO.	FACSIMILE NO.	COMPANY/ CITY, STATE, COUNTRY
Roberta Proctor 828.625.0171	828.625.0171	NCDENR Asheville, North Carolina
James Costner 542.5222	542.5227	Morningstar Sign and Sandblasting Charlotte, North Carolina
Thomas N. Griffin, III 372.9000	334.4706	Parker, Poe, Adams & Bernstein L.L.P. Charlotte, North Carolina
Stanford D. Baird 331.7400	331.7598	Kennedy Covington Lobdell & Hickman, L.L.P. Charlotte, North Carolina
Edward H. Stephens, LG 845.1697	845.1759	Aware Environmental, Inc. Charlotte, North Carolina

CONFIDENTIALITY NOTE:
The information contained in this facsimile message is being transmitted to and is intended for the use of the individual named above. If the reader of this message is not the intended recipient, you are hereby advised that any dissemination, distribution or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and destroy this facsimile message.

Susan H. Cooper
FROM

8
PAGES (WITH COVER)

9033
REFERENCE NO.

99993.253052
CLIENT/MATTER NO.

PLEASE CALL 704.338.5122 IF YOU HAVE DIFFICULTY WITH THIS TRANSMISSION.

Comments

JOB CODE _____

TO BE COMPLETED BY KS OPERATIONS CENTER

TRANSMISSION/RECEIPT DATE/TIME: _____

COMPLETED BY: _____

COMPREHENSIVE SAMPLING AND ANALYSIS PLAN FOR 1500 CENTRAL AVENUE and 5631 MT. OLIVE CHURCH ROAD SITES NOTICE OF VIOLATION (NOV) DOCKET NOS. 2001-030 and 2001-031

1. An interview will be conducted with Mr. James Funderburk (Heaven, LLC) and Mr. James Costner (Morningstar Sign and Sandblasting) to discuss and document the sandblasting activities and concerns. This task assumes the cooperation of the perspective interviewees.

2. Pertinent meteorological data will be obtained to determine the generally prevailing wind direction(s) at the time sandblasting activities were conducted at the subject site. An approximation of the extent of wind borne deposition will be made by visually surveying the area in the prevailing wind direction.

3. A visual survey will be conducted for potential lead-containing sand, dust and particulate debris of the public streets, sidewalks, driveways, storm drains, open areas, gardens and roofs situated in the vicinity of the aforementioned businesses. Areas where sand is observed to have been dispersed or transported by surface water or wind will be mapped. Whereas the blasting sand is readily recognizable, if found, no sand sample analyses from the Central Avenue area are proposed in this Plan. Instead, it is anticipated that such sand will be removed and properly disposed.

4. Up to four surface wipe samples per building interior will be collected for total inorganic lead by SW-846 3050/6010 to test for potential lead-containing sand, dust and particulate debris beginning inside the sandblasted building (1500 Central Ave.) and then moving outward up to two buildings away from the 1500 Central Avenue building. Should total lead levels in any initially analyzed wipe sample from a building(s) exceed the allowable risk concentrations, further wipe sampling will be conducted inside the adjoining building(s) moving outward from the sandblasting site based on meteorological data, visual observations and input from the Hazardous Waste Section

(HWS). This step-wise procedure will be repeated as needed to cover the businesses listed below.

The wipe samples for total lead will be collected from permanent interior surfaces were dust has accumulated. Such surfaces may include ledges, window seals, ventilation ducts, and other horizontal surfaces where dust typically accumulates. The sampling of painted surfaces will be avoided. Two of the four samples proposed inside each building will be collected from heating/air-conditioning system ducts or intakes that are situated closest to where persons generally congregate. Such samples will be collected immediately inside the duct or air intake. Should any wipe sample from a building heating/air-conditioning system duct contain total lead levels exceeding the allowable level, exterior heating/air conditioning equipment that may have been affected by lead dust will also be sampled for testing.

It is AEI's understanding that HWS representatives may select certain wipe sampling locations based on field observations. Wipe sampling will be conducted in general conformance with the attached U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) Appendix 13.1 *Wipe Sampling for Settled Lead-Contaminated Dust.*

This work task assumes that sampling access is granted by the building owner/occupant. Should access for sampling be denied by a business, the denial will be documented in writing including the original signature of the business owner, if they will provide it.

The following area businesses may be included in the scope of this work depending on the results of the step-wise sampling:

Sandblasting Site
Heaven Clothing (1500 Central Ave.)

Located to East of Sandblasting Site – Listed in Order of Increasing Separation Distance from Sandblasting Site
The Perch (upstairs over Heaven Clothing)
Alternative Arts Tattoo (1502 Central Ave.)
Bohemia Antiques (1504 Central Ave.)
Reggae Central & Arroba Tailoring Shop (1506 Central Ave.)
Century (furniture store) (1508 Central Ave.)
Senior Transitions (1510 Central Ave.)
Hall Clock Store (1512 Central Ave.)
Central Records (1514 Central Ave.)
Central Avenue Jewelry (1516 Century Ave.)
Johns Country Kitchens (1518 Central Ave.)

Located across Central Ave.
Fuel Pizza (1501 Central Ave.)
Nova's Bakery (1511 Central Ave.)

Located to South of Sandblasting Site – Listed in Order of Increasing Separation Distance from Sandblasting Site
Water 'N Health Natural Health Resources
Duron Paints and Wallcoverings (1218 Gordon St.)

In addition, other buildings or open areas that may be identified in the survey of air deposition will be added to the sampling activities described in item 3.

5. Based on consultation with the HWS, soil samples will be collected from the surface of non-paved open areas that may have been affected by sandblasted material for total inorganic lead analysis by SW-846 3050/6010. These targeted open areas may include those areas documented in photos 19, 20, 21, 24, 43 and 44 of Joseph Parker's report. The rock garden where lead-containing sand was deposited will also be sampled from beneath any existing liner. Soil sampling will be conducted in general conformance with the attached HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) Appendix 13.3 *Soil Sampling Protocol For Housing*.

Due to the urban commercial setting of this sampling area, the differentiation of soils impacted by recent sandblasting activities at 1500 Central Ave. and those soils potentially possessing elevated lead background levels may not be practical. Further, another building has been reportedly sandblasted in the 1500 block of Central Ave. within the past three months. Background soil sampling and analysis for lead may be conducted if deemed warranted.

6. A sample will be collected of the sand that was removed from the sandblasting site and deposited at the 5631 Mt. Olive Church Road site. This sand sample will be analyzed for lead by TCLP. Whereas, it is intended that lead-containing sand be removed and properly disposed, confirmatory soil sampling for total lead by Method 3050/6010 will be conducted following remedial activities. The excavation should be only a few inches deep, thus no sidewall sampling is proposed. On the floor of the shallow excavation area, samples will be collected every 20 feet horizontally. Based on the reported area of the deposited lead-containing sand, it is anticipated that two confirmatory soil samples will be collected in the excavation area at depths of 3 to 6 inches. In addition, five background soil samples will be collected and, if necessary, analyzed for total lead analysis to statistically determine background levels.

7. The approximate location of ditches, streams, storm drains and property lines and the distance to the nearest residences and businesses pertinent to the subject sites will be located on a scaled site map. The general grade, direction and depth to ground water at the sites will be estimated and approximated on a scaled map. The approximate distance to the nearest public or private water supply within ¼ mile, if any, will also be provided.

8. A Comprehensive Sampling and Analytical Report will be prepared to summarize the data and findings of the investigation. Photographs will be taken to document observations and sampling activities for inclusion in the report.

PROPOSED SCHEDULE FOR COMPLETION OF ASSESSMENT AND REMEDIATION

Upon approval of the proposed Comprehensive Sampling and Analysis Plan by the NCDENR, the following schedule for completion of assessment and remediation is proposed. The preliminary proposed remediation plan is to remove lead-containing sand and sand-blasted materials for transport and disposal in an approved permitted treatment/disposal facility.

Work Task	Time Following Plan Approval
Conduct interviews and complete initial field sample collection	15 days [1]
Complete sample analyses	10 days
Complete subsequent step-wise sampling events	10 days each [1]
Complete subsequent step-wise sample analyses	10 days each
Complete sampling report	15 days
Complete Remediation Plan	10 days
Complete remedial activities (including closure report)	30 days [2]

1 Proposed schedule assumes that access and permission for sampling is granted and that HWS personnel are available.

2 Proposed schedule after approval of proposed Remediation Plan by NCDENR.

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO:	Jill Pafford	(919) 715-3605
cc:	Robin Proctor	(828) 625-0171
	Jesse Wells	(828) 926-4326
	Joe Parker	(91) 380-7144
FROM:	Tom Griffin	
DATE:	January 19, 2001	
NO. OF PAGES: (including cover page)	Twenty-One (21)	

Epidemiology Health Br
Jeff DiPlangea
Dan ? 733-0664 #

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Re:

- Sample floors
- Sample window sills
- shelving, etc.

Transmitted by:

Client/Matter No.:

— Clean per guidance
Change filters in heat & air

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

PARKER POE
PARKER POE ADAMS & BERNSTEIN LLP
Attorneys and Counselors at Law

THOMAS N. GRIFFIN, III
PARTNER

DIRECT DIAL
704-335-9049

tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

January 19, 2001

VIA FACSIMILE (919/715-3605) and U. S. MAIL

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
No[illegible] Department of Environment
and Natural Resources
Di[illegible]nt
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Notice of Violation – Docket No. 2001-030

Pickett Farm Property
Notice of Violation - Docket No. 2001-031

Dear Ms. Pafford:

I am writing on behalf of my client Heaven, LLC, to submit the Comprehensive Sampling Plan required by the Notices of Violation issued by the Hazardous Waste Branch, Docket Numbers 2001-030 and 2001-031, related to the sandblasting activities conducted by Morningstar Sign and Sandblasting at 1500 Central Avenue in Charlotte. Again, we appreciate your courtesy and patience in granting us until today to submit the Plan.

You will see that the enclosed Plan covers both the 1500 Central Avenue location and the "Pickett Farm" site where the sand was deposited. Although Heaven was directed to respond only to the Central Avenue NOV, and Morningstar was directed to respond only to the Pickett Farm NOV, both parties have worked together to ensure that the Branch's requirements have been met. I do not know if Morningstar will be submitting a separate letter, but please accept this Plan on behalf of Morningstar, as well.

With respect to Heaven, I noted that the NOVs were addressed to James Funderburk, perhaps in his individual capacity. I would be grateful if you would note in your files that the correct party in interest with respect to Heaven Clothing is Heaven, LLC, a North Carolina limited liability company. The contract for the sandblasting was between Morningstar and Heaven, LLC, not James Funderburk in his individual capacity, and Mr. Funderburk did not direct the sandblasting work. With this in mind, to the extent that the Branch were to conclude that contracting for sandblasting services constitutes the generation or disposal of waste, the appropriate party is the LLC, not Mr. Funderburk. Thank you for your assistance in this regard.

Finally, we coordinated an outline of the Plan with Robin Proctor a few days ago. You or she may note that the original outline called for sampling sand that may be found at the 1500 Central Avenue location for TCLP lead content (old task number 4). We now propose to identify sand and collect it for proper characterization and disposal, which we think will be a more efficient and cost-effective approach (new task 5). We have also added wipe samples for each of the properties listed in the Central Avenue NOV (assuming access is granted), although we may talk with Robin if it appears that certain properties can reasonably be excluded from the sampling event. For example, the CVS store across Pecan Avenue was not even completed until after Morningstar finished the sandblasting, and I understand that wipe samples taken some time ago in the Heaven store and an adjacent location were in the acceptable range according to the Health Department. We will of course be happy to discuss any thoughts that you may have on our proposed approaches or on other aspects of the Plan.

Thank you again for you attention to this matter. I plan to send another letter addressing other aspects of the NOV, in particular the possibility of administrative penalties. In the meantime, please do not hesitate to call me if you should have any questions.

Very truly yours,

Thomas W. Griffin, III

TNG/cmh
Enclosure

cc: Ms. Robin Proctor (via Facsimile)
Mr. Jesse Wells (via Facsimile)
Mr. Joe Parker (via Facsimile)

AWARE ENVIRONMENTAL INC.®

VIA FACSIMILE

January 19, 2001

Heaven, LLC
c/o Parker, Poe, Adams & Bernstein, L.L.P.
Three First Union Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202

Attn: Mr. Thomas N. Griffin, III, Esquire

Re: Comprehensive Sampling and Analysis Plan
1500 Central Ave. and 5631 Mt. Olive Church Rd. Sites
Charlotte, NC
Notice of Violation (NOV) Docket Nos. 2001-030 and -031
AEI Project No. N435-01

Dear Mr. Griffin:

On behalf of Heaven, LLC, AWARE Environmental Inc.® (AEI) has prepared the attached Comprehensive Sampling and Analysis Plan to address the potential for lead-containing sand generated and/or deposited at the referenced properties. The plan is in general conformance with the requirements specified in the Notice of Violation (NOV) Docket Nos. 2001-030 and -031 issued by the North Carolina Department of Environmental and Natural Resources – Division of Waste Management (NCDENR-DWM) to Heaven, LLC and other parties. It is AEI's understanding that sand generated as a result of sandblasting activities conducted at 1500 Central Avenue and deposited at 5631 Mt. Olive Church Road was sampled by DWM personnel and found to contain elevated inorganic lead levels by TCLP analysis.

AEI appreciates the opportunity to offer environmental consulting services to Heaven, LLC. Should you have any questions or need any additional information, please do not hesitate to call me at (704) 845-1697.

Sincerely,
AWARE Environmental Inc.®

Edward H. Stephens, LG
Associate

Attachments

cc: File
M. Smith, AEI

435011001

9301 MONROE ROAD • SUITE J • CHARLOTTE, N.C. 28270-1480 • TELEPHONE (704) 845-1697 • FAX (704) 845-1759

COMPREHENSIVE SAMPLING AND ANALYSIS PLAN
FOR
1500 CENTRAL AVENUE and 5631 MT. OLIVE CHURCH ROAD SITES
NOTICE OF VIOLATION (NOV) DOCKET NOS. 2001-030 and 2001-031

1. An interview will be conducted with Mr. James Funderburk (Heaven, LLC) and Mr. James Costner (Morningstar Sign and Sandblasting) to discuss and document the sandblasting activities and concerns. This task assumes the cooperation of the perspective interviewees.

2. [illegible] will be obtained to determine the generally prevailing wind direction(s) at the time sandblasting activities were conducted at the subject site. An approximation of the extent of wind borne deposition will be made by visually surveying the area in the prevailing wind direction.

3. A visual survey for potential lead-containing sand, dust and particulate debris will be conducted of the building exteriors and, assuming access is granted, interiors of the following area businesses:

Building exteriors:

Heaven Clothing (1500 Central Ave.)
The Perch (upstairs over Heaven Clothing)
Alternative Arts Tattoo (1502 Central Ave.)
Bohemia Antiques (1504 Central Ave.)
Reggae Central & Arroba Tailoring Shop (1506 Central Ave.)
Century (furniture store) (1508 Central Ave.)
Senior Transitions (1510 Central Ave.)
Hall Clock Store (1512 Central Ave.)
Central Records (1514 Central Ave.)
Central Avenue Jewelry (1516 Century Ave.)
Johns Country Kitchens (1518 Central Ave.)
Fuel Pizza (1501 Central Ave.)
Nova's Bakery (1511 Central Ave.)
CVS Drug Store (diagonally across Pecan Ave. from Heaven Clothing) — Bldg's between Duron Paints & Heaven Clothing
Duron Paints and Wallcoverings (1218 Gordon St.)

* Document of official signature & denial for entry

— potentially affected area building along Gordon St. & Alley behind AC & OP.

or

A visual survey will be conducted for potential lead-containing sand, dust and particulate debris of the public streets, sidewalks, driveways, storm drains, open areas, gardens, and roofs situated in the vicinity of the aforementioned businesses.

4. Wipe samples will be collected from the exteriors and, assuming access and permission is granted, interiors of the area businesses listed in Task 3 for total inorganic lead by SW-846 3050/6010. The sampling of painted structural surfaces (i.e., exterior siding, interior walls) will be avoided. Exterior wipe samples will be collected from non-painted surfaces when possible. where possible interior wipe samples will be collected from floor surfaces. Wipe sampling will be conducted in general conformance with the attached U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) Appendix 13.1 *Wipe Sampling for Settled Lead-Contaminated Dust.*

5. Areas where sand is observed to have been dispersed or transported by surface water or wind will be mapped. Whereas the blasting sand is readily recognizable, if found, no sand sample analyses from the Central Avenue area are proposed in this Plan. Instead, it is anticipated that such sand will be collected, characterized and properly disposed.

6. Soil samples will be collected from each the surface of non-paved open areas for total inorganic lead analysis by SW-846 3050/6010. Further, a background soil sample will be collected for total inorganic lead analysis. Soil samples (including the background sample) may also be analyzed by TCLP for lead should elevated lead levels be detected by total lead analysis. Soil sampling will be conducted in general conformance with the attached (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) Appendix 13.3 *Soil Sampling Protocol For Housing.*

- flat garden undisturbed
- other?

NO point

7. A sample will be collected of the sand that was removed from the subject sandblasting site and deposited at the 5631 Mt. Olive Church Road site. This sand sample will be analyzed for lead by TCLP. In addition, two (2) soil samples will be collected from

beneath the deposited sand at depths of 2 to 4 inches for total inorganic lead analysis by SW-846 3050/6010. Whereas, it is intended that lead-containing sand be removed and properly disposed, the proposed soil sampling should also provide confirmatory sampling data to direct the remediation. Accordingly, no additional confirmatory cleanup sampling would be necessary unless the underlying soils are shown to be impacted. In addition, a background soil sample will be collected for total lead analysis. Soil samples (including the background sample) may also be analyzed by TCLP for lead should elevated lead levels be detected by total lead analysis.

8. The approximate location of ditches, streams, storm drains and property lines and the distance to the nearest residences and businesses pertinent to the subject sites will be located on a scaled site map. ~~The approximate distan~~ The general grad[illegible] direction & depth to gw at the [illegible] and depth to ground water at the sites will be estimated and approximated on a scaled map. The approximate distance to the nearest public or private H2O supply w/in 1/4 mile, if any will also be provided.

A Comprehensive Sampling and Analytical Report will be prepared to summarize the [illegible]ta and findings of the investigation. Photographs will be taken to document observations [illegible]d sampling activities for inclusion in the report.

PROPOSED SCHEDULE FOR COMPLETION OF ASSESSMENT AND REMEDIATION

[illegible]pon approval of the proposed Comprehensive Sampling and Analysis Plan by the [illegible]CDENR, the following schedule for completion of assessment and remediation is [illegible]oposed. The preliminary proposed remediation plan is to remove lead-containing sand [illegible]d sand-blasted materials for transport and disposal in an approved permitted [illegible]atment/disposal facility.

Task	Days Following Plan Approval
Conduct interviews and complete field sample collection	7 days [1]
Complete sample analyses	10 days
Complete sampling report	10 days
Complete Remediation Plan	10 days
Complete remedial activities (including closure report)	25 days [2]

1 Proposed schedule assumes that access and permission for sampling is granted.

2 Proposed schedule after approval of proposed Remediation Plan by NCDENR.

NC Certification No. 402 - SC Certification No. 99012 - NC Drinking Water Cert. No. 37735 - FL Certification No. E87519

U.S. Department of Housing and Urban Development Charlotte, NC 28224-0543

Phone: 704 329-6364 ▲ Toll Free Number: 1-800/529-8364 ▲ Fax: 704/325-0409

Lab Report

GUIDELINES FOR THE EVALUATION AND CONTROL OF LEAD-BASED PAINT HAZARDS IN HOUSING

PRISM LABORATORIES, INC.

For Sample Analysis & Environmental Solutions

11/3/00

Shield Environmental
Mike Armour
2848 I-85 South, Suite F
Charlotte, NC 28208

Customer Project ID: Cornbraco Matthews
Customer Sample ID: TS-2
Prism Sample ID: AB87457
Login Group: MKN3G10
Sample Collection Date/Time: 11/2/00 14:48
Lab Submittal Date/Time: 11/2/00 16:50

The following analytical results have been obtained for the indicated sample which was submitted to this laboratory:

TEST PARAMETER	TEST RESULT	UNITS	REPORTING LIMIT	METHOD REFERENCE	DATE/TIME STARTED	ANALYST
METALS DIGESTION METHOD 3050	Completed			3050	11/3/00 09:15	PRF
LEAD, TOTAL	11	mg/kg	1.0	6010	11/3/00 13:10	MSP
CALCULATIONS BASED ON DRY WT	85	% DRY WT.	0.01	SM 2540 G	11/3/00 11:30	JLW

JUNE 1995

Sample Comments:

Angela D. Overcash, V.P. Laboratory Services

LIST OF APPENDIXES

1. Units of Measure Used in the Lead-Based Paint Field 1-1
2. CDC's Childhood Lead Poisoning Prevention Program Offices 2-1
3. U.S. EPA Regional Offices 3-1
4. OSHA Regional Offices 4-1
5. EPA Sponsored Regional and Local Lead Training Centers 5-1
6. Other Organizations Providing the EPA Lead-Based Paint Abatement Supervisor and Inspector Course Curriculum 6-1
7.1 Elements of Inspection and Risk Assessment RFPs 7-1
7.2 Types of Lead-Based Paint Enclosure Systems 7.2-1
7.3 Lead-Based Paint Abatement Specification Example 7.3-1
8. Example of Risk Assessment Report 8-1
8.1 Example of a Risk Assessment Report for a Single-Family Dwelling Operated by a Small-Scale Owner 8.1-1
8.2 Example of a Risk Assessment Report for a Large Multifamily Housing Development 8.2-1
9. Insurance Companies Offering Lead Abatement General and Professional Liability Coverage 9-1
10. Questions and Answers on Sampling Lead-Based Paint Hazardous Waste 10-1
10.1 State and Territorial Hazardous Waste Management Agencies 10.1-1
11. One-Hour Waiting Period Rationale for Clearance Sampling 11-1
12. Lead-Based Paint Testing: Sample Sizes for Multifamily Housing 12-1
13.1 Wipe Sampling for Settled Lead-Contaminated Dust 13.1-1
13.2 Paint Chip Sampling 13.2-1
13.3 Soil Sampling Protocol for Housing 13.3-1
13.4 Sampling Airborne Particulate for Lead (NIOSH Method 7082) 13.4-1
13.5 EPA Water Sampling Procedures 13.5-1
14.1 Laboratory Analytical Procedures 14.1-1
14.2 Procedure for the Digestion of Wipe Samples Using Diaper Wipes 14.2-1
14.3 Procedure for the Preparation of Field Spiked Wipe Samples 14.3-1
15. OSHA Interim Final Lead in Construction Standard Fact Sheet 15-1
16. Summary of CDC Lead Poisoning Statement 16-1

Appendix 13.1: Wipe Sampling for Settled Lead-Contaminated Dust

Wipe samples for settled leaded dust can be collected from floors (both carpeted and uncarpeted), interior and sash/sill contact areas, and other reasonably smooth surfaces. Wherever possible, hard surfaces should be sampled. Wipe media should be sufficiently durable so that it is not easily torn, but can be easily digested in the laboratory. Recovery rates of between 80-120% of the true value should be obtained for all media used for wipe sampling. Blank media should contain no more than 25 µg/wipe (the detection limit using Flame Atomic Absorption). Additional standards for wipe sampling can be found by consulting ASTM ES 30-94.

1. **Wipe Sampling Materials and Supplies**

   a. Type of disposable wipe: Any wipe material that meets the following criteria may be used:

      (i) Contains low background lead levels (less than 5 µg/wipe)
      (ii) Is a single thickness
      (iii) Is durable and does not tear easily (do not use Whatman™ filters)
      (iv) Does not contain aloe
      (v) Can be digested in the laboratory
      (vi) Has been shown to yield 80-120% recovery rates from samples spiked with leaded dust (not lead in solution)
      (vii) Must remain moist during the wipe sampling process (wipes containing alcohol may be used as long as they do not dry out)

      Examples of acceptable wipe media include: "Little Ones Baby Wash Cloths™," "Little Ones Baby Wipes Natural Formula™," or "Little Ones Baby Wipes Lightly Scented™," available at K-Mart Stores. This product is also available under the brand names "Pure and Gentle Baby Wipes™" and "Fame Baby Wipes™." Individually-packaged "Wash'n Dri Wipes" are also acceptable. "Wet Wipes," which are available at Walgreens and other stores, may also be used. Other brands are also acceptable if equivalence in both lead contamination (analysis of blanks) and laboratory digestion recoveries (analysis of wipes spiked with known amounts of leaded dust, not lead in solution) can be established. The wipes listed above have proven to be sufficiently durable under field use and to have acceptable recovery rates. Do not use "Little Ones Diaper Wipes," also available at K-Mart stores, or any other brand of wipes for which recovery data have not been established. Do not use wipes that contain aloe. Wipes that contain alcohol may be used as long as they do not dry out during the wipe process.

   b. Non-sterilized non-powdered disposable gloves. Disposable gloves are required to prevent cross-sample contamination from hands.

c. Non-sterilized polyethylene centrifuge tubes (50 ml size) or equivalent hard-shell container that can be rinsed quantitatively in the laboratory.

d. Dust sample collection forms contained in these Guidelines

e. Camera & Film to document exact locations (Optional)

f. Template Options

i. Masking tape. Masking tape is used on-site to define the area to be wiped. Masking tape is required when wiping window sills and window wells in order to avoid contact with window jambs and channel edges. Masking tape on floors is used to outline the exact area to be wiped.

ii. Hard, smooth, reusable templates made of laminated paper, metal, or plastic. Note: Periodic wipe samples should be taken from the templates to determine if the template is contaminated. Disposable templates are also permitted so long as they are not used for more than a single surface. Templates must be larger than 0.1 ft^2, but smaller than 2 ft^2. Templates for floors are typically 1 ft^2. Templates are usually not used for windows due to the variability in size and shape (use masking tape instead).

g. Container labels or permanent marker.

h. Trash bag or other receptacle (do not use pockets or trash containers at the residence).

i. Rack, bag, or box to carry tubes (optional)

j. Measuring tape

k. Disposable shoe coverings (optional)

2. **Single Surface Wipe Sampling Procedure**

a. Outline Wipe Area:

Floors: Identify the area to be wiped. Do not walk on or touch the surface to be sampled (the wipe area). Apply adhesive tape to perimeter of the wipe area to form a square or rectangle of about one square foot. No measurement is required at this time. The tape should be positioned in a straight line and corners should be nominally perpendicular. When putting down any template, do not touch the interior wipe area.

Window sills and other rectangular surfaces: Identify the area to be wiped. Do not touch the wipe area. Apply two strips of adhesive tape across the sill to define a

wipe area at least 0.1 square foot in size (approx. 4 inches x 4 inches).

When using tape, do not cross the boundary tape or floor markings, but be sure to wipe the entire sampling area. It is permissible to touch the tape with the wipe, but not the surface beyond the tape.

b. Preliminary inspection of the disposable wipes:

Inspect the wipes to determine if they are moist. If they have dried out, do not use them. When using a container that dispenses wipes through a "pop-up" lid, the first wipe in the dispenser at the beginning of the day should be thrown away. The first wipe may be contaminated by the lid and is likely to have dried to some extent. Rotate the container before starting to ensure liquid inside the container contacts the wipes.

c. Preparation of centrifuge tubes:

Examine the centrifuge tubes and make sure that the tubes match the tubes containing the blind spiked wipe samples. Partially unscrew the cap on the centrifuge tube to be sure that it can be opened. Do not use plastic baggies to transport or temporarily hold wipe samples. The laboratory cannot measure lead left on the interior surface of the baggie.

d. Gloves

Don a disposable glove on one hand; use a new glove for each sample collected. If two hands are necessary to handle the sample, use two new gloves, one for each hand. It is not necessary to wipe the gloved hand before sampling. Use a new glove for each sample collected.

e. Initial placement of wipe:

Place the wipe at one corner of the surface to be wiped with wipe fully opened and flat on the surface.

f. First wipe pass - (side-to-side):

With the fingers together, grasp the wipe between the thumb and the palm. Press down firmly, but not excessively with both the palm and fingers (do not use the heel of the hand). Do not touch the surface with the thumb. If the wipe area is a square, proceed to wipe side-to-side with as many "S"-like motions as are necessary to completely cover the entire wipe area. (See step h for non- square areas.) Exerting excessive pressure on the wipe will cause it to curl. Exerting too little pressure will result in poor collection of dust. Do not use only the fingertips to hold down the wipe, because there will not be complete contact with the surface and some dust may be missed. Attempt to remove all visible dust from the wipe area.

g. Second wipe pass - (top-to-bottom):

Fold the wipe in half with the contaminated side facing inward. (The wipe can be straightened out by laying it on the wipe area, contaminated side up, and folding it over.) Once folded, place in the top corner of the wipe area and press down firmly with the palm and fingers. Repeat wiping the area with "S"-like motions, but on the second pass, move in a top-to-bottom direction. Attempt to remove all visible dust. Do not touch the contaminated side of the wipe with the hand or fingers. Do not shake the wipe in an attempt to straighten it out, since dust may be lost during shaking.

h. Rectangular areas (e.g. window sills):

If the surface is a rectangle (such as a window sill), two side-to-side passes must be made over half of this surface, the second pass with the wipe folded so that the contaminated side faces inward. For a window sill, do not attempt to wipe the irregular edges presented by the contour of the window channel. Avoid touching other portions of the window with the wipe. If there are paint chips or gross debris in the window sill, attempt to include as much of it as possible on the wipe. If all of the material cannot be picked up with one wipe, field personnel may use a second wipe at their discretion and insert it in the same container. Consult with the analytical laboratory to determine if they can perform analysis of two wipes as a single sample. When performing single-surface sampling, do not use more than two single surface wipes for each container. If heavily dust-laden, a smaller area should be wiped. It is not necessary to wipe the entire window well but do not wipe less than 0.10 ft^2 (approx 4" x 4").

i. Packaging the Wipe:

After wiping, fold the wipe with the contaminated side facing inward again, and insert aseptically (without touching anything else) into the centrifuge tube or other hard-shelled container. If gross debris is present, such as paint chips in a window well, make every attempt to include as much of the debris as possible in the wipe.

j. Labelling the Centrifuge tube:

Seal the tube and label with the appropriate identifier. Record the laboratory submittal sample number on the field sampling form (see Chapters 5 and 14).

k. Area Measurement:

After sampling, measure the surface area wiped to the nearest eighth of an inch using a tape measure or a ruler. The size of the area wiped must be at least 0.10 ft^2 in order to obtain an adequate limit of quantitation (25 µg/wipe is the typical detection limit with flame AA; 25 µg/0.10 square feet = 250 µg/ft^2, which is half of the HUD clearance criterion for interior window sills). No more than 2 square feet should be

wiped with the same wipe or else the wipe may fall apart. Record specific measurements for each area wiped on the field sampling form.

l. Form Completion

Fill out the appropriate field sampling forms (see Form 5.4 or Form 14.2 in these Guidelines) completely. Collect and maintain any field notes regarding type of wipe used, lot number, collection protocol, etc.

m. Trash Disposal:

After sampling, remove the masking tape and throw it away in a trash bag. Remove the glove; put all contaminated gloves and sampling debris used for the sampling period into a trash bag. Remove the trash bag when leaving the dwelling. Do not throw away gloves or wipes inside the dwelling unit where they could be accessible to young children, resulting in a suffocation hazard.

Repeat steps a. through m. for additional samples in the same dwelling unit.

Describe samples needed

3. Composite Wipe Sampling

Whenever composite sampling is contemplated, consult with the analytical laboratory to determine if the laboratory is capable of analyzing composite samples. When conducting composite wipe sampling, the procedure stated above should be used with the following modifications:

When outlining the wipe areas (step a), set up all of the areas to be wiped before sampling. The size of these areas should be roughly equivalent, so that one room is not over-sampled.

After preparing the centrifuge tube, put on the glove(s) and complete the wiping procedures for all subsamples (steps e-i). A separate wipe must be used for each area sampled. After wiping each area, carefully insert the wipe sample into the same centrifuge tube (no more than 4 wipes per tube).

Once all subsamples are in the tube, label the tube. Record a separate measurement for each area that is subsampled on the field collection form (see Form 5.4a or Form 14.2a for a sample form). Finally, complete trash disposal (step m), making sure that no masking tape is left behind.

Risk assessors and inspector technicians do not have to remove their gloves between subsample wipes for the same composite sample as long as their gloved hands do not touch an area outside of the wipe areas. If a glove is contaminated, the glove should be immediately replaced with a clean glove.

In addition to these procedural modifications, the following rules for compositing should be observed:

- Separate composite samples are required from carpeted and hard surfaces (*e.g.*, a single

composite sample should not be collected from both carpeted and bare floors).

- Separate composite samples are required from each different component sampled (*e.g.*, a composite sample should not be collected from both floors and window sills).

- Separate composite samples are required for each dwelling

4. **Blank Preparation**

After sampling the final dwelling unit of the day, but before decontamination, field blank samples should be obtained. Analysis of the field blank samples determines if the sample media is contaminated. Each field blank should be labeled with a unique identifier similar to the others so that the laboratory does not know which sample is the blank (i.e., the laboratory should be "blind" to the blank sample).

Blank wipes are collected by removing a wipe from the container with a new glove, shaking the wipe open, refolding as it occurs during the actual sampling procedure, and then inserting it into the centrifuge tube without touching any surface or other object. One blank wipe is collected for each dwelling unit sampled or, if more than one dwelling unit is sampled per day, one blank for every 50 field samples, whichever is less. Also, collect one blank for every lot used. Record the lot number.

5. **Inspector Decontamination:**

After sampling, wash hands thoroughly with plenty of soap and water before getting into car. A bathroom in the dwelling unit may be used for this purpose, with the owner's or resident's permission. If there is no running water in the dwelling unit, use wet wipes to clean the hands. During sampling, inspectors must not eat, drink, smoke, or otherwise cause hand to mouth contact.

6. **Spike Sample Submission**

Samples spiked with a known amount of leaded dust should be inserted into the sample stream randomly by the person conducting field sampling to determine if there is adequate quality control of the digestion process at the laboratory. Dust-spiked wipe samples should be submitted blindly to the laboratory by the individual performing field sampling at the rate of no less than one for every fifty field samples. Any laboratory can spike wipe samples using the procedure in Appendix 14.3. The laboratory performing the analysis of the field samples can also prepare the spike sample as long as the person performing the field sampling makes the spike sample indistinguishable from the field samples. The person conducting the field sampling should take the spike sample prepared in the laboratory and relabel the container with an identifier similar to the other field samples. The spike sample wipe should not be put into another container. Spike samples should be made using the same lot as that used in the field.

A dust-spiked sample is defined as a wipe or filter containing a known weight of lead-based paint dust, measured to the nearest 0.1 µg of leaded dust. A dust-spiked sample is prepared in a laboratory with the amount of lead-based dust present being between 50 - 1000 µg. For wipe

samples, labs should use NIST Standard Lead Paint Dust (Standard 1578) or an equivalent secondary standard. See Appendix 14.3 for further details.

7. **Field Qualifications of Dust Sampling Technicians**

All individuals performing dust sampling should have state-certified training. Where possible, field experience in environmental sampling is preferable.

8. **Quality Assurance/Quality Control**

Blind analysis of spiked samples must fall within 80% - 120% of the true value. If the laboratory fails to obtain readings within the QA/QC error limits:

a. Two more spikes should be sent immediately to the lab for analysis.

b. If the two additional spike samples fail, the sample batch should be considered invalid. A full review of laboratory procedures may be necessary. Additional samples may need to be collected from the dwelling units from locations near the locations previously sampled.

If more than 50 µg/wipe is detected in a blank sample, the samples should be collected again since the media is contaminated. Blank correction of wipe samples is not recommended.

9. **Other Information**

See Chapter 5 and Chapter 14 for additional information on dust wipe sampling. Also see "Residential Sampling for Lead: Protocols for Leaded Dust and Soil Sampling" from EPA and ASTM ES 30-94 for further information.

Appendix 13.3: Soil Sampling Protocol For Housing

A. Collection Technique General Description

Bare soil samples are typically collected with a coring device or a scooping technique. The device may be used in either of two ways. Most coring devices come equipped with a "T" handle which can be attached to the top of the coring tool or probe. This allows the operator to push the tool into the ground. The coring tool can be twisted with the "T" handle as it is pushed into the ground in order to allow the cutting edge of the soil probe to cut through roots and packed earth. In softer soils, a disposable new plastic syringe at least ½ inch diameter can be used for each composite sample

The other method for using the coring tool is to attach a hammer device to the top of the coring tool. To utilize the coring tool in this manner, the hammer device is first attached to the top of the coring tool and the tip of the probe is placed on the ground where the sample is to be collected. The hammer is then raised and allowed to fall while it is guided by the operator's hands. The hammer attachment may be the most appropriate tool when the nature of the soils is hard and compacted. Otherwise the "T" handle is easier to use.

The soil samples are collected by driving or pushing the coring tool into the ground, usually about ½ inch deep. The tool is then moved gently from side to side to loosen a plug of soil. The tool is then pulled from the ground and the soil sample is pushed so that the upper part of the soil plug lies between one inch marks made on the coring device. The top one half inch of the soil sample is then cut from the core with a stainless steel knife or cutting tool provided for that purpose. This top one half inch section of the soil core is then transferred to a sample container. All sub-samples are collected in this manner. The collection of subsamples from the sampling line is referred to as a "composite" sample.

After collecting a composite sample, the soil probe should be decontaminated or discarded if disposable core liners are used. This process consists of wiping the end of the probe with wet wipes until no more visible dirt is removed from the probe. Similar cores are then collected from the bottom inch of the six-inch core.

B. Materials and Supplies

1. Core sampling device: Standard soil coring device. Other similar core sampling devices may be used, such as disposable plastic syringes with the end cut off. The plunger is used to remove the soil from the syringe body.

2. Disposable wipes.

3. Non-sterilized 5" x 8" plastic ziplock baggies: Unless baggies are 4 mil industrial strength, they must be double bagged

4. Non-sterilized non-powdered disposable gloves: For example, Action Scientific (800-678-1033) No. A-105

5. Floor Plan & Property Sketch

6. Soil Sample Collection Form

7. Laboratory submittal form

8. Pre-printed labels or permanent ink pen

9. Trash bag or other receptacle (do not use pockets or trash containers at the residence)

C. **Bare Soil Sampling Procedures**

1. Soil sampling is not recommended when the ground is frozen.

2. The location of soil samples should be recorded on the exterior site plan sketch.

no composite

3. Perimeter Sampling Locations: One composite soil sample should be collected so that at least 5 and no more than 10 different aliquots of surface soil are collected from the building perimeter. The aliquots should be collected from all sides of the building where bare soil is present. Each spot should be at least 2 feet distant from each other and 2 feet away from the foundation, unless the bare soil is closer than 2 feet.

4. Play Area Sampling Locations: A second composite sample should consist of at least 5 and no more than 10 aliquots collected along an X-shaped grid in the child's principle play area. Each spot should be at least 1 foot distant from each other. The soil where the aliquots are collected must be bare.

5. The core sampling device should be used to deliver the top ½ inch of soil from each spot to the baggie. No special effort should be made to collect visible paint chips. If paint chips are present, they should not be avoided and should be included in the sample. When sampling play areas, the inspector should make an effort to avoid including grass, twigs, stones, and other gross debris in the sample.

6. When all aliquots of the composite sample have been placed in the baggie, the baggie should be ziplocked. If the baggie is not 4 mil industrial weight, the sample should be double bagged. A label with the sample number should be affixed to the baggie. The number should be recorded on the soil plat form showing the approximate location of each sample and the soil collection field data form.

7. The core sampler should be cleaned with a disposable wipe after each composite sample is collected. If a disposable core sampler is used, it can be used for all sub-samples, but not new composite samples unless it is cleaned thoroughly.

D. Laboratory Submittal

1. Submittal Form Preparation

The sample numbers on the sample container must be the same as those on the field sampling form and must also be used on the laboratory submittal form. Confirm that all samples recorded on are in fact present on the laboratory submittal form.

Chain of custody requirements should be followed if applicable.

E. Laboratory Analytical Procedure

1. Laboratories analyzing soil samples must participate in the Environmental Lead Laboratory Proficiency Testing Program or equivalent and be an EPA-NLLAP Accredited Laboratory.

2. Soil samples are received, logged in, opened and placed on drying plates, dried, and mixed thoroughly.

3. Sample sieving: Samples are to be sieved once with a number 10 sieve with a mesh size of 2 millimeters. Visible paint chips are disaggregated by forcing the paint chips and other large particles through the sieve by a rubbing motion. Sieving is always done under a laboratory hood.

4. Samples are oven dried to a constant weight and analyzed by EPA Method SW-846 or equivalent.

- Sample analysis for total lead

F. See ASTM ES 29-94 for further information.

Table D-1: Soil Remediation Goals (RG's)[1] - (Cont.)

**Hazardous substances identified with an asterisk exhibit both carcinogenic and non-carcinogenic effects. The carcinogenic remediation goal is listed because it is more stringent at the 1×10^{-6} risk concentration than the remediation goal for non-carcinogenic effects. See Appendix E for procedures to determine remediation goals for chemicals not listed on the table. Cleanup below method detection limits, using analytical methods prescribed in the guidelines, is not required.*

Chemical	CASRN	RG (ppm)	
Ethylene oxide	75218	0.14	C
Ethylenethiourea (ETU)*	96457	4.4	C
Formaldehyde	50000	1856	N
Formic acid[3]	64186	20000	N
Furfural	98011	36	N
Glycidaldehyde	765344	4.8	N
Heptachlor *	76448	0.11	C
Heptachlor epoxide *	1024573	0.053	C
Hexachlorobenzene*	118741	0.3	C
Hexachlorobutadiene *	87683	6.2	C
Hexachlorocyclopentadiene	77474	84	N
Hexachloroethane *	67721	35	C
Hexachlorophene	70304	3.6	N
Hydrazine	302012	0.16	C
Isophorone *	78591	510	C
Kepone	143500	0.027	C
Lead	7439921	400	2
Malathion	121755	240	N
Maleic anhydride	108316	1220	N
Maleic hydrazide	123331	340	N
Malononitrile	109773	0.24	N
Mercury (inorganic)	7439976	4.6	N
Methacrylonitrile	126987	0.42	N
Methanol	67561	6200	N

1 - Adapted from USEPA Region IX, 2000 Preliminary Remediation Goal Table, except as noted.
2 - The RG is based on USEPA guidance on lead cleanup levels.
3 - The RG is based on USEPA policy for cleanup of PCBs at Superfund Sites. The Branch is currently reviewing the PCB remediation goal policy and may issue further guidance at a later date.
4 - Soil saturation concentration.
5 - Maximum allowable concentration.
C - The RG is based on the carcinogenic endpoint and corresponds to an excess lifetime cancer risk of 1 in 1,000,000.
N - The RG is based on the non-carcinogenic endpoint and corresponds to a hazard quotient of 0.2.
NA - Not Available.

PARKER POE
PARKER POE ADAMS & BERNSTEIN L.L.P.
Attorneys and Counselors at Law

Thomas N. Griffin III
Partner
Telephone: 704.335.9049
Direct Fax: 704.335.9567
tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

July 16, 2001

VIA FACSIMIMLE (828) 625-0171
AND FIRST CLASS MAIL

Roberta Proctor, Environmental Chemist
Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
P. O. Box 387
Lake Lure, North Carolina 28746

Re: Heaven LLC
Morningstar Sign and Sandblasting Matter

Dear Robin:

Following up on our conversations, I have enclosed the text of the remediation plan and assessment report prepared for Heaven LLC and Morningstar Sign and Sandblasting for the work at 1500 Central Avenue. I truly appreciate your flexibility and patience in the investigation of the site and the preparation of these materials.

As we discussed, the initial remediation estimate for the work at Central Avenue exceeded $100,000.00. I am informed that this proposal far exceeds the resources of either Morningstar or Heaven. We will attempt to obtain additional proposals, but we will likely need to work with you concerning the scope and cost of work to be performed at the site. Again, I appreciate your understanding and look forward to talking with you on this matter.

The complete reports will be following by Federal Express as soon as I receive them from Aware.

Thanks as always for your help. Please call me if you should have any questions.

Very truly yours,

Thomas N. Griffin, III

TNG/ewp
Enclosures

are frequently found. Although I would consider a level of 715 ug/ft² on an interior sign ledge to be high, its potential for exposure to humans is minimal.

4 **Soil sample results-** The current N.C. acceptable level of lead in soil, in child 'situation', ranges from 400-2,000+ parts per million (ppm) depending on the areas' usage by children. Your soil sampling results indicate levels in this range to be from 450-2,500 ppm. If these are not areas frequented by people, particularly children, their impact on human health is minimal. I am not in a position to address their impact on surface water quality should run-off or leaching occur. However, any future disturbance of these areas by people could present an exposure risk.

5. **Sampling results: General-** There are rules and regulations which address the adulteration of food prepared or handled in food service facilities such as Nova's Bakery or Fuel Pizza. The highest sample result recorded in your sampling was a dust sample analysis of 37 ug/ft² in a vent at Nova's Bakery. I have advised Bill Hardister, Program Chief of the Health Department's County's Food Program, of this result.

I hope this gives you some initial groundwork in formulating how affected area persons should be advised of these results. In conclusion, there are few N.C. statutory requirements addressing lead hazards in these particular settings. I do support DENR's desire to notify all the businesses sampled and would be glad to participate in meeting with these business owners if you elect to do so.

SECTION 3.0
SAMPLING ACTIVITIES

3.1 Area Reconnaissance

On April 4, 2001, AEI personnel conducted a visual reconnaissance of the subject business neighborhood. A sand material was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand was suspected to have been transported by rain run-off into the depressed areas. Blasting sand was also observed inside the water meter boxes in front of 1500 and 1502 Central Avenue. It is difficult to determine whether this sand originated from work at 1500 Central Avenue, or from other sandblasting activities that have reportedly occurred in the area, or from other sources.

On May 1, 2001, AEI personnel conducted a visual survey of the roof areas of the subject business neighborhood. Coarse blasting sand was observed in three small piles at the southwest corner of the roof above The Perch (1500½ Central Avenue) and in the gutter to the rear of the roof. Sandblasting materials were not observed on any other roofs.

3.2 Wipe Samples

Wipe samples were collected from inside the 1500 Central Avenue shop and neighboring businesses located on Central Avenue, Pecan Avenue and Gordon Street, including those businesses situated to the north across Central Avenue (Table 1). Many of the shops had undergone renovations in the interim between the sandblasting event and sampling activities. Therefore, sampling locations within each building were based on discussions with shop representatives in an effort to sample areas left undisturbed in the past year (Table 2). The air conditioning units for many of the neighboring buildings were located on the roof, and wipe samples were also collected from within the ventilation system at each building. Selected locations for collecting wipe samples were discussed with HWS representatives that were present during the sampling events.

Wipe samples were collected by first outlining the area to be wiped. Identified areas were outlined using either 1) a pre-measured and -cut flexible plastic template with an opening measuring 12 inches by 12 inches; or 2) by applying adhesive tape to the perimeter of the wipe area forming a square or rectangle and then measuring the interior width and length to determine the wipe area.

The sampler wore clean disposable latex gloves each time a wipe sample was collected. At the time of sampling, each laboratory-supplied wipe sample container was rotated to ensure that the wipe was moist. The pre-outlined area was then wiped side-to-side with as many lateral motions that were necessary to completely cover the entire wipe area. The wipe was then folded in half such that the potentially impacted side faced inward, and using the folded wipe a second wipe pass was completed by wiping the area from top-to-bottom with as many passes needed to cover the entire wipe area. The wipe was then returned to the laboratory-supplied container, which was labeled and placed in an insulated cooler with ice. Sample information was entered onto a chain-of-custody record that accompanied the samples to the analytical laboratory. Sample containers were shipped by overnight express service to STL Laboratories – Tallahassee Division for analytical testing.

3.3 Sand, Soil And Sediment Samples

Sand, soil and sediment samples were collected in the exterior areas immediately surrounding 1500 Central Avenue (Table 2), with direction and input from the HWS. Samples were obtained with a clean plastic scoop. Two soil samples were collected from the rock garden adjacent to the west wall of the 1500 Central Avenue shop. Sand samples were collected from each of two water meter boxes along the south side sidewalk of Central Avenue. A sediment sample was collected from the outfall pipe of a roof downsprout in front of 1502 Central Avenue. A soil sample was collected from bare ground situated to the rear of the Alternative Arts Tattoo (1502 Central Avenue). A soil sample was collected from the planted area at the intersection of Gordon Street and Pecan Avenue. A sediment sample was collected from a storm water catch basin just east of the intersection of Gordon Street and Commonwealth

Avenue. A sand sample was collected from a suspected pile of blasting sand observed on the roof above The Perch (1500½ Avenue).

These samples were handled, documented and shipped as described in Section 3.2.

SECTION 4.0
SAMPLING RESULTS

4.1 Wipe Sampling Results

Wipe samples were collected inside several neighborhood businesses situated in the 1500 block of Central Avenue and 1200 block of Gordon Street. Wipe samples were collected for the analysis of total lead by Methods 3550/6010. Wipe sampling results are summarized in Table 2. Copies of the laboratory analytical data reports are provided in Attachment C. The laboratory reported the wipe sample results in units of $\mu g/100cm^2$. Results were converted to $\mu g/ft^2$ by multiplying the lab data value by a factor of 9.29. Values shown in bold in Table 2 exceed the cleanup criteria of 100 $\mu g/ft^2$ for total inorganic lead in interior dust as established by the HWS. Dust-containing lead that exceeds the 100 $\mu g/ft^2$ cleanup criteria occurs on sampled surfaces and/or ducts in the following businesses:

Urban Evolution	1500 Central Avenue
The Perch	1500½ Central Avenue
Alternative Arts Tattoo	1502 Central Avenue
Safari International	1504 Central Avenue
Reggae Central	1506 Central Avenue
Diallo's Braiding	1506B Central Avenue
Stanley Russell Architect	1506½ Central Avenue
Century Furniture	1508 Central Avenue

4.2 Sand, Soil and Sediment Sampling Results

Sand, soil and sediment samples were collected on the exterior and in the vicinity of the neighborhood businesses situated in the 1500 block of Central Avenue and 1200 block of Gordon Street. These samples were also collected for the analysis of total lead by Methods 3550/6010. Sand, soil and sediment sampling results are summarized in Table 2. Copies of the laboratory analytical data reports are provided in Attachment C. The laboratory reported the grab solid sample results in units of mg/kg. Values shown in bold in Table 2 exceed the cleanup criteria of 270 mg/kg for lead in soils as established by the HWS. Sand, soil and sediment

containing lead that exceeds the 270 mg/kg cleanup criteria were encountered in the following areas:

Water meter box in front of 1500 Central Avenue
Water meter box in front of 1502 Central Avenue
Outfall of roof downsprout beside Reggae Central
Bare ground/open area to rear of Alternative Arts Tattoo
Sand pile on roof above 1500 and 1500½ Central Avenue

Coarse blasting sand was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand is suspected to have been transported by rain run-off into the depressed areas. No samples were collected from these areas for lead testing. This material will be addressed in the remediation plan to be coordinated with the HWS.

Given other projects in the area and its long industrial/commercial history, it is diffucult to identify the source of all of the lead impacts with certainty.

4.3 Limitation of Sampling Approach

An evaluation of potential lead impacts to area soils as a result of historical vehicular emissions from leaded gasoline and the subsequent fallout of lead-containing particulates was not conducted in the subject area. It has been found that sedimentary lead concentrations in urban- and suburban-reservoir sediments nationwide peaked in the mid-1970s in response to maximum usage of leaded gasoline (Callender and Van Metre, *Environmental Science Technology*, 1997, 31, 424A). The sampling methods used in this report are not able to differentiate between lead from automobile emissions or industrial activities, and that which may have originated from other sources. Given the industrial/commercial history of this area, it is possible that sources unrelated to sandblasting activities at the 1500 block of Central Avenue have contributed to the observed lead impacts.

SECTION 5.0
CONCLUSIONS

5.1 Conclusions

Dust-containing lead that exceeds the cleanup criteria of 100 $\mu g/ft^2$ occurs on sampled surfaces and/or ducts in the following businesses:

Urban Evolution	1500 Central Avenue
The Perch	1500½ Central Avenue
Alternative Arts Tattoo	1502 Central Avenue
Safari International	1504 Central Avenue
Reggae Central	1506 Central Avenue
Diallo's Braiding	1506B Central Avenue
Stanley Russell Architect	1506½ Central Avenue
Century Furniture	1508 Central Avenue

Sand, soil and sediment containing lead that exceeds the cleanup criteria of 270 mg/kg were encountered in the following areas:

Water meter box in front of 1500 Central Avenue
Water meter box in front of 1502 Central Avenue
Outfall of roof downsprout beside Reggae Central
Bare ground/open area to rear of Alternative Arts Tattoo
Sand pile on roof above 1500 and 1500½ Central Avenue

Coarse blasting sand was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand is suspected to have been transported by rain run-off into the depressed areas. No samples were collected from these areas for lead testing. This material will be addressed in the remediation plan to be coordinated with the HWS.

Given other projects in the area and its long industrial/commercial history, it is possible that sources unrelated to sandblasting activities at the 1500 block of Central Avenue have contributed to lead impacts.

5.2 Further Action

On behalf of Heaven, LLC, AEI has prepared a remediation plan to address the abatement of identified lead-containing media from the 1500 block of Central Avenue. The proposed remediation plan is being submitted under separate cover.

REMEDIATION PLAN
FOR
CLEANUP OF LEAD-CONTAINING SAND AND DUST

IDENTIFIED BUSINESSES AND THEIR SURROUNDINGS
IN 1500 BLOCK OF CENTRAL AVENUE
NOTICE OF VIOLATION (NOV) DOCKET NOS. 2001-030 AND 2001-031

Plan Objective

The objective of this Remediation Plan (Plan) is to address identified lead-containing sand and dust at the neighborhood businesses and their surroundings situated in the 1500 block of Central Avenue where lead concentrations have been determined to be in excess of 100μg/ft^2. The proposed remedial activities will be conducted in general conformance with the cleanup guidance in the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995 (Title X, Section 1017). Lead cleanup criteria of 100 μg/ft^2 for dust and 270 mg/kg for soils has been established by the North Carolina Department of Environment and Natural Resources (NCDENR) - Hazardous Waste Section (HWS), although we have been informed the HWS may consider alternative levels at the Central Avenue site depending on the circumstances. Further, given the industrial/commercial history of the area, it is possible sources unrelated to activities at the 1500 block of Central Avenue may have contributed to observed lead impacts

Background

Lead-containing sand and dust have been identified on the exterior and interiors of several businesses in the 1500 block of Central Avenue. AWARE Environmental® Inc. (AEI) personnel mapped areas of lead-containing sand and, with direction and input from the HWS, collected samples from selected surface and ductwork inside neighborhood business establishments to identify lead-containing dust. This information has been summarized in a Comprehensive Sampling and Analysis Report prepared by AEI under separate cover on behalf of Heaven, LLC.

In a related incident, lead-containing sand from a sandblasting job in the 1500 block of Central Avenue was disposed of in an area approximately 20 feet wide and 50 feet long at a farm located at 5621 Mt. Olive Church Road in western Mecklenburg County. In addition, three 55-gallon

drums and one 35-gallon drum storing lead-containing sand were observed at the farm site. A report of this site assessment and cleanup is being submitted under separate cover.

Proposed Lead Cleanup

1) Observed blasting sand will be removed from exterior areas (i.e., street curb, sidewalls, meter boxes and a roof) in the 1500 block of Central Avenue. Such sand will be removed by high-efficiency particulate air (HEPA) vacuum. The vacuumed materials and used HEPA vacuum filters will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg. Where wipe samples are employed to confirm cleanup, the cleanup criterion is 100 $\mu g/ft^2$.

2) Surface soils will be removed from an open area situated to the rear of the 1502 Central Avenue building. The removed soils will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg.

3) Interior surfaces upon which lead-containing dust exceeding the lead cleanup criterion was identified will be cleaned by the following procedures:

   - initial HEPA vacuum;
   - area wash using rags to wipe down shelving and other non-floor surfaces, and using a wet string mop with wringer and buckets to clean floor surfaces; and
   - final HEPA vacuum.

   When using the HEPA vacuum, the following attachable tools will be employed:

   1) a brush tool when cleaning horizontal surfaces;
   2) a rubber cone when cleaning where the floor meets the baseboard; and
   3) a wheeled floor nozzle when cleaning bare floors.

4) Ductwork will be cleaned in the businesses in which dust lead levels in the ductwork exceeded the cleanup criterion. Existing heating and air conditioning system (HVAC) filters will be removed and replaced with new ones in these businesses. Removed HVAC filters will be contained for subsequent disposal.

The established cleanup criterion is 100 $\mu g/ft^2$ for dust on interior surfaces and ductwork. Vacuumed debris and used HEPA and HVAC filters will be contained for subsequent disposal.

Recovered lead-containing materials will be transported with appropriate waste manifest to an approved disposal facility.

Confirmatory Sampling

1. Confirmatory soil samples will be collected following cleanup in each targeted soil cleanup area (i.e., water meter boxes in front of 1500 and 1502 Central Ave. and bare ground to the rear of 1502 Central Ave.) for total inorganic lead by SW-846 3050/6010 to test for potential lead-containing particulate debris or leachate. Should total lead levels in an initially analyzed confirmatory soil sample from an identified target cleanup area exceed the allowable cleanup criteria, background lead levels will be determined or further soil removal will be conducted in the respective target cleanup area. This procedure will be repeated as needed to confirm cleanup.

2. One (1) confirmatory surface wipe sample will be collected in each targeted building interior cleanup area for total inorganic lead by SW-846 3050/6010 to test for lead-containing dust and particulate debris. Should total lead levels in an initially analyzed confirmatory wipe sample from a building exceed the allowable cleanup criteria, further cleaning will be conducted in the respective business as directed by the HWS. This procedure will be repeated as needed to confirm cleanup.

Documentation of Lead Cleanup

A Lead Cleanup Report will be prepared to summarize the cleanup activities and provide the confirmatory sample results. Photographs will be taken to document observations and sampling activities for inclusion in the report.

Performance of these work tasks will require that access is granted by the building owners/occupants. Should access be denied by a business, the denial will be documented in writing including the original signature of the business owner, if they will provide it.

Proposed Schedule for Completion of Remediation of Lead-Containing Residuals

Upon approval of the proposed remediation plan by the NCDENR, the following schedule for completion of remediation is proposed.

Work Task	Time Following Plan Approval
Complete remedial activities (including cleanup report)	30 days (maximum date of September 15, 2001)

435021001

PARKER POE

PARKER POE ADAMS & BERNSTEIN LLP

Attorneys and Counselors at Law

Thomas N. Griffin III
Partner
Telephone: 704.335.9049
Direct Fax: 704.335.9567
tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

July 16, 2001

VIA FACSIMIMLE (828) 625-0171
AND FIRST CLASS MAIL

Roberta Proctor, Environmental Chemist
Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
P. O. Box 387
Lake Lure, North Carolina 28746

Re: Heaven LLC
Morningstar Sign and Sandblasting Matter

Dear Robin:

Following up on our conversations, I have enclosed the text of the remediation plan and assessment report prepared for Heaven LLC and Morningstar Sign and Sandblasting for the work at 1500 Central Avenue. I truly appreciate your flexibility and patience in the investigation of the site and the preparation of these materials.

As we discussed, the initial remediation estimate for the work at Central Avenue exceeded $100,000.00. I am informed that this proposal far exceeds the resources of either Morningstar or Heaven. We will attempt to obtain additional proposals, but we will likely need to work with you concerning the scope and cost of work to be performed at the site. Again, I appreciate your understanding and look forward to talking with you on this matter.

The complete reports will be following by Federal Express as soon as I receive them from Aware.

Thanks as always for your help. Please call me if you should have any questions.

Very truly yours,

Thomas N. Griffin, III

TNG/ewp
Enclosures

REMEDIATION PLAN
FOR
CLEANUP OF LEAD-CONTAINING SAND AND DUST

IDENTIFIED BUSINESSES AND THEIR SURROUNDINGS IN 1500 BLOCK OF CENTRAL AVENUE NOTICE OF VIOLATION (NOV) DOCKET NOS. 2001-030 AND 2001-031

Plan Objective

The objective of this Remediation Plan (Plan) is to address identified lead-containing sand and dust at the neighborhood businesses and their surroundings situated in the 1500 block of Central Avenue where lead concentrations have been determined to be in excess of 100$\mu g/ft^2$. The proposed remedial activities will be conducted in general conformance with the cleanup guidance in the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995 (Title X, Section 1017). Lead cleanup criteria of 100 $\mu g/ft^2$ for dust and 270 mg/kg for soils has been established by the North Carolina Department of Environment and Natural Resources (NCDENR) - Hazardous Waste Section (HWS), although we have been informed the HWS may consider alternative levels at the Central Avenue site depending on the circumstances. Further, given the industrial/commercial history of the area, it is possible sources unrelated to activities at the 1500 block of Central Avenue may have contributed to observed lead impacts

Background

Lead-containing sand and dust have been identified on the exterior and interiors of several businesses in the 1500 block of Central Avenue. AWARE Environmental® Inc. (AEI) personnel mapped areas of lead-containing sand and, with direction and input from the HWS, collected samples from selected surface and ductwork inside neighborhood business establishments to identify lead-containing dust. This information has been summarized in a Comprehensive Sampling and Analysis Report prepared by AEI under separate cover on behalf of Heaven, LLC.

In a related incident, lead-containing sand from a sandblasting job in the 1500 block of Central Avenue was disposed of in an area approximately 20 feet wide and 50 feet long at a farm located at 5621 Mt. Olive Church Road in western Mecklenburg County. In addition, three 55-gallon

drums and one 35-gallon drum storing lead-containing sand were observed at the farm site. A report of this site assessment and cleanup is being submitted under separate cover.

Proposed Lead Cleanup

1) Observed blasting sand will be removed from exterior areas (i.e., street curb, sidewalls, meter boxes and a roof) in the 1500 block of Central Avenue. Such sand will be removed by high-efficiency particulate air (HEPA) vacuum. The vacuumed materials and used HEPA vacuum filters will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg. Where wipe samples are employed to confirm cleanup, the cleanup criterion is 100 $\mu g/ft^2$.

2) Surface soils will be removed from an open area situated to the rear of the 1502 Central Avenue building. The removed soils will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg.

3) Interior surfaces upon which lead-containing dust exceeding the lead cleanup criterion was identified will be cleaned by the following procedures:

   - initial HEPA vacuum;
   - area wash using rags to wipe down shelving and other non-floor surfaces, and using a wet string mop with wringer and buckets to clean floor surfaces; and
   - final HEPA vacuum.

   When using the HEPA vacuum, the following attachable tools will be employed:

   1) a brush tool when cleaning horizontal surfaces;
   2) a rubber cone when cleaning where the floor meets the baseboard; and
   3) a wheeled floor nozzle when cleaning bare floors.

4) Ductwork will be cleaned in the businesses in which dust lead levels in the ductwork exceeded the cleanup criterion. Existing heating and air conditioning system (HVAC) filters will be removed and replaced with new ones in these businesses. Removed HVAC filters will be contained for subsequent disposal.

The established cleanup criterion is 100 $\mu g/ft^2$ for dust on interior surfaces and ductwork. Vacuumed debris and used HEPA and HVAC filters will be contained for subsequent disposal.

Recovered lead-containing materials will be transported with appropriate waste manifest to an approved disposal facility.

Confirmatory Sampling

1. Confirmatory soil samples will be collected following cleanup in each targeted soil cleanup area (i.e., water meter boxes in front of 1500 and 1502 Central Ave. and bare ground to the rear of 1502 Central Ave.) for total inorganic lead by SW-846 3050/6010 to test for potential lead-containing particulate debris or leachate. Should total lead levels in an initially analyzed confirmatory soil sample from an identified target cleanup area exceed the allowable cleanup criteria, background lead levels will be determined or further soil removal will be conducted in the respective target cleanup area. This procedure will be repeated as needed to confirm cleanup.

2. One (1) confirmatory surface wipe sample will be collected in each targeted building interior cleanup area for total inorganic lead by SW-846 3050/6010 to test for lead-containing dust and particulate debris. Should total lead levels in an initially analyzed confirmatory wipe sample from a building exceed the allowable cleanup criteria, further cleaning will be conducted in the respective business as directed by the HWS. This procedure will be repeated as needed to confirm cleanup.

Documentation of Lead Cleanup

A Lead Cleanup Report will be prepared to summarize the cleanup activities and provide the confirmatory sample results. Photographs will be taken to document observations and sampling activities for inclusion in the report.

Performance of these work tasks will require that access is granted by the building owners/occupants. Should access be denied by a business, the denial will be documented in writing including the original signature of the business owner, if they will provide it.

Proposed Schedule for Completion of Remediation of Lead-Containing Residuals

Upon approval of the proposed remediation plan by the NCDENR, the following schedule for completion of remediation is proposed.

Work Task	Time Following Plan Approval
Complete remedial activities (including cleanup report)	30 days (maximum date of September 15, 2001)

435021001

COMPREHENSIVE SAMPLING AND ANALYTICAL REPORT
HEAVEN, LLC
1500 CENTRAL AVENUE
CHARLOTTE, NC 28205

Prepared for:
Heaven, LLC
1500 Central Avenue
Charlotte, NC 28205

Prepared by:
AWARE Environmental® Inc.
9305-J Monroe Road
Charlotte, NC 28270

AEI Project No. N435-01

July 2001

TABLE OF CONTENTS

Section	Description	Page
	TABLE OF CONTENTS	i
	LIST OF FIGURES	i
	LIST OF APPENDICES	ii
1.0	INTRODUCTION	1
1.1	Background	1
2.0	SITE PHYSICAL SETTING	3
2.1	Area Land Use	3
2.2	Area Public and Private Water Supply	3
2.3	Surface Water Characteristics	3
2.4	Area Groundwater Characteristics	4
2.5	July 2000 Wind Data	4
3.0	SAMPLING ACTIVITIES	5
3.1	Area Reconnaissance	5
3.2	Wipe Samples	5
3.3	Sand, Soil and Sediment Samples	6
4.0	SAMPLING RESULTS	8
4.1	Wipe Sampling Results	8
4.2	Sand, Soil and Sediment Sampling Results	8
4.3	Limitations of Sampling Approach	9
5.0	CONCLUSIONS	10
5.1	Conclustions	10
5.2	Further Action	11

LIST OF FIGURES

Figure No.	Title
1	Site Location Map
2	Area Land Use Map
3	Drainage Pathways

LIST OF TABLES

Table No.	Title
1	Sample Location Summary
2	Summary of Sample Analytical Results

LIST OF ATTACHMENTS

Attachment A	Site Photographs
Attachment B	July 2000 Wind Data
Attachment C	Laboratory Analytical Data Reports/Chain-of-Custody Records

SECTION 1.0
INTRODUCTION

This report summarizes the activities and sampling data associated with an assessment performed by AWARE Environmental® Inc. (AEI) on behalf of Heaven, LLC to determine the presence of lead-containing dust in neighborhood businesses and their surroundings in the 1500 block of Central Avenue, Charlotte, NC (Figure 1). An initial site reconnaissance and sampling events were conducted on April 30 and May 1, 2001. Messrs. Joseph Parker and/or Brad Murphy of the North Carolina Department of Environment and Natural Resources (NCDENR) - Hazardous Waste Section (HWS) and Mr. Edward Stephens and Ms. Kristin Kulow of AEI were present. AEI personnel conducted follow-up sampling events on May 9 and June 13, 2001. Photographs taken during the initial site visit are referenced herein and are included in Attachment A.

1.1 Background

The business located at 1500 Central Avenue is known as Urban Evolution; a clothing store that is owned by Heaven, LLC. Heaven, LLC hired MorningStar Sign & Sandblasting to remove paint from the north and west exterior brick walls of the building by sandblasting. The sandblasting occurred between July 3 and 5, 2000. Following the work, most of the blasting sand was taken to a farm in western Mecklenburg County to be used as fill material. (Sand deposited at the farm site is being addressed by a separate assessment/remediation). Mecklenburg County Department of Environmental Protection (MCDEP) representatives observed blasting sand at the site shortly after the job was concluded. Samples of the residual blasting sand were analyzed and were determined to be hazardous by toxicity characteristic. MCDEP reported the sampling results to the NCDENR-HWS, which took over the investigation. The NCDENR-HWS requested that an assessment of lead containing dust and blasting media be conducted, and that a remediation plan be proposed to address its abatement. The NCDENR-HWS has established an initial lead cleanup criteria of 100 $\mu g/ft^2$ for lead-containing dust determined by analysis of wipe samples, and 270 mg/kg for total inorganic lead in soils.

It is not possible using the methods in this report to determine whether dust or media identified by AEI originated solely, if at all, from the sandblasting activities at 1500 Central Avenue. Other sandblasting activities and renovation projects have reportedly been conducted in this vicinity, which could be the source of the dust and media. Nevertheless, in good faith cooperation with DENR, sampling scope and methods were coordinated with the HWS to address visually identifiable dust and media in the agreed upon area to satisfy that Branch's initial assessment requirements.

SECTION 2.0
SITE PHYSICAL SETTING

2.1 Area Land Use

The immediate neighboring area consists of retail shops, offices and food establishments. Residential areas exist to the north and south (Figure 2).

2.2 Area Public and Private Water Supply

The general area lies within the City of Charlotte and is supplied with public water by Charlotte Mecklenburg Utilities (CMU). CMU obtains its water supply from surface lakes along the Catawba River system. AEI reviewed a map of CMU water connections within a 1,500-foot radius of the subject area and determined that properties were either connected to the CMU water system or were undeveloped, used for parking, acquired for thoroughfare right-of-way, or were portions of industrial facilities.

2.3 Surface Water Characteristics

A scaled site map showing the approximate locations of drainage ways and storm drains is presented in Figure 3. Central and Pecan Avenues and Gordon Street are city streets provided with curb and gutter and storm drains. Surface water from the sandblasting area is likely to flow down the east side of Pecan Avenue to the east side of Gordon Street. The nearest storm water culvert in the likely drainage pathway is situated east of the intersection of Gordon Street and Commonwealth Avenue about 600 feet away. A sediment sample was collected and analyzed for lead from this storm water culvert and subsequent analytical results were below the initial cleanup standard of 270 mg/l (Table 2).

No streams are located within 1,500 feet of the subject area. A small pond is situated approximately 1,500 feet along Hawthorne Lane to the northwest.

2.4 Area Groundwater Characteristics

It is estimated that the local water table occurs at a depth greater than 25 feet below grade based upon groundwater monitoring data collected at nearby industrial sites. The direction of area shallow groundwater flow is unknown. Based upon surface topography and the location of the nearest streams, shallow groundwater is likely to flow to the south or southwest.

2.5 July 2000 Wind Data

AEI obtained wind direction and speed data for July 2000 from the NOAA, National Climatic Data Center to evaluate the direction, distance and dispersion of dust that was reportedly generated by sandblasting activities conducted at the subject site from July 3-5, 2000 (Attachment B). These data are summarized in the table below.

Date	Wind Direction	Average Wind Speed (mph)
07/03/00	190° (toward N10°E)	7.3
07/04/00	200° (toward N20°E)	5.4
07/05/00	330° (toward S60°E)	2.8

These data would suggest that windborne dust would be predominantly transported across Central Avenue to the north-northeast for two days and in a direction parallel to Gordon Street to the southeast for one day.

SECTION 3.0
SAMPLING ACTIVITIES

3.1 Area Reconnaissance

On April 4, 2001, AEI personnel conducted a visual reconnaissance of the subject business neighborhood. A sand material was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand was suspected to have been transported by rain run-off into the depressed areas. Blasting sand was also observed inside the water meter boxes in front of 1500 and 1502 Central Avenue. It is difficult to determine whether this sand originated from work at 1500 Central Avenue, or from other sandblasting activities that have reportedly occurred in the area, or from other sources.

On May 1, 2001, AEI personnel conducted a visual survey of the roof areas of the subject business neighborhood. Coarse blasting sand was observed in three small piles at the southwest corner of the roof above The Perch (1500½ Central Avenue) and in the gutter to the rear of the roof. Sandblasting materials were not observed on any other roofs.

3.2 Wipe Samples

Wipe samples were collected from inside the 1500 Central Avenue shop and neighboring businesses located on Central Avenue, Pecan Avenue and Gordon Street, including those businesses situated to the north across Central Avenue (Table 1). Many of the shops had undergone renovations in the interim between the sandblasting event and sampling activities. Therefore, sampling locations within each building were based on discussions with shop representatives in an effort to sample areas left undisturbed in the past year (Table 2). The air conditioning units for many of the neighboring buildings were located on the roof, and wipe samples were also collected from within the ventilation system at each building. Selected locations for collecting wipe samples were discussed with HWS representatives that were present during the sampling events.

Wipe samples were collected by first outlining the area to be wiped. Identified areas were outlined using either 1) a pre-measured and -cut flexible plastic template with an opening measuring 12 inches by 12 inches; or 2) by applying adhesive tape to the perimeter of the wipe area forming a square or rectangle and then measuring the interior width and length to determine the wipe area.

The sampler wore clean disposable latex gloves each time a wipe sample was collected. At the time of sampling, each laboratory-supplied wipe sample container was rotated to ensure that the wipe was moist. The pre-outlined area was then wiped side-to-side with as many lateral motions that were necessary to completely cover the entire wipe area. The wipe was then folded in half such that the potentially impacted side faced inward, and using the folded wipe a second wipe pass was completed by wiping the area from top-to-bottom with as many passes needed to cover the entire wipe area. The wipe was then returned to the laboratory-supplied container, which was labeled and placed in an insulated cooler with ice. Sample information was entered onto a chain-of-custody record that accompanied the samples to the analytical laboratory. Sample containers were shipped by overnight express service to STL Laboratories – Tallahassee Division for analytical testing.

3.3 Sand, Soil And Sediment Samples

Sand, soil and sediment samples were collected in the exterior areas immediately surrounding 1500 Central Avenue (Table 2), with direction and input from the HWS. Samples were obtained with a clean plastic scoop. Two soil samples were collected from the rock garden adjacent to the west wall of the 1500 Central Avenue shop. Sand samples were collected from each of two water meter boxes along the south side sidewalk of Central Avenue. A sediment sample was collected from the outfall pipe of a roof downsprout in front of 1502 Central Avenue. A soil sample was collected from bare ground situated to the rear of the Alternative Arts Tattoo (1502 Central Avenue). A soil sample was collected from the planted area at the intersection of Gordon Street and Pecan Avenue. A sediment sample was collected from a storm water catch basin just east of the intersection of Gordon Street and Commonwealth

Avenue. A sand sample was collected from a suspected pile of blasting sand observed on the roof above The Perch (1500½ Avenue).

These samples were handled, documented and shipped as described in Section 3.2.

SECTION 4.0
SAMPLING RESULTS

4.1 Wipe Sampling Results

Wipe samples were collected inside several neighborhood businesses situated in the 1500 block of Central Avenue and 1200 block of Gordon Street. Wipe samples were collected for the analysis of total lead by Methods 3550/6010. Wipe sampling results are summarized in Table 2. Copies of the laboratory analytical data reports are provided in Attachment C. The laboratory reported the wipe sample results in units of $\mu g/100cm^2$. Results were converted to $\mu g/ft^2$ by multiplying the lab data value by a factor of 9.29. Values shown in bold in Table 2 exceed the cleanup criteria of 100 $\mu g/ft^2$ for total inorganic lead in interior dust as established by the HWS. Dust-containing lead that exceeds the 100 $\mu g/ft^2$ cleanup criteria occurs on sampled surfaces and/or ducts in the following businesses:

Urban Evolution	1500 Central Avenue
The Perch	1500½ Central Avenue
Alternative Arts Tattoo	1502 Central Avenue
Safari International	1504 Central Avenue
Reggae Central	1506 Central Avenue
Diallo's Braiding	1506B Central Avenue
Stanley Russell Architect	1506½ Central Avenue
Century Furniture	1508 Central Avenue

4.2 Sand, Soil and Sediment Sampling Results

Sand, soil and sediment samples were collected on the exterior and in the vicinity of the neighborhood businesses situated in the 1500 block of Central Avenue and 1200 block of Gordon Street. These samples were also collected for the analysis of total lead by Methods 3550/6010. Sand, soil and sediment sampling results are summarized in Table 2. Copies of the laboratory analytical data reports are provided in Attachment C. The laboratory reported the grab solid sample results in units of mg/kg. Values shown in bold in Table 2 exceed the cleanup criteria of 270 mg/kg for lead in soils as established by the HWS. Sand, soil and sediment

containing lead that exceeds the 270 mg/kg cleanup criteria were encountered in the following areas:

Water meter box in front of 1500 Central Avenue
Water meter box in front of 1502 Central Avenue
Outfall of roof downsprout beside Reggae Central
Bare ground/open area to rear of Alternative Arts Tattoo
Sand pile on roof above 1500 and 1500½ Central Avenue

Coarse blasting sand was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand is suspected to have been transported by rain run-off into the depressed areas. No samples were collected from these areas for lead testing. This material will be addressed in the remediation plan to be coordinated with the HWS.

Given other projects in the area and its long industrial/commercial history, it is diffucult to identify the source of all of the lead impacts with certainty.

4.3 Limitation of Sampling Approach

An evaluation of potential lead impacts to area soils as a result of historical vehicular emissions from leaded gasoline and the subsequent fallout of lead-containing particulates was not conducted in the subject area. It has been found that sedimentary lead concentrations in urban- and suburban-reservoir sediments nationwide peaked in the mid-1970s in response to maximum usage of leaded gasoline (Callender and Van Metre, *Environmental Science Technology*, 1997, 31, 424A). The sampling methods used in this report are not able to differentiate between lead from automobile emissions or industrial activities, and that which may have originated from other sources. Given the industrial/commercial history of this area, it is possible that sources unrelated to sandblasting activities at the 1500 block of Central Avenue have contributed to the observed lead impacts.

SECTION 5.0
CONCLUSIONS

5.1 Conclusions

Dust-containing lead that exceeds the cleanup criteria of 100 $\mu g/ft^2$ occurs on sampled surfaces and/or ducts in the following businesses:

Urban Evolution	1500 Central Avenue
The Perch	1500½ Central Avenue
Alternative Arts Tattoo	1502 Central Avenue
Safari International	1504 Central Avenue
Reggae Central	1506 Central Avenue
Diallo's Braiding	1506B Central Avenue
Stanley Russell Architect	1506½ Central Avenue
Century Furniture	1508 Central Avenue

Sand, soil and sediment containing lead that exceeds the cleanup criteria of 270 mg/kg were encountered in the following areas:

Water meter box in front of 1500 Central Avenue
Water meter box in front of 1502 Central Avenue
Outfall of roof downsprout beside Reggae Central
Bare ground/open area to rear of Alternative Arts Tattoo
Sand pile on roof above 1500 and 1500½ Central Avenue

Coarse blasting sand was observed in scattered low areas on the sidewalk along the east side of Pecan Avenue, the concrete drive to the rear of 1500 Central Avenue and parking area in front of Water 'N Health (1228 Gordon Street). The coarse sand is suspected to have been transported by rain run-off into the depressed areas. No samples were collected from these areas for lead testing. This material will be addressed in the remediation plan to be coordinated with the HWS.

Given other projects in the area and its long industrial/commercial history, it is possible that sources unrelated to sandblasting activities at the 1500 block of Central Avenue have contributed to lead impacts.

5.2 Further Action

On behalf of Heaven, LLC, AEI has prepared a remediation plan to address the abatement of identified lead-containing media from the 1500 block of Central Avenue. The proposed remediation plan is being submitted under separate cover.

43501r002

REMEDIATION PLAN
FOR
CLEANUP OF LEAD-CONTAINING SAND AND DUST

IDENTIFIED BUSINESSES AND THEIR SURROUNDINGS
IN 1500 BLOCK OF CENTRAL AVENUE
NOTICE OF VIOLATION (NOV) DOCKET NOS. 2001-030 AND 2001-031

Plan Objective

The objective of this Remediation Plan (Plan) is to address identified lead-containing sand and dust at the neighborhood businesses and their surroundings situated in the 1500 block of Central Avenue where lead concentrations have been determined to be in excess of 100μg/ft^2. The proposed remedial activities will be conducted in general conformance with the cleanup guidance in the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995 (Title X, Section 1017). Lead cleanup criteria of 100 μg/ft^2 for dust and 270 mg/kg for soils has been established by the North Carolina Department of Environment and Natural Resources (NCDENR) - Hazardous Waste Section (HWS), although we have been informed the HWS may consider alternative levels at the Central Avenue site depending on the circumstances. Further, given the industrial/commercial history of the area, it is possible sources unrelated to activities at the 1500 block of Central Avenue may have contributed to observed lead impacts

Background

Lead-containing sand and dust have been identified on the exterior and interiors of several businesses in the 1500 block of Central Avenue. AWARE Environmental® Inc. (AEI) personnel mapped areas of lead-containing sand and, with direction and input from the HWS, collected samples from selected surface and ductwork inside neighborhood business establishments to identify lead-containing dust. This information has been summarized in a Comprehensive Sampling and Analysis Report prepared by AEI under separate cover on behalf of Heaven, LLC.

In a related incident, lead-containing sand from a sandblasting job in the 1500 block of Central Avenue was disposed of in an area approximately 20 feet wide and 50 feet long at a farm located at 5621 Mt. Olive Church Road in western Mecklenburg County. In addition, three 55-gallon

drums and one 35-gallon drum storing lead-containing sand were observed at the farm site. A report of this site assessment and cleanup is being submitted under separate cover.

Proposed Lead Cleanup

1) Observed blasting sand will be removed from exterior areas (i.e., street curb, sidewalls, meter boxes and a roof) in the 1500 block of Central Avenue. Such sand will be removed by high-efficiency particulate air (HEPA) vacuum. The vacuumed materials and used HEPA vacuum filters will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg. Where wipe samples are employed to confirm cleanup, the cleanup criterion is 100 $\mu g/ft^2$.

2) Surface soils will be removed from an open area situated to the rear of the 1502 Central Avenue building. The removed soils will be contained for subsequent disposal. The lead cleanup criterion for sand, sediment and soils will be coordinated with the HWS, but for purposes of initial planning is 270 μg/kg.

3) Interior surfaces upon which lead-containing dust exceeding the lead cleanup criterion was identified will be cleaned by the following procedures:

   - initial HEPA vacuum;
   - area wash using rags to wipe down shelving and other non-floor surfaces, and using a wet string mop with wringer and buckets to clean floor surfaces; and
   - final HEPA vacuum.

   When using the HEPA vacuum, the following attachable tools will be employed:

   1) a brush tool when cleaning horizontal surfaces;
   2) a rubber cone when cleaning where the floor meets the baseboard; and
   3) a wheeled floor nozzle when cleaning bare floors.

4) Ductwork will be cleaned in the businesses in which dust lead levels in the ductwork exceeded the cleanup criterion. Existing heating and air conditioning system (HVAC) filters will be removed and replaced with new ones in these businesses. Removed HVAC filters will be contained for subsequent disposal.

The established cleanup criterion is 100 $\mu g/ft^2$ for dust on interior surfaces and ductwork. Vacuumed debris and used HEPA and HVAC filters will be contained for subsequent disposal.

Recovered lead-containing materials will be transported with appropriate waste manifest to an approved disposal facility.

Confirmatory Sampling

1. Confirmatory soil samples will be collected following cleanup in each targeted soil cleanup area (i.e., water meter boxes in front of 1500 and 1502 Central Ave. and bare ground to the rear of 1502 Central Ave.) for total inorganic lead by SW-846 3050/6010 to test for potential lead-containing particulate debris or leachate. Should total lead levels in an initially analyzed confirmatory soil sample from an identified target cleanup area exceed the allowable cleanup criteria, background lead levels will be determined or further soil removal will be conducted in the respective target cleanup area. This procedure will be repeated as needed to confirm cleanup.

2. One (1) confirmatory surface wipe sample will be collected in each targeted building interior cleanup area for total inorganic lead by SW-846 3050/6010 to test for lead-containing dust and particulate debris. Should total lead levels in an initially analyzed confirmatory wipe sample from a building exceed the allowable cleanup criteria, further cleaning will be conducted in the respective business as directed by the HWS. This procedure will be repeated as needed to confirm cleanup.

Documentation of Lead Cleanup

A Lead Cleanup Report will be prepared to summarize the cleanup activities and provide the confirmatory sample results. Photographs will be taken to document observations and sampling activities for inclusion in the report.

Performance of these work tasks will require that access is granted by the building owners/occupants. Should access be denied by a business, the denial will be documented in writing including the original signature of the business owner, if they will provide it.

Proposed Schedule for Completion of Remediation of Lead-Containing Residuals

Upon approval of the proposed remediation plan by the NCDENR, the following schedule for completion of remediation is proposed.

Work Task	Time Following Plan Approval
Complete remedial activities (including cleanup report)	30 days (maximum date of September 15, 2001)

435021001

COMPREHENSIVE SAMPLING AND ANALYTICAL REPORT
HEAVEN, LLC
1500 CENTRAL AVENUE
CHARLOTTE, NC 28205

Prepared for:
Heaven, LLC
1500 Central Avenue
Charlotte, NC 28205

Prepared by:
AWARE Environmental® Inc.
9305-J Monroe Road
Charlotte, NC 28270

AEI Project No. N435-01

July 2001

TABLE OF CONTENTS

Section	Description	Page
	TABLE OF CONTENTS	i
	LIST OF FIGURES	i
	LIST OF APPENDICES	ii
1.0	INTRODUCTION	1
1.1	Background	1
2.0	SITE PHYSICAL SETTING	3
2.1	Area Land Use	3
2.2	Area Public and Private Water Supply	3
2.3	Surface Water Characteristics	3
2.4	Area Groundwater Characteristics	4
2.5	July 2000 Wind Data	4
3.0	SAMPLING ACTIVITIES	5
3.1	Area Reconnaissance	5
3.2	Wipe Samples	5
3.3	Sand, Soil and Sediment Samples	6
4.0	SAMPLING RESULTS	8
4.1	Wipe Sampling Results	8
4.2	Sand, Soil and Sediment Sampling Results	8
4.3	Limitations of Sampling Approach	9
5.0	CONCLUSIONS	10
5.1	Conclustions	10
5.2	Further Action	11

LIST OF FIGURES

Figure No.	Title
1	Site Location Map
2	Area Land Use Map
3	Drainage Pathways

LIST OF TABLES

Table No.	Title
1	Sample Location Summary
2	Summary of Sample Analytical Results

LIST OF ATTACHMENTS

Attachment A	Site Photographs
Attachment B	July 2000 Wind Data
Attachment C	Laboratory Analytical Data Reports/Chain-of-Custody Records

SECTION 1.0
INTRODUCTION

This report summarizes the activities and sampling data associated with an assessment performed by AWARE Environmental® Inc. (AEI) on behalf of Heaven, LLC to determine the presence of lead-containing dust in neighborhood businesses and their surroundings in the 1500 block of Central Avenue, Charlotte, NC (Figure 1). An initial site reconnaissance and sampling events were conducted on April 30 and May 1, 2001. Messrs. Joseph Parker and/or Brad Murphy of the North Carolina Department of Environment and Natural Resources (NCDENR) - Hazardous Waste Section (HWS) and Mr. Edward Stephens and Ms. Kristin Kulow of AEI were present. AEI personnel conducted follow-up sampling events on May 9 and June 13, 2001. Photographs taken during the initial site visit are referenced herein and are included in Attachment A.

1.1 Background

The business located at 1500 Central Avenue is known as Urban Evolution; a clothing store that is owned by Heaven, LLC. Heaven, LLC hired MorningStar Sign & Sandblasting to remove paint from the north and west exterior brick walls of the building by sandblasting. The sandblasting occurred between July 3 and 5, 2000. Following the work, most of the blasting sand was taken to a farm in western Mecklenburg County to be used as fill material. (Sand deposited at the farm site is being addressed by a separate assessment/remediation). Mecklenburg County Department of Environmental Protection (MCDEP) representatives observed blasting sand at the site shortly after the job was concluded. Samples of the residual blasting sand were analyzed and were determined to be hazardous by toxicity characteristic. MCDEP reported the sampling results to the NCDENR-HWS, which took over the investigation. The NCDENR-HWS requested that an assessment of lead containing dust and blasting media be conducted, and that a remediation plan be proposed to address its abatement. The NCDENR-HWS has established an initial lead cleanup criteria of 100 $\mu g/ft^2$ for lead-containing dust determined by analysis of wipe samples, and 270 mg/kg for total inorganic lead in soils.

It is not possible using the methods in this report to determine whether dust or media identified by AEI originated solely, if at all, from the sandblasting activities at 1500 Central Avenue. Other sandblasting activities and renovation projects have reportedly been conducted in this vicinity, which could be the source of the dust and media. Nevertheless, in good faith cooperation with DENR, sampling scope and methods were coordinated with the HWS to address visually identifiable dust and media in the agreed upon area to satisfy that Branch's initial assessment requirements.

SECTION 2.0
SITE PHYSICAL SETTING

2.1 Area Land Use

The immediate neighboring area consists of retail shops, offices and food establishments. Residential areas exist to the north and south (Figure 2).

2.2 Area Public and Private Water Supply

The general area lies within the City of Charlotte and is supplied with public water by Charlotte Mecklenburg Utilities (CMU). CMU obtains its water supply from surface lakes along the Catawba River system. AEI reviewed a map of CMU water connections within a 1,500-foot radius of the subject area and determined that properties were either connected to the CMU water system or were undeveloped, used for parking, acquired for thoroughfare right-of-way, or were portions of industrial facilities.

2.3 Surface Water Characteristics

A scaled site map showing the approximate locations of drainage ways and storm drains is presented in Figure 3. Central and Pecan Avenues and Gordon Street are city streets provided with curb and gutter and storm drains. Surface water from the sandblasting area is likely to flow down the east side of Pecan Avenue to the east side of Gordon Street. The nearest storm water culvert in the likely drainage pathway is situated east of the intersection of Gordon Street and Commonwealth Avenue about 600 feet away. A sediment sample was collected and analyzed for lead from this storm water culvert and subsequent analytical results were below the initial cleanup standard of 270 mg/l (Table 2).

No streams are located within 1,500 feet of the subject area. A small pond is situated approximately 1,500 feet along Hawthorne Lane to the northwest.

2.4 Area Groundwater Characteristics

It is estimated that the local water table occurs at a depth greater than 25 feet below grade based upon groundwater monitoring data collected at nearby industrial sites. The direction of area shallow groundwater flow is unknown. Based upon surface topography and the location of the nearest streams, shallow groundwater is likely to flow to the south or southwest.

2.5 July 2000 Wind Data

AEI obtained wind direction and speed data for July 2000 from the NOAA, National Climatic Data Center to evaluate the direction, distance and dispersion of dust that was reportedly generated by sandblasting activities conducted at the subject site from July 3-5, 2000 (Attachment B). These data are summarized in the table below.

Date	Wind Direction	Average Wind Speed (mph)
07/03/00	190° (toward N10°E)	7.3
07/04/00	200° (toward N20°E)	5.4
07/05/00	330° (toward S60°E)	2.8

These data would suggest that windborne dust would be predominantly transported across Central Avenue to the north-northeast for two days and in a direction parallel to Gordon Street to the southeast for one day.

MECKLENBURG COUNTY
Health Department

Peter E. Safir, Director

(704) 336-4700

June 21, 2001

To: Jesse Wells
Western Compliance Supervisor
NC DENR

From: Dennis Salmen, R.S. Dennis Salmen
Program Chief

Re: Lead Sampling Results From 1500 Central Ave. Charlotte, NC (AKA Heaven, LLC)

Mr. Wells:

I have reviewed the lead dust and soil sample results for the property above. The Mecklenburg County Health Department regulates the presence of lead-based paint and other lead hazards in child-occupied facilities and settings in which children under the age of six are identified as lead-poisoned as defined by N.C. General Statute (G.S.) 130A, Childhood Lead Poisoning Prevention. In both these settings, there are dust and soil standards for lead set by State law. Although the locations at Central Avenue do not appear to meet either of these situations, I will be glad to comment on their impact on human health.

References made below to "N.C. law" are those which exist in the Childhood Lead Poisoning Prevention regulations, under NC G.S. 130A, unless otherwise stated. Children 'situations' referenced below are those where children under the age of six are either identified as lead-poisoned or are cared for in child-occupied facilities for a set time.

1. **Floor sample results-** The current N.C. acceptable level of lead in dust in children 'situations' is 100 ug/ft². U.S. EPA and HUD recently adopted a lower standard of 40 ug/ft². A level of 16,722 ug/ft² (sample #FW-1) would, in my opinion, be an unacceptable level anywhere humans may be exposed. Lead dust on floors may be inhaled or ingested by humans when disturbed by dry sweeping, foot traffic, etc. Additionally, shoes or other items dropped on the floor and retrieved could subsequently contaminate homes, vehicles, or persons to whom they are transported.

2. **Vent, Duct sample results-** I am not aware of any health lead-laden dust standards on surfaces in air vents. Certainly the fact that these surfaces are subject to forced area, thereby creating potential for airborne lead inhalation, is a concern. Your sampling indicates lead levels ranging from 139-603 ug/ft² in these areas. I would consider any lead level in dust capable of being circulated throughout a structure by an air-handling system to be of great concern.

3. **Horizontal surface sampling results-** Very few specific horizontal surfaces have standards for lead in dust (floors, window sills, and window troughs do in children situations). Where standards (normally interior ones) do exist, they range from 100 ug/ft² for floors to 800 ug/ft² for window troughs. These are construed as either areas frequented by young children, areas subject to frequent disturbance, or where high dust lead levels areas

FAX TRANSMISSION

HAZARDOUS WASTE SECTION
59 WOODFIN PLACE
ASHEVILLE, NC 28801
828-625-0171 OR 828-251-6208
FAX: 828-625-0171

To:	Stanford Baird	**Date:**	July 2, 2001
Fax #:	704-331-7598	**Pages:**	4, including this cover sheet.
From:	Roberta Proctor, Environmental Chemist		
Subject:	Heaven Clothing		

COMMENTS:
documents you requested

PARKER POE
PARKER POE ADAMS & BERNSTEIN L.L.P.
Attorneys and Counselors at Law

Thomas N. Griffin III
Partner
Telephone: 704.335.9049
Direct Fax: 704.335.9567
tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

July 19, 2001

VIA PRIORITY MAIL

Roberta Proctor, Environmental Chemist
Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
P. O. Box 387
Lake Lure, North Carolina 28746

Re: Morningstar Sign and Sandblasting Matter

Dear Robin:

On behalf of Heaven LLC and Morningstar Sign and Sandblasting, I have enclosed complete copies of the Comprehensive Sampling and Analysis Report and Remediation Plan for the Central Avenue project. I faxed the text of these materials to you on Monday, July 16. Again, I appreciate your courtesy and patience.

We plan to continue to solicit remediation proposals and will coordinate with you on their scope and cost. In the meantime, please do not hesitate to call me if you should have any questions.

Very truly yours,

Thomas N. Griffin, III

TNG/cmh
Enclosures

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

ROY COOPER
ATTORNEY GENERAL

FACSIMILE TRANSMITTAL SHEET

DATE: October 24, 2001

TO:

Jesse Wells	FAX	(828) 926-4326
Robin Proctor	FAX	(828) 625-0171
Doug Holyfield	FAX	(336) 771-4631

FROM:

____	Judith Robb Bullock, Special Deputy Attorney General
____	Lauren Murphy Clemmons, Assistant Attorney General
___x_	Allison Corum, Assistant Attorney General
____	Kimberly W. Duffley, Assistant Attorney General
____	W. Wallace Finlator, Jr., Assistant Attorney General
____	Robert R. Gelblum, Assistant Attorney General
___-__	Jay L. Osborne, Assistant Attorney General
____	Tom Pitman, Assistant Attorney General
____	Nancy E. Scott, Assistant Attorney General
____	William Stewart, Assistant Attorney General
____	Kathleen M. Waylett, Assistant Attorney General

PHONE NO: (919) 716-6600
FAX NO: (919) 716-6939

P.O. BOX 629
Raleigh, N.C. 27602-0629
114 West Edenton Street

SUBJECT: Heaven, LLC

NO. OF PAGES INCLUDING TRANSMITTAL SHEET _____18____
COMMENTS:

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above by U.S. postal service. Thank you.
wp\28361

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

ROY COOPER
ATTORNEY GENERAL

FACSIMILE TRANSMITTAL SHEET

DATE: October 24, 2001

TO: Jill Pafford
Linda Culpepper
Bud McCarty FAX 5-3605
(PLEASE MAKE AMPLE COPIES OF THIS FAX FOR THE ABOVE PERSONS) thanks

FROM:

____	Judith Robb Bullock, Special Deputy Attorney General
____	Lauren Murphy Clemmons, Assistant Attorney General
___x_	Allison Corum, Assistant Attorney General
____	Kimberly W. Duffley, Assistant Attorney General
____	W. Wallace Finlator, Jr., Assistant Attorney General
____	Robert R. Gelblum, Assistant Attorney General
___	Jay L. Osborne, Assistant Attorney General
____	Tom Pitman, Assistant Attorney General
____	Nancy E. Scott, Assistant Attorney General
____	William Stewart, Assistant Attorney General
____	Kathleen M. Waylett, Assistant Attorney General

PHONE NO: (919) 716-6600
FAX NO: (919) 716-6939

P.O. BOX 629
Raleigh, N.C. 27602-0629
114 West Edenton Street

SUBJECT: Heaven, LLC

NO. OF PAGES INCLUDING TRANSMITTAL SHEET ____18____
COMMENTS:

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this

Heaven, LLC

To: Allison Corum

From: James Funderburk

1 of 17 pages

Hi Allison!

It was very nice talking with you. I have put together this package that shows all of the payments and receipts. I have ordered them in the placement that I mentioned them in the letter to make it easier to reference.

Thanks, and I look forward to hearing from you.

James JF

704-562-4240 fax 704-367-1316

Heaven, LLC

1500 Central Avenue Charlotte NC 28205 Ph 704.562.4240

James Funderburk
Heaven, LLC
1500 Central Avenue
Charlotte, NC 28205
October 23, 2001

Allison S. Corum
North Carolina Department of Justice
Environmental Division
P.O. Box 629
Raliegh, NC 27602-0629

Re: Heaven, LLC v. N.C. Dept. of Environment and Natural Resources
Division of Waste Management
01 EHR 1257
DWM Docket #2001-043

Dear Ms. Corum,

Thank you for the opportunity to provide your client with these documents showing the work that I have had done, and for the consideration they are giving me in trying to complete Compliance Order Docket #2001-043. I hope the enclosed canceled checks and receipts will show the substantial contributions that I / Heaven, LLC has made toward the cleanup of Central Avenue and the Pickett Farm sites.

To date we have spent a total of $20,932.39 in fees to the state, consulting and cleanup, and environment law consulting fees. It breaks down this way:

Fees to NC Hazardous Waste Section **$1,403.50**
(See check #'s 20128, 20159)

Cleanup and Consulting **$13,629.31**
AWARE Environmental (see check #'s 20024, 20115; and letter/receipt dated Oct. 22, 2001 for check #'s 20184, 20185 not back from bank yet; and AWARE Invoice #NC13325 for $1504.52, which we payed today with ck. # 20204 for $752.26.)

EMS (see Invoice #17205 Dated 7/31/01 marked payed 10/2/01)

Legal Advice/ Consulting From Environmental Law Practice **$5,899.00**
Parker Poe (see check #'s 5540, 20001, 20036, 20052, 20125, 20138)

Total Spent as of Tuesday, October 23, 2001 **$20,932.39**

The amount spent to date has put Heaven in a very difficult financial position as we are currently not able to pay all of our bills. At this time the future seems full of peril, but I am optimistic that somehow we can pull through this situation.

Thank you very much for your consideration! Please call me if any of these documents are unclear.

Sincerely Yours,

James Funderburk

James Funderburk
Heaven, LLC

Front of Checks to NC Division of Waste Management

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
65-85/531

20159

8/31/2001

PAY TO THE ORDER OF NC Division of Waste Management $ **203.50

Two Hundred Three and 50/100********** DOLLARS

NC Division of Waste Management
Hazardous Waste Section
Attn: Jim Edwards
1646 Mail Service Center
Raleigh, NC 27699-1646

MEMO Pickett Farm-Facility NCP 07090104

AUTHORIZED SIGNATURE

⑈020159⑈ ⑆053100850⑆0790072817⑈ ⑇0000020350⑇

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
65-85/531

20128

7/31/2001

PAY TO THE ORDER OF NC Division of Waste Management $ **1,200.00

One Thousand Two Hundred and 00/100********** DOLLARS

NC Division of Waste Management
Hazardous Waste Section
Attn: Jim Edwards
1646 Mail Service Center
Raleigh, NC 27699-1646

MEMO Heaven LLC-Facility

AUTHORIZED SIGNATURE

⑈020128⑈ ⑆053100850⑆0790072817⑈ ⑇0000120000⑇

Back of Checks to NC Division of Waste Management
(#'s 20128 , 20159)

FOR DEPOSIT ONLY TO THE CREDIT OF
STATE TREASURER, RICHARD MOORE
N.C. DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT

AG 09 50 15
[redacted]
52371541 WACH
CHAR,NC 080881
1 800 5239498
>053000183<

FOR DEPOSIT ONLY TO THE CREDIT OF
STATE TREASURER, RICHARD MOORE
N.C. DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT

SE 13 672 15
[redacted]
56294111 WACH
CHAR,NC 091281
1 800 5239498
>053000183<

Front of checks to AWARE Environmental #'s 20024, 20115
For other payments to Aware see letter/ receipt date 10/22/01
And Invoice #NC13325 being paid today for $752.26

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
55-85/531

20115

7/12/2001

PAY TO THE ORDER OF Aware Environmental $ **3,591.29

Three Thousand Five Hundred Ninety-One and 29/100********** DOLLARS

Aware Environmental
9305 Monroe Road, Suite J
Charlotte, NC 28270

MEMO 1/2 of Invoices NC12915

AUTHORIZED SIGNATURE

⑈020115⑈ ⑆053100850⑆0790072817⑈ ⑈0000359129⑈

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
55-85/531

20024

3/19/2001

PAY TO THE ORDER OF Aware Environmental $ **1,363.12

One Thousand Three Hundred Sixty-Three and 12/100********** DOLLARS

Aware Environmental
9305 Monroe Road, Suite J
Charlotte, NC 28270

MEMO 1/2 of Invoices NC12563, NC 12649

AUTHORIZED SIGNATURE

⑈020024⑈ ⑆053100850⑆0790072817⑈ ⑈0000136312⑈

⑈020024⑈ ⑆053100850⑆ ⑈0790072817⑈

Back of checks to AWARE Environmental #'s 20024, 20115

For other payments to Aware see letter/ receipt date 10/22/01
And Invoice #NC13325 being paid today for $752.26

PAY TO THE ORDER OF
WACHOVIA BANK
CHARLOTTE, NC
FOR DEPOSIT ONLY
AWARE ENVIRONMENTAL, INC.
D/B/A HYDRO ANALYTICAL LAB
053000183

57206962 WACH
CHAR,NC 071601
1 800 5239498
⑆053000183⑆

JY 01 17 1676.19

053100850

⑈W332999⑈

PAY TO THE ORDER OF
WACHOVIA BANK
CHARLOTTE, NC
FOR DEPOSIT ONLY
AWARE ENVIRONMENTAL, INC.
D/B/A HYDRO ANALYTICAL LAB
053000183

53015538 WACH
CHAR,NC 032201
1 800 5239498
⑆053000183⑆

01 23

053100850

⑈W295470⑈

AWARE ENVIRONMENTAL®

To the state of North Carolina

October 22, 2001

Heaven, LLC has paid $112.62 with check # 20184 dated September 26, 2001 and paid $2,878.87 with check # 20185 dated October 9, 2001.

If you have any questions please call me at (704) 845-1697.

Sincerely,
AWARE Environmental, Inc.

Beverly S. Single

Beverly S. Single
Accountant

AWARE ENVIRONMENTAL, INC.
7805 MONROE ROAD
SUITE 3
CHARLOTTE, N.C. 28270-1698
TELEPHONE (704) 845-1697
FAX (704) 845-1759
Federal ID 56-[illegible]

AWARE ENVIRONMENTAL of FLORIDA, P.L.L.C.
[illegible] NW 6th STREET
SUITE [illegible]
GAINESVILLE, FLORIDA 32606
TELEPHONE (352) 335-0833
FAX (352) 335-0834
Federal ID 56-[illegible]

AWARE ENVIRONMENTAL®

Invoice No. NC13325
Contract No. NC435-02
Customer No. NC000435

October 10, 2001

Heaven, LLC
c/o Parker, Poe, Adams & Bernstein
Three First Union Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202

We pay ½ of this invoice. which is $752.26

ATTN: Mr. Thomas N. Griffin, III

INVOICE FOR: Remediation of Lead-Containing Sand at Pickett's Farm Per AEI's June 29, 2001 Proposal.

BILLING PERIOD: September 8, 2001 – October 5, 2001

LABOR:

E. Stephens	15.50	hours at	$90	$1,395.00
M. Woung	0.75	hours at	$40	30.00
J. Carque	0.50	hours at	$35	17.50
P. Ewing	0.25	hours at	$35	8.75
TOTAL LABOR:				$1,451.25

EXPENSES:

Copies	$4.70
CAD Plots	4.00
Postage	0.57
TOTAL EXPENSES:	$9.27

PAID by check #20204

SUBCONTRACTORS:

Pace Analytical (Lab Analysis)	$44.00
TOTAL SUBCONTRACTORS:	$44.00

TOTAL AMOUNT BILLED TO DATE: $6,559.36

AMOUNT DUE THIS INVOICE: $1,504.52

PLEASE REMIT PAYMENT TO:
AWARE ENVIRONMENTAL INC.
9305 MONROE ROAD, SUITE J
CHARLOTTE, NC 28270
NET DUE UPON RECEIPT

Balances are subject to a charge of 1% per month from the date of the invoice if unpaid within 30 days.
inv/43502

AWARE ENVIRONMENTAL INC.
9305 MONROE ROAD
SUITE J
CHARLOTTE, N.C. 28270-1490
TELEPHONE (704) 845-1497
FAX (704) 845-1759
Federal ID 56-1693820

AWARE ENVIRONMENTAL of FLORIDA, PLLC
2630 NW 41st STREET
SUITE D-1
GAINESVILLE, FLORIDA 32606
TELEPHONE (352) 335-1832
FAX (352) 335-0215
Federal ID 58-2540832

Front of Check to AWARE for ½ of Invoice dated 10/10/01 for the Amount of $1,504.52 (½ is $752.26) This check is being mailed today to AWARE

There is no back to this one since it is being mailed today! (JF)

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
06-45/531

20204

10/23/2001

PAY TO THE ORDER OF Aware Environmental $ **752.26

Seven Hundred Fifty-Two and 26/100********** DOLLARS

Aware Environmental
9305 Monroe Road, Suite J
Charlotte, NC 28270

MEMO 1/2 of Invoice NC 13325

AUTHORIZED SIGNATURE

⑈020204⑈ ⑆053100850⑆0790072867⑈

Attn: James Fenderburke

EMS

Environmental Management Solutions, Inc
312 Orville Wright Drive
Greensboro, NC 27409
Phone 336-632-8800

Invoice

DATE	INVOICE #
7/31/01	17205

BILL TO
Heaven, LLC / Morning Star Signs 5631 Mt. Olive Church Rd Charlotte, NC 28270 Ed Stephens

TERRITORY
T#1

P.O. #	DUE DATE	SHIP DATE	JOB # AND LOCATION
	7/31/01	7/16/01	Job# 17205- Heaven LLC

DESCRIPTION	QTY	RATE	AMOUNT
Disposal - Soil w/ Paint Chips	21.81	95.00	2,071.95
Transportation - Haz	22	78.60	1,729.20
Mobilization & Loading	1	1,000.00	1,000.00
Transportation Loading Demurrage	2	65.00	130.00

PAID 10/2/01
Ck# 20183
Sherry Welch

Total	$4,931.15

PAYMENT IS DUE 15 DAYS FROM DATE OF INVOICE - PLEASE INCLUDE OUR INVOICE NUMBER ON CHECK. THANK YOU!

Front of checks to Parker Poe

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
88-85/531

20001

2/27/2001

PAY TO THE ORDER OF Parker,Poe,Adams,Bernstein $ **2,725.00

Two Thousand Seven Hundred Twenty-Five and 00/100********** DOLLARS

Parker,Poe,Adams,Bernstein

MEMO Invoice 75712 Bill2

AUTHORIZED SIGNATURE

⑈020001⑈ ⑆053100850⑆07900728 17⑈ ⑈0002725 00⑈

HEAVEN, LLC
DBA URBAN EVOLUTION
1600 CENTRAL AVE.
CHARLOTTE, NC 28205

5540

DATE 2/7/01

88-85/531

PAY TO THE ORDER OF Parker Poe, Adams, Bernstein $ 822.50

Eight hundred, twenty-two and 50/100 DOLLARS

Centura Bank.
Charlotte, NC 28207

FOR

⑈00005540⑈ ⑆053100850⑆07900728 17⑈ ⑈0000822 50⑈

Back of checks to Parker Poe (#'s 20601, 5540)

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000009087682

MR '01 01

0831000850

E4442803L

36462194 02282001 FUNB
B-NC 301 S COLLEGE STCHA
CHARLOTTE NC 1005

351499502

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000009087682

FB '01

0501000850

E4254822L1

002194 02282001 FUNB
NC 301 S COLLEGE STCHA
CHARLOTTE NC 1005

351755494

Front of checks to Parker Poe

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
00-85/531

20036

4/6/2001

PAY TO THE ORDER OF Parker,Poe,Adams,&Bernstein LLP $ **925.88

Nine Hundred Twenty-Five and 88/100********** DOLLARS

Parker,Poe,Adams,&Bernstein LLP
Three First Union Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202

MEMO Invoice 79208 Bill3

AUTHORIZED SIGNATURE

⑈020036⑈ ⑆053100850⑆0790072817⑈ ⑇0000092588⑇

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
00-85/531

20052

4/24/2001

PAY TO THE ORDER OF Parker,Poe,Adams,&Bernstein LLP $ **200.00

Two Hundred and 00/100********** DOLLARS

Parker,Poe,Adams,&Bernstein LLP
Three First Union Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202

MEMO Invoice 81401 File Number HE526-73824

AUTHORIZED SIGNATURE

⑈020052⑈ ⑆053100850⑆0790072817⑈ ⑇0000020000⑇

Back of checks to Parker Poe (#'s 20036, 20052)

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000009087682

APR -9 01

AP 01 10

083100000

FUNB-NC 301 S COLLEGE ST.
CHARLOTTE NC

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000009087682

APR 24 01

AP 01 27

310000114 FIRS
T UNION NATL SPC-01PHIL
A, PA 0426001

301992391

Front of checks to Parker Poe

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
60-85/531

20125

7/9/2001

PAY TO THE ORDER OF Parker,Poe,Adams,&Bernstein LLP $ **350.60

Three Hundred Fifty and 60/100********** DOLLARS

Parker,Poe,Adams,&Bernstein LLP
Three First Union Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202

MEMO Invoice 87614 File Number HE526-73824

AUTHORIZED SIGNATURE

⑈020125⑈ ⑆053100850⑆0790072817⑈ ⑈0000035060⑈

Heaven, LLC
dba Urban Evolution
1500 Central Ave.
Charlotte, NC 28205

CENTURA BANK
CHARLOTTE, NC 28207
60-85/531

20138

7/27/2001

PAY TO THE ORDER OF Parker,Poe,Adams,&Bernstein LLP $ **875.60

Eight Hundred Seventy-Five and 60/100********** DOLLARS

Parker,Poe,Adams,&Bernstein LLP
Three First Union Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202

MEMO Invoice 87614 File Number HE526-73824

AUTHORIZED SIGNATURE

⑈020138⑈ ⑆053100850⑆0790072817⑈ ⑈0000087560⑈

Back of checks to Parker Poe (#'s 20125, 20132)

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000000908 7882

JY 01 12

053100850

⑆0310000114⑆
FIRST UNION NATL SVC-011
PHILADELPHIA PA 07102001

351655865

FOR DEPOSIT ONLY
PARKER, POE, ADAMS & BERNSTEIN
FUNB OPERATING ACCT.
#2000000908 7882

JY 01 31

053100850

⑆0310000114⑆
FIRST UNION NATL SVC-011
PHILADELPHIA PA 07302001

341915701

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

ROY COOPER
ATTORNEY GENERAL

FACSIMILE TRANSMITTAL SHEET

DATE: October 24, 2001

TO: Jesse Wells — FAX (828)926-4326
Robin Proctor — FAX (828) 625-0171

FROM:

____	Judith Robb Bullock, Special Deputy Attorney General
____	Lauren Murphy Clemmons, Assistant Attorney General
___x_	Allison Corum, Assistant Attorney General
____	Kimberly W. Duffley, Assistant Attorney General
____	W. Wallace Finlator, Jr., Assistant Attorney General
____	Robert R. Gelblum, Assistant Attorney General
____	Jay L. Osborne, Assistant Attorney General
____	Tom Pitman, Assistant Attorney General
____	Nancy E. Scott, Assistant Attorney General
____	William Stewart, Assistant Attorney General
____	Kathleen M. Waylett, Assistant Attorney General

PHONE NO: (919) 716-6600
FAX NO: (919) 716-6939

P.O. BOX 629
Raleigh, N.C. 27602-0629
114 West Edenton Street

SUBJECT: James Costner

NO. OF PAGES INCLUDING TRANSMITTAL SHEET 5

COMMENTS:

CONFIDENTIALITY NOTE: The information contained in this facsimile is legally privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above by U.S. postal service. Thank you.
wp\28361

KILPATRICK STOCKTON LLP

Attorneys at Law
3500 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6001
Telephone: 704.338.5000
Facsimile: 704.338.5125
Web site: www.kilpatrickstockton.com

SUSAN H. COOPER
E-mail: SCooper@KilpatrickStockton.com
Direct Dial: 704.338.5102

August 7, 2001

VIA FACSIMILE AND US MAIL

Ms. Allison S. Corum
Department of Justice
State of North Carolina
Environmental Division
P. O. Box 629
Raleigh, North Carolina 27602

RECEIVED
AUG 9 2001
N.C. ATTORNEY GENERAL
Environmental Division

Re: Compliance Orders with Administrative Penalties
James Costner d/b/a Morningstar Wooden Sign
Docket Numbers 2001-122 and 2001-043

Dear Allison:

This letter is to follow up our informal settlement conference last Thursday regarding additional information you requested. We appreciated you and your colleagues' time and consideration in meeting with us and felt it was a productive meeting.

As we discussed, my client, James Costner, did not know that the paint Heaven Clothing wanted him to sandblast contained lead-based paint. Mr. Costner understood from Mr. Funderburk of Heaven Clothing that the paint was latex and Mr. Costner had actually seen the mural being painted in the recent past and thus had no reason to believe it contained lead based paint. Further, as Mr. Costner explained, had he known the paint underneath contained any lead, he would not have taken the job just as he turned down a job earlier when he asked and learned that the paint contained lead. — ? prove it.

Mr. Costner has endeavored to comply with the requests from the Department regarding investigation and remediation. He and Heaven Clothing have performed an investigation at Central Avenue and the surrounding area, investigated the Pickett Farm location, and performed remediation at Pickett Farm. Thus far, Mr. Costner has split the costs with Heaven Clothing. As you know, Mr. Costner has limited financial means and has had to work out payment plans with the contractors and recently Heaven Clothing. The actual contract for the sandblasting, however, states that Heaven Clothing is responsible for

all liability due to dust, noise, and sand associated with the sandblasting. See attached contract. While we realize this is a private contract that the Department does not have to honor under the RCRA framework, it is important for your consideration because Mr. Costner has tried his best to cooperate with the Department's requests despite the contract.

As discussed at the meeting, Mr. Costner has limited financial means. He is currently in seminary school and works only part time at a church for $500 a month. His wooden sign business has been very sporadic and he has received very little income from that business this year. And typically, his worst months are November and December so he does not anticipate much change for the rest of the year. He still has three children at home and his wife works at his youngest child's pre school. Last year she made $5000 and will make about the same amount this year. Currently, Mr. Costner estimates both their incomes this year will combine for at most $20,000, and it could very easily be less.

Thus far, Mr. Costner has paid approximately $1558.89 for investigation costs, has set up a payment plan of $50 to $100 a month for approximately $5,500, and expects additional costs of almost $6,000 to complete the remediation at Pickett Farm. Attached is a breakdown of the invoices, a copy of the invoices and an estimate from Aware regarding some additional unanticipated costs for remediation at the Pickett Farm site. ***In all, Mr. Costner's current costs for the investigation at Central Avenue and Pickett Farm, and remediation at Pickett Farm, are approximately $13,000. Furthermore, remediation costs for the Central Avenue site remains.*** One estimate we received was for $100,000, but we are getting other estimates and hope the remediation costs will be less. Thus, as requested at the meeting on Thursday, due to Mr. Costner's limited financial means, we request that all penalties and fees contained in both compliance orders be waived. To the extent that Mr. Costner can continue to contribute financially to the required investigation and remediation, he requests that his contribution go to actual work instead of the penalties and fees.

We appreciate your consideration of this information and look forward to hearing from you soon. If you have any questions, please do not hesitate to call me.

Sincerely,

Susan H. Cooper

SHC/pld
Enclosures
Cc: Mr. James Costner d/b/a Morningstar Wooden Sign Co. (w/enclosures)
Lisa Flowers

Invoices Received by Mr. Costner – Attachment to August 7, 2001 correspondence to Allison Corum

1/3/01	Aware	$1773.74	Costner paid $886.87
2/28/01	Aware	$952.49	Costner paid $476.24
3/27/01	Aware	$390.58	Costner paid $195.78
5/23/01	Aware	$6976.29	Costner's share is $3488.14 and has set up payment plan for this invoice and remaining invoices with Aware
6/20/01	Aware	$706.28	Costner's share is $353.14
7/19/01	Aware	$2474.58	Costner's share is $1237.29
7/19/01	Aware	$221.86	Costner's share is $110.93

Total invoiced to date from Aware and paid/owed by Mr. Costner is $6748.39

Additional Estimated Costs for Pickett Farm Remediation for Mr. Costner is $6239.08: The originally proposed Picket Farm remediation cost from EMS was $4931.15 and Mr. Costner is paying half of that or $2465.58, to Heaven Clothing. However, more sand was encountered and the new anticipated costs are summarized in the attached letter from Aware to Tom Griffin. Additional costs include approximately $4200 from Aware ($2200 plus $2000 for additional sand), and $2840 from EMS to ship the sand as non-hazardous material to a landfill. Thus, Mr. Costner's share of this additional costs is approximately $3520.

EPA ID No. for Pickett Farm - $507.00 invoice from NCDENR – Costner's share is $253.50

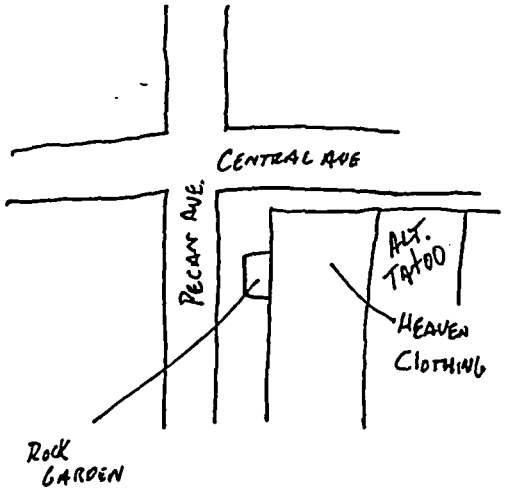
Total Costs for Past Work and Pickett Farm for Mr. Costner is: $12,987.47

Additionally, there is still the costs involved for remediation at Central Avenue site. One estimate from a contractor was over $100,000, but we are working on additional bids.

PICTURE 1

HEAVEN CLOTHING SITE

1500 CENTRAL AVE., CHARLOTTE, N.C.



PICTURE 2

- PICTURE OF WALL THAT WAS SANDBLASTED

- ROCK GARDEN
  NOTE SAND

PICTURE 3

NOTE: SIGNIFICANT AMOUNT OF SAND OBSERVED WITHIN THE ROCK GARDEN SAMPLE WAS TAKEN FROM THE CENTER OF THE MOST CONCENTRATED AREA. THE DIG AREA IS IN THE CENTER OF PICTURE.

PICTURE 4

Fugitive SAND from the sandblasting job. This is probably run-off from any recent rains.

PICTURE 5

SAMPLE of the SAND AREA WAS taken from center of the picture.

Picture 6

Farm site in Meck. Co.

- white material is SAND

Address: 5621 Mt. Olive Church Rd.

Charlotte, N.C. 28278

Picture 7

Picture of area

- left of previous picture

Picture 8

- Picture of sample 1 at the site
- To the left of wood pile

018087

Picture 9

Picture Sample # 018087

Note wood in left side of picture .... noted in Picture 8

PICTURE 10

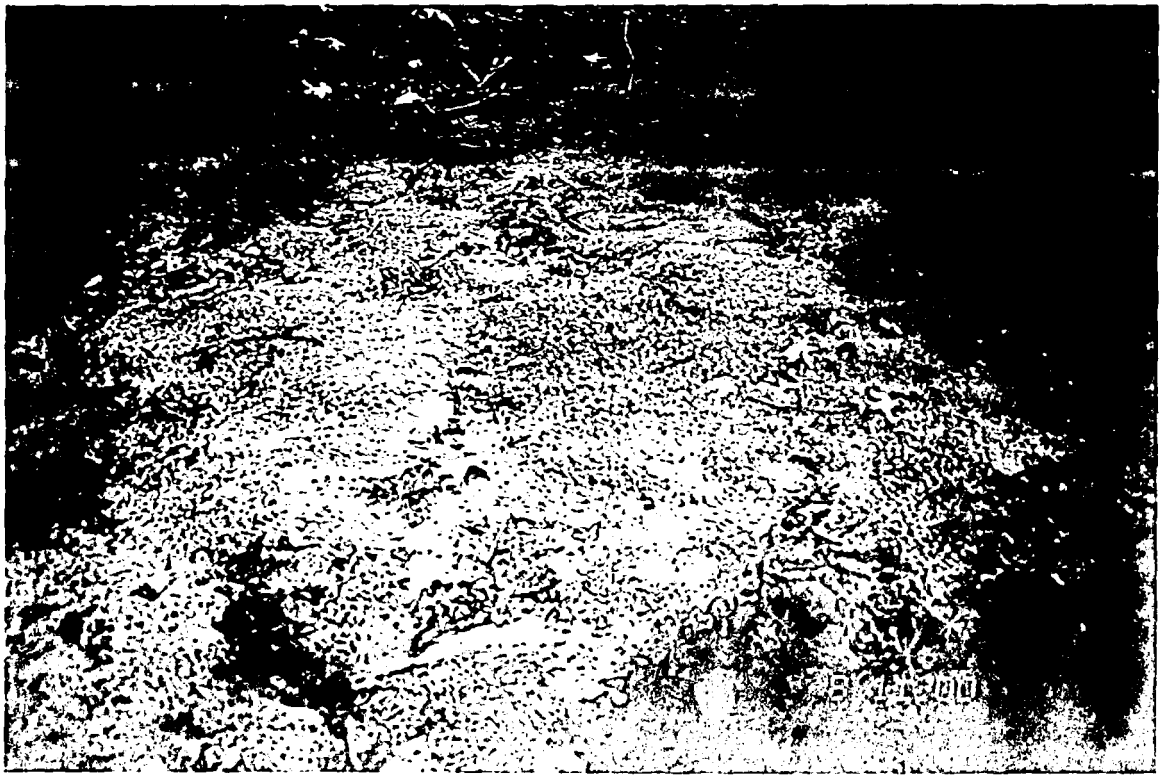
PICTURE of SAMPLE # 018089

Note reddish / white sand material

PICTURE 11

PICTURE of SAMPLE #018089

Note paint chip in center of picture.



Picture 12

Sample # 018089

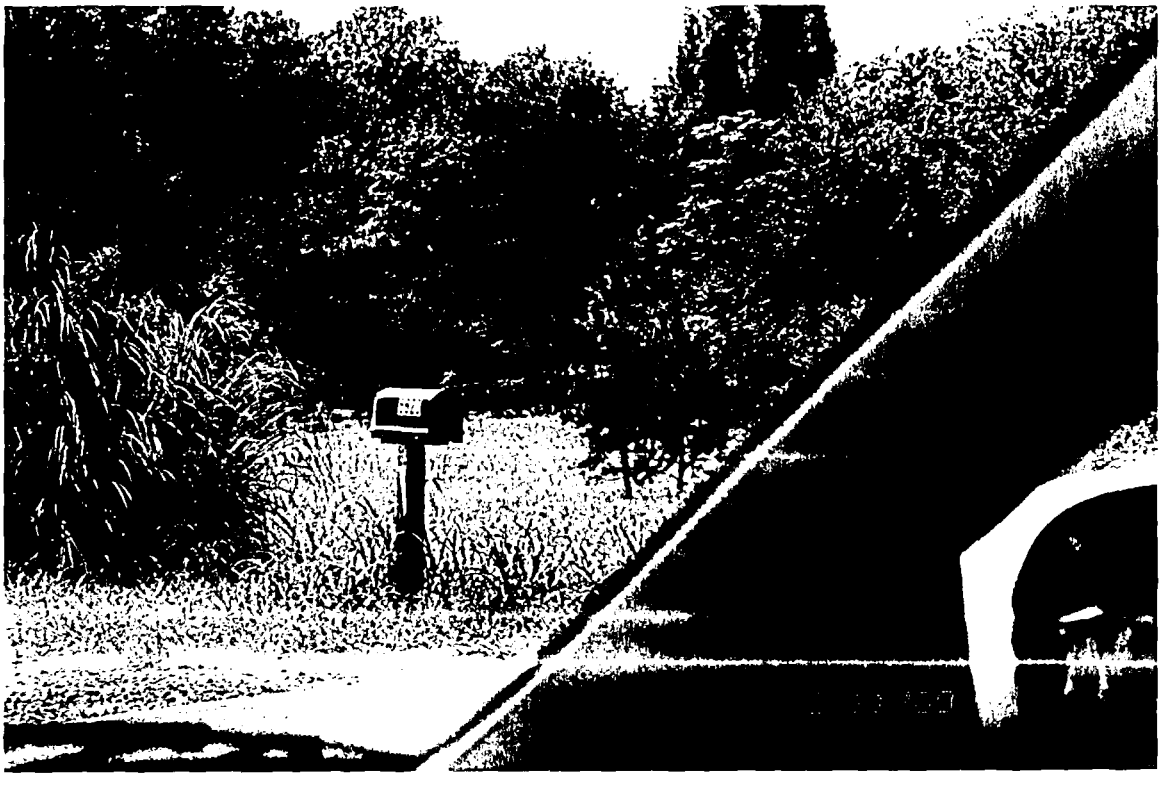
Picture 13

Sample # 018089

(Bluery)

PICTURE 14

Picture of neighbor's mail box - Address unknown at time of sampling



PICTURE 15

Property in Western Meck. Co. can be found at the intersection of MT. Olive Church Rd. and Dixie River Rd.

PICTURE 16

SEPT. 25, 2000

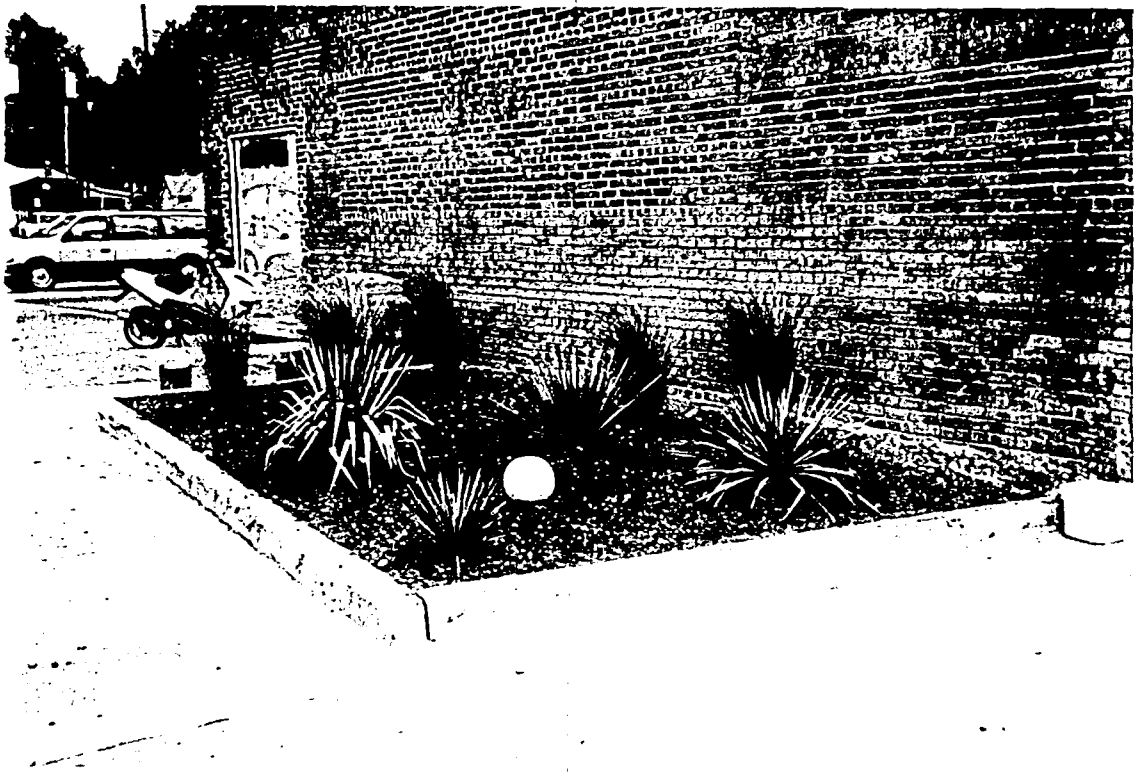
- ROCK GARDEN HAS been remediated and new plants and LAVA ROCK HAVE been placed in GARDEN.

NOTE: SAND MATERIAL ALONG BUILDING/GARDEN

PICTURE 17

SEPT. 25, 2000

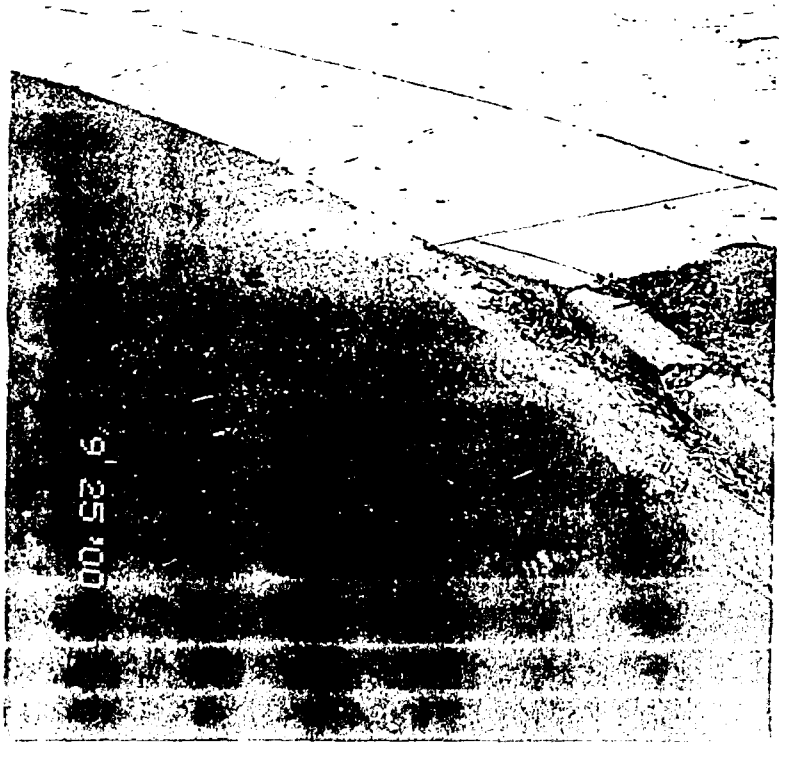
ANOTHER ANGLE for Picture.



PICTURE 18 →

Fugitive sand from the Rock GARDEN AREA.

SEPT. 25, 2000



← PICTURE 19

SEPT. 25, 2000

Fugitive sand has migrated to ROAD and ditch area.

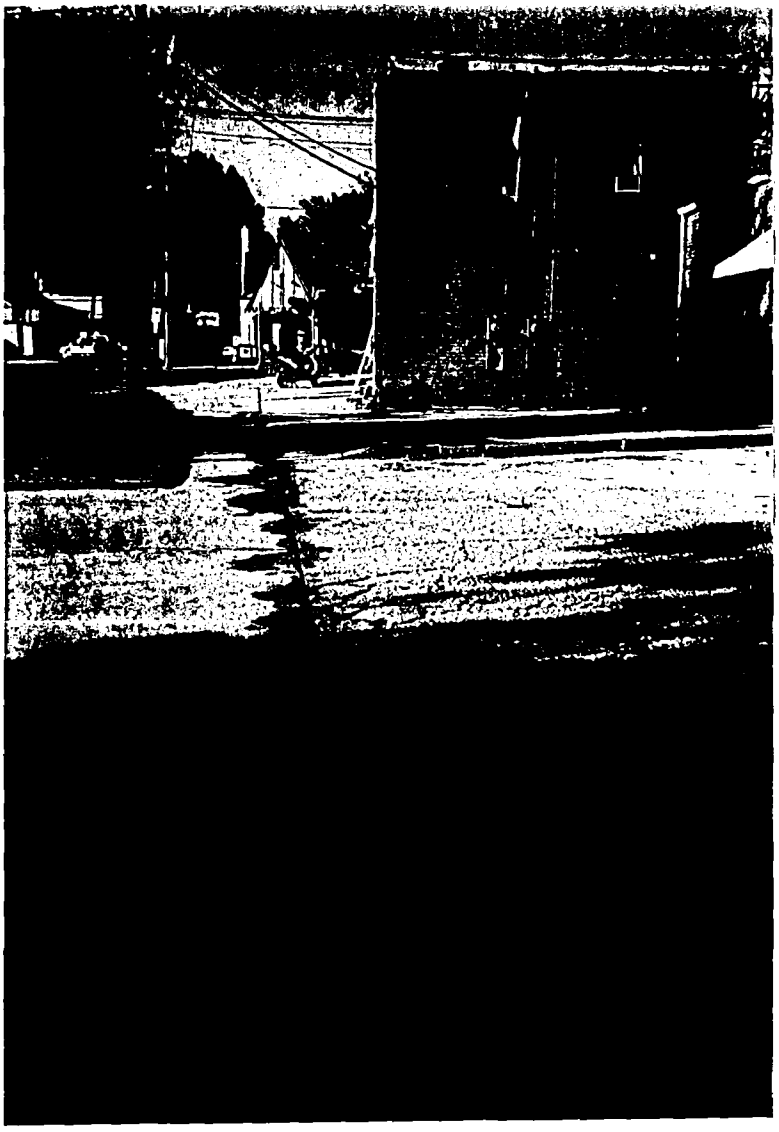
PICTURE 20

FUGITIVE SAND has migrated to parking lot area.

PICTURE 21 →

SEPTEMBER 28, 2000

HEAVEN CLOTHING employee had been washing the area down with water. Picture shows migration away from building.



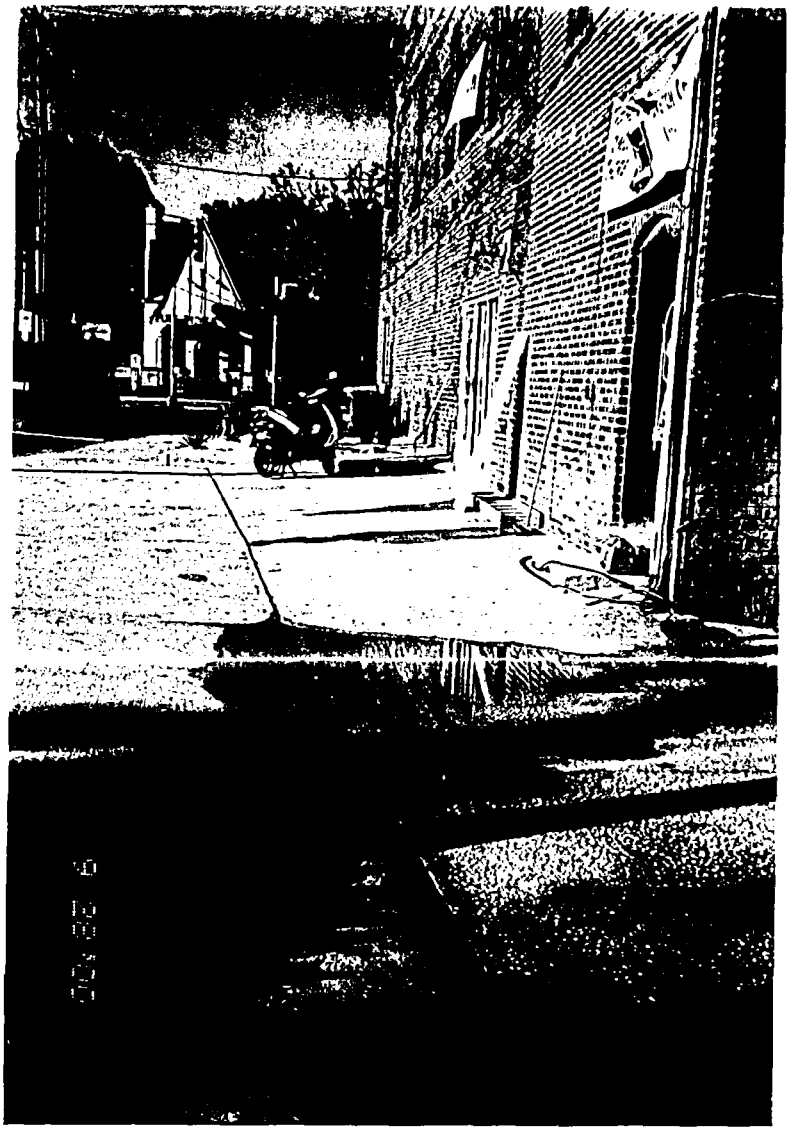
PICTURE 22

SEPT. 28, 2000

PICTURE of migrated sand from Heaven Clothing site. This area is in front of a neighboring business.

PICTURE 23
SEPT. 28, 2000
PICTURE OF WASHING OF AREA THAT HAD OCURRED THAT DAY.

NOTE: NEW ROCK/STONE IN THE GARDEN AREA.



PICTURE 24

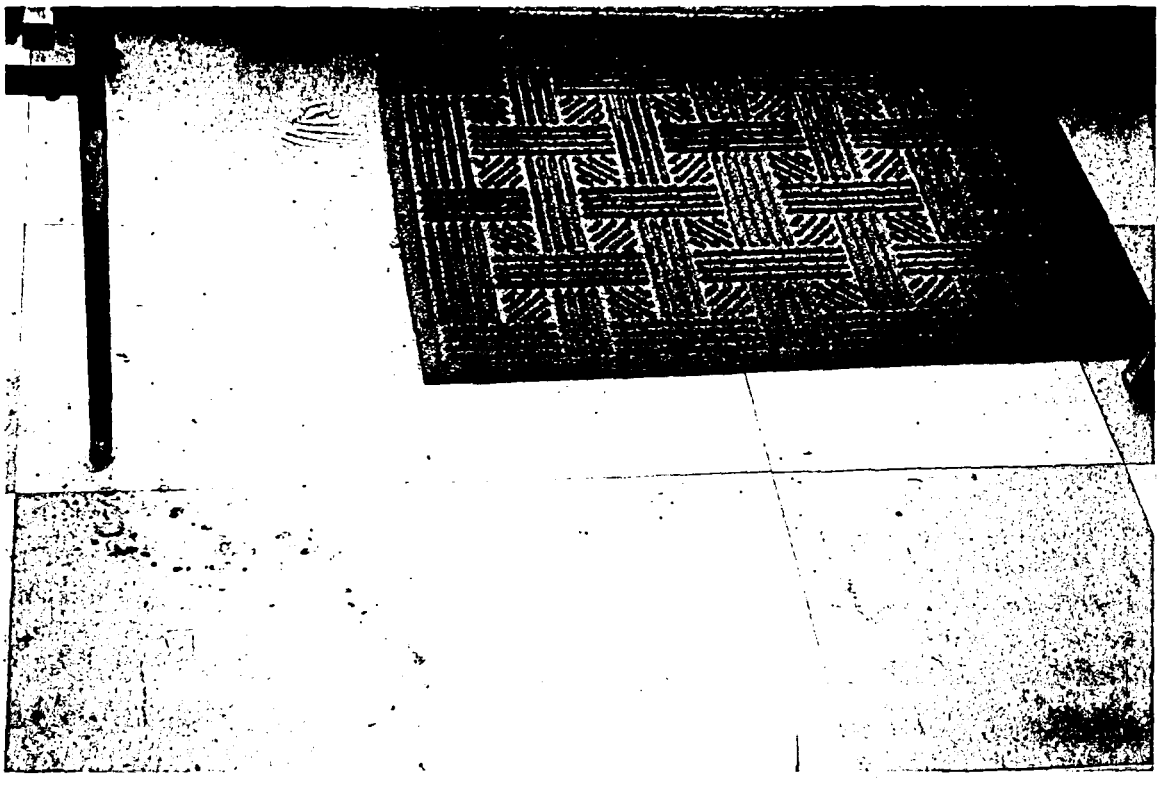
SEPT. 28, 2000

PICTURE SHOWS MIGRATION OF SAND FROM THE HEAVEN CLOTHING SITE. THE PICTURE WAS TAKEN OF THE STREET NEXT TO THE PROPERTY.

PICTURE 25

PICTURE of the floor ON July 3, 2000.

NOTE: AMOUNT OF SAND/DUST (RED) ON the floor.



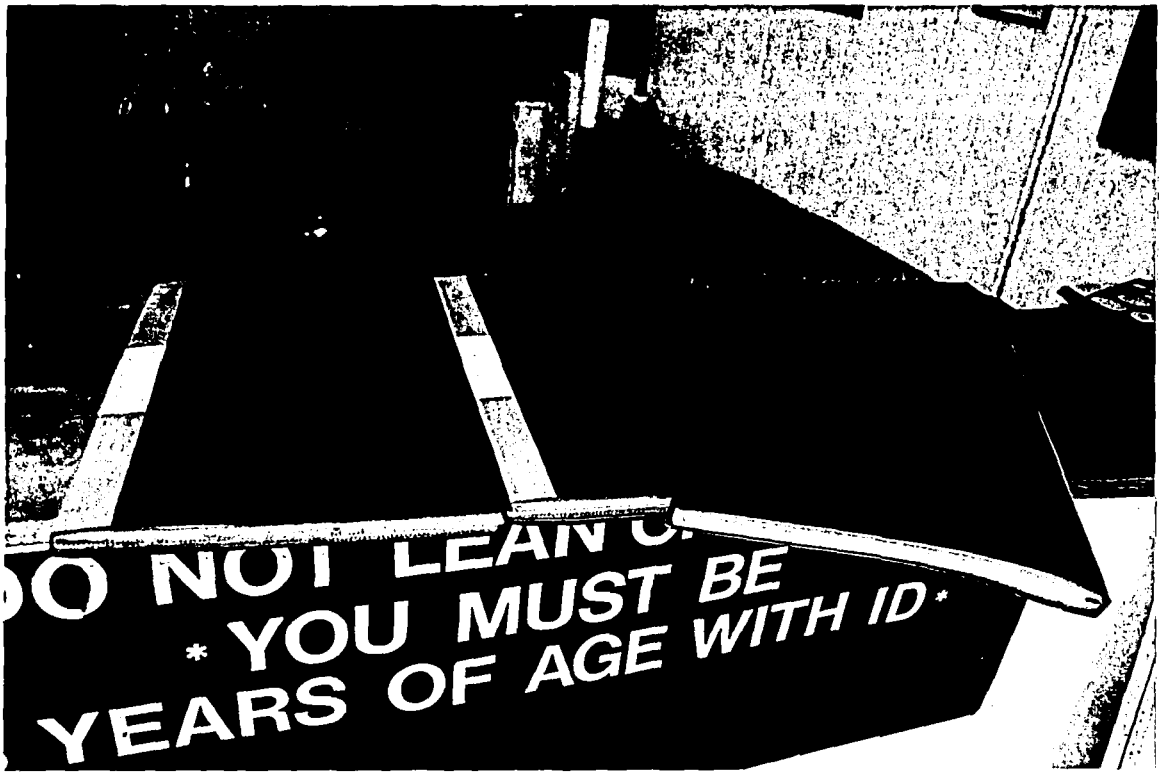
PICTURE 26

ANOTHER picture of the CONDITION of the floor ON July 3, 2000

PICTURE 27

PICTURE documents the FRONT COUNTER.

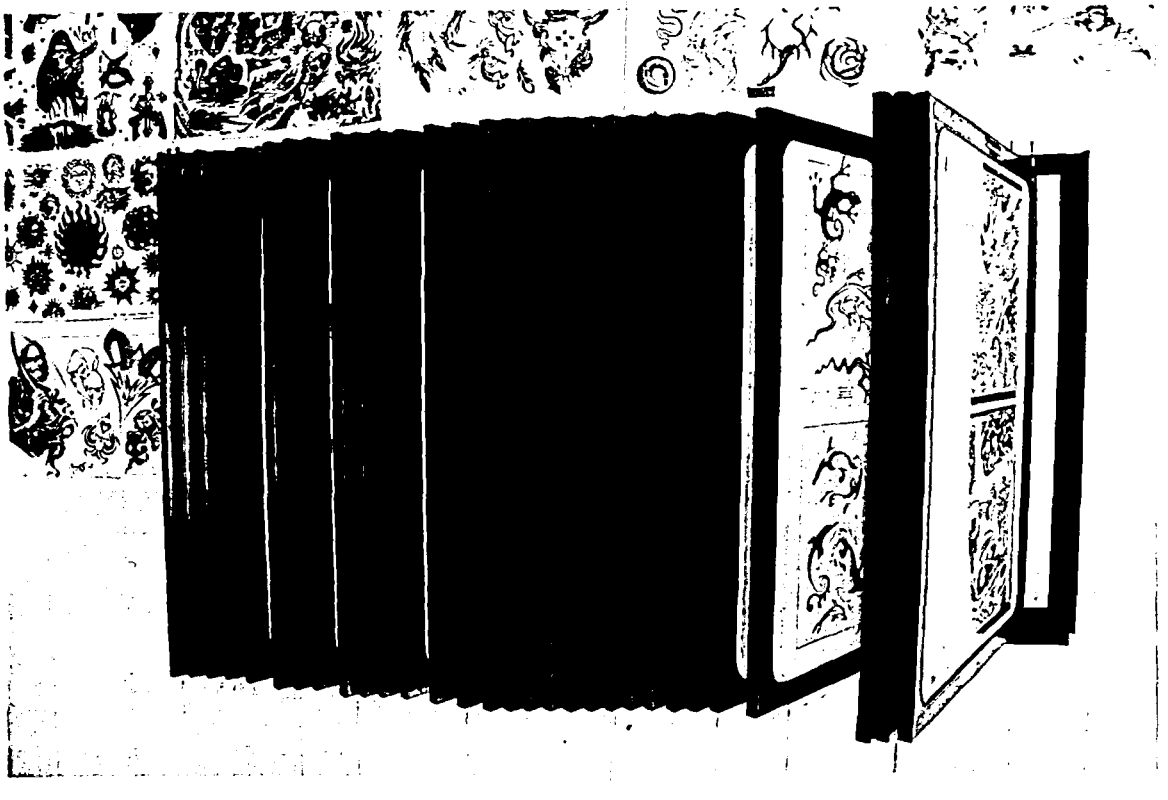
NOTE: DUST ON folders



PICTURE 28

PICTURE documents the CONDITION of the WALL folders.

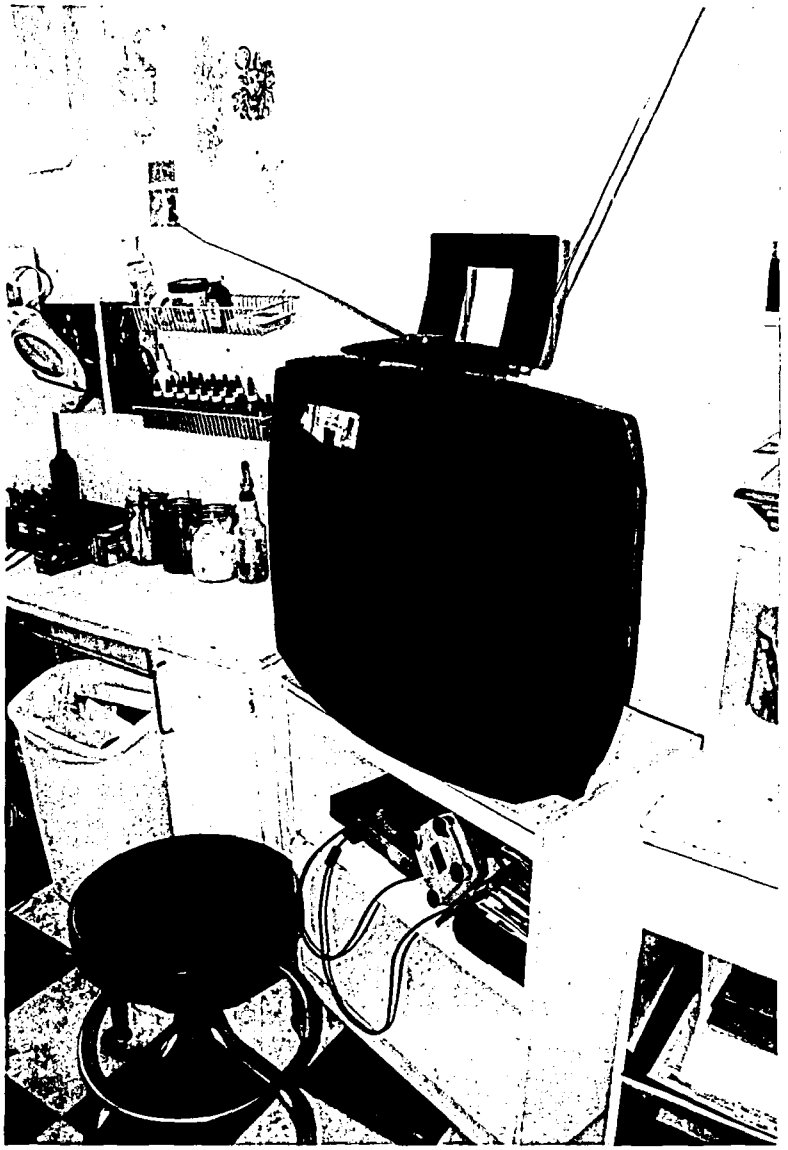
NOTE: DUST ON CORNERS



PICTURE 29

Picture documents the extent of the dust contamination within the work area of the studio.

NOTE: Finger marks left from the wiping of the contaminated dust on the television.



PICTURE 30

Picture documents extent of dust contamination on equipment in studio.

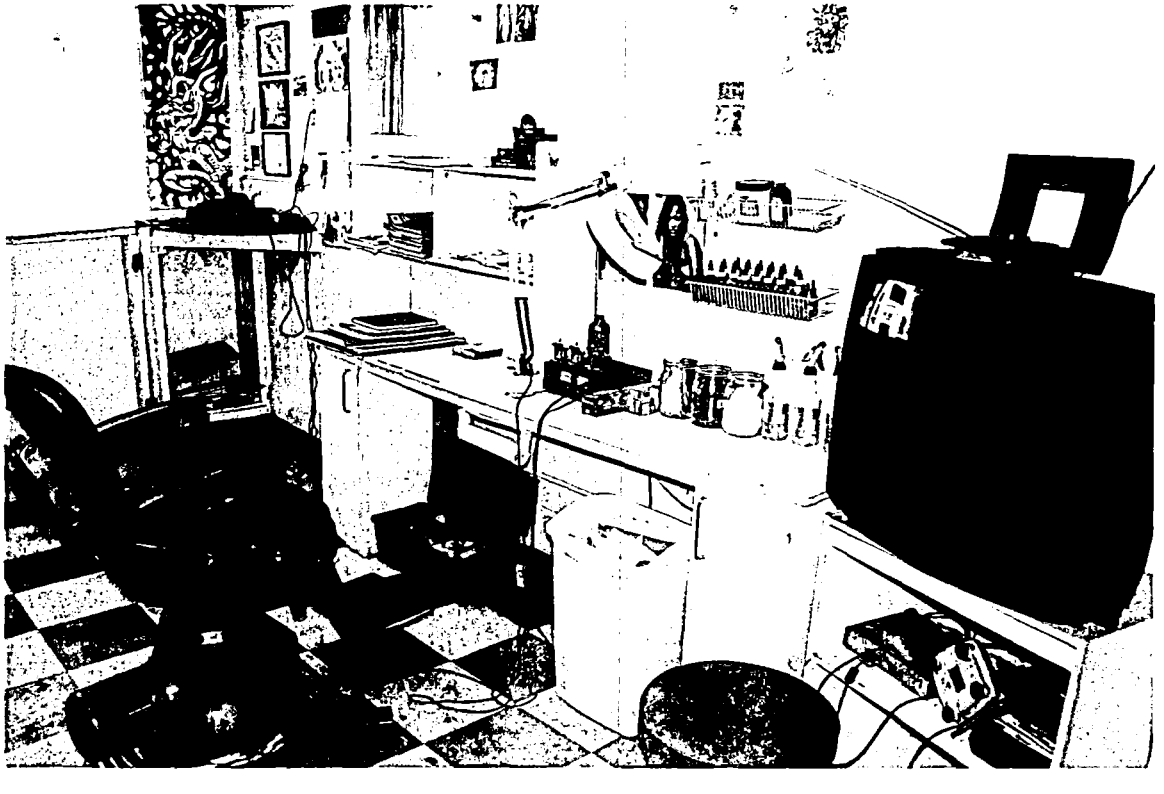
PICTURE 31

Picture documents the work area inside the studio.

PICTURE 32

Picture documents the other side of work area inside the studio.

NOTE: DUST ON COUNTER + TV



PICTURE 33 →

Picture documents the condition of the sidewalk in front of Alternative Arts TATTOOING. The road running parallel with the sidewalk is Central Ave.

NOTE: Amount of sand on sidewalk and in the ROAD.

PICTURE 34

←

Picture documents the conditions in front of the Alternative Arts TATTOO studio.

PICTURE 35 →

Picture documents the amount of sand, either contaminated or unused, in the front of the Heaven Clothing site.

NOTE: THE # SAND IS SO deep that a shovel CAN STAND UP.

← PICTURE 36

Another picture of the outside of Alternative Arts Tattoo studio.

NOTE: Amount of SAND on the sidewalk

Picture 37 →

This picture documents the migration of contaminated sand from the Heaven Clothing site.

NOTE: SAND IN the ditch area and in the middle of the road.

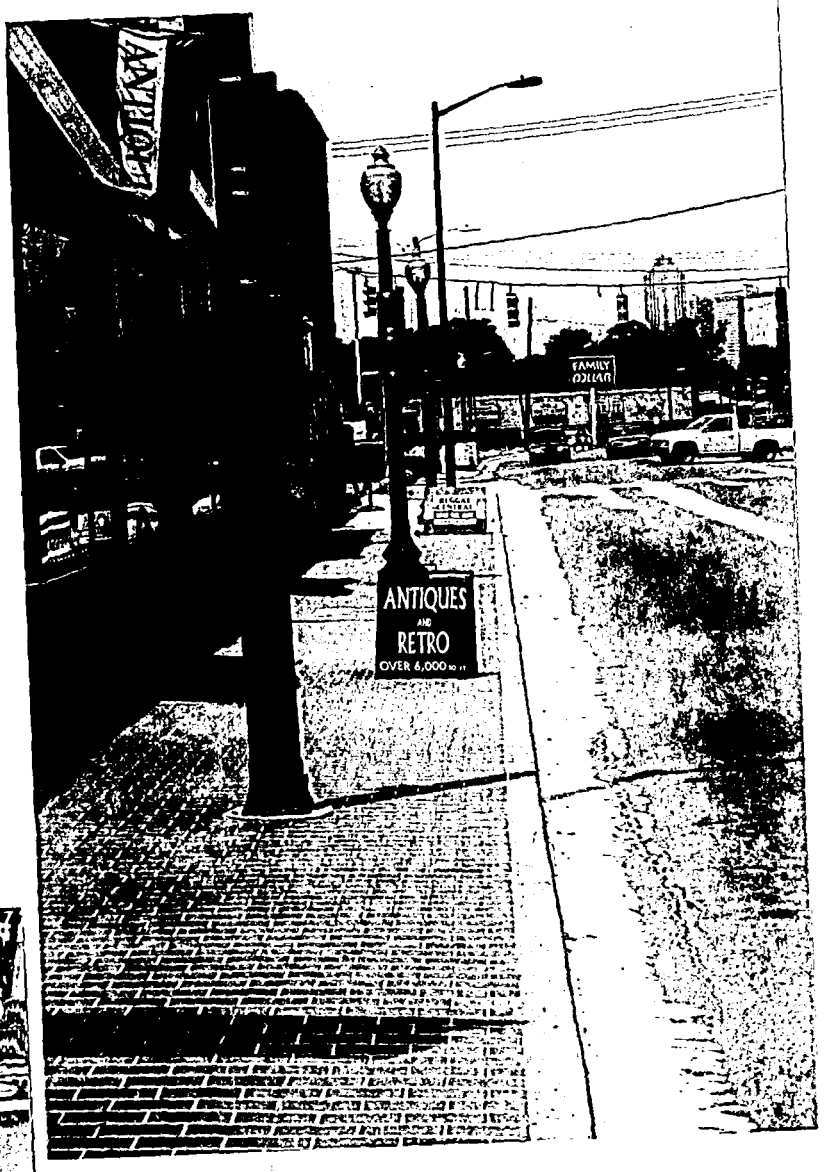
Picture WAS taken Approximately 3-4 businesses away from Heaven Clothing.

← Picture 38

Another picture taken from the same angle and point as the previous picture.

Picture 39 →

This picture was taken approximately 10 feet closer than the previous two pictures.



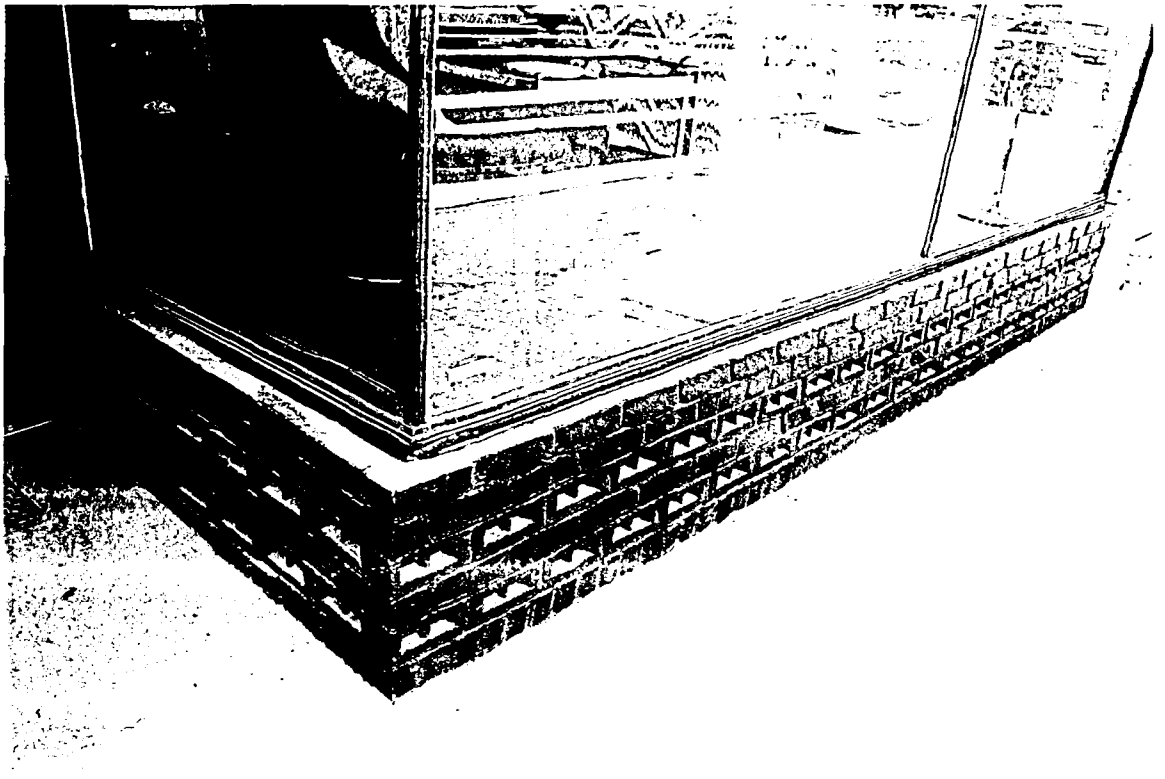
← Picture 40

This picture documents the amount of contaminated sand that collected in front of a doorway of a neighboring antique dealer.

NOTE: The amount of sand on the sidewalk.

PICTURE 41

This picture was taken from another angle, nt from the same oint as the previous picture.



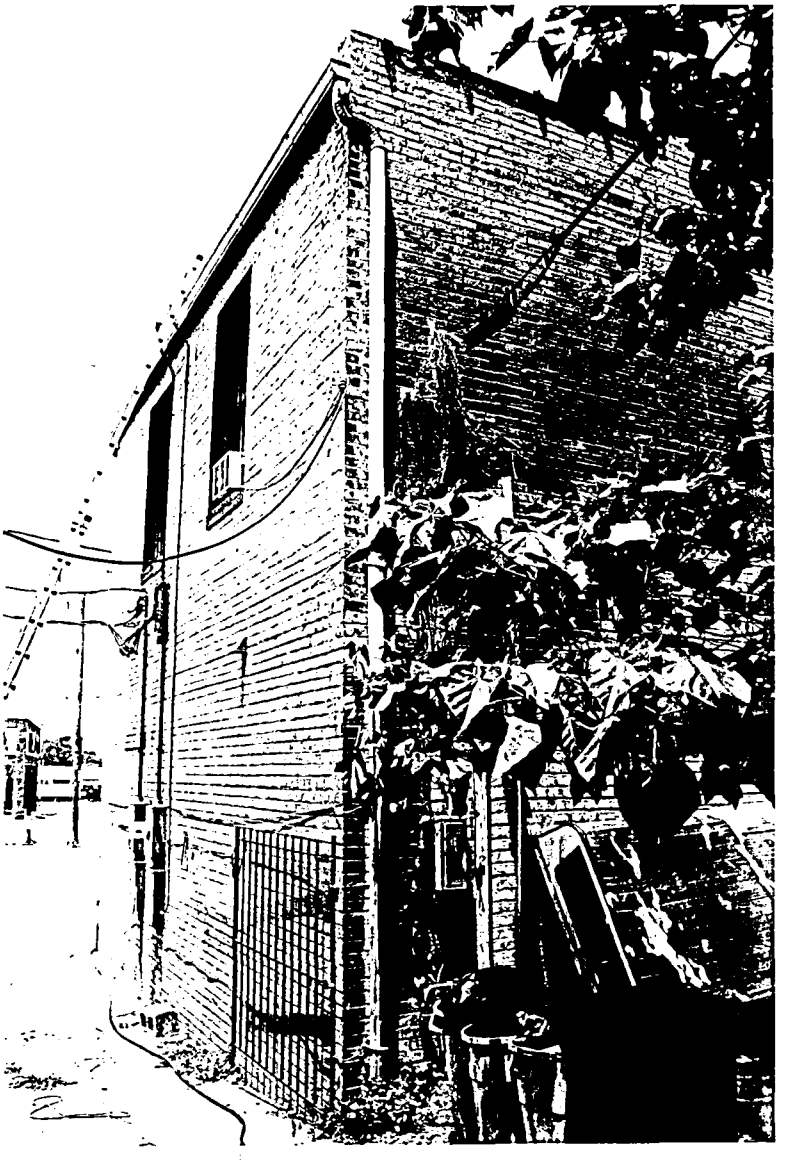
PICTURE 42

Picture was taken from the Pecan Ave. side of Heaven Clothing. The picture documents the type of equipment used during the operation. No collection devices are shown in the picture. The Western wall of Heaven Clothing seems to be over half done at the time of the photo.

PICTURE 43

This picture documents the Southern and Eastern outside walls of Heaven Clothing.

An unknown amount of material was left on the top of the building.

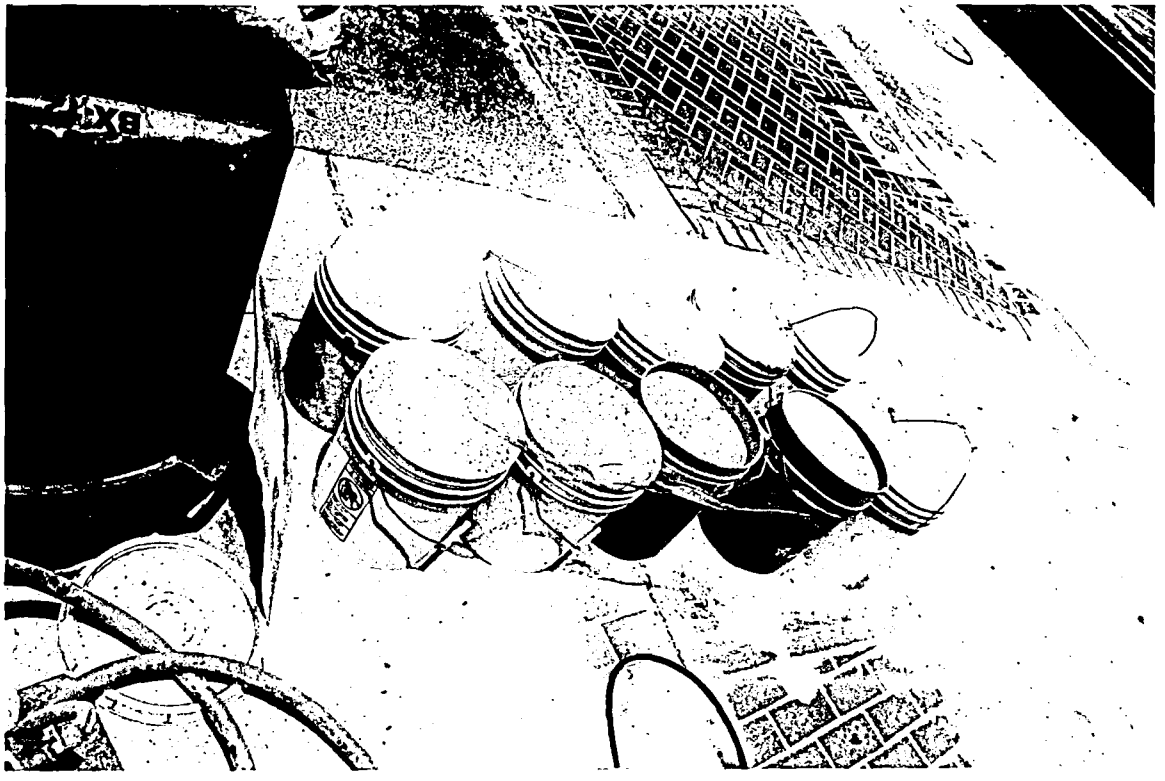


PICTURE 44

Picture of the Southern and Eastern outside walls of Heaven Clothing.

PICTURE 45

This picture documents 10-5 gallon containers full of contaminated or used sand. These containers re pictured at the corner of Pecan Ave. and entral Ave.



PICTURE 46

This picture documents the condition of the sidewalk during the sandblasting operation. This picture was taken from the corner of Pecan Ave. and Central Ave.

NOTE: The amount of sand on the sidewalk

PICTURE 47

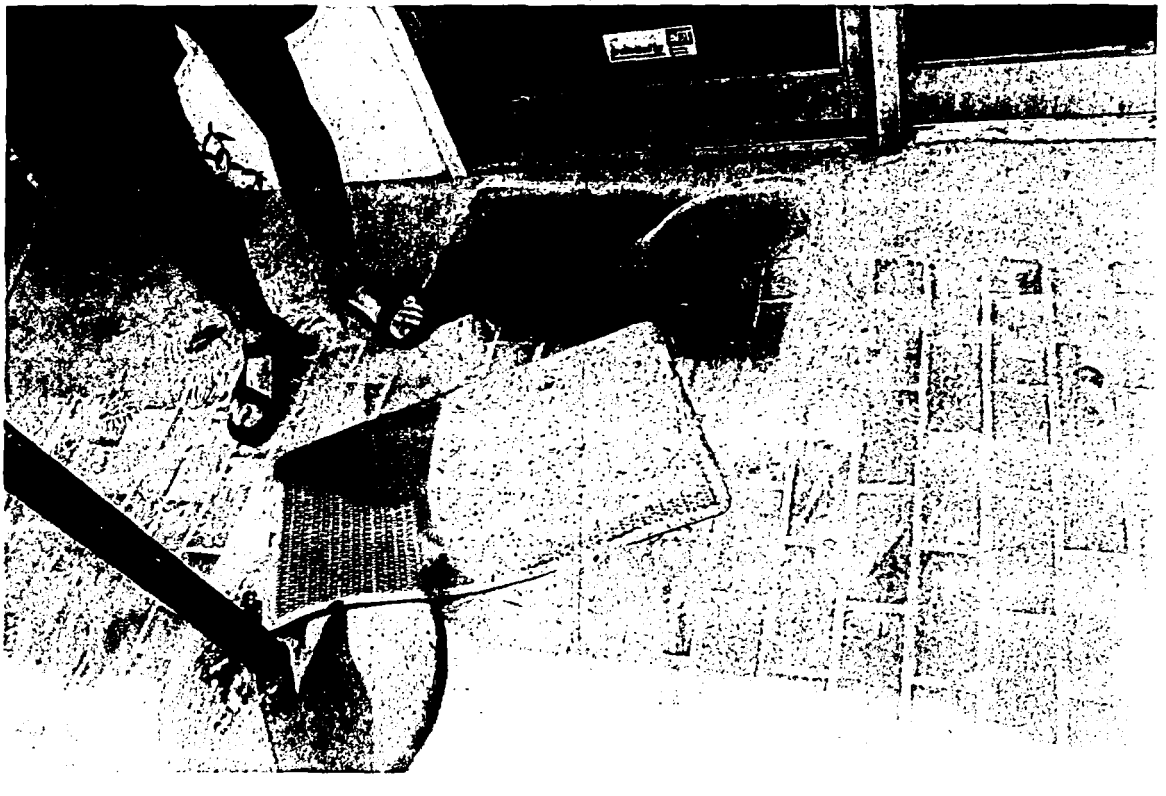
This picture documents the condition of the pay telephone that was located at the corner of Pecan Ave. and Central Ave.

The telephone is attached to the outside of the building where Heaven Clothing is located.

Refer to PICTURE 35 for the PAY Telephone's EXACT LOCATION.

PICTURE 48

This picture documents the amount of sand that accumulated at the front door area leading into Alternative Arts Tattoo Studio.



North Carolina Department of Environment, and Natural Resources
Division of Solid Waste Management
Hazardous Waste Section

Complaint Investigation Report

Report of Investigation: Heaven Clothing

Address: 1500 Central Ave., Charlotte, Mecklenburg Co., N.C. 28205

Date: August 11, 2000

Persons Contacted:
- Mr. James Funderburk - Heaven Clothing
- Mr. James Costner - Morningstar Sign & Sandblasting
- Mr. Henry Sutton - Mecklenburg Co. Environm. Protection (SW)
- Mr. John Rainey - Alternative Arts Tattoo
- Mr. Dan Hardin - Mecklenburg Co. Environmental Protection (AQ)

Prepared By: Mr. Joseph Parker - Waste Management Specialist

Copies To:
- Mr. Jesse Wells - NCDENR Western Area Compliance Supervisor
- Ms. Roberta Proctor - NCDENR DWM Environmental Chemist
- Mr. Doug Holyfield - NCDENR Compliance Branch Head
- Ms. Jill Pafford - NCDENR Hazardous Waste Section Chief
- Mr. James Funderburk - Heaven Clothing
- Mr. James Costner - Morningstar Sign & Sandblasting
- Mr. Will Espin - Owner of the property at 1500 Central Ave.
- Mr. Albert Eric Pickett - Property owner at site in West Meck.
- Mr. John Rainey - Alternative Arts Tattoo
- Mr. Henry Sutton - Mecklenburg Co. Envir. Protection (SW)
- Mr. Dan Hardin - Mecklenburg Co. Environmental Protection (AQ)
- Mr. Dennis Salmen - Mecklenburg Co. Department of Environmental Health (Lead Section)
- Mr. Gerry Huntley - CGU Southeast

*Attachments are available upon request

EPA Identification Number: None

Report:

On the above day, Joseph Parker, Waste Management Specialist with the N.C. Hazardous Waste Section conducted a complaint investigation involving sampling at the property located at 1500 Central Ave., Charlotte, Mecklenburg Co., N.C. Information

concerning this complaint was received by the Mooresville Regional Office from Mr. Henry Sutton of the Mecklenburg Co. Environmental Protection. Mr. Sutton's organization was contacted by a citizen to perform a service request concerning a recent sandblasting operation performed on the building at this address. The caller stated that they were concerned about any health effects as a result of the sandblasting of the lead based paint on the building. During MCDEP's initial investigation of the site, Mr. Sutton obtained a sample of leftover sand material which was generated during this operation.

Mr. Sutton initially contacted the writer, Joseph Parker, on July 27, 2000. Mr. Sutton informed me of the sample results for Heaven Clothing and promptly faxed them to me in the Mooresville Regional Office. TCLP sample results for the material were tested at 39,000 ppb or 39 ppm. As compared to the regulatory level for TCLP lead at 5 ppm, this material would be considered a hazardous waste.

Once I received the results of the sampling, I asked Mr. Sutton to provide me with the history on this site. Mr. Sutton was first called to the site approximately a week earlier as part of a service request. The business located at 1500 Central Ave. is known as Heaven Clothing and is owned by Mr. James Funderburk. Mr. Funderburk apparently hired a company doing business as Morningstar Sign & Sandblasting to sandblast the outside of the building. Mr. James Costner operates Morningstar and performed the work himself. The actual job occurred between the days of July 3 - 5, 2000. These dates were picked due to the potential low traffic because of the Independence Day holiday. Mr. Sutton told me that when the job was completed, some of the sand generated at the site was never properly cleaned up. An undetermined amount sand was taken to a farm in Western Mecklenburg Co. and placed in a low area. Additionally, an undetermined amount of sand was placed in rock garden located onsite at Heaven Clothing. Mr. Sutton's sample was taken from this rock garden area. Mr. Sutton was unaware of the address for the alleged farm in Western Mecklenburg Co.

August 3, 2000

The writer performed a site visit to the Heaven Clothing site to perform an initial interview with Mr. Funderburk. At the time of the visit Mr. Funderburk was away on business. I later left a message for him at his place of business to contact as soon as he was available.

August 10, 2000

The writer placed another call to Mr. Funderburk's place of business. Mr. Funderburk was available and we had a chance to speak about this situation. I first asked him if he would be available on Friday August 11, 2000 to meet with me at the 1500 Central Ave. site. He told me yes that he could meet with me around 11:00 am. I told him that I would like to take samples of the rock garden area where the sand was deposited. He told me that this would be fine.

I also was able to set up meeting with Mr. James Costner of Morningstar Sign & Sandblasting for the afternoon of August 11, 2000. I told Mr. Costner that wanted to view and take samples of the area where this sand material was being taken in Western Mecklenburg Co. He told me that he would meet me around 1:00 pm and I could follow him to the site.

August 11, 2000

I arrived onsite to meet with Mr. James Funderburk. I asked him to tell me his version of the what happened at the site. He told me that he hired Mr. James Costner of Morningstar to sandblast the West and North wall of the building located at 1500 Central Ave. Mr. Costner had performed a few other jobs for Mr. Funderburk in the past and he felt that he would do a good job. Mr. Costner performed the work during the Independence Day holiday to minimize the amount of people around the area. After the job was completed, one of Mr. Funderburk's neighbors filed complaints with the Meck. Co. Health Department and with MCDEP concerning the lead based paint exposure. The health department performed some indoor air monitoring and MCDEP's Air Quality Section issued a Notice of Violation. MCDEP's Solid Waste Section took the samples that the State received from Mr. Sutton.

Mr. Funderburk was not happy with the way Mr. Costner performed his job, particularly with the clean up of the operation. He told me that Mr. Costner left undetermined amount of the sand generated during the job in the rock garden on the street. Mr. Funderburk apparently spent some time and money on the construction of the garden. I then asked if there were any plans to clean his material out of the rock garden. He told me that he has been in discussion with Mr. Costner concerning this subject. I told him that he would need to wait until the State's sample results came back to ensure proper disposal. I explained to Mr. Funderburk that the material may have enough lead content to be considered a hazardous waste. Mr. Funderburk was under the idea that the paint on the side of the building was latex paint. I told him that the top coat may have been latex, but over the years lead based paint may have been used. During Mr. Costner's sandblasting of the bricks in the building, it

is possible 3 or 4 different coats of paint from years past may have been removed.

I then asked Mr. Funderburk about the owner of the building. He told me that it was a property management company out of New Jersey named MVI. I told him that I would like to have the telephone number and name of a contact person for this company. He told me that he would get me that information for me.

I then informed Mr. Funderburk that I would be taking 2 sand samples from his site today and I would be taking 2 samples from the farm site in Western Mecklenburg Co. I then offered split samples to Mr. Funderburk and he refused this option. The following notes are from the pictures taken at the site. These pictures will be attached to the report. Once I completed the sampling of both areas, I left the site.

Picture 1

This picture was taken in the direction of North with the West wall of the building (red) and the South end of the building (gray) showing. The rock garden and fugitive sand is in complete view.

Picture 2

This picture is taken from Pecan Ave., which runs North and South in relation to the building. Again, the rock garden is in full view.

Picture 3

This picture was taken of the contents of the rock garden. Note the significant amount of sand that has been deposited in this area. A sample of the sand material was taken from the more concentrated area of sand. This is evident in the center of the picture from the dig area.

Picture 4

This picture is taken from Pecan Ave. and shows the area where fugitive sand has collected in parking area. This area is down gradient from the rock garden.

Picture 5

This is a closer picture of the fugitive sand collection area. A sample of this material collected from the center part of the picture.

Later that day, I met with Mr. James Costner of Morningstar Sign & Sandblasting on the West side of Charlotte. After introductions, I followed Mr. Costner to the farm where he put the rest of the sand material generated at the Heaven Clothing site.

He told me that he took approximately 90 gallons of sand to site to be used as fill. The 90 gallon approximation came from Mr. Costner's calculations. He approximated 10-5 gallon buckets, plus 3-4 trips of a 1/4 full 44 gallon container. The 40 gallon trash can used during the trips could only be filled 1/4 full due to the weight of the sand.

Mr. Costner told me that he was unaware that the paint on the building was lead based. In his line of business, he normally works with wood and never gets into the management of lead based paint materials. He told me that this job may have been over his head a little bit, but he had performed a few jobs for Mr. Funderburk in the past and viewed it as an opportunity. I then asked him how much sand he actually used during the job. He told me that he used approximately four (4) pallets of sand. At 30 bags of sand per pallet and weighing 100 lbs. per pallet, he used close to 120 bags totaling 400 lbs. I then asked about the disposal of the remaining sand at the Heaven Clothing site. He told me that he was going to work with Mr. Funderburk on the sand that was left at the site. He knows he should not have left the sand in the rock garden. As for the sand he brought back over to this farm, the owner wanted to fill in the area used for disposal of the sand to level it out. All of the other sand he had brought over to the site was material he had worked with while performing wooden sign jobs and thought it would be okay. I told him that was why I was here. I would be taking samples of the material that was disposed of at this site from the Heaven Clothing site. At this point, he showed me two separate areas where this material was placed. The following notes are from the pictures taken at the site. These pictures will be attached to the report.

Picture 6

The next 10 pictures were taken at the site where Mr. Costner dumped the sand/paint chip material. The site is located in Western Mecklenburg Co. at 5621 Mt. Olive Church Road, Charlotte, N.C. 28278. All white material shown in the picture is sand. The picture was taken of the right side of the lot.

Picture 7

This picture was taken from the same point as picture 6. Picture 7 documents the left side of the lot.

Picture 8

This picture documents the area where the sample # 018087 was taken. The area is just to the left of the woodpile shown in the picture.

Picture 9

This picture documents the pile of sand where the Sample # 018087 was taken. Note the reddish/white sand material in the pile. Mr. Costner directed me to this pile and said this was some of the sand taken from the Heaven Clothing site.

Picture 10

This picture documents the pile of sand where Sample # 018089 was taken. The area is approximately 10 feet from the previous sample taken at the site. Note the same reddish/white color in the sand found in the previous sample.

Picture 11

Picture of the sand pile where Sample #018089 was taken. The angle is from the other side of the pile. Note paint chip in the center of the pile.

Picture 12

Picture of the area sampled for Sample #018089 (center of picture).

Picture 13

Up close picture of area sampled for Sample #018089 (blurry).

Picture 14

Picture of the neighboring residence's mailbox. This was taken for documentation purposes. The actual address for the site was provided by Mr. Costner on October 19, 2000.

Picture 15

Picture of the intersection of where Mt. Olive Church Road and Dixie River Road intersect. The farm site is very close to this marker.

Once these samples were taken, I told Mr. Costner that it would take a few weeks for the results to be reported. I told him that I would notify him of the results when they became available. I instructed him not to move any of this material on his own because of its unknown characteristics. At this point, we both left the site.

September 22, 2000

On the above day, the results of the sampling that was conducted on August 11, 2000 were received in the Mooresville Regional Office. These sample results will be attached to this report for review. The following results were taken from the analysis:

Sample Site	Sample #	TCLP Result	Regulatory Level
Heaven Clothing - (Rock Garden)	018085	42.92 mg/l Lead	5.0 mg/l
Heaven Clothing - (Off Concrete)	018088	15.85 mg/l Lead	5.0 mg/l
Farm Site - (Front Area)	018087	26.52 mg/l Lead	5.0 mg/l
Farm Site -	018089	30.10 mg/l Lead	5.0 mg/l

September 25, 2000

On the above day, the writer, Joseph Parker conducted a site visit at the Heaven Clothing site to meet with Mr. James Funderburk. Before our meeting, I observed the rock garden area noted during previous visits to be containing the lead sand, to be completely redone. It appeared as if the sand and rock material had been remediated. New mulch and plants had been placed in the rock garden. Pictures were taken to document this new development.

I then met with Mr. Funderburk concerning the recently received sample results of the material in his rock garden. I explained to him that both samples taken at his site recorded values during the TCLP test that would make them hazardous waste for its lead content.

I then asked Mr. Funderburk about the work that had been done on the rock garden since the sampling. He told me that Mr. James Costner of Morningstar agreed to clean this area out and finish the job he started. Mr. Funderburk also spent more money to re-plant everything in the rock garden. I asked him why they proceeded with the remediation when I told them to leave it alone until the sampling results came back. He told me that his next door neighbor was complaining about the sand, so they moved it. I then asked him where he took the sand and remediated items. He told me that Mr. Costner took the buckets of sand off. He didn't know for sure, but he thought he took it over to the farm site in Western Mecklenburg County. I told him that I would contact Mr. Costner about this.

At this point, I explained how the N.C. Hazardous Waste Section will proceed with the investigation. I told Mr. Funderburk that in light of the results of the sampling, both parties Heaven Clothing and Morningstar Sandblasting, will be issues separate Compliance Order with Administrative Penalties for two violations. The violations will be for (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a

hazardous waste. Specifically, at the Heaven Clothing site, improper disposal of a hazardous waste refers to the placement of lead contaminated sand in the rock garden onsite and allowing the sand to migrate offsite.

Mr. Costner of Morningstar Sign & Sandblasting will receive his Compliance Order with Administrative Penalty for (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a hazardous waste. Specifically, for Morningstar Sign & Sandblasting, improper disposal of a hazardous waste refers to the placement of lead contaminated sand at the property in Western Mecklenburg Co.

The penalty portion of the Compliance Order will be determined in the Raleigh Central Office. An amount will be determined after they receive a copy of this report. The North Carolina Hazardous Waste Section can administer a monetary value of $25,000.00 per violation when a Compliance Order is issued.

I then told Mr. Funderburk that there may be some environmental language in this Compliance Order that may be confusing and hard to understand. I recommended that he retain an environmental consulting firm to help him through this. He will probably need them anyway to take any further remediation or confirmatory samples required by the Compliance Order. I told him that I would send him three names of companies that are local in the Charlotte area. I then told Mr. Funderburk not to perform any more remediation of the site until the Compliance Order is issued. I wouldn't want him spending any money on a project that he might have to do again.

During the meeting with Mr. Funderburk on September 25, 2000, he told me for the second time that he would leave the name and address of the company and contact person for the owners of the building at 1500 Central Ave. To this date, Mr. Funderburk has not furnished me with this information.

The following pictures and associated notes were taken during the site visit conducted on September 25, 2000:

Picture 16

This picture taken to document the rock garden area on September 25, 2000. During the site visit, it was noted that the rock garden had remediated of all lead contaminated sand. New decorative rock and plants have been planted since the remediation took place.
Note: Leftover sand (white) is observed along the wall and the rock garden.

Picture 17

This picture was taken from another angle to show the rock garden.

Picture 18

This picture shows fugitive sand from the rock garden area that has migrated off-site. Sand is in the center of the picture.

Picture 19

This picture documents the migration of lead contaminated sand from the rock garden located on Heaven Clothing's property. Sand was noted in parking lot and in the ditch area of the road shown.

Picture 20

This picture documents the migration of lead contaminated sand off-site. The area shown in the picture is a parking lot for the neighboring business.

September 28, 2000

On the above day, the writer, Joseph Parker, placed a telephone call to Mr. James Costner to inquire as the location of the recently remediated sand from the Heaven Clothing site. I received his answering machine and promptly left the previous question on the message.

Mr. Costner returned my telephone call at the Mooresville Regional that afternoon. I was unable to take the call since I had already left for the day to perform other site visits. Mr. Costner left me message indicating that all recently remediated sand has been transported to the farm site in Western Mecklenburg County. The sand material is being stored in 4-55 gallon containers. This message was retrieved after 5:00 pm on September 28, 2000.

As a part of the investigation, I decided to perform a site visit to Heaven Clothing's neighbor, Alternative Arts Tattoo located 1502 Central Ave. I needed the name and address of the owner of the building since Mr. Funderburk had not provided me with this information.

Upon arriving at the site, I met with the owner of Alternative Arts Tattoo, Mr. John Rainey. I explained to Mr. Rainey that I was working on the case involving the sandblasting operation that occurred during the July 4, 2000 time frame. Mr. Rainey indicated that he was very familiar with the situation and agreed to answer any questions I had. We started off the interview with Mr. Rainey

explaining to me how much he knew of the incident. He started off by telling me that the sandblasting operation had begun the morning of July 3rd. Mr. Rainey opens his business at 12:00 pm during the weekdays. When Mr. Rainey and one of his associates arrived, he told me that dust from the sandblasting operation was so thick, he couldn't get into his studio located next door to Heaven Clothing. It should be noted that the store sits on the corner of Pecan Ave. and Central Ave. in Charlotte, N.C. This is very well traveled road with alot of pedestrian traffic along with a healthy flow of motorized traffic. Mr. Rainey said that the dust from the sandblasting operation covered both sidewalks, Pecan and Central. The dust also became airborne and floated with the wind in a number of directions. Mr. Rainey told me that the sand had been allowed to migrate across both streets.

Before Mr. Rainey and his associate could enter their studio, they had to wait for the sandblaster to take a break. Once they were able to enter their store, they discovered that their studio was covered in this sandblasting dust material. They immediately contacted Mr. James Funderburk of Heaven Clothing to make him aware of the situation. It appears that Mr. Funderburk made no attempt to inform anyone about his plans to perform this sandblasting operation. But, Mr. Rainey was concerned about a more pressing issue. He knew that the building itself was old and had endured many facelifts in the past. Mr. Rainey knew it was possible that the outer shell of the building had been coated with lead based paint. Mr. Rainey asked Mr. Funderburk about this and he seemed to know that the paint was lead based. Then Mr. Rainey asked him if he had required the necessary permits to remove this material. Mr. Funderburk told him, "No", that no permits were required. Then, Mr. Funderburk apologized for the damage and said he would reimburse Mr. Rainey and his associate for the losses they incurred. Mr. Rainey was very concerned about the contents of the dust. His concern was justified when he found one of the empty sand bags from the sandblasters. The warning label on the sand bag was enough of a reason for him not to open his studio that day. A copy of this label will be attached to this report. Mr. Rainey's associate, Mr. Harris, was able to take pictures of the area inside their studio and outside around both stores.

Since July 4th was a holiday, Alternative Arts Tattoo was not open for business. When Mr. Rainey returned to his studio on July 5th, he noted that the sandblasting operation had been completed and the cleanup was underway. When Mr. Rainey met with Mr. Funderburk on July 5th, it was Mr. Funderburk's intention to have the employees of Heaven Clothing sweep and dust Alternative Arts Tattoo's studio. At that point, Mr. Rainey showed him the warning label from the sand bag and told him that he was concerned about lead contamination. After discussion, Mr. Rainey declined Mr.

Funderburk's offer and told him that he didn't want to exposed any other people, namely his employees, to this material. Mr. Rainey told him that specially trained people would have to come in and perform the decontamination procedure. Mr. Funderburk agreed to this and promised to contract a qualified company to perform this cleanup.

After the conversation, Mr. Rainey purchased a lead test kit from a local paint store to get some kind of an idea of whether this dust material contained any lead. While these test kits do not offer conclusive results, the results of Mr. Rainey's test indicated high amounts of lead present in the dust. Mr. Rainey then presented these results to Mr. Funderburk. Mr. Funderburk then tried to bring in a janitorial crew to clean his studio. But, when Mr. Rainey found out they were not qualified to deal with lead contamination, he declined the offer. After this point, Mr. Rainey gave Mr. Funderburk one more opportunity, and he failed to meet the set deadline. Mr. Rainey then told Mr. Funderburk that he would find a qualified company for him. After contacting all the available companies in the Charlotte area, Mr. Rainey decided upon Onyx Environmental Services because of their expertise in lead contamination.

Onyx Environmental conducted an inspection of the studio and took a sample of dust material to be tested by Pace Analytical. These sample results were reported on July 13, 2000 and showed a result of 2.25 ppm total lead. These results will be attached to this report for documentation. Additionally, a copy of Onyx Environmental's submitted proposal to conduct the cleanup at the site will be attached. The cost of the cleanup was estimated at $15,260.00.

When Mr. Rainey received Onyx's proposal, he immediately gave it to Mr. Funderburk. Mr. Funderburk declined to pay the bill and Mr. Rainey was forced to take on the responsibility of decontaminating the studio himself. Mr. Rainey told me that he did alot of research on the issue and was able to get a good deal of information from the EPA and the Health Department. Mr. Rainey told me that he followed all the safety guidelines and decontamination procedures found in these documents. He also had blood tests run on himself to ensure that no lead poisoning had occurred. This blood test document is attached to the report also. Mr. Rainey kept notes on his cleanup procedures and they are also attached to this report.

Upon completion of the decontamination activities, Mr. Rainey requested inspections by the EPA and the Mecklenburg Co. Health Department. The Health Department took more samples of the studio at the time of their inspection. They told Mr. Rainey that his

studio looked good and he was given the option to reopen or stay closed until the test results were returned. Mr. Rainey open that day to try and cut his losses from the previous weeks. The test results came back two weeks later from the Health Department. They told him that he had succeeded with his decontamination efforts and that he "was in the clear". The results of these tests are attached to this report.

In summary, Mr. Rainey voluntarily shut down Alternative Arts Tattooing for three weeks. The decontamination efforts put forth by Mr. Rainey took two weeks to complete.

Mr. Rainey still has a few concerns about the level of contaminated sand left at the site. The first concern was with the A/C unit on top of the building. He has documented in his letter dated Aug. 17, 2000 that it was clogged with a great deal of sandblasting material and dust. The condition of the unit is unknown at the time of this writing. Also, the amount of sand left at the site was a concern to Mr. Rainey. The concern centered around the pedestrian traffic on the sidewalk. It was very conceivable that normal foot traffic would bring this material back into his studio. Not to mention, pedestrians are probably tracking this material into other stores on the block, into their cars, and even back home with them. Another concern was that of the Heaven Clothing store. With the amount of material found inside his studio during the operation, it is reasonable to assume that the same dust contaminated the Heaven Clothing store. During the time of Mr. Rainey's decontamination efforts, Mr. Funderburk conducted a clearance sale of his in stock clothing items. The sale prices were marked at 80% off. Mr. Rainey suspects that these clothing items were sold with the lead contaminated dust on them. It should be noted that Mr. Funderburk has never made mention or provided any documentation of any decontamination efforts performed by him during this time.

Mr. Rainey is still negotiations with the insurance company for Morningstar Sign & Sandblasting for reimbursement of actions. Documentation of the correspondence between CGU Southeast and Mr. Rainey is attached to this report.

I concluded my interview with Mr. Rainey and requested copies of all his documentation concerning this incident. He told me that he could get it for me, but he would have to get it all together and find a copier. I told him that I could come back later in the day and get it from him. He told me that would be fine. I then asked Mr. Rainey if he could provide me with the name and address of the owner of the building at 1500 Central Ave. Mr. Rainey gave me the following information: Owner - Multi-Video, Inc., 15128 Birling Road, Charlotte, N.C. 28278. The landlord for the building

is Mr. Will Espin and he can be reached at 704-583-3291. Mr. Rainey told me that he submits his rent money to Tommie Espin at the same address. With this information, I left the site with plans to return later to receive Mr. Rainey's documents.

I returned to the Alternative Arts Tattoo studio around 5:00 pm to meet with Mr. Rainey. During our meeting he provided me with all of his documentation. I then requested copies of the pictures Mr. Harris took during the incident. He told me he could send those at a later date. I told him that would be fine. I requested that he send those pictures to the Mooresville Regional Office.

While I was at the studio, Mr. Rainey informed me that one of Heaven Clothing's employees had been washing down the sidewalk on the Pecan Ave. side. When I concluded my meeting with Mr. Rainey, I walked around the corner to investigate the matter. As Mr. Rainey had said, the sidewalk had been washed down using a garden hose. The resultant mixture of water and sand was observed down a side street that runs parallel with Pecan Ave. The following pictures and associated notes of the conditions observed during the site visit are documented below:

Picture 21

The following pictures were taken on September 28, 2000. Earlier before the picture was taken, a Heaven Clothing employee was observed by Mr. Rainey washing down the outside parking lot with water. The puddles and water stains document this action.

Picture 22

This picture documents the migration of sand off-site from the Heaven's Clothing site. The sidewalk shown in the picture is that of the neighboring business to Heaven Clothing.

Picture 23

This picture documents a puddle of water generated by the washing down of this area. On the right side of the photograph it noted the water hose used to perform the washing.

Note: New stone (white) has been placed on the rock garden area next to the building.

Picture 24

This picture documents the extent of the migration of the contaminated sand from the Heaven Clothing site. The water and sand mixture extends down the street, passing other neighboring businesses. The picture was taken from a 180 degree turn from the angle shown in picture 21.

The following notes are for the pictures provided by the Mr. Rainey and Mr. Harris from Alternative Arts Tattoo. These pictures were taken on July 3, 2000.

Picture 25

This picture shows the floor of Alternative Arts Tattoo on July 3rd when Mr. Rainey and Mr. Harris arrived at the business. Note the amount of sand/dust on the tile floor.

Picture 26

This picture also documents the condition of the floor inside the Alternative Arts Tattoo studio.

Picture 27

This picture documents the front counter inside the Alternative Arts Tattoo studio. The folders noted on the counter are of tattoo designs to be shown to prospective customers.

Picture 28

This picture documents the condition of the wall folders of tattoo designs.

Picture 29

The picture documents the condition of the area inside the work area. Note the finger marks left from the wiping of the contaminated dust on the television.

Picture 30

The picture documents the extent of the dust contamination within the work area of Alternative Arts Tattoo. Contaminated dust has covered these unknown items stored on the top of the counter.

Picture 31

The picture shows the extent of the contamination found inside the work area.

Picture 32

This is another picture of the other side of the work area inside Alternative Arts Tattoo.

Picture 33

This picture documents the sidewalk in front of the Alternative Arts Tattoo studio and the Heaven Clothing site. The road running parallel with the sidewalk is Central Ave. Note the contaminated sand on the sidewalk, in the ditch area of the road, and in the middle of the road.

Picture 34

This picture shows the front of the Alternative Arts Tattoo studio on July 3, 2000.

Picture 35

This picture documents the amount of sand, either contaminated or unused, in front of the Heaven Clothing site. Note the sand is so deep that a shovel is able to stand up in the pile.

Picture 36

This is another picture of the outside of Alternative Arts Tattoo. Note the amount of sand observed on the sidewalk.

Picture 37

This picture documents the extent of the migration of contaminated sand from the Heaven Clothing site. Note the sand in the ditch area of the road. The Heaven Clothing location is approximately 3 - 4 businesses away from the point where the picture was taken.

Picture 38

This another picture taken from the same angle and point as the previous picture.

Picture 39

This picture was taken approximately 10 feet closer than the previous two pictures.

Picture 40

This picture documents the amount of contaminated sand that collected in front of a doorway of a neighboring antique dealer. Note the amount of sand on the sidewalk.

Picture 41

This picture was taken from another angle, but from the same point as the previous picture.

Picture 42

This picture was taken from Pecan Ave. side of the Heaven Clothing site. Note the rock garden in the middle of the picture. The picture documents the type of equipment used during the operation and the lack of collection devices for the contaminated sand. The Western wall of Heaven Clothing seems to be over half done at the time this photo was taken.

Picture 43

This picture documents the Southern and Eastern outside walls of Heaven Clothing. These walls were not sandblasted during this operation. It is unknown how much material was left on

top of the building.

Picture 44

This picture is another angle caught of the Southern and Eastern outside walls of Heaven Clothing.

Picture 45

This picture documents 10-5 gallon containers full of contaminated or used sand. These containers were being stored at the corner of Pecan Ave. and Central Ave. They were eventually taken over to the Pickett Farm Site in Western Mecklenburg Co.

Picture 46

This picture documents the condition of the sidewalk during the sandblasting operation. The picture was taken from the corner of Pecan Ave. and Central Ave. Note the amount of sand on the sidewalk.

Picture 47

This picture documents the condition of the pay telephone that was found at the corner of Pecan Ave. and Central Ave. The telephone is attached to the outside of the building where Heaven Clothing is located. Refer to picture 35 for the pay telephone's exact location.

Picture 48

This picture documents the amount of sand that accumulated at the front door area leading into Alternative Arts Tattoo studio.

September 29, 2000

On the above day, I received a call from Mr. James Costner of Morningstar Sign & Sandblasting. My first question was why he continued to remediate the rock garden at the Heaven Clothing site. He told me that they were receiving increasing pressure from the next door neighbor to clean the material up. I reminded him that I told him and Mr. Funderburk not to move any of this material until the sample results were returned. I then informed him of the sample results and that all of the samples that were taken were tested to be a hazardous waste. I then asked him where he took the material he remediated for the site. He told me that the sand material was being stored in containers at the farm site in Western Mecklenburg Co. He was unsure how much material was at the site from the recent activities. I then suggested to Mr. Costner that he document the amounts of material that he has taken to this site. I requested this information be put in writing and sent to me at

the Mooresville Regional Office.

I then informed Mr. Costner that he will be issued a Compliance Order with Administrative Penalty for his actions regarding this case. The final penalty will be issued from the Raleigh Office. He will be cited for two violations (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a hazardous waste. Specifically, for Morningstar Sign & Sandblasting, improper disposal of a hazardous waste refers to the placement of Lead contaminated sand at the property in Western Mecklenburg Co. I informed him that the North Carolina Hazardous Waste Section can administer a monetary value of $25,000.00 per violation when a Compliance Order is issued.

Before the State learned of the remediation of the rock garden, the only violations being considered were those documented below. I informed Mr. Costner that the State may consider the violation of the illegal transportation of hazardous waste from the Heaven Clothing site to the farm site. While Mr. Costner was not aware the State's sample analysis of the sand material, he was aware that Mecklenburg Co. Environmental Protection results indicated the material was a hazardous waste. Yet, he continued to transport lead contaminated sand to the Pickett Property in Western Mecklenburg Co.

At this point in the conversation, I requested a second time that Mr. Costner provide me with the quantities of sand material that was transported to the farm site. He told me he would get this to me as soon as possible. I also requested the name of the owner of the farm site property and the complete address of this individual. We then concluded our telephone conversation.

I received Mr. Costner's letter on October 23, 2000 in the Mooresville Regional Office. The property owner of the farm site was provided as: Albert Eric Pickett, 5621 Mt. Olive Church Road, Charlotte, N.C. 28278, (704) 392-1823. The following totals were given by Mr. Costner:

July 4, 2000 -

3 trips between locations
amounts indicate per trip - 12-5 gal. buckets,
1/2 full 40 gal. trash can,
1/2 full 2-50 metal drums,
3-4 gal. of sand emptied onto a piece plastic and wrapped up.

Total: 36-5 gal. buckets = 180 gallons
1 1/2 40 gal. trash cans = 60 gallons
3-50 gal. drums = 150 gallons
Approx. 12 gal. of sand in plastic,

TOTAL: 402 gallons
All material was poured on the ground

July 6, 2000 -
1 trip between locations - 12-5 gal. buckets,
1/3 full 40 gal. trash can,
1/3 full 2-50 metal drums.

Total: 12-5 gal. buckets = 60 gallons
1/3 full 40 gal. = approx. 13 gallons
2/3 of 50 gal. drums = 33 gallons,
TOTAL: 106 gallons
All material was poured on the ground

August 17, 2000
1 trip between locations - 12-5 gal. buckets taken and put into plastic and metal containers onsite.
TOTAL: 60 gallons

September 1, 2000
1 trip between locations - 12-5 gal. buckets taken and put into plastic and metal containers onsite.
TOTAL: 60 gallons

September 12, 2000
1 trip between locations - 14-5 gal. buckets taken and put into plastic and metal containers onsite.
TOTAL: 70 gallons

September 18, 2000
1 trip between locations - 14-5 gal. buckets taken and put into plastic and metal containers onsite.
TOTAL: 70 gallons

Total amount of Lead contaminated sand at the Pickett property:

On the ground: 508 gallons
In containers: 260 gallons

Mr. James Costner's letter will be attached to this report for documentation.

Post Investigation

After collection of all evidence and documentation is completed, the North Carolina Hazardous Waste Section will issued two(2) Imminent Hazard Notice of Violations for the assessment and

cleanup of both sites. The Notice of Violation for assessment and cleanup of the Heaven Clothing site will be issued to (1) Mr. Will Espin (property owner), Mr. James Funderburk (operator of Heavens Clothing), and Mr. James Costner (owner of Morningstar Sign and Sandblasting). The Notice of Violation for the assessment and cleanup of the Pickett property will be issued to (1) Mr. James Costner (owner of Morningstar Sign and Sandblasting) and Mr. Albert Eric Pickett (owner of property where Mr. Costner dumped the lead contaminated sand).

Additionally, the North Carolina Hazardous Waste Section will issue two (2) Compliance Orders with Administrative Penalties for the following violations documented during the complaint investigation.

VIOLATIONS:

The following violations were documented during the complaint investigation of the Heaven Clothing site. These violations are specific to Mr. James Funderburk, Owner of Heaven Clothing, Mr. Will Espin, Owner of the property at 1500 Central Ave. and Mr. James Costner, Owner of Morningstar Sign and Sandblasting.

1. **40 CFR 262.11**, adopted by reference at 15A NCAC 13A .0107, states that a person who generates a solid waste, as defines in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

    a. He should first determine if the waste is excluded from regulation under 40 CFR 261.4 and 261.5.

    b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

    c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

        i. Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the Administrator under 40 CFR 261.21; or

        ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

d. If the waste is determined to be hazardous, the generator must refer to Parts 264, 265, and 268 of this chapter for possible exclusions or restrictions pertaining to management of his specific waste.

During the complaint investigation, Heaven Clothing was found in violation in that it generated a solid waste, as defined in 40 CFR 261.2, and did not determine if that waste is a hazardous waste. Specifically, during the complaint investigation, the owner of Heaven Clothing, Mr. James Funderburk and the owner of the property, Mr. Will Espin, failed to determine if sandblasting material generated at his store location was contaminated with lead.

2. **15A NCAC 13A .0109(a)**, in that any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage, or disposal of hazardous waste is prohibited except as provided in this Section.

During the complaint investigation, three responsible parties related to the Heaven Clothing incident were found in violation of 15A NCAC 13A .0109(a), in that unknown quantities of lead contaminated dust and sand were disposed of at the site. Specifically, during the documented sandblasting operation, lead sand was allowed to migrate offsite from the Heaven Clothing site located at 1500 Central Ave.

The following parties will be responsible for the illegal disposal issue at the Heaven Clothing site:

1. Mr. Will Espin, Owner of the property at 1500 Central Ave. Mr. Espin is responsible as a generator because he owns the property where Heaven Clothing is located. He is ultimately responsible for what occurs on his property.

2. Mr. James Funderburk, Owner of Heaven Clothing is responsible because he paid for the work to be completed by Morningstar Sign and Sandblasting. He will be viewed as the primary generator of the hazardous waste.

3. Mr. James Costner, Owner of Morningstar Sign and Sandblasting is responsible because he performed the work at the site. He will be considered as a secondary generator of the hazardous waste.

The following violations are specific to the Pickett property: Mr.

James Funderburk, Owner of Heaven Clothing, Mr. Will Espin, Owner of the property at 1500 Central Ave., Mr. James Costner, Owner of Morningstar Sign and Sandblasting, and Mr. Albert Eric Pickett, Owner of the property located at 5621 Mt. Olive Church Road.

1. **40 CFR 262.11,** adopted by reference at 15A NCAC 13A .0107, states that a person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

   a. He should first determine if the waste is excluded from regulation under 40 CFR 261.4 and 261.5.

   b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

   c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

      i. Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the Administrator under 40 CFR 261.21; or

      ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

   d. If the waste is determined to be hazardous, the generator must refer to Parts 264, 265, and 268 of this chapter for possible exclusions or restrictions pertaining to management of his specific waste.

   During the complaint investigation, Heaven Clothing was found in violation in that it generated a solid waste, as defined in 40 CFR 261.2, and did not determine if that waste is a hazardous waste. Specifically, during the complaint investigation, the operator of Heaven Clothing, Mr. James Funderburk and the owner of the property, Mr. Will Espin, failed to determine if sandblasting material generated at his store location was contaminated with lead.

   Mr. James Costner, Owner of Morningstar Sign and Sandblasting will also be responsible for conducting a waste determination because he transported this material to the Pickett property from the Heaven Clothing site.

2. **40 CFR 263.11(a)**, adopted by reference at 15A NCAC 13A .0108, states that a transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator.

During the complaint investigation, Mr. James Costner, owner of Morningstar Sign and Sandblasting, was found in violation in that he transported a hazardous waste and did not obtain an EPA identification number from the Administrator. Specifically, during the complaint investigation it was documented that Mr. Costner transported lead contaminated sand from the Multi-Video, Inc./Heaven Clothing site to the Pickett property located at 5621 Mt. Olive Church Road, Charlotte, North Carolina. Mr. Costner was advised not transort any more of this material on August 11, 2000. It has been documented in this report that Mr. Costner continued to transport material to the Pickett property after this advisement. This additional transportation of material occurred around September 25, 2000.

3. **15A NCAC 13A .0109(a)**, in that any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage, or disposal of hazardous waste is prohibited except as provided in this Section.

During the complaint investigation, four responsible parties related to the Heaven Clothing incident were found in violation of 15A NCAC 13A .0109(a), in that unknown quantities of lead contaminated dust and sand were disposed of at the Pickett property site. Specifically, lead contaminated sand was transported to the Pickett property and disposed of onsite. Approximately 508 gallons of lead contaminated sand was disposed of at the Pickett property. This material was dumped in a documented area onsite. Additionally, 260 gallons of lead contaminated sand has been containerized at the site.

The following parties will be responsible for the illegal disposal issue at the Pickett property site located at 5621 Mt. Olive Church Road, Charlotte, N.C.:

1. Mr. James Funderburk, Owner of Heaven Clothing is responsible because he paid for the work to be completed by Morningstar Sign and Sandblasting. He will be viewed as the primary generator of the hazardous waste.

2. Mr. Will Espin, Owner of the property at 1500 Central Ave. Mr. Espin is responsible as a generator because he

owns the property where the lead contaminated sand was generated.

3. Mr. James Costner, Owner of Morningstar Sign and Sandblasting is responsible because he performed the work at the site. Mr. Costner transported the lead contaminated sand to the Pickett property for disposal. He will be considered as a secondary generator of the hazardous waste.

4. Mr. Albert Eric Pickett, Owner of the property located at 5621 Mt. Olive Church Road is responsible because hazardous waste was disposed on his property. He is ultimately responsible for what occurs on his property.

Comments:

If there are any questions regarding this complaint investigation report, the writer, Mr. Joseph Parker may be contacted at (919) 380-7144.

Joseph D. Parker Jr. 12-06-2000
Inspector

Certified Mail
Facility Contact

ACTIVITY TYPE: CHECK MOST APPROPRIATE

1. COMPLAINT - X
2. SPILL
3. TECHNICAL ASSISTANCE
4. REMEDIAL ACTION (other than WPCA)
5. PRESENTATION
6. TRAINING
7. MEETING
8. OTHER

North Carolina Department of Environment, and Natural Resources
Division of Solid Waste Management
Hazardous Waste Section

Complaint Investigation Report

Report of Investigation: Heaven Clothing

Address: 1500 Central Ave., Charlotte, Mecklenburg Co., N.C. 28205

Date: August 11, 2000

Persons Contacted:
- Mr. James Funderburk - Heaven Clothing
- Mr. James Costner - Morningstar Sign & Sandblasting
- Mr. Henry Sutton - Mecklenburg Co. Environm. Protection (SW)
- Mr. John Rainey - Alternative Arts Tattoo
- Mr. Dan Hardin - Mecklenburg Co. Environmental Protection (AQ)

Prepared By: Mr. Joseph Parker - Waste Management Specialist

Copies To:
- Mr. Jesse Wells - NCDENR Western Area Compliance Supervisor
- Ms. Roberta Proctor - NCDENR DWM Environmental Chemist
- Mr. Doug Holyfield - NCDENR Compliance Branch Head
- Ms. Jill Pafford - NCDENR Hazardous Waste Section Chief
- Mr. James Funderburk - Heaven Clothing
- Mr. James Costner - Morningstar Sign & Sandblasting
- Mr. Will Espin - Owner of the property at 1500 Central Ave.
- Mr. John Rainey - Alternative Arts Tattoo
- Mr. Henry Sutton - Mecklenburg Co. Envir. Protection (SW)
- Mr. Dan Hardin - Mecklenburg Co. Environmental Protection (AQ)
- Mr. Dennis Salmen - Mecklenburg Co. Department of Environmental Health (Lead Section)
- Mr. Gerry Huntley - CGU Southeast

EPA Identification Number: None

Purpose:

On the above day, Joseph Parker, Waste Management Specialist with the N.C. Hazardous Waste Section conducted a complaint investigation involving sampling at the property located at 1500 Central Ave., Charlotte, Mecklenburg Co., N.C. Information concerning this complaint was received by the Mooresville Regional Office from Mr. Henry Sutton of the Mecklenburg Co. Environmental Protection. Mr. Sutton's organization was contacted by a citizen

to perform a service request concerning a recent sandblasting operation performed on the building at this address. The caller stated that they were concerned about any health effects as a result of the sandblasting of the lead based paint on the building. During MCDEP's initial investigation of the site, Mr. Sutton obtained a sample of leftover sand material which was generated during this operation.

Mr. Sutton initially contacted the writer, Joseph Parker, on July 27, 2000. Mr. Sutton informed me of the sample results for Heaven Clothing and promptly faxed them to me in the Mooresville Regional Office. TCLP sample results for the material were tested at 39,000 ppb or 39 ppm. As compared to the regulatory level for TCLP lead at 5 ppm, this material would be considered a hazardous waste.

Once I received the results of the sampling, I asked Mr. Sutton to provide me with the history on this site. Mr. Sutton was first called to the site approximately a week earlier as part of a service request. The business located at 1500 Central Ave. is known as Heaven Clothing and is owned by Mr. James Funderburk. Mr. Funderburk apparently hired a company doing business as Morningstar Sign & Sandblasting to sandblast the outside of the building. Mr. James Costner operates Morningstar and performed the work himself. The actual job occurred between the days of July 3 - 5, 2000. These dates were picked due to the potential low traffic because of the Independence Day holiday. Mr. Sutton told me that when the job was completed, some of the sand generated at the site was never properly cleaned up. An undetermined amount sand was taken to a farm in Western Mecklenburg Co. and placed in a low area. Additionally, an undetermined amount of sand was placed in rock garden located onsite at Heaven Clothing. Mr. Sutton's sample was taken from this rock garden area. Mr. Sutton was unaware of the address for the alleged farm in Western Mecklenburg Co.

August 3, 2000

The writer performed a site visit to the Heaven Clothing site to perform an initial interview with Mr. Funderburk. At the time of the visit Mr. Funderburk was away on business. I later left a message for him at his place of business to contact as soon as he was available.

August 10, 2000

The writer placed another call to Mr. Funderburk's place of business. Mr. Funderburk was available and we had a chance to speak about this situation. I first asked him if he would be available on Friday August 11, 2000 to meet with me at the 1500 Central Ave. site. He told me yes that he could meet with me around 11:00 am. I told him that I would like to take samples of

the rock garden area where the sand was deposited. He told me that this would be fine.

I also was able to set up meeting with Mr. James Costner of Morningstar Sign & Sandblasting for the afternoon of August 11, 2000. I told Mr. Costner that wanted to view and take samples of the area where this sand material was being taken in Western Mecklenburg Co. He told me that he would meet me around 1:00 pm and I could follow him to the site.

August 11, 2000

I arrived onsite to meet with Mr. James Funderburk. I asked him to tell me his version of the what happened at the site. He told me that he hired Mr. James Costner of Morningstar to sandblast the West and North wall of the building located at 1500 Central Ave. Mr. Costner had performed a few other jobs for Mr. Funderburk in the past and he felt that he would do a good job. Mr. Costner performed the work during the Independence Day holiday to minimize the amount of people around the area. After the job was completed, one of Mr. Funderburk's neighbors filed complaints with the Meck. Co. Health Department and with MCDEP concerning the lead based paint exposure. The health department performed some indoor air monitoring and MCDEP's Air Quality Section issued a Notice of Violation. MCDEP's Solid Waste Section took the samples that the State received from Mr. Sutton.

Mr. Funderburk was not happy with the way Mr. Costner performed his job, particularly with the clean up of the operation. He told me that Mr. Costner left undetermined amount of the sand generated during the job in the rock garden on the street. Mr. Funderburk apparently spent some time and money on the construction of the garden. I then asked if there were any plans to clean his material out of the rock garden. He told me that he has been in discussion with Mr. Costner concerning this subject. I told him that he would need to wait until the State's sample results came back to ensure proper disposal. I explained to Mr. Funderburk that the material may have enough lead content to be considered a hazardous waste. Mr. Funderburk was under the idea that the paint on the side of the building was latex paint. I told him that the top coat may have been latex, but over the years lead based paint may have been used. During Mr. Costner's sandblasting of the bricks in the building, it is possible 3 or 4 different coats of paint from years past may have been removed.

I then asked Mr. Funderburk about the owner of the building. He told me that it was a property management company out of New Jersey named MVI. I told him that I would like to have the telephone number and name of a contact person for this company. He told me that he would get me that information for me.

I then informed Mr. Funderburk that I would be taking 2 sand samples from his site today and I would be taking 2 samples from the farm site in Western Mecklenburg Co. I then offered split samples to Mr. Funderburk and he refused this option. The following notes are from the pictures taken at the site. These pictures will be attached to the report. Once I completed the sampling of both areas, I left the site.

Picture 1

This picture was taken in the direction of North with the West wall of the building (red) and the South end of the building (gray) showing. The rock garden and fugitive sand is in complete view.

Picture 2

This picture is taken from Pecan Ave., which runs North and South in relation to the building. Again, the rock garden is in full view.

Picture 3

This picture was taken of the contents of the rock garden. Note the significant amount of sand that has been deposited in this area. A sample of the sand material was taken from the more concentrated area of sand. This is evident in the center of the picture from the dig area.

Picture 4

This picture is taken from Pecan Ave. and shows the area where fugitive sand has collected in parking area. This area is down gradient from the rock garden.

Picture 5

This is a closer picture of the fugitive sand collection area. A sample of this material collected from the center part of the picture.

Later that day, I met with Mr. James Costner of Morningstar Sign & Sandblasting on the West side of Charlotte. After introductions, I followed Mr. Costner to the farm where he put the rest of the sand material generated at the Heaven Clothing site. He told me that he took approximately 90 gallons of sand to site to be used as fill. The 90 gallon approximation came from Mr. Costner's calculations. He approximated 10-5 gallon buckets, plus 3-4 trips of a 1/4 full 44 gallon container. The 40 gallon trash can used during the trips could only be filled 1/4 full due to the weight of the sand.

Mr. Costner told me that he was unaware that the paint on the building was lead based. In his line of business, he normally works with wood and never gets into the management of lead based paint materials. He told me that this job may have been over his head a little bit, but he had performed a few jobs for Mr.

Funderburk in the past and viewed it as an opportunity. I then asked him how much sand he actually used during the job. He told me that he used approximately four (4) pallets of sand. At 30 bags of sand per pallet and weighing 100 lbs. per pallet, he used close to 120 bags totaling 400 lbs. I then asked about the disposal of the remaining sand at the Heaven Clothing site. He told me that he was going to work with Mr. Funderburk on the sand that was left at the site. He knows he should not have left the sand in the rock garden. As for the sand he brought back over to this farm, the owner wanted to fill in the area used for disposal of the sand to level it out. All of the other sand he had brought over to the site was material he had worked with while performing wooden sign jobs and thought it would be okay. I told him that was why I was here. I would be taking samples of the material that was disposed of at this site from the Heaven Clothing site. At this point, he showed me two separate areas where this material was placed. The following notes are from the pictures taken at the site. These pictures will be attached to the report.

Picture 6

The next 10 pictures were taken at the site where Mr. Costner dumped the sand/paint chip material. The site is located in Western Mecklenburg Co. at 5621 Mt. Olive Church Road, Charlotte, N.C. 28278. All white material shown in the picture is sand. The picture was taken of the right side of the lot.

Picture 7

This picture was taken from the same point as picture 6. Picture 7 documents the left side of the lot.

Picture 8

This picture documents the area where the sample # 018087 was taken. The area is just to the left of the woodpile shown in the picture.

Picture 9

This picture documents the pile of sand where the Sample # 018087 was taken. Note the reddish/white sand material in the pile. Mr. Costner directed me to this pile and said this was some of the sand taken from the Heaven Clothing site.

Picture 10

This picture documents the pile of sand where Sample # 018089 was taken. The area is approximately 10 feet from the previous sample taken at the site. Note the same reddish/white color in the sand found in the previous sample.

Picture 11

Picture of the sand pile where Sample #018089 was taken. The angle is from the other side of the pile. Note paint chip in the center of the pile.

Picture 12
Picture of the area sampled for Sample #018089 (center of picture).

Picture 13
Up close picture of area sampled for Sample #018089 (blurry).

Picture 14
Picture of the neighboring residence's mailbox. This was taken for documentation purposes. The actual address for the site was provided by Mr. Costner on October 19, 2000.

Picture 15
Picture of the intersection of where Mt. Olive Church Road and Dixie River Road intersect. The farm site is very close to this marker.

Once these samples were taken, I told Mr. Costner that it would take a few weeks for the results to be reported. I told him that I would notify him of the results when they became available. I instructed him not to move any of this material on his own because of its unknown characteristics. At this point, we both left the site.

September 22, 2000

On the above day, the results of the sampling that was conducted on August 11, 2000 were received in the Mooresville Regional Office. These sample results will be attached to this report for review. The following results were taken from the analysis:

Sample Site	Sample #	TCLP Result	Regulatory Level
Heaven Clothing - (Rock Garden)	018085	42.92 mg/l Lead	5.0 mg/l
Heaven Clothing - (Off Concrete)	018088	15.85 mg/l Lead	5.0 mg/l
Farm Site - (Front Area)	018087	26.52 mg/l Lead	5.0 mg/l
Farm Site -	018089	30.10 mg/l Lead	5.0 mg/l

September 25, 2000

On the above day, the writer, Joseph Parker conducted a site visit at the Heaven Clothing site to meet with Mr. James Funderburk. Before our meeting, I observed the rock garden area noted during previous visits to be containing the lead sand, to be

completely redone. It appeared as if the sand and rock material had been remediated. New mulch and plants had been placed in the rock garden. Pictures were taken to document this new development.

I then met with Mr. Funderburk concerning the recently received sample results of the material in his rock garden. I explained to him that both samples taken at his site recorded values during the TCLP test that would make them hazardous waste for its lead content.

I then asked Mr. Funderburk about the work that had been done on the rock garden since the sampling. He told me that Mr. James Costner of Morningstar agreed to clean this area out and finish the job he started. Mr. Funderburk also spent more money to re-plant everything in the rock garden. I asked him why they proceeded with the remediation when I told them to leave it alone until the sampling results came back. He told me that his next door neighbor was complaining about the sand, so they moved it. I then asked him where he took the sand and remediated items. He told me that Mr. Costner took the buckets of sand off. He didn't know for sure, but he thought he took it over to the farm site in Western Mecklenburg County. I told him that I would contact Mr. Costner about this.

At this point, I explained how the N.C. Hazardous Waste Section will proceed with the investigation. I told Mr. Funderburk that in light of the results of the sampling, both parties Heaven Clothing and Morningstar Sandblasting, will be issues separate Compliance Order with Administrative Penalties for two violations. The violations will be for (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a hazardous waste. Specifically, at the Heaven Clothing site, improper disposal of a hazardous waste refers to the placement of lead contaminated sand in the rock garden onsite and allowing the sand to migrate offsite.

Mr. Costner of Morningstar Sign & Sandblasting will receive his Compliance Order with Administrative Penalty for (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a hazardous waste. Specifically, for Morningstar Sign & Sandblasting, improper disposal of a hazardous waste refers to the placement of lead contaminated sand at the property in Western Mecklenburg Co.

The penalty portion of the Compliance Order will be determined in the Raleigh Central Office. An amount will be determined after they receive a copy of this report. The North Carolina Hazardous Waste Section can administer a monetary value of $25,000.00 per violation when a Compliance Order is issued.

I then told Mr. Funderburk that there may be some environmental language in this Compliance Order that may be confusing and hard to understand. I recommended that he retain an

environmental consulting firm to help him through this. He will probably need them anyway to take any further remediation or confirmatory samples required by the Compliance Order. I told him that I would send him three names of companies that are local in the Charlotte area. I then told Mr. Funderburk not to perform any more remediation of the site until the Compliance Order is issued. I wouldn't want him spending any money on a project that he might have to do again.

During the meeting with Mr. Funderburk on September 25, 2000, he told me for the second time that he would leave the name and address of the company and contact person for the owners of the building at 1500 Central Ave. To this date, Mr. Funderburk has not furnished me with this information.

The following pictures and associated notes were taken during the site visit conducted on September 25, 2000:

Picture 16

This picture taken to document the rock garden area on September 25, 2000. During the site visit, it was noted that the rock garden had remediated of all lead contaminated sand. New decorative rock and plants have been planted since the remediation took place.
Note: Leftover sand (white) is observed along the wall and the rock garden.

Picture 17

This picture was taken from another angle to show the rock garden.

Picture 18

This picture shows fugitive sand from the rock garden area that has migrated off-site. Sand is in the center of the picture.

Picture 19

This picture documents the migration of lead contaminated sand from the rock garden located on Heaven Clothing's property. Sand was noted in parking lot and in the ditch area of the road shown.

Picture 20

This picture documents the migration of lead contaminated sand off-site. The area shown in the picture is a parking lot for the neighboring business.

September 28, 2000

On the above .day, the writer, Joseph Parker, placed a telephone call to Mr. James Costner to inquire as the location of

the recently remediated sand from the Heaven Clothing site. I received his answering machine and promptly left the previous question on the message.

Mr. Costner returned my telephone call at the Mooresville Regional that afternoon. I was unable to take the call since I had already left for the day to perform other site visits. Mr. Costner left me message indicating that all recently remediated sand has been transported to the farm site in Western Mecklenburg County. The sand material is being stored in 4-55 gallon containers. This message was retrieved after 5:00 pm on September 28, 2000.

As a part of the investigation, I decided to perform a site visit to Heaven Clothing's neighbor, Alternative Arts Tattoo located 1502 Central Ave. I needed the name and address of the owner of the building since Mr. Funderburk had not provided me with this information.

Upon arriving at the site, I met with the owner of Alternative Arts Tattoo, Mr. John Rainey. I explained to Mr. Rainey that I was working on the case involving the sandblasting operation that occurred during the July 4, 2000 time frame. Mr. Rainey indicated that he was very familiar with the situation and agreed to answer any questions I had. We started off the interview with Mr. Rainey explaining to me how much he knew of the incident. He started off by telling me that the sandblasting operation had begun the morning of July 3rd. Mr. Rainey opens his business at 12:00 pm during the weekdays. When Mr. Rainey and one of his associates arrived, he told me that dust from the sandblasting operation was so thick, he couldn't get into his studio located next door to Heaven Clothing. It should be noted that the store sits on the corner of Pecan Ave. and Central Ave. in Charlotte, N.C. This is very well traveled road with alot of pedestrian traffic along with a healthy flow of motorized traffic. Mr. Rainey said that the dust from the sandblasting operation covered both sidewalks, Pecan and Central. The dust also became airborne and floated with the wind in a number of directions. Mr. Rainey told me that the sand had been allowed to migrate across both streets.

Before Mr. Rainey and his associate could enter their studio, they had to wait for the sandblaster to take a break. Once they were able to enter their store, they discovered that their studio was covered in this sandblasting dust material. They immediately contacted Mr. James Funderburk of Heaven Clothing to make him aware of the situation. It appears that Mr. Funderburk made no attempt to inform anyone about his plans to perform this sandblasting operation. But, Mr. Rainey was concerned about a more pressing issue. He knew that the building itself was old and had endured many facelifts in the past. Mr. Rainey knew it was possible that the outer shell of the building had been coated with lead based paint. Mr. Rainey asked Mr. Funderburk about this and he seemed to know that the paint was lead based. Then Mr. Rainey asked him if

he had required the necessary permits to remove this material. Mr. Funderburk told him, "No", that no permits were required. Then, Mr. Funderburk apologized for the damage and said he would reimburse Mr. Rainey and his associate for the losses they incurred. Mr. Rainey was very concerned about the contents of the dust. His concern was justified when he found one of the empty sand bags from the sandblasters. The warning label on the sand bag was enough of a reason for him not to open his studio that day. A copy of this label will be attached to this report. Mr. Rainey's associate, Mr. Harris, was able to take pictures of the area inside their studio and outside around both stores.

Since July 4th was a holiday, Alternative Arts Tattoo was not open for business. When Mr. Rainey returned to his studio on July 5th, he noted that the sandblasting operation had been completed and the cleanup was underway. When Mr. Rainey met with Mr. Funderburk on July 5th, it was Mr. Funderburk's intention to have the employees of Heaven Clothing sweep and dust Alternative Arts Tattoo's studio. At that point, Mr. Rainey showed him the warning label from the sand bag and told him that he was concerned about lead contamination. After discussion, Mr. Rainey declined Mr. Funderburk's offer and told him that he didn't want to exposed any other people, namely his employees, to this material. Mr. Rainey told him that specially trained people would have to come in and perform the decontamination procedure. Mr. Funderburk agreed to this and promised to contract a qualified company to perform this cleanup.

After the conversation, Mr. Rainey purchased a lead test kit from a local paint store to get some kind of an idea of whether this dust material contained any lead. While these test kits do not offer conclusive results, the results of Mr. Rainey's test indicated high amounts of lead present in the dust. Mr. Rainey then presented these results to Mr. Funderburk. Mr. Funderburk then tried to bring in a janitorial crew to clean his studio. But, when Mr. Rainey found out they were not qualified to deal with lead contamination, he declined the offer. After this point, Mr. Rainey gave Mr. Funderburk one more opportunity, and he failed to meet the set deadline. Mr. Rainey then told Mr. Funderburk that he would find a qualified company for him. After contacting all the available companies in the Charlotte area, Mr. Rainey decided upon Onyx Environmental Services because of their expertise in lead contamination.

Onyx Environmental conducted an inspection of the studio and took a sample of dust material to be tested by Pace Analytical. These sample results were reported on July 13, 2000 and showed a result of 2.25 ppm total lead. These results will be attached to this report for documentation. Additionally, a copy of Onyx Environmental's submitted proposal to conduct the cleanup at the site will be attached. The cost of the cleanup was estimated at $15,260.00.

When Mr. Rainey received Onyx's proposal, he immediately gave it to Mr. Funderburk. Mr. Funderburk declined to pay the bill and Mr. Rainey was forced to take on the responsibility of decontaminating the studio himself. Mr. Rainey told me that he did alot of research on the issue and was able to get a good deal of information from the EPA and the Health Department. Mr. Rainey told me that he followed all the safety guidelines and decontamination procedures found in these documents. He also had blood tests run on himself to ensure that no lead poisoning had occurred. This blood test document is attached to the report also. Mr. Rainey kept notes on his cleanup procedures and they are also attached to this report.

Upon completion of the decontamination activities, Mr. Rainey requested inspections by the EPA and the Mecklenburg Co. Health Department. The Health Department took more samples of the studio at the time of their inspection. They told Mr. Rainey that his studio looked good and he was given the option to reopen or stay closed until the test results were returned. Mr. Rainey open that day to try and cut his losses from the previous weeks. The test results came back two weeks later from the Health Department. They told him that he had succeeded with his decontamination efforts and that he "was in the clear". The results of these tests are attached to this report.

In summary, Mr. Rainey voluntarily shut down Alternative Arts Tattooing for three weeks. The decontamination efforts put forth by Mr. Rainey took two weeks to complete.

Mr. Rainey still has a few concerns about the level of contaminated sand left at the site. The first concern was with the A/C unit on top of the building. He has documented in his letter dated Aug. 17, 2000 that it was clogged with a great deal of sandblasting material and dust. The condition of the unit is unknown at the time of this writing. Also, the amount of sand left at the site was a concern to Mr. Rainey. The concern centered around the pedestrian traffic on the sidewalk. It was very conceivable that normal foot traffic would bring this material back into his studio. Not to mention, pedestrians are probably tracking this material into other stores on the block, into their cars, and even back home with them. Another concern was that of the Heaven Clothing store. With the amount of material found inside his studio during the operation, it is reasonable to assume that the same dust contaminated the Heaven Clothing store. During the time of Mr. Rainey's decontamination efforts, Mr. Funderburk conducted a clearance sale of his in stock clothing items. The sale prices were marked at 80% off. Mr. Rainey suspects that these clothing items were sold with the lead contaminated dust on them. It should be noted that Mr. Funderburk has never made mention or provided any documentation of any decontamination efforts performed by him during this time.

Mr. Rainey is still negotiations with the insurance company for Morningstar Sign & Sandblasting for reimbursement of actions. Documentation of the correspondence between CGU Southeast and Mr. Rainey is attached to this report.

I concluded my interview with Mr. Rainey and requested copies of all his documentation concerning this incident. He told me that he could get it for me, but he would have to get it all together and find a copier. I told him that I could come back later in the day and get it from him. He told me that would be fine. I then asked Mr. Rainey if he could provide me with the name and address of the owner of the building at 1500 Central Ave. Mr. Rainey gave me the following information: Owner - Multi-Video, Inc., 15128 Birling Road, Charlotte, N.C. 28278. The landlord for the building is Mr. Will Espin and he can be reached at 704-583-3291. Mr. Rainey told me that he submits his rent money to Tommie Espin at the same address. With this information, I left the site with plans to return later to receive Mr. Rainey's documents.

I returned to the Alternative Arts Tattoo studio around 5:00 pm to meet with Mr. Rainey. During our meeting he provided me with all of his documentation. I then requested copies of the pictures Mr. Harris took during the incident. He told me he could send those at a later date. I told him that would be fine. I requested that he send those pictures to the Mooresville Regional Office.

While I was at the studio, Mr. Rainey informed me that one of Heaven Clothing's employees had been washing down the sidewalk on the Pecan Ave. side. When I concluded my meeting with Mr. Rainey, I walked around the corner to investigate the matter. As Mr. Rainey had said, the sidewalk had been washed down using a garden hose. The resultant mixture of water and sand was observed down a side street that runs parallel with Pecan Ave. The following pictures and associated notes of the conditions observed during the site visit are documented below:

Picture 21

The following pictures were taken on September 28, 2000. Earlier before the picture was taken, a Heaven Clothing employee was observed by Mr. Rainey washing down the outside parking lot with water. The puddles and water stains document this action.

Picture 22

This picture documents the migration of sand off-site from the Heaven's Clothing site. The sidewalk shown in the picture is that of the neighboring business to Heaven Clothing.

Picture 23

This picture documents a puddle of water generated by the washing down of this area. On the right side of the photograph it noted the water hose used to perform the

washing.
Note: New stone (white) has been placed on the rock garden area next to the building.

Picture 24
This picture documents the extent of the migration of the contaminated sand from the Heaven Clothing site. The water and sand mixture extends down the street, passing other neighboring businesses. The picture was taken from a 180 degree turn from the angle shown in picture 21.

The following notes are for the pictures provided by the Mr. Rainey and Mr. Harris from Alternative Arts Tattoo. These pictures were taken on July 3, 2000.

Picture 25
This picture shows the floor of Alternative Arts Tattoo on July 3rd when Mr. Rainey and Mr. Harris arrived at the business. Note the amount of sand/dust on the tile floor.

Picture 26
This picture also documents the condition of the floor inside the Alternative Arts Tattoo studio.

Picture 27
This picture documents the front counter inside the Alternative Arts Tattoo studio. The folders noted on the counter are of tattoo designs to be shown to prospective customers.

Picture 28
This picture documents the condition of the wall folders of tattoo designs.

Picture 29
The picture documents the condition of the area inside the work area. Note the finger marks left from the wiping of the contaminated dust on the television.

Picture 30
The picture documents the extent of the dust contamination within the work area of Alternative Arts Tattoo. Contaminated dust has covered these unknown items stored on the top of the counter.

Picture 31
The picture shows the extent of the contamination found inside the work area.

Picture 32
This is another picture of the other side of the work area

inside Alternative Arts Tattoo.

Picture 33
This picture documents the sidewalk in front of the Alternative Arts Tattoo studio and the Heaven Clothing site. The road running parallel with the sidewalk is Central Ave. Note the contaminated sand on the sidewalk, in the ditch area of the road, and in the middle of the road.

Picture 34
This picture shows the front of the Alternative Arts Tattoo studio on July 3, 2000.

Picture 35
This picture documents the amount of sand, either contaminated or unused, in front of the Heaven Clothing site. Note the sand is so deep that a shovel is able to stand up in the pile.

Picture 36
This is another picture of the outside of Alternative Arts Tattoo. Note the amount of sand observed on the sidewalk.

Picture 37
This picture documents the extent of the migration of contaminated sand from the Heaven Clothing site. Note the sand in the ditch area of the road. The Heaven Clothing location is approximately 3 - 4 businesses away from the point where the picture was taken.

Picture 38
This another picture taken from the same angle and point as the previous picture.

Picture 39
This picture was taken approximately 10 feet closer than the previous two pictures.

Picture 40
This picture documents the amount of contaminated sand that collected in front of a doorway of a neighboring antique dealer. Note the amount of sand on the sidewalk.

Picture 41
This picture was taken from another angle, but from the same point as the previous picture.

Picture 42
This picture was taken from Pecan Ave. side of the Heaven Clothing site. Note the rock garden in the middle of the picture. The picture documents the type of equipment used during the operation and the lack of collection devices for the contaminated sand. The Western wall of Heaven Clothing

seems to be over half done at the time this photo was taken.

Picture 43
This picture documents the Southern and Eastern outside walls of Heaven Clothing. These walls were not sandblasted during this operation. It is unknown how much material was left on top of the building.

Picture 44
This picture is another angle caught of the Southern and Eastern outside walls of Heaven Clothing.

Picture 45
This picture documents 10-5 gallon containers full of contaminated or used sand. These containers were being stored at the corner of Pecan Ave. and Central Ave. They were eventually taken over to the Pickett Farm Site in Western Mecklenburg Co.

Picture 46
This picture documents the condition of the sidewalk during the sandblasting operation. The picture was taken from the corner of Pecan Ave. and Central Ave. Note the amount of sand on the sidewalk.

Picture 47
This picture documents the condition of the pay telephone that was found at the corner of Pecan Ave. and Central Ave. The telephone is attached to the outside of the building where Heaven Clothing is located. Refer to picture 35 for the pay telephone's exact location.

Picture 48
This picture documents the amount of sand that accumulated at the front door area leading into Alternative Arts Tattoo studio.

September 29, 2000

On the above day, I received a call from Mr. James Costner of Morningstar Sign & Sandblasting. My first question was why he continued to remediate the rock garden at the Heaven Clothing site. He told me that they were receiving increasing pressure from the next door neighbor to clean the material up. I reminded him that I told him and Mr. Funderburk not to move any of this material until the sample results were returned. I then informed him of the sample results and that all of the samples that were taken were tested to be a hazardous waste. I then asked him where he took the material he remediated for the site. He told me that the sand material was being stored in containers at the farm site in Western Mecklenburg Co. He was unsure how much material was at the site

from the recent activities. I then suggested to Mr. Costner that he document the amounts of material that he has taken to this site. I requested this information be put in writing and sent to me at the Mooresville Regional Office.

I then informed Mr. Costner that he will be issued a Compliance Order with Administrative Penalty for his actions regarding this case. The final penalty will be issued from the Raleigh Office. He will be cited for two violations (1) Failure to make a waste determination on the sand material and (2) Improper disposal of a hazardous waste. Specifically, for Morningstar Sign & Sandblasting, improper disposal of a hazardous waste refers to the placement of Lead contaminated sand at the property in Western Mecklenburg Co. I informed him that the North Carolina Hazardous Waste Section can administer a monetary value of $25,000.00 per violation when a Compliance Order is issued.

Before the State learned of the remediation of the rock garden, the only violations being considered were those documented below. I informed Mr. Costner that the State may consider the violation of the illegal transportation of hazardous waste from the Heaven Clothing site to the farm site. While Mr. Costner was not aware the State's sample analysis of the sand material, he was aware that Mecklenburg Co. Environmental Protection results indicated the material was a hazardous waste. Yet, he continued to transport lead contaminated sand to the Pickett Property in Western Mecklenburg Co.

At this point in the conversation, I requested a second time that Mr. Costner provide me with the quantities of sand material that was transported to the farm site. He told me he would get this to me as soon as possible. I also requested the name of the owner of the farm site property and the complete address of this individual. We then concluded our telephone conversation.

I received Mr. Costner's letter on October 23, 2000 in the Mooresville Regional Office. The property owner of the farm site was provided as: Albert Eric Pickett, 5621 Mt. Olive Church Road, Charlotte, N.C. 28278, (704) 392-1823. The following totals were given by Mr. Costner:

July 4, 2000 -

3 trips between locations
amounts indicate per trip - 12-5 gal. buckets,
1/2 full 40 gal. trash can,
1/2 full 2-50 metal drums,
3-4 gal. of sand emptied onto a piece plastic and wrapped up.

Total: 36-5 gal. buckets = 180 gallons
1 1/2 40 gal. trash cans = 60 gallons
3-50 gal. drums = 150 gallons
Approx. 12 gal. of sand in plastic,

TOTAL: 402 gallons
All material was poured on the ground

July 6, 2000 -

1 trip between locations - 12-5 gal. buckets,
1/3 full 40 gal. trash can,
1/3 full 2-50 metal drums.

Total: 12-5 gal. buckets = 60 gallons
1/3 full 40 gal. = approx. 13 gallons
2/3 of 50 gal. drums = 33 gallons,
TOTAL: 106 gallons
All material was poured on the ground

August 17, 2000

1 trip between locations - 12-5 gal. buckets taken and put into plastic and metal containers onsite.

TOTAL: 60 gallons

September 1, 2000

1 trip between locations - 12-5 gal. buckets taken and put into plastic and metal containers onsite.

TOTAL: 60 gallons

September 12, 2000

1 trip between locations - 14-5 gal. buckets taken and put into plastic and metal containers onsite.

TOTAL: 70 gallons

September 18, 2000

1 trip between locations - 14-5 gal. buckets taken and put into plastic and metal containers onsite.

TOTAL: 70 gallons

Total amount of Lead contaminated sand at the Pickett property:

On the ground: 508 gallons
In containers: 260 gallons

Mr. James Costner's letter will be attached to this report for documentation.

Post Investigation

After collection of all evidence and documentation is completed, the North Carolina Hazardous Waste Section will issued two(2) Imminent Hazard Notice of Violations for the assessment and cleanup of both sites. The Notice of Violation for assessment and

cleanup of the Heaven Clothing site will be issued to (1) Mr. Will Espin (property owner), Mr. James Funderburk (operator of Heavens Clothing), and Mr. James Costner (owner of Morningstar Sign and Sandblasting). The Notice of Violation for the assessment and cleanup of the Pickett property will be issued to (1) Mr. James Costner (owner of Morningstar Sign and Sandblasting) and Mr. Albert Eric Pickett (owner of property where Mr. Costner dumped the lead contaminated sand).

Additionally, the North Carolina Hazardous Waste Section will issue two (2) Compliance Orders with Administrative Penalties for the following violations documented during the complaint investigation.

VIOLATIONS:

The following violations were documented during the complaint investigation of the Heaven Clothing site. These violations are specific to Mr. James Funderburk, Owner of Heaven Clothing, Mr. Will Espin, Owner of the property at 1500 Central Ave. and Mr. James Costner, Owner of Morningstar Sign and Sandblasting.

1. **40 CFR 262.11**, adopted by reference at 15A NCAC 13A .0107, states that a person who generates a solid waste, as defines in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

   a. He should first determine if the waste is excluded from regulation under 40 CFR 261.4 and 261.5.

   b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

   c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

      i. Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the Administrator under 40 CFR 261.21; or

      ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

   d. If the waste is determined to be hazardous, the generator must refer to Parts 264, 265, and 268 of this chapter for possible exclusions or restrictions pertaining to management of his specific waste.

During the complaint investigation, Heaven Clothing was found in violation in that it generated a solid waste, as defined in 40 CFR 261.2, and did not determine if that waste is a hazardous waste. Specifically, during the complaint investigation, the owner of Heaven Clothing, Mr. James Funderburk and the owner of the property, Mr. Will Espin, failed to determine if sandblasting material generated at his store location was contaminated with lead.

2. **15A NCAC 13A .0109(a),** in that any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage, or disposal of hazardous waste is prohibited except as provided in this Section.

   During the complaint investigation, three responsible parties related to the Heaven Clothing incident were found in violation of 15A NCAC 13A .0109(a), in that unknown quantities of lead contaminated dust and sand were disposed of at the site. Specifically, during the documented sandblasting operation, lead sand was allowed to migrate offsite from the Heaven Clothing site located at 1500 Central Ave.

   The following parties will be responsible for the illegal disposal issue at the Heaven Clothing site:

   1. Mr. Will Espin, Owner of the property at 1500 Central Ave. Mr. Espin is responsible as a generator because he owns the property where Heaven Clothing is located. He is ultimately responsible for what occurs on his property.

   2. Mr. James Funderburk, Owner of Heaven Clothing is responsible because he paid for the work to be completed by Morningstar Sign and Sandblasting. He will be viewed as the primary generator of the hazardous waste.

   3. Mr. James Costner, Owner of Morningstar Sign and Sandblasting is responsible because he performed the work at the site. He will be considered as a secondary generator of the hazardous waste.

The following violations are specific to the Pickett property: Mr. James Funderburk, Owner of Heaven Clothing, Mr. Will Espin, Owner of the property at 1500 Central Ave., Mr. James Costner, Owner of Morningstar Sign and Sandblasting, and Mr. Albert Eric Pickett, Owner of the property located at 5621 Mt. Olive Church Road.

1. **40 CFR 262.11**, adopted by reference at 15A NCAC 13A .0107, states that a person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous

waste using the following method:

a. He should first determine if the waste is excluded from regulation under 40 CFR 261.4 and 261.5.

b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

   i. Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the Administrator under 40 CFR 261.21; or

   ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

d. If the waste is determined to be hazardous, the generator must refer to Parts 264, 265, and 268 of this chapter for possible exclusions or restrictions pertaining to management of his specific waste.

During the complaint investigation, Heaven Clothing was found in violation in that it generated a solid waste, as defined in 40 CFR 261.2, and did not determine if that waste is a hazardous waste. Specifically, during the complaint investigation, the operator of Heaven Clothing, Mr. James Funderburk and the owner of the property, Mr. Will Espin, failed to determine if sandblasting material generated at his store location was contaminated with lead.

Mr. James Costner, Owner of Morningstar Sign and Sandblasting will also be responsible for conducting a waste determination because he transported this material to the Pickett property from the Heaven Clothing site.

2. **40 CFR 263.11(a),** adopted by reference at 15A NCAC 13A .0108, states that a transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator.

During the complaint investigation, Mr. James Costner, owner of Morningstar Sign and Sandblasting, was found in violation in that he transported a hazardous waste and did not obtain an EPA identification number from the Administrator. Specifically, during the complaint investigation it was

documented that Mr. Costner transported lead contaminated sand from the Multi-Video, Inc./Heaven Clothing site to the Pickett property located at 5621 Mt. Olive Church Road, Charlotte, North Carolina. Mr. Costner was advised not transort any more of this material on August 11, 2000. It has been documented in this report that Mr. Costner continued to transport material to the Pickett property after this advisement. This additional transportation of material occurred around September 25, 2000.

3. **15A NCAC 13A .0109(a),** in that any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage, or disposal of hazardous waste is prohibited except as provided in this Section.

During the complaint investigation, four responsible parties related to the Heaven Clothing incident were found in violation of 15A NCAC 13A .0109(a), in that unknown quantities of lead contaminated dust and sand were disposed of at the Pickett property site. Specifically, lead contaminated sand was transported to the Pickett property and disposed of onsite. Approximately 508 gallons of lead contaminated sand was disposed of at the Pickett property. This material was dumped in a documented area onsite. Additionally, 260 gallons of lead contaminated sand has been containerized at the site.

The following parties will be responsible for the illegal disposal issue at the Pickett property site located at 5621 Mt. Olive Church Road, Charlotte, N.C.:

1. Mr. James Funderburk, Owner of Heaven Clothing is responsible because he paid for the work to be completed by Morningstar Sign and Sandblasting. He will be viewed as the primary generator of the hazardous waste.

2. Mr. Will Espin, Owner of the property at 1500 Central Ave. Mr. Espin is responsible as a generator because he owns the property where the lead contaminated sand was generated.

3. Mr. James Costner, Owner of Morningstar Sign and Sandblasting is responsible because he performed the work at the site. Mr. Costner transported the lead contaminated sand to the Pickett property for disposal. He will be considered as a secondary generator of the hazardous waste.

4. Mr. Albert Eric Pickett, Owner of the property located at 5621 Mt. Olive Church Road is responsible because hazardous waste was disposed on his property. He is

ultimately responsible for what occurs on his property.

Comments:

If there are any questions regarding this complaint investigation report, the writer, Mr. Joseph Parker may be contacted at (919) 380-7144.

_____ _____

Inspector Facility Contact

ACTIVITY TYPE: CHECK MOST APPROPRIATE

1.	COMPLAINT - X	5.	PRESENTATION
2.	SPILL	6.	TRAINING
3.	TECHNICAL ASSISTANCE	7.	MEETING
4.	REMEDIAL ACTION (other than WPCA)	8.	OTHER

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO:	Ms. Jill Pafford	(919) 715-3605
cc:	Mr. Jesse Wells	(828) 926-4326
	Ms. Robin Proctor	(828) 625-0171
	Mr. Joe Parker	(919) 380-7144

FROM: Tom Griffin

DATE: February 1, 2001

NO. OF PAGES: Six (6)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Re:

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

PARKER POE
PARKER POE ADAMS & BERNSTEIN LLP
Attorneys and Counselors at Law

THOMAS N. GRIFFIN, III
PARTNER

DIRECT DIAL
704-335-9049

tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

February 1, 2001

VIA FACSIMILE (919/715-3605) AND U.S. MAIL

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
Division of Waste Management
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Notice of Violation – Docket No. 2001-030

Pickett Farm Property
Notice of Violation – Docket No. 2001-031

Dear Ms. Pafford:

I am writing on behalf of Heaven, LLC to respond again to the Notices of Violation (Docket Nos. 2001-030 and 2001-031) that were issued as a result of the sandblasting activities performed and managed by Morningstar Sign and Sandblasting. I have previously written to submit the Comprehensive Sampling Plan requested by your office for both the Central Avenue site where Morningstar conducted the work and the Pickett Farm location where Morningstar deposited the sand. After submitting that package, I spoke with Joe Parker to ask how best to address the recommendation that an administrative penalty be assessed against Heaven for Morningstar's work, one of our primary concerns being that much of the key information provided to Mr. Parker was, in our view, inaccurate. Joe suggested that I contact you to provide our input. If there is some other tack that you believe that we should take, please let us know and we will be happy to do so.

- Mr. Funderburk of Heaven did not, as Mr. Rainey suggested, know that the paint on the building leased by Heaven was lead-based. Heaven believed that the paint on the building was latex and, as indicated above, did not receive any information to the contrary.

  In fact, in thinking back on the situation, Heaven recalls that it was told by an employee of the previous tenant that the building was unpainted until the 1980's, well after the 1978 threshold date for lead-paint concerns. It also recalls that the sandblasting uncovered an old, painted "Pepsi" sign under the paint over the Rock Garden, which may have been the source of the lead. Heaven could not have known of this older sign before beginning the work.

- It does not appear from Mr. Parker's report that sand other than that found on the retail location itself was tested for TCLP, so we cannot comment on the suggestion that lead-containing sand migrated off of the sandblasting site. Heaven did notice, however, that Morningstar spilled a substantial amount of unblasted sand while filling its hopper on the sidewalk in front of the neighboring tattoo parlor. This unused sand is probably reflected in some of the pictures included in the report. Similarly, Heaven used sand in its prior landscaping work, and believes that some residual sand in the photographs listed on page 9 of the report may be left over from the old landscaping. We have never received copies of the photos so we cannot provide a more accurate response, but Heaven submits that there were "clean" sources for sand found at the site.

- Heaven believes that the interview with Mr. Rainey provided especially inaccurate information. On a careful reading, the interview does not provide information relevant to the hazardous waste issues before you for consideration. Nevertheless, I would like to take some time to correct the record on several points, to the extent that you think them important. In brief, Heaven has informed me that:

  - The sandblasting was performed in connection with Heaven changing its line of clothing to reach a different market. Heaven did indeed sell some of its old stock at 80% or more off normal prices, but only to get rid of the prior inventory. In fact, as I write this letter, Heaven is having a winter clearance sale on merchandise, all received since Heaven reopened as a new store, with advertised prices up to 75% off and some items marked down more than that, based on how well they sold. I am told that this is a customary practice in the retail industry,

especially to advertise your highest markdown, when in fact some things may only be marked down to 10 or 20% off. In any event, the sale noted by Mr. Rainey actually began before the sandblasting work and had nothing to do with the sand or dust. The few articles affected by the dust were not sold.

- Mr. Funderburk did not offer to make his employees clean the dust in Mr. Rainey's tattoo parlor. Mr. Funderburk, not knowing that lead might be involved, offered to do the work himself. He brought cleaning supplies and a HEPA vacuum to do the work. Mr. Rainey refused, and also refused an offer to have a cleaning service come to his shop. Heaven then offered to have Chem-Clean clean the shop, as they are experienced in cleaning doctor's offices where surgery is performed . Heaven had confirmed with the EPA hotline that the cleaning method proposed by Chem-Clean would be appropriate. Mr. Rainey refused again. Finally, Mr. Rainey contacted Onyx Environmental Services and received a quote of $15,260.00 to clean the shop. Contrary to what Mr. Rainey said, Heaven offered to pay Onyx directly. Mr. Rainey refused, suggesting that Heaven pay him that amount and he would clean the shop himself. Heaven declined to pay Mr. Rainey unless Onyx did the work, and understands that Mr. Rainey then did the work himself.

- As noted in Mr. Parker's report, the testing of the dust in Mr. Rainey's shop came back at 2.25 total lead. I am unaware of any testing of the dust for TCLP lead, but I do not think that if could have exceeded the 5 mg/l limit, based on the total level.

- Heaven believes that there is no air conditioning unit on Mr. Rainey's or Heaven's roof. There are only condenser units on top of the buildings. Heaven believes that Mr. Rainey's shop is cooled by a window unit.

- Mr. Rainey believed that he saw an employee of Heaven washing down the sidewalk. Heaven believes that this work was performed by a painter who was cleaning paint off of the sidewalk, unknown to Heaven. Other cleanup efforts were made while finishing construction, but at no time was it Heaven's intent to improperly address any remaining sand at the site.

I bring these matters to your attention to emphasize the fact that Heaven acted reasonably and responsibly in this situation, and to ensure that the Branch is not presented with an inaccurate impression of Heaven's attitude or activities based on information provided to Mr. Parker.

As you may know, Heaven operates a small retail clothing store at the Central Avenue location. Neither Heaven nor its members have any experience with hazardous waste issues – such expertise is simply not required to operate the store because it does not generate hazardous waste. In particular, Heaven did not have any familiarity with lead waste management issues or the requirements that may apply to sandblasting. It relied on Morningstar to provide that expertise. While Heaven recognizes that ignorance of the law is certainly no excuse for non-compliance, we do believe that its level of expertise (and the absence of need to develop that expertise) is a substantial mitigating factor when deciding whether to impose civil penalties. Indeed, the RCRA regulations and their application can remain impenetrable and mysterious even to an environmental professional, and much more so to the average citizen. In light of Heaven's willingness (along with Morningstar) to take responsibility for the two locations involved in this matter, at substantial expense relative to its size, we respectfully submit that the implementation of additional cost through administrative penalties is not necessary to achieve the goals of the RCRA program or to ensure compliance in the future.

We also think, as I suggested above, that some of the information provided to Joe Parker and the Branch paints an unnecessarily harsh and incorrect picture of Heaven and its involvement in this matter. With this in mind, we wanted to highlight several points, and also to point out where information may have been misunderstood or was not correct. In particular:

- Heaven coordinated this matter thoroughly with its landlord and received explicit, written permission to proceed with the work. In fact, Heaven understood that the landlord affirmatively wanted the work performed and was glad to have someone else pay for it. The landlord eventually gave the upstairs tenant a free month's rent to get that tenant to go along with the work. Heaven has only been a tenant in the space since October, 1998, and at no time was Heaven provided any information that the paint on the building might be sufficiently old to warrant special attention or treatment.

- We believe that Mr. Parker may have misunderstood Heaven's relationship with Morningstar. Morningstar had not performed several jobs for Heaven. Mr. Funderburk explained that Mr. Costner had performed work for several people in the neighborhood and had been recommended by someone who works at a large property management company. Mr. Costner had performed only one small job for Mr. Funderburk prior to the Central Avenue job. In short, Heaven did not know that Morningstar did not have the expertise or experience to perform the job safely and in accordance with law.

There is no doubt that Heaven was placed in an untenable and unfortunate situation by a contractor who was clearly over its head in undertaking the sandblasting work. Heaven subsequently responded appropriately to its neighbor's concerns, and has responded to the Branch's request that it investigate and remediate the situation. With this in mind, and for the reasons noted above, we would again submit that the imposition of penalties against Heaven is not warranted or necessary to further the Branch's programs, and we would ask that penalties not be imposed.

As always, we appreciate your courtesy and your consideration of our position. Please do not hesitate to contact me if you should have any questions or need any further from me along these lines.

Very truly yours,

Thomas N. Griffin, III

TNG/cmh

cc: Mr. James Funderburk, Heaven, LLC
Mr. Jesse Wells
Ms. Robin Proctor
Mr. Joe Parker

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO: Ms. Jill Pafford

FAX NO.: (919) 713-3605

FROM: Tom Griffin

DATE: December 29, 2000

NO. OF PAGES: Three (3)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

FROM 919271555 SOLID WASTE DIV

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
ASHEVILLE REGIONAL OFFICE

JAMES B. HUNT JR.
GOVERNOR

WAYNE McDEVITT
SECRETARY

Division of Waste Management
January 2, 2001

VIA FACSIMILE

Mr. Thomas N. Griffin, Esquire
Parker, Poe, Adams & Bernstein, L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, N.C. 28202

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Pickett Property, 5631 Mt. Olive Church Road
Notice of Violation-Docket No. 2001-30 & 2001-31

Dear Mr. Griffin:

This office is in receipt of your correspondence dated December 29, 2000, requesting an extension of the January 5, 2001 deadline for the submittal of the Phase I Questionnaire or a comprehensive sampling and analysis plan. The request to submit the initial required information by January 19, 2001 for both NOVs is hereby granted. It is requested that along with the submittal that you outline a schedule for completion of assessment and remediation activities. This request is being made with the knowledge that the plan must be reviewed and approved by the Section prior to implementation.

As you are aware other potential responsible parties have been identified with this incident. I would suggest that all parties work together as much as possible to prevent unnecessary delays and hindrances to completion of this assessment and remediation project. If you should have any questions concerning this extension do not hesitate to contact either Joe Parker at (919) 380-7144 or me at (828) 926-4326. Questions concerning completion of the Phase I Questionnaire or development of the sampling or analysis plan should be addressed to Ms. Robin Proctor at (828) 625-0171.

Sincerely,

Jesse W. Wells

Jesse W. Wells
Western Area Compliance Supervisor
Hazardous Waste Section

cc: Doug Holyfield
Joe Parker
Robin Proctor
Central Files

INTERCHANGE BUILDING, 59 WOODFIN PLACE, ASHEVILLE, NORTH CAROLINA 28801
PHONE 828-251-6208 FAX 828-251-6452
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

828-926-4326

PARKER POE
Attorneys and Counselors at Law

THOMAS N. GRIFFIN, III
PARTNER

DIRECT DIAL
704-335-9049

tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

December 29, 2000

VIA FACSIMILE (919/715-3605)

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
Division of Waste Management
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Notice of Violation – Docket No. 2001-030

Dear Ms. Pafford:

I am writing to you on behalf of my client, Heaven, LLC, with respect to the Notices of Violation issued to Heaven (through James Funderburk) for sandblasting work related to property at 1500 Central Avenue in Charlotte, North Carolina (Docket Nos. 2001-030 and 2001-031). As you know, the NOV in Docket No. 2001-030 requires that Heaven and Multi-Video, Inc. submit to your office either the Phase I Questionnaire or a comprehensive sampling and analysis plan by January 5, 2001. The second NOV (Docket No. 2001-031) directs Morningside Sign and Sandblasting to evaluate property to which sandblasting media was transported, and also asks for a sampling plan by January 5. I spoke today with Joe Parker to request an extension of the January 5 deadline for both NOVs, and he indicated that I should touch base with you directly.

I understand that Heaven received both NOVs fairly late, probably due to the slow holiday mail. They immediately began to seek proposals from qualified consultants to perform the required work; to date we have received and are evaluating three proposals. We anticipate working with your office to ensure that our submission will meet your requirements. At the same time, we need to work with the other NOV recipients to discuss the proposals and how the work will be performed. With all this in mind, we believe that additional time will be necessary to respond adequately to the NOVs.

At present, we would ask that you extend the deadline for two weeks, to and including January 19, 2001. If for some reason we should need additional time, we will contact you to discuss the matter. In addition, our request is based on our understanding that we may satisfy your initial deadline by supplying a sampling plan, as opposed to submitting a report of actual completed work. If you are anticipating that the work will actually be performed by the deadline, we would respectfully request additional time to complete it (beyond the 14 days).

In addition to Heaven, I understand that the other parties to this matter would like additional time, as well. I would therefore ask that the deadline be extended for all recipients of the NOVs.

I appreciate your patience and courtesy in this matter. I would be grateful if you would let me know your thoughts on the extension prior to January 5. In the meantime, please call me if you should have any questions.

Very truly yours,

Thomas V. Griffin, III

TVG/cmh

Kennedy Covington

ATTORNEYS AT LAW

Stanford D. Baird
704/331-7595
sbaird@kennedycovington.com

January 19, 2001

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
Department of Environment and Natural Resources
1646 Mail Service Center
Raleigh, NC 27699-1646

RE: Pickett Farm, 5631 Mt. Olive Church Road
1500 Central Avenue, Charlotte, NC
Mecklenburg County
Notices of Violation -- Docket Numbers 2001-30 & 2001-31

Dear Ms. Pafford:

Our Firm represents Mr. Will Espin and Multi-Video, Inc. with respect to the above-referenced matter. This letter provides our clients' perspective on issues related to this matter and seeks to correct errors in the Investigation Report and the Notices of Violation.

Background. On December 11, 2000, your office issued two Imminent Hazard Notices of Violation, Docket Number 2001-030 (the "Central Avenue NOV") and Docket Number 2001-031 (the "Picket Farm NOV"). Both NOVs were sent to Multi-Video, Inc. among other parties. The NOVs were issued following an investigation by Joe Parker of sandblasting activities that took place in July of 2000. The sandblasting was planned and contracted for by James Funderburk and Heaven, LLC (collectively, "Heaven") while the sandblasting and the handling, transportation, and disposal of sandblasting waste was carried out by James Costner and Morningstar Sign & Sandblasting (collectively, "Morningstar"). Multi-Video, Inc. merely owns the property located at 1500 Central Avenue in Charlotte (the "Property") where Heaven leases retail space for a clothing store and where the sandblasting occurred. Neither Mr. Espin nor Multi-Video, Inc. played any part in the sandblasting or the handling, transportation or disposal of sandblasting waste.

The Complaint Investigation Report. Mr. Parker prepared a Complaint Investigation Report dated August 11, 2000 (the "Investigation Report"), which summarizes his investigation of the sandblasting and which alleges certain violations of law by Mr. Espin, Heaven, and Morningstar. The Investigation Report contains several critical errors that must be corrected at the outset. First, throughout the Investigation Report, Mr. Parker states that Mr. Espin is the owner of the Property.

This is incorrect; Multi-Video, Inc. owns the Property, not Mr. Espin. Mr. Espin is a shareholder of Multi-Video, Inc., and has no association with the Property and had no involvement with anything related to this matter as an individual.

Second, the Investigation Report characterizes Mr. Espin as a "generator" of the hazardous lead paint waste throughout the report. This is also incorrect. Neither Mr. Espin, nor Multi-Video, Inc. is a "generator" with regard to the hazardous waste involved here as that term is defined. A "generator" of hazardous waste is defined as

> *any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.* 40 C.F.R. § 260.10.

As noted, Mr. Espin had no involvement with this matter as an individual. As for Multi-Video, Inc., it is merely the owner of the Property. Multi-Video, Inc. did not undertake any act or process producing hazardous waste, in this case the sandblasting waste, and did not first cause the sandblasting waste to become subject to regulation. Therefore, neither Mr. Espin, nor Multi-Video, Inc. is a "generator" with regard to the sandblasting waste.

Third, the Investigation Report alleges that Mr. Espin violated 40 C.F.R. § 262.11 by failing to make a hazardous waste determination regarding the sandblasting waste and violated 15A N.C.A.C. 13A.0109(a) by improperly treating, storing or disposing of the sandblasting waste. These allegations are also erroneous. As noted above, Mr. Espin is not involved with this matter as an individual. Additionally, because Multi-Video, Inc. did not generate the sandblasting waste as discussed above, 40 C.F.R. part 262 does not apply to it. As a result, Multi-Video, Inc. was under no obligation to characterize the sandblasting waste. Multi-Video, Inc. also did not treat, store, or dispose of the sandblasting waste. Any such activities were undertaken by Morningstar, not Multi-Video, Inc.

Notices of Violation. The Central Avenue NOV deals entirely with the sandblasting activities at the Property and alleges that Multi-Video, Inc. and Heaven violated 15A N.C.A.C. 13A.0109(a) "in that lead contaminated sand determined to be a hazardous waste has been disposed of onsite" improperly. *See* Central Avenue NOV, p. 3. The Central Avenue NOV contains several crucial errors. First, the Central Avenue NOV does not allege that Morningstar violated 13A.0109(a) with regard to the Property, despite the fact that Morningstar did the sandblasting. If anyone is in violation of 13A.0109(a) related to the sandblasting, it is Morningstar. DENR should direct Morningstar to carry out the assessment and any remediation at the Property. Second, as discussed above and in my prior letter to you dated January 9, 2001, Multi-Video, Inc. never generated, handled, transported, stored, treated or disposed of the lead contaminated sandblasting waste. For these reasons, the Central Avenue NOV is erroneous as it relates to Multi-Video, Inc. or Mr. Espin.

The Pickett Farm NOV also is erroneous as it may apply to Mr. Espin and Multi-Video, Inc. While the Pickett Farm NOV only alleges that Morningstar is in violation of 15A N.C.A.C 13A.0109(a) with regard to the Pickett Property, this NOV was addressed to and sent to Multi-Video, Inc. Recall that it was Morningstar who handled, transported, and disposed of the sandblasting waste at the Pickett Farm, not Mr. Espin or Multi-Video, Inc. Multi-Video, Inc. has no responsibility under the Solid Waste Management Act, the Hazardous Waste Rules, or federal law for any sandblasting waste disposed of at the Pickett Farm. Neither Mr. Espin nor Multi-Video, Inc. generated waste that ended up at the Pickett Farm, nor did they handle, transport or dispose of any waste there. To the extent that mere ownership of property imposes assessment or cleanup obligations, any such obligations would fall to the owner of the Pickett Farm, which is not Multi-Video, Inc. The Pickett Farm NOV is in error to the extent it is directed to Mr. Espin or Multi-Video, Inc.

Compliance with NOVs. Although both NOVs are erroneous as applied to Mr. Espin and Multi-Video, Inc., they recognize that these matters are very serious and must be addressed. Naturally, as a property owner and citizen of Charlotte, Multi-Video, Inc. is very concerned about any possible impact the sandblasting event may have had. Multi-Video, Inc. has demanded that Heaven and Morningstar comply with the NOVs in a timely fashion. Heaven and Morningstar have assured us that they have developed a comprehensive sampling plan in consultation with Robin Proctor and will be submitting that to DENR promptly. Additionally, Multi-Video, Inc. is requiring Heaven to take additional assessment and remedial action in accordance with the terms of Heaven's lease with Multi-Video, Inc. Multi-Video, Inc. will remain in close communication with Heaven and Morningstar to ensure that they will comply with the NOVs and that they will perform the required assessment and remediation under the guidance for generator cleanups. We are confident that this can be accomplished in the near future.

Sincerely,

Stanford D. Baird
For the Firm

cc: Mr. Will Espin
Mr. Doug Holyfield
Mr. Jesse Wells
Ms. Robin Proctor
Mr. Joe Parker
Carol Jones Van Buren, Esquire

Kennedy Covington

ATTORNEYS AT LAW

Stanford D. Baird
704/331-7595
sbaird@kennedycovington.com

January 9, 2001

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
Department of Environment and Natural Resources
1646 Mail Service Center
Raleigh, NC 27699-1646

RE: Pickett Farm, 5631 Mt. Olive Church Road
1500 Central Avenue, Charlotte, NC
Mecklenburg County
Notices of Violation – Docket Numbers 2001-30 & 2001-31

Dear Ms. Pafford:

Our firm represents Mr. Will Espin and Multi-Video, Inc. with respect to the above-referenced matters. After speaking with hazardous waste inspector Joe Parker at the Mooresville Regional Office last Thursday, it has come to my attention that Mr. Parker recently referred the two Notices of Violation to you for enforcement. Mr. Parker indicated to me that compliance orders with administrative penalties could be issued by your office in the near future. I understand that Mr. Parker has recommended penalties against James Costner, Morningstar Sign & Sandblasting, James Funderburke, and Heaven Clothing, and that Mr. Parker has not recommended any penalties against Mr. Espin or Multi-Video, Inc. For the reasons discussed below and the facts of this matter, it would not be appropriate to assess penalties of any kind against Mr. Espin or Multi-Video, Inc. related to the circumstances underlying the Notices of Violation.

Multi-Video, Inc. is the owner of the building located at 1500 Central Avenue in Charlotte, North Carolina where Heaven Clothing leases retail space and operates a clothing store. The activities that led to the generation of lead waste were planned and carried out by Mr. Funderburke and Heaven Clothing (collectively, "Heaven Clothing") on one hand, and Mr. Costner and Morningstar Sign & Sandblasting (collectively, "Morningstar") on the other. Heaven Clothing contracted with Morningstar to conduct the sandblasting, who then carried out the sandblasting on behalf of Heaven Clothing. Heaven Clothing and Morningstar then disposed of the sandblasting waste.

Neither Mr. Espin nor Multi-Video, Inc. played any part in the sandblasting or the handling and disposal of sandblasting waste. They did not carry out, contract for, pay for, plan, or undertake the sandblasting. Furthermore, they played no part in or

made any decisions regarding the sandblasting operation or the handling and disposal of the sandblasting waste. In short, neither Mr. Espin nor Multi-Video, Inc. generated, handled, transported, stored, treated or disposed of the lead waste at issue. Multi-Video, Inc. merely owned the building where Morningstar and Heaven Clothing conducted the sandblasting activities.

As a mere owner of the property with no participation in the sandblasting activities or the handling or disposal of sandblasting waste, Multi-Video, Inc. did not do anything in violation of North Carolina or federal law that would warrant the assessment of administrative penalties. Neither Mr. Espin nor Multi-Video, Inc. is a "generator" with regard to the lead waste as that term is defined at 40 C.F.R. § 260.10, and neither Mr. Espin nor Multi-Video, Inc. treated, stored, or disposed of the lead waste under 15 N.C.A.C. 13A.0109(a). Any penalties assessed in this matter should be directed to the truly responsible parties, Morningstar and Heaven Clothing. Penalties against Mr. Espin and Multi-Video, Inc. would only serve to punish innocent and blameless parties.

Please let me know if you have any questions regarding this matter.

Yours very truly,

Stanford D. Baird
For the Firm

cc: Mr. Will Espin
Mr. Doug Holyfield
Mr. Jesse Wells
Ms. Robin Proctor
Mr. Joe Parker
Carol Jones Van Buren, Esquire

Step-by-Step Summary (continued)

14. Complete any related construction work that does not disturb a surface with lead-based paint (all work that does disturb painted surfaces or that could generate leaded dust should be completed as part of the lead hazard control effort).

15. Issue any necessary certificates of lead-based paint compliance or releases and maintain appropriate records.

16. Permit residents into the cleared work area.

Clearance criteria shall be as follows:

Surface	Leaded Dust Loading ($\mu g/ft^2$) (micrograms per square foot)
	Wipe Only
Floors	100
Interior Window Sills (Stools)	500
Window Troughs	800
Exterior Concrete Or Other Rough Surfaces	800

3.9.4.3 Retests. Should laboratory results indicate that the wipe test clearance level is exceeded, the Abatement Subcontractor shall reclean the affected area, at no additional cost to the Owner, utilizing the methods specified above. Retesting will then be performed to verify compliance with the mandated levels. Abatement Subcontractor shall pay for all additional testing and provide, at no additional cost, a recleaning of an affected area until the clearance level is achieved.

3.9.5 Inspections. In addition to various daily inspections of the lead work area and abatement practices, the Consultant will make four (4) mandatory inspections during the work, one during each phase of removal. Each inspection must be requested by the Abatement Subcontractor to be performed by the Consultant to the Consultant's satisfaction before work may begin for next phase of work, or an area accepted. Failure on the part of the Abatement Subcontractor to obtain the Consultant's approval before proceeding to the next scheduled phase is regarded as a violation of this section. In the event of this occurring, Consultant will request work be stopped and Owner will be contacted to intervene. The four (4) inspections are as follows:

1. Window and Door Barrier Completion. Abatement Subcontractor shall have all pre-abatement preparations of the work area complete, as described in Sections 3.1.

1. All dust, paint, and soil samples shall be analyzed for total lead, not "bioavailable" lead, as required in the HUD Guidelines for Evaluation and Control of Lead-Based Paint in Housing.

2. The following procedure (or equivalent) shall be employed for the analysis of the wipe samples:

Remove and unfold the wipe from the shipment container. Cut the wipe into small pieces and place in a 125 ml Phillips beaker. Quantitatively rinse the shipment container into the Phillips beaker. Cover the wipe with 10 ml of distilled water. Add 2 ml of concentrated HNO3 and 2 ml of HC1. Gently heat for 20-30 minutes under reflux. Cool and transfer both the liquid and the bulk material left to a 50 ml volumetric flask. If there is too much bulk material left over, rinse with distilled water and squeeze with a glass rod. Add distilled water to make up to final volume. Prior to analysis by AA or ICP, an aliquot is filtered through ashless filter paper, then centrifuged at 9K rpm for 20 minutes. The supernatant liquid is drawn off and analyzed.

3.9.9 Qualifications of Sampling Personnel

All personnel conducting environmental sampling for this project should be certified as a lead-based paint inspector, risk assessor, or inspector technician or equivalent by the Environmental Protection Agency or the appropriate state agency, or be under the supervision of such a person. Certified Industrial Hygienists are not required to have additional certification as a lead-based paint inspector.

3.10 DISPOSAL OF WASTE MATERIAL

3.10.1 Caution Note for Contractors:

All materials, whether hazardous or non-hazardous, shall be disposed of in accordance with all laws and the provisions of this Section and any or all applicable federal, state, county, or local regulations and guidelines. It shall be the sole responsibility of the Qualified Abatement Subcontractor to assure compliance with all laws and regulations relating to this disposal. Until analytical results are available, all waste materials (including water) shall be segregated and treated as hazardous.

A. Applicability. Initial TCLP results have been used to classify waste into six categories. The categories are defined by the substrate type and the amount of the six toxic metals regulated by RCRA and most commonly found in paint.

B. Waste Segregation - The Abatement Subcontractor shall be responsible for segregating waste in accordance with the previously defined six categories. Separate waste dumpsters shall be used for each of the six categories. Prior to disposal of each dumpster of waste, a representative sample will be collected by the on-site inspector, paid for by the abatement Subcontractor and analyzed by TCLP for the RCRA metals. The result of each TCLP analysis will dictate the disposal requirement for each dumpster. Unit prices listed in Section xxx shall be utilized to compensate for additional disposal cost associated with disposing of materials as hazardous waste.

samples, labs should use NIST Standard Lead Paint Dust (Standard 1578) or an equivalent secondary standard. See Appendix 14.3 for further details.

7. Field Qualifications of Dust Sampling Technicians

All individuals performing dust sampling should have state-certified training. Where possible, field experience in environmental sampling is preferable.

8. Quality Assurance/Quality Control

Blind analysis of spiked samples must fall within 80% - 120% of the true value. If the laboratory fails to obtain readings within the QA/QC error limits:

a. Two more spikes should be sent immediately to the lab for analysis.

b. If the two additional spike samples fail, the sample batch should be considered invalid. A full review of laboratory procedures may be necessary. Additional samples may need to be collected from the dwelling units from locations near the locations previously sampled.

If more than 50 μg/wipe is detected in a blank sample, the samples should be collected again since the media is contaminated. Blank correction of wipe samples is not recommended.

9. Other Information

See Chapter 5 and Chapter 14 for additional information on dust wipe sampling. Also see "Residential Sampling for Lead: Protocols for Leaded Dust and Soil Sampling" from EPA and ASTM ES 30-94 for further information.

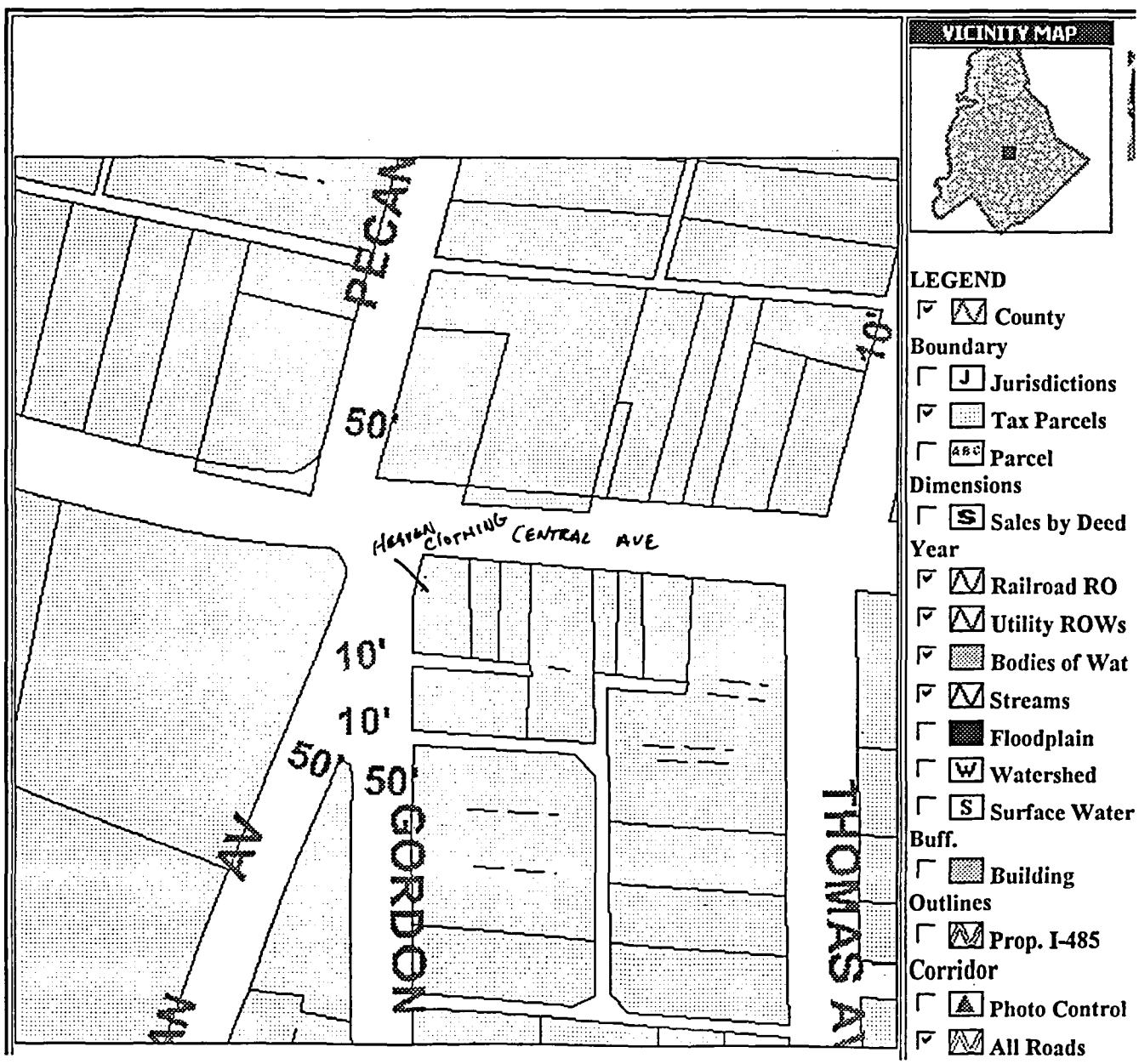
GIS Real Estate System

Mecklenburg County, NC Geographic Information Systems

Tax Parcel & Map Sheet Search | Road Name & Intersection Search | Market Analysis Search Menu
Return to Full Map Extent | How to Use the System | Return to GIS Homepage

Click on Map to Perform Operation

Refresh Map | Pan | Zoom In | Zoom Out | Zoom Factor 1X | Identify Parcels
Surveyor's Report
Adjoining Owner's Report within 10 FEET | Measure Start Line | Label Parcels by:



GIS Real Estate System

Mecklenburg County, NC Geographic Information Systems

Tax Parcel & Map Sheet Search | Road Name & Intersection Search | Market Analysis Search Menu
Return to Full Map Extent | How to Use the System | Return to GIS Homepage

Parcel-Id# 08117651 resulted in 1 responses.

To see map and data, please select the Parcel-Id# which corresponds to the Property Address.
To see data only, please select from the Data Only column.

Data Only	Parcel-Id#	Owner's Name	Property Address	Municipality	Assessed Value	Sales Price
Click Here	08117651	MULTI-VIDEO INC	1500 CENTRAL AV	CHARLOTTE	$136190	$160000

Click here to submit questions or comments about the information shown on this page.

Date and Time Stamp 9/28/00 8:44:59 AM EST	This tax record is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys and other public records. Users of this data are hereby notified that the aformentioned public primary information sources should be consulted for verification. Mecklenburg County assumes no legal responsibility for the information contained herein.

This site is powered by ESRI MapObjects Internet Map Server HITSTATS By DirectHit

This site was developed by Mecklenburg County GIS and was last updated on 9/28/00 8:32:14 AM

Multi-Video, Inc.
c/o Tommie Espin
15128 Birling Road
Charlotte, N.C. 28278

Will Espin - Landlord
704-583-3291

GIS Real Estate System

Mecklenburg County, NC Geographic Information Systems

Tax Parcel & Map Sheet Search | Road Name & Intersection Search | Market Analysis Search Menu
Return to Full Map Extent | How to Use the System | Return to GIS Homepage

Click here to submit questions or comments about the information shown on this page.

Date and Time Stamp 9/28/00 8:45:46 AM EST	This tax record is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys and other public records. Users of this data are hereby notified that the aformentioned public primary information sources should be consulted for verification. Mecklenburg County assumes no legal responsibility for the information contained herein.

Tax Real Estate Information

Parcel-Id#: 08117651 **GIS Map#:** 08117651	**Legal Desc:** LA M838-575
Account Type: DOMESTIC CORPORATION	**Deed Book/Page:** 07250/930 **Date:** 4/5/93
Owner: MULTI-VIDEO INC	**Sales Price:** $160000
Add. Owner:	**Sales Date:** 4/5/93 **Qualified Sale:** Y
Mailing: 15128 BIRLING RD	**Neighborhood Code:** 08105
Address:	**Historic Desig.:** **Farm Desig.:**
City: CHARLOTTE	**Deeded Acreage:** 0
State: NC **ZIP:** 28278	**Assessed Acreage:** 0.076
Location: 1500 CENTRAL AV Get Directions	**Assessed Land Value:** $21860
Municipality: CHARLOTTE	**Total Assessed Value:** $136190

Site Location Information

	Parks Within 3 Miles: Click to Find Out
Zoning: B2	**FEMA Flood Panel#:** AVAILABLE WITH MAP DISPLAY ONLY
Fire District: N/A	
Voter District: Click to Find Out	**FEMA Flood Zone:** AVAILABLE WITH MAP DISPLAY ONLY
School District: Click to Find Out	
Watershed Class: AVAILABLE WITH MAP DISPLAY ONLY	**FEMA Flood Map Date:** N/A
	Census Tract Number: AVAILABLE WITH MAP DISPLAY ONLY

Major Improvement Information

	Situs Location: 1500 CENTRAL AV Get Directions
Parcel-Id# & Card#: 08117651-001	
Land Use Type: COMMERCIAL	**Ext. Type:** FACE BRICK
Building Type: COMMERCIAL	**Heating Type:** FORCED AIR-DUCTED
Approximate Square Footage: 4394	**AC Type:** CENTRAL
Actual Year Built: 1932	**Fireplace:** NONE
Number of Stories: 2.0 STORIES	**Garage:** N
Bedrooms: 0	**Basement:** N
Bathrooms: 0	**Assessed Net Bldg Value:** $114330 $/SqFt = $26.02

Sandblasting of Building (Lead Based Paint)
-occurred July 3,-5, 2000

Material (Sand/Paint) taken to a farm in Western Meck. Co. and placed in a flower bed.

MECKLENBURG COUNTY ENVIRONMENTAL PROTECTION

TELECOPIER TRANSMITTAL COVER SHEET

TO: Joe Parker, NCDENR.

TELECOPIER NUMBER: 704/663-6040

FROM: Henry Sutton

TELECOPIER NUMBER: 704/336-4391

DATE: July 27,2000

Address of Building were generated: 1500 Central Ave.
Leaser of Building: James Funderburk 704-367-9767
Person performing work: James Costner
Morningstar Sign & Sandblasting 704-542-522-

PAGES TRANSMITTED INCLUDING COVER SHEET: 2

MESSAGE: MCDEP AQ issued NOV for Dust emmisions

Here is the TCLP result from the sandblasting sand sample from 1500 Central Ave. off Pecan Ave.

Please contact me at 704/336-5789 if I can be of assistance.

Sample of sand taken by MCDEP → came back 39,000 PPB Lead or 39 ppm Lead TCLP
-Sample was taken from Central Ave. site (left over sand)

700 North Tryon Street · Charlotte, North Carolina 28202-2236 · (704) 336-5500

MECKLENBURG COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL LABORATORY

Field I.D.#: 200550

Dept.: HAZ

Project:

Lab I.D. #: 39690

Rec'd By: (Signature)

Site Sampled: HEAVEN CLOTHING

Address: 1500 CENTRAL AVE., CLT NC

Source Sampled: SAND AT ROCK GARDEN

Sample Temperature: N/A

Sampled By: HENRY SUTTON (Signature)

Relinquished to Lab On:

Date: 7/24/00 Time: 1:20 ☐AM ☒PM

Relinquished By: HENRY SUTTON (Signature)

Date Rec'd: 07/24/00

Time: 1320

Sample Condition:

Temperature: N/A °C

Remarks:

Date Sampled: 7/24/00 Time: 10:30 ☒AM ☐PM

☐ COMPLIANCE SAMPLE

This data will be reported as a compliance sample to : NC DENR, NC State Laboratory of Public Health

ALL FIELD INFORMATION MUST BE RECORDED TO MAINTAIN CHAIN OF CUSTODY AND TO QUALITY ASSURE DATA

LAB USE ONLY

Chemical Composition

Inorganic ☐ _____ %

Organic ☐ _____ %

Moisture ☐ _____ %

Miscellaneous

Asbestos ☐ _____ %

Chlorophyll a ☐ _____ ppb

Corrosivity ☐ _____ SI

Dissolved Oxygen ☐ _____ ppm

Formaldehyde ☐ _____ ppm

Fecal Coliform ☐ _____ Colonies/100 mL

Fecal Strep ☐ _____ Colonies/100 mL

Aggregate Organics

BOD, ☐ _____ ppm

COD ☐ _____ ppm

Oil and Grease ☐ _____ ppm

Phenol ☐ _____ ppm

Surfactant ☐ _____ ppm

Organics

Acid Herbicide ☐ Report attached

Organic Acid ☐ _____ ppm

PCB ☐ Report attached

Pesticide ☐ Report attached

Semivolatile ☐ Report attached

TPH:

Diesel ☐ _____ ppm

Gas ☐ _____ ppm

VOC ☐ Report attached

Inorganic Non Metals

Acidity ☐ _____ ppm

Alkalinity ☐ _____ ppm

Bicarbonate ☐ _____ ppm

Carbonate ☐ _____ ppm

Chloride ☐ _____ ppm

Chlorine, Residual ☐ _____ ppm

Color ☐ _____ units

Cyanide, Total ☐ _____ ppm

Fluoride ☐ _____ ppm

Hardness ☐ _____ ppm

Nitrogen, Ammonia ☐ _____ ppm

Nitrogen, Nitrate + Nitrite ☐ _____ ppm

Nitrogen, Nitrate ☐ _____ ppm

Nitrogen, Nitrite ☐ _____ ppm

Nitrogen, Total Kjeldahl ☐ _____ ppm

pH ☐ _____ units

Phosphorus, Ortho ☐ _____ ppm

Phosphorus, Total ☐ _____ ppm

Residue, Filterable ☐ _____ ppm

Residue, Suspended ☐ _____ ppm

Residue, Total ☐ _____ ppm

Specific Conductance ☐ _____ µmho/cm

Sulfate ☐ _____ ppm

Sulfide ☐ _____ ppm

Turbidity ☐ _____ NTU

Mineral Metals

Al ☐	ppm	ppb
Ca ☐	ppm	ppb
Cu ☐	ppm	ppb
Fe ☐	ppm	ppb
Mg ☐	ppm	ppb
Mn ☐	ppm	ppb
K ☐	ppm	ppb
Si ☐	ppm	ppb
Na ☐	ppm	ppb
Zn ☐	ppm	ppb
☐	ppm	ppb
☐	ppm	ppb

Toxic Metals

TCLP Metals ☒

Sb ☐	ppb	ppm
As ☐	ppb	ppm
Ba ☐	ppb	ppm
Be ☐	ppb	ppm
Cd ☐	ppb	ppm
Cr ☐	ppb	ppm
Pb ☒	39,000 ppb	ppm
Hg ☐	ppb	ppm
Ni ☐	ppb	ppm
Se ☐	ppb	ppm
Ag ☐	ppb	ppm
Tl ☐	ppb	ppm
☐	ppb	ppm
☐	ppb	ppm

Remarks:

Date Completed: JUL 27 2000

Laboratory Director: James T. Ward
Laboratory Director

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

DEHNR

SEP 2000
RECEIVED
HAZARDOUS
WASTE

HAZARDOUS WASTE SAMPLE DOCUMENTATION FORM

Site Name: HEAVEN CLOTHING EPA#: —

Address: 1500 CENTRAL AVE.
CHARLOTTE, N.C. 28205

Sample Date: AUGUST, 14, 2000

Project Participants: JOSEPH PARKER

Title: WASTE MANAGEMENT SPEC.

SOIL SAMPLES:

SAMPLE SITE NUMBER	SAMPLE TIME	PHOTO-GRAPH #	PHYSICAL DESCRIPTION	FIELD/LAB SAMPLE #	SAMPLE SITE LOCATION
H-1	12:15 pm	1, 2, 4	SANDBLASTING SAND	018085	FROM ROCK GARDEN
H-2	12:18 pm	1, 3, 5	SANDBLASTING SAND	018088	FROM CONCRETE PAVEMENT - RUNOFF SAND
F-1	2:38 pm	NEWROLL 1-10	SANDBLASTING SAND	018087	FARM SITE
F-2	2:41 pm	NEWROLL 1-10	SANDBLASTING SAND	018089	FARM SITE

NOTE: Map of site listing corresponding sampling points on reverse side.

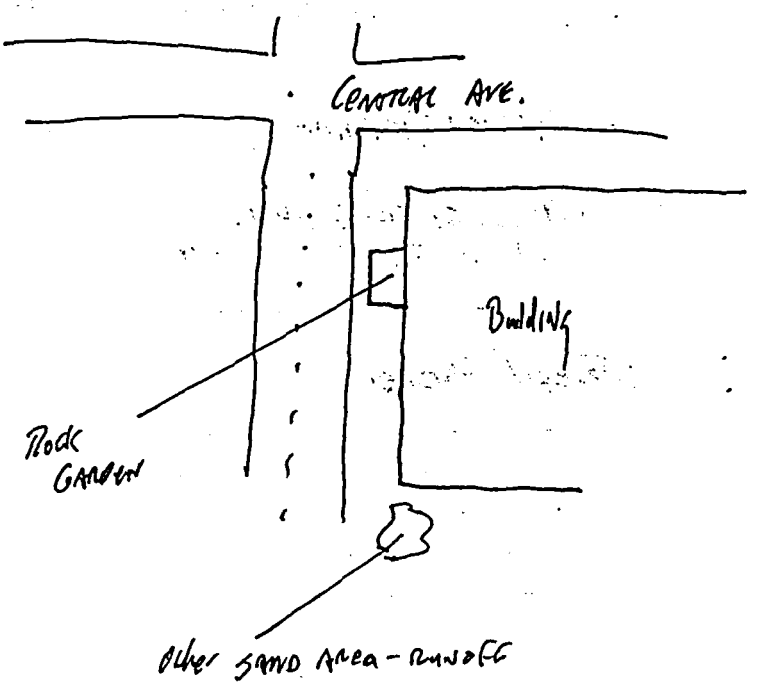
H&S/Dec96/PKL

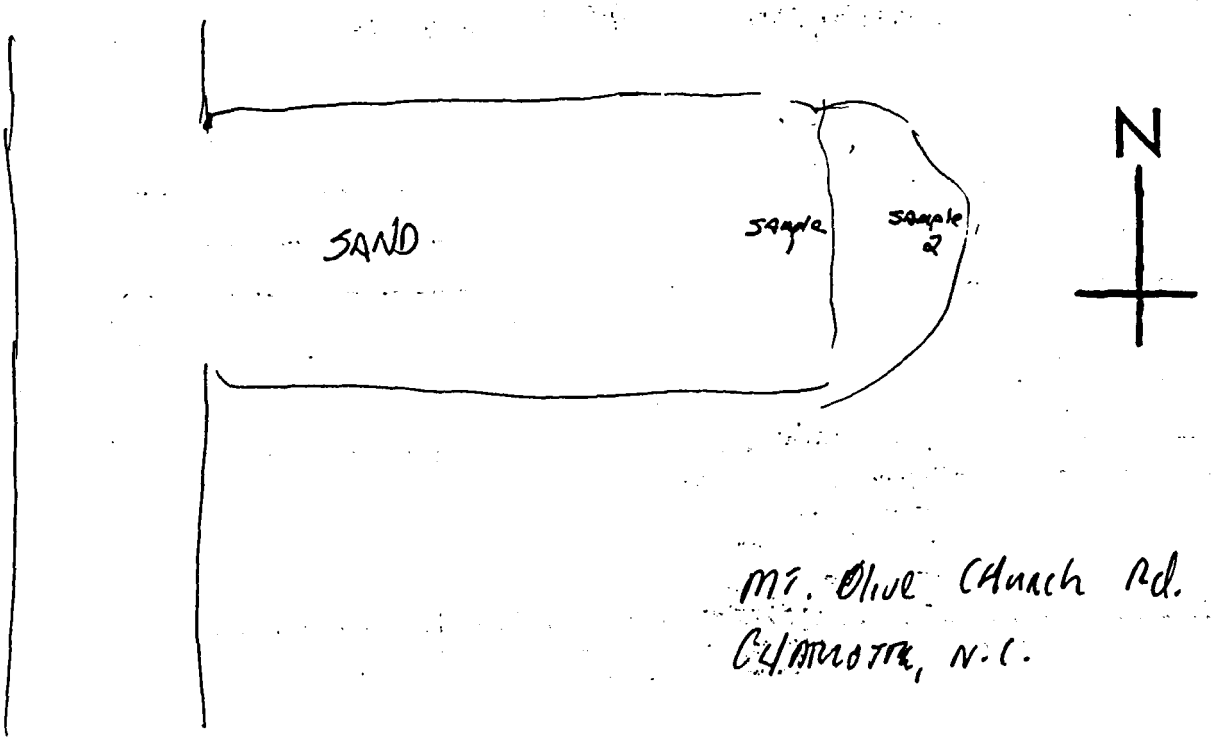
P.O. Box 27687, Raleigh, North Carolina 27611-7687 Telephone 919-733-4996 FAX 919-715-3605
An Equal Opportunity Affirmative Action Employer 50% recycled/ 10% post-consumer paper

Hazardous Waste Sample Documentation Form- Cont.

SEP 2000
RECEIVED
HAZARDOUS
WASTE

Map of Site with Corresponding Sampling Points Highlighted





NCDEHNR Solid Waste Management Div.
P.O. Box 27687, 401 Oberlin Road
Raleigh, North Carolina 27611-7687

SAMPLE ANALYSIS REQUEST

NCDEHNR Laboratory Services Division
P.O. Box 28047, 306 N. Wilmington St.
Raleigh, North Carolina 27611-8047

Site Number _____ Sample ID Number/Name 018085

Name of Site HEAVEN CLOTHING Collected By JOE PARKER ID# 029

Site Location MECKLENBURG CO. Date Collected AUG. 11, 2000 Time 12:15pm

Agency: ✓ Hazardous Waste ___ Solid Waste ___ Superfund

Sample Type

Environmental	Concentrate	Comments
___ Ground Water (1)	✓ Solid (5)	SANDBLASTING SAND
___ Surface Water (2)	___ Liquid (6)	CONTAMINATED W/ LEAD
___ Soil (3)	___ Sludge (7)	from HEAVEN CLOTHING
___ Other (4)	___ Other (8)	Site

TCLP Compounds

Inorganic Compounds	Results(mg/l)
✓ arsenic	<0.02
✓ barium	0.44
✓ cadmium	0.035
✓ chromium	0.025
✓ lead	42.92
✓ mercury	<0.01
✓ selenium	<0.03
✓ silver	<0.02

Organic Chemistry

Parameter	Results (mg/l)
___ P&T:GC/MS	
___ Acid:B/N Ext.	
___ 2,4-D	
___ 2,4,5-TP(Silvex)	
___ chlordane	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	

Inorganic Chemistry

Parameter	Results ~~(mg/l)~~ (mg/kg)
___ antimony	
✓ arsenic	<4
✓ barium	257
___ beryllium	
✓ cadmium	<4
___ chloride	
✓ chromium	18
___ cobalt	
___ copper	
___ fluoride	
___ iron	
✓ lead	2099
___ manganese	
✓ mercury	0.69
___ nickel	
___ nitrate	
✓ selenium	<2
✓ silver	<4
___ sulfates	
___ thallium	
___ vanadium	
___ zinc	
___ pH	
___ conductivity	
___ TDS	
___ flash point	

Organic Compounds

Organic Compounds	Results(mg/l)
___ benzene	
___ carbon tetrachloride	
___ chlordane	
___ chlorobenzene	
___ chloroform	
___ o-cresol	
___ m-cresol	
___ p-cresol	
___ cresol	
___ 1,4-dichlorobenzene	
___ 1,2-dichloroethane	
___ 1,1-dichloroethylene	
___ 2,4-dichloroethylene	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ hexachloroethane	
___ methyl ethyl ketone	
___ nitrobenzene	
___ pentachlorophenol	
___ pyridine	
___ tetrachloroethylene	
___ trichloroethylene	
___ 2,4,5-trichlorophenol	
___ 2,4,6-trichlorophenol	
___ vinyl chloride	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	
___ 2,4-D	
___ 2,4,5-TP (Silvex)	

FOR LAB USE ONLY

Date Received _____

Date Extracted _____

Date Analyzed _____

Reported By DJM

Date Reported 9/11/00

08-14-2000 014928

Lab Number _____

DHS 3191 (Revised 1/94)

SEP 2000 RECEIVED HAZARDOUS WASTE

Purpose: Enforcement and compliance with the N.C. Solid and Hazardous Waste Management Rules.

Preparation: A sample analyses request form must be completed for each type of evaluation requested (inorganic or organic). Each sample container should be labeled. Sample containers for organic analysis should be identified with organic labels and containers for inorganic analysis with inorganic labels. To assist in tracking the samples, a unique sample identification number (pre-printed on the label) should be assigned to the samples from each sampling point. All organic sample containers from the same sample point may be identified with the same unique sample ID number, and likewise for inorganic sample containers. Blank labels can be provided for additional containers.

Do not submit an analysis request form without any parameters indicated.

Equivalent measurements: ppm = μg/ml = mg/l = μg/g = mg/kg
ppb = μg/l = μg/1000g = μg/kg

DEFINITIONS/INSTRUCTIONS

Site Number - A unique twelve-digit site/location identifier (i.e., the EPA identification number).

Name of Site - Name of facility, landfill, etc.

Site Location - City and county.

Sample ID Number/Name - a unique sample identification number which is preprinted on the sample label and the sample name which may be an identifier for the sampling point (such as MW-1 or SS-2).

Collected By - Name and staff identification number of collector.

Date and Time Collected - Self-explanatory.

Environmental - Naturally occurring materials such as ground water, surface water, or soils which may be contaminated.

Concentrate - Waste material, including but not limited to, sludges, resins, treatment effluents, or drummed wastes.

Comments - Include sample or sample point data (e.g. sample location, well number, phase separation, and/or odor).

Inorganic Chemistry - Check (✓) the desired parameters for analysis. If not listed, enter parameter in the space provided.

Organic Chemistry - Check (✓) the desired analytical scan (P&T:GC/MS scans for volatile organic compounds, and Acid:B/N Ext. scans for semi-volatile organic compounds). If not listed, enter the compound in the space provided.

TCLP Compounds - Check (✓) the desired parameters to be analyzed. TCLP can only be performed on solid or semi-solid samples. For totals of the inorganic parameters, check (✓) the corresponding parameter under **Inorganic Chemistry**. For totals of the organic parameters, check (✓) the corresponding parameter scan under **Organic Chemistry**.

Distribution:
1. Send or deliver the original to the Laboratory Services Division.
2. The Lab then sends a copy (with results) to the Solid Waste Management Division.
3. The Solid Waste Management Division sends a copy to the field person or collector.

Disposition: This form may be destroyed in accordance with the Environmental Health, Solid and Hazardous Waste Section of the Records Disposition Schedule as published by the North Carolina Division of Archives and History.

Additional forms may be ordered from: Solid Waste Management Division
Hazardous Waste Section
P.O. Box 27687
Raleigh, N.C. 27611-7687

NCDEHNR Solid Waste Management Div.
P.O. Box 27687, 401 Oberlin Road
Raleigh, North Carolina 27611-7687

SAMPLE ANALYSIS REQUEST

NCDEHNR Laboratory Services Division
P.O. Box 28047, 306 N. Wilmington St.
Raleigh, North Carolina 27611-8047

Site Number _____ Sample ID Number/Name 018088

Name of Site HEAVEN CLOTHING Collected By JOE PARKER ID# 029

Site Location MECKLENBURG Co. Date Collected Aug. 11, 2000 Time 12:18 pm

Agency: ✓ Hazardous Waste ___ Solid Waste ___ Superfund

Sample Type

Environmental	Concentrate	Comments
___ Ground Water (1)	✓ Solid (5)	SANDBLASTING SAND
___ Surface Water (2)	___ Liquid (6)	CONTAMINATED w/ LEAD
___ Soil (3)	___ Sludge (7)	from the Heaven Clothing
___ Other (4)	___ Other (8)	Site

TCLP Compounds

Inorganic Compounds	Results(mg/l)
✓ arsenic	<0.02
✓ barium	0.87
✓ cadmium	0.03
✓ chromium	0.02
✓ lead	15.85
✓ mercury	<0.01
✓ selenium	<0.03
✓ silver	<0.02

Organic Chemistry

Parameter	Results (mg/l)
___ P&T:GC/MS	
___ Acid:B/N Ext.	
___ 2,4-D	
___ 2,4,5-TP(Silvex)	
___ chlordane	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	

Inorganic Chemistry

Parameter	Results ~~(mg/l)~~ (mg/kg)
___ antimony	
✓ arsenic	<4
✓ barium	253
___ beryllium	
✓ cadmium	<4
___ chloride	
✓ chromium	4
___ cobalt	
___ copper	
___ fluoride	
___ iron	
✓ lead	6669
___ manganese	
✓ mercury	0.59
✓ nickel	
___ nitrate	
✓ selenium	<2
✓ silver	<4
___ sulfates	
___ thallium	
___ vanadium	
___ zinc	
___ pH	
___ conductivity	
___ TDS	
___ flash point	

Organic Compounds

Organic Compounds	Results(mg/l)
___ benzene	
___ carbon tetrachloride	
___ chlordane	
___ chlorobenzene	
___ chloroform	
___ o-cresol	
___ m-cresol	
___ p-cresol	
___ cresol	
___ 1,4-dichlorobenzene	
___ 1,2-dichloroethane	
___ 1,1-dichloroethylene	
___ 2,4-dichloroethylene	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ hexachloroethane	
___ methyl ethyl ketone	
___ nitrobenzene	
___ pentachlorophenol	
___ pyridine	
___ tetrachloroethylene	
___ trichloroethylene	
___ 2,4,5-trichlorophenol	
___ 2,4,6-trichlorophenol	
___ vinyl chloride	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	
___ 2,4-D	
___ 2,4,5-TP (Silvex)	

FOR LAB USE ONLY

Date Received _____

Date Extracted _____

Date Analyzed _____

Reported By RGM

Date Reported 9/11/00

08-14-2000 014930

Lab Number _____

SEP 2000
RECEIVED
HAZARDOUS
WASTE

DHS 3191 (Revised 1/94)

Purpose: Enforcement and compliance with the N.C. Solid and Hazardous Waste Management Rules.

Preparation: A sample analyses request form must be completed for each type of evaluation requested (inorganic or organic). Each sample container should be labeled. Sample containers for organic analysis should be identified with organic labels and containers for inorganic analysis with inorganic labels. To assist in tracking the samples, a unique sample identification number (pre-printed on the label) should be assigned to the samples from each sampling point. All organic sample containers from the same sample point may be identified with the same unique sample ID number, and likewise for inorganic sample containers. Blank labels can be provided for additional containers.

Do not submit an analysis request form without any parameters indicated.

Equivalent measurements: ppm = μg/ml = mg/l = μg/g = mg/kg
ppb = μg/l = μg/1000g = μg/kg

DEFINITIONS/INSTRUCTIONS

Site Number - A unique twelve-digit site/location identifier (i.e., the EPA identification number).

Name of Site - Name of facility, landfill, etc.

Site Location - City and county.

Sample ID Number/Name - a unique sample identification number which is preprinted on the sample label and the sample name which may be an identifier for the sampling point (such as MW-1 or SS-2).

Collected By - Name and staff identification number of collector.

Date and Time Collected - Self-explanatory.

Environmental - Naturally occurring materials such as ground water, surface water, or soils which may be contaminated.

Concentrate - Waste material, including but not limited to, sludges, resins, treatment effluents, or drummed wastes.

Comments - Include sample or sample point data (e.g. sample location, well number, phase separation, and/or odor).

Inorganic Chemistry - Check (✓) the desired parameters for analysis. If not listed, enter parameter in the space provided.

Organic Chemistry - Check (✓) the desired analytical scan (P&T:GC/MS scans for volatile organic compounds, and Acid:B/N Ext. scans for semi-volatile organic compounds). If not listed, enter the compound in the space provided.

TCLP Compounds - Check (✓) the desired parameters to be analyzed. TCLP can only be performed on solid or semi-solid samples. For totals of the inorganic parameters, check (✓) the corresponding parameter under **Inorganic Chemistry**. For totals of the organic parameters, check (✓) the corresponding parameter scan under **Organic Chemistry**.

Distribution:
1. Send or deliver the original to the Laboratory Services Division.
2. The Lab then sends a copy (with results) to the Solid Waste Management Division.
3. The Solid Waste Management Division sends a copy to the field person or collector.

Disposition: This form may be destroyed in accordance with the Environmental Health, Solid and Hazardous Waste Section of the Records Disposition Schedule as published by the North Carolina Division of Archives and History.

Additional forms may be ordered from: Solid Waste Management Division
Hazardous Waste Section
P.O. Box 27687
Raleigh, NC 27611-7687

NCDEHNR Solid Waste Management Div.
P.O. Box 27687, 401 Oberlin Road
Raleigh, North Carolina 27611-7687

SAMPLE ANALYSIS REQUEST

NCDEHNR Laboratory Services Division
P.O. Box 28047, 306 N. Wilmington St.
Raleigh, North Carolina 27611-8047

Site Number _____ Sample ID Number/Name 018087

Name of Site HEAVEN CLOTHING Collected By JOE PARKER ID# 029

Site Location MECKLENBURG CO. Date Collected AUG. 11, 2000 Time 2:38 pm

Agency: ✓ Hazardous Waste ___ Solid Waste ___ Superfund

Sample Type

Environmental	Concentrate	Comments
___ Ground Water (1)	✓ Solid (5)	SANDBLASTING SAND
___ Surface Water (2)	___ Liquid (6)	CONTAMINATED W/ LEAD
___ Soil (3)	___ Sludge (7)	TAKEN FROM FARM SITE.
___ Other (4)	___ Other (8)	

TCLP Compounds

Inorganic Compounds	Results(mg/l)
✓ arsenic	<0.02
✓ barium	0.48
✓ cadmium	0.033
✓ chromium	0.022
✓ lead	26.52
✓ mercury	<0.01
✓ selenium	<0.03
✓ silver	<0.02

Organic Chemistry

Parameter	Results (mg/l)
___ P&T:GC/MS	
___ Acid:B/N Ext.	
___ 2,4-D	
___ 2,4,5-TP(Silvex)	
___ chlordane	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	

Inorganic Chemistry

Parameter	Results(~~mg/l~~)(mg/kg)
___ antimony	
✓ arsenic	<4
✓ barium	201
___ beryllium	
✓ cadmium	<4
___ chloride	
✓ chromium	10
___ cobalt	
___ copper	
___ fluoride	
___ iron	
✓ lead	917
___ manganese	
✓ mercury	0.59
___ nickel	
___ nitrate	
✓ selenium	<2
✓ silver	<4
___ sulfates	
___ thallium	
___ vanadium	
___ zinc	
___ pH	
___ conductivity	
___ TDS	
___ flash point	

Organic Compounds

Organic Compounds	Results(mg/l)
___ benzene	
___ carbon tetrachloride	
___ chlordane	
___ chlorobenzene	
___ chloroform	
___ o-cresol	
___ m-cresol	
___ p-cresol	
___ cresol	
___ 1,4-dichlorobenzene	
___ 1,2-dichloroethane	
___ 1,1-dichloroethylene	
___ 2,4-dichloroethylene	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ hexachloroethane	
___ methyl ethyl ketone	
___ nitrobenzene	
___ pentachlorophenol	
___ pyridine	
___ tetrachloroethylene	
___ trichloroethylene	
___ 2,4,5-trichlorophenol	
___ 2,4,6-trichlorophenol	
___ vinyl chloride	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	
___ 2,4-D	
___ 2,4,5-TP (Silvex)	

FOR LAB USE ONLY

Date Received _____

Date Extracted _____

Date Analyzed _____

Reported By DGM

Date Reported 9/11/00

Lab Number 08-14-2000 014929

SEP 2000
RECEIVED
HAZARDOUS
WASTE

DHS 3191 (Revised 1/94)

Purpose: Enforcement and compliance with the N.C. Solid and Hazardous Waste Management Rules.

Preparation: A sample analyses request form must be completed for each type of evaluation requested (inorganic or organic). Each sample container should be labeled. Sample containers for organic analysis should be identified with organic labels and containers for inorganic analysis with inorganic labels. To assist in tracking the samples, a unique sample identification number (pre-printed on the label) should be assigned to the samples from each sampling point. All organic sample containers from the same sample point may be identified with the same unique sample ID number, and likewise for inorganic sample containers. Blank labels can be provided for additional containers.

Do not submit an analysis request form without any parameters indicated.

Equivalent measurements: ppm = μg/ml = mg/l = μg/g = mg/kg
ppb = μg/l = μg/1000g = μg/kg

DEFINITIONS/INSTRUCTIONS

Site Number - A unique twelve-digit site/location identifier (i.e., the EPA identification number).

Name of Site - Name of facility, landfill, etc.

Site Location - City and county.

Sample ID Number/Name - a unique sample identification number which is preprinted on the sample label and the sample name which may be an identifier for the sampling point (such as MW-1 or SS-2).

Collected By - Name and staff identification number of collector.

Date and Time Collected - Self-explanatory.

Environmental - Naturally occurring materials such as ground water, surface water, or soils which may be contaminated.

Concentrate - Waste material, including but not limited to, sludges, resins, treatment effluents, or drummed wastes.

Comments - Include sample or sample point data (e.g. sample location, well number, phase separation, and/or odor).

Inorganic Chemistry - Check (✓) the desired parameters for analysis. If not listed, enter parameter in the space provided.

Organic Chemistry - Check (✓) the desired analytical scan (P&T:GC/MS scans for volatile organic compounds, and Acid:B/N Ext. scans for semi-volatile organic compounds). If not listed, enter the compound in the space provided.

TCLP Compounds - Check (✓) the desired parameters to be analyzed. TCLP can only be performed on solid or semi-solid samples. For totals of the inorganic parameters, check (✓) the corresponding parameter under Inorganic Chemistry. For totals of the organic parameters, check (✓) the corresponding parameter scan under Organic Chemistry.

Distribution:
1. Send or deliver the original to the Laboratory Services Division.
2. The Lab then sends a copy (with results) to the Solid Waste Management Division.
3. The Solid Waste Management Division sends a copy to the field person or collector.

Disposition: This form may be destroyed in accordance with the Environmental Health, Solid and Hazardous Waste Section of the Records Disposition Schedule as published by the North Carolina Division of Archives and History.

Additional forms may be ordered from: Solid Waste Management Division
Hazardous Waste Section
P.O. Box 27687
Raleigh, N.C. 27611-7687

NCDEHNR Solid Waste Management Div.
P.O. Box 27687, 401 Oberlin Road
Raleigh, North Carolina 27611-7687

SAMPLE ANALYSIS REQUEST

NCDEHNR Laboratory Services Division
P.O. Box 28047, 306 N. Wilmington St.
Raleigh, North Carolina 27611-8047

Site Number _____ Sample ID Number/Name 018089

Name of Site HEAVEN CLOTHING Collected By JOE PARKER ID# 029

Site Location MECKLENBURG CO. Date Collected AUG. 11, 2000 Time 2:41 pm

Agency: ✓ Hazardous Waste ___ Solid Waste ___ Superfund

Sample Type

Environmental	Concentrate	Comments
___ Ground Water (1)	✓ Solid (5)	SANDBLASTING SAND
___ Surface Water (2)	___ Liquid (6)	CONTAMINATED W/ LEAD
___ Soil (3)	___ Sludge (7)	taken from farm site.
___ Other (4)	___ Other (8)	

TCLP Compounds

Inorganic Compounds	Results(mg/l)
✓ arsenic	<0.02
✓ barium	0.45
✓ cadmium	0.035
✓ chromium	<0.02
✓ lead	30.10
✓ mercury	<0.01
✓ selenium	<0.03
✓ silver	<0.02

Organic Chemistry

Parameter	Results (mg/l)
___ P&T:GC/MS	
___ Acid:B/N Ext.	
___ 2,4-D	
___ 2,4,5-TP(Silvex)	
___ chlordane	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	

Inorganic Chemistry

Parameter	Results(~~mg/l~~)(mg/kg)
___ antimony	
✓ arsenic	<4
✓ barium	135
___ beryllium	
✓ cadmium	<4
___ chloride	
✓ chromium	<4
___ cobalt	
___ copper	
___ fluoride	
___ iron	
✓ lead	559
___ manganese	
✓ mercury	0.50
___ nickel	
___ nitrate	
✓ selenium	<2
✓ silver	<4
___ sulfates	
___ thallium	
___ vanadium	
___ zinc	
___ pH	
___ conductivity	
___ TDS	
___ flash point	

Organic Compounds

Organic Compounds	Results(mg/l)
___ benzene	
___ carbon tetrachloride	
___ chlordane	
___ chlorobenzene	
___ chloroform	
___ o-cresol	
___ m-cresol	
___ p-cresol	
___ cresol	
___ 1,4-dichlorobenzene	
___ 1,2-dichloroethane	
___ 1,1-dichloroethylene	
___ 2,4-dichloroethylene	
___ heptachlor	
___ hexachlorobenzene	
___ hexachlorobutadiene	
___ hexachloroethane	
___ methyl ethyl ketone	
___ nitrobenzene	
___ pentachlorophenol	
___ pyridine	
___ tetrachloroethylene	
___ trichloroethylene	
___ 2,4,5-trichlorophenol	
___ 2,4,6-trichlorophenol	
___ vinyl chloride	
___ endrin	
___ lindane	
___ methoxychlor	
___ toxaphene	
___ 2,4-D	
___ 2,4,5-TP (Silvex)	

FOR LAB USE ONLY

Date Received _____

Date Extracted _____

Date Analyzed _____

Reported By DJM

Date Reported 9/11/00

Lab Number 08-14-2000 014931

SEP 2000 RECEIVED HAZARDOUS WASTE

DHS 3191 (Revised 1/94)

Purpose: Enforcement and compliance with the N.C. Solid and Hazardous Waste Management Rules.

Preparation: A sample analyses request form must be completed for each type of evaluation requested (inorganic or organic). Each sample container should be labeled. Sample containers for organic analysis should be identified with organic labels and containers for inorganic analysis with inorganic labels. To assist in tracking the samples, a unique sample identification number (pre-printed on the label) should be assigned to the samples from each sampling point. All organic sample containers from the same sample point may be identified with the same unique sample ID number, and likewise for inorganic sample containers. Blank labels can be provided for additional containers.

Do not submit an analysis request form without any parameters indicated.

Equivalent measurements: ppm = μg/ml = mg/l = μg/g = mg/kg
ppb = μg/l = μg/1000g = μg/kg

DEFINITIONS/INSTRUCTIONS

Site Number - A unique twelve-digit site/location identifier (i.e., the EPA identification number).

Name of Site - Name of facility, landfill, etc.

Site Location - City and county.

Sample ID Number/Name - a unique sample identification number which is preprinted on the sample label and the sample name which may be an identifier for the sampling point (such as MW-1 or SS-2).

Collected By - Name and staff identification number of collector.

Date and Time Collected - Self-explanatory.

Environmental - Naturally occurring materials such as ground water, surface water, or soils which may be contaminated.

Concentrate - Waste material, including but not limited to, sludges, resins, treatment effluents, or drummed wastes.

Comments - Include sample or sample point data (e.g. sample location, well number, phase separation, and/or odor).

Inorganic Chemistry - Check (✓) the desired parameters for analysis. If not listed, enter parameter in the space provided.

Organic Chemistry - Check (✓) the desired analytical scan (P&T:GC/MS scans for volatile organic compounds, and Acid:B/N Ext. scans for semi-volatile organic compounds). If not listed, enter the compound in the space provided.

TCLP Compounds - Check (✓) the desired parameters to be analyzed. TCLP can only be performed on solid or semi-solid samples. For totals of the inorganic parameters, check (✓) the corresponding parameter under **Inorganic Chemistry**. For totals of the organic parameters, check (✓) the corresponding parameter scan under **Organic Chemistry**.

Distribution:
1. Send or deliver the original to the Laboratory Services Division.
2. The Lab then sends a copy (with results) to the Solid Waste Management Division.
3. The Solid Waste Management Division sends a copy to the field person or collector.

Disposition: This form may be destroyed in accordance with the Environmental Health, Solid and Hazardous Waste Section of the Records Disposition Schedule as published by the North Carolina Division of Archives and History.

Additional forms may be ordered from: Solid Waste Management Division
Hazardous Waste Section
P.O. Box 27687
Raleigh, N.C. 27611-7687

NC-DEHNR
Division of Solid Waste Management
☐ Superfund Section
☑ Hazardous Waste Section
☐ Solid Waste Section

Organics Lab: ____
Inorganics Lab: ✓

CHAIN OF CUSTODY RECORD

Project Name: Heaven Clothing
Site ID # (NCD#) —
Location: Mecklenburg Co.
Address: 1500 Central Ave, Charlotte, N.C. & Mt. Olive Church Rd., Charlotte, N.C.

Sampled by: Joe Parker
Sampler ID 029
Telephone: (704) 663-1699
Date Sampled: Aug. 11, 2000
Time Sampled: 12:15pm, 12:18pm, 2:38pm, 2:41pm

Sample Types: Soil ✓ Water ____ Waste ____ Other Sand Material from Sandblasting
Also

Remarks: Two samples were take from two separate locations. Four samples in all. Material was generated at the 1500 Central Ave. site and most of it was transported to the Mt. Olive Church Rd. site.

Field Sample Numbers: 018085, 018089, 018088, 018087

Relinquished by: [signature] (Signature) Date: Aug. 14 2000 Time: 1:25 pm

Received by: [signature] (Signature) Date: 8/14/2000 Time: 1:25 pm

Relinquished by: ____ (Signature) Date: ____ Time: ____

Received by: ____ (Signature) Date: ____ Time: ____

Relinquished by: ____ (Signature) Date: ____ Time: ____

Received by: ____ (Signature) Date: ____ Time: ____

Results Reported: [signature] (Signature) Date: 9/11/00 Time: 12:50PM

SEP 2000
RECEIVED
HAZARDOUS
WASTE

(A:\COCR.FRM)

SOLID WASTE MANAGEMENT DIVISION

Receipt for Samples

Heaven Clothing — 1500 Central Ave., Charlotte N.C. 28205

Name of Firm — Firm Address

James Funderburk - Owner of Heaven Clothing / Lessee of Building

Firm Owner, Operator, or Agent Title

SAMPLE NUMBER	COLLECTED DATE	COLLECTED TIME	SAMPLE TYPE WATER	SAMPLE TYPE SOIL	SAMPLE TYPE OTHER	DUPLICATE SAMPLE OFRD	DUPLICATE SAMPLE ACPT	DUPLICATE SAMPLE RJCTD	SAMPLE LOCATION ONSITE	SAMPLE LOCATION OFFSITE
018085	8-11-2000	12:15pm			✓	✓		✓	✓	
018088	8-11-2000	12:18pm			✓	✓		✓	✓	
018087	8-11-2000	2:38pm			✓	✓		✓		✓
018089	8-11-2000	2:41pm			✓	✓		✓		✓

Receipt for the sample(s) described above is hereby acknowledged:

Signature of Inspector

Waste Mgmt Specialist

Title

Receipt/rejection of duplicate or split samples is hereby acknowledged:

Rejected JSP

Signature of Firm Owner, Operator, or Agent

Title

Comments:

(A:\COCR.FRM)

MECKLENBURG COUNTY ENVIRONMENTAL PROTECTION

TELECOPIER TRANSMITTAL COVER SHEET

TO: N.C. DENR (Mooresville Regional Office); Attn: Mr. Joe Parker

TELECOPIER NUMBER: (704) 663-6040

FROM: Dan Hardin

TELECOPIER NUMBER: (704) 336-4391

DATE: August 29, 2000

PAGES TRANSMITTED INCLUDING COVER SHEET: 7

MESSAGE: Heaven (Clothing Store), 1500 Central Avenue, Charlotte, N. C.
Inspection report and notice of violation letter

Mr. Parker,

Per your request, please find enclosed photocopies of the inspection report and notice of violation letter regarding the dust complaint at the Heaven (Clothing Store) located at 1500 Central Avenue, Charlotte, N. C..

Thanks,

Dan Hardin

700 North Tryon Street · Charlotte, North Carolina 28202-2236 · (704) 336-5500

MECKLENBURG COUNTY

Department of Environmental Protection

July 10, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James Funderburk
Heaven (Clothing Store)
1500 Central Avenue
Charlotte, North Carolina 28205

RE: **Notice of Violation**
MCAPCO Regulation 1.5108 - "Dust and Related Material"

Dear Mr. Funderburk:

The Mecklenburg County Department of Environmental Protection ("MCDEP") has found that Heaven (Clothing Store), as owner and operator of the facility located at 1500 Central Avenue in Mecklenburg County, North Carolina, violated Mecklenburg County Air Pollution Control Ordinance ("MCAPCO") Regulation 1.5108 - "Dust and Related Material".

MCAPCO Regulation 1.5108 - "Dust and Related Material" states in part:

> "...(c) No owner or lessee of ...any other place shall permit dust or other material readily scattered by wind to leave such property unless the owner or lessee shall have first taken reasonable precautions...to minimize atmosphere pollution."

The violation was determined on July 3, 2000, by Dan Hardin of MCDEP through a complaint investigation which revealed the following:

- Dust was traveling across Central Avenue as a result of the dry sandblasting of a building located at 1500 Central Avenue. The dry sandblasting was being conduct by Mr. James Costner an employee of Mr. James Funderburk owner of the clothing store.

To comply with MCAPCO Regulation 1.5108 - "Dust and Related Material", it will be necessary for Heaven (Clothing Store) to complete the following actions immediately :

700 N. Tryon Street • Suite 205 • Charlotte, NC 28202-2236 • (704) 336-5500 • Fax (704) 336-4391

- Take reasonable precautions or otherwise maintain the property in such a manner as to minimize atmosphere pollution. Suggested control measures to consider employing are use of a wet blast process, erect a containment barrier to help keep the dust confined and conduct the work on less windy days, preferably during the later hours of the day.

Failure to comply with MCAPCO in the future and the requirement in this notice may result in legal action and/or the assessment of civil penalties by MCDEP in accordance with the Mecklenburg County Air Pollution Control Ordinance Regulation 1.5304 - "Civil Penalties".

Sincerely,

Dan Hardin

Dan Hardin
Air Hygienist I

DLH:smm
(#0000599A)

c: Don Willard, Deputy Director, MCDEP
John M. Barry, Director, MCDEP

SERVICE REQUEST/WORK ORDER

LOG NUMBER: 2000-00599
SECTION: AQ
ENVIRONMENTALIST: Dan L. Hardin
NATURE OF REQUEST: Other

DATE: 07/03/2000 @ 12:42
TAKEN BY: Diane S. Burns

REQUESTING PARTY INFO

FACILITY IDENTIFIED:
CONTACT: Henry Sutton
COMPANY/WORKPLACE:
ADDRESS:

BUSINESS PHONE NO: ( ) - HOME PHONE NO: ( ) -

FACILITY INFO

COMPANY:
ADDRESS: CENTRAL & THOMAS AV
CHARLOTTE NC - -
CONTACT:
PHONE NO: ( ) -

ACTIVITIES

SERVICE REQUESTED:
Blasting paint off 2 story building - blowing across the road real bad

ACTION TAKEN:
7-3-00 Drove to the site to check on the problem. As I drove out Central Avenue from downtown Charlotte, the dust could be seen carrying across the intersection of Central Avenue and Thomas Avenue. I parked my vehicle and walked up to the building where the sandblasting was underway.

I spoke to the man working on the ground, Mr. Robert Miller. He explained that he was helping the man who was doing the sandblasting. The man who was sandblasting was standing on top of the building located at 1500 Thomas Avenue and was directing the sandblasting downward to the painted wall. The wind was blowing from Thomas Avenue toward Central Avenue; therefore, some of the dust from the sandblasting operation was being carried by the wind to the sidewalk on Central Avenue and even into Central Avenue itself.

While I was waiting on Mr. Miller to inform the man doing the sandblasting that I needed to speak to him, I jotted down the name of the manufacturer of the sand that was being used for the work. Foster Division, Blasting Sand BX-12, Columbia, S. C. (803) 794-2872.

The man conducting the sandblasting operation, Mr. James Costner, came down off of the building to speak to me. I explained who I was and why I was there. He told me that he was working for Mr. James Funderburk, who was the general contractor overseeing the ob. I spoke to Mr. Funderburk inside his business which was located at 1500 Central Avenue. His business, Heaven, is in the building hat was being sandblasted.

The sandblasting has been going on since yesterday. The front side of the building (i.e. the Central Avenue side) was sandblasted irst. The Thomas Avenue side was being blasted this afternoon. Mr. Funderburk explained that there was about another days worth of work to be done.

showed him the MCAPCO Regulation 1.5108 - "Dust and Related Material" and explained that minimal precautions were not being aken to suppress the dust. I asked if they could use wet sand blasting equipment. Mr. Costner said that there was no wet sand lasting equipment available for use in this area. The only equipment that he knew about was available from Virginia. Mr. Funderburk lso commented that he did not think that Mr. Costner knew how to use water blast equipment.

asked Mr. Funderburk to consider shrouding the blasting work in some manner. They agreed to try placing some wieghted plastic heeting on 2 by 4's that would protrude over the edge of the building. This would help to contain the sandblast dust and not allow it

to be scattered quite so readily. It will also reduce potential liabilities for exposure to free silica associated with the sandblasting. It should help keep the dust from entering the intersection. It will also help eliminate the likelihood of the sandblast dust ending up in an adjacent air handling unit.

Mr. Funderburk said that the work should be completed sometime tomorrow.

After I left Mr. Funderburk's establishment, I walked toward the front of the building to check on the current status of the project. The front of the building had been sand blasted. While I was there, the proprietor for the tattoo parlor (i.e. Mr. John Rainey of Alternative Arts) to the immediate left of Heaven called me over to his business. He was in the process of posting a sign on his front door and taping the seams around the door. He took me inside and showed me where dust was gathering on assorted surfaces. He claimed that he had just gotten approval from the Health Department to operate as a tattoo parlor and now his shop was dusty/dirty. He showed me a portion of a paper bag that had a free silica warning on it. I told him that I would contact the appropriate people within the Health Department and let them know about the situation.

Returned to MCDEP and spoke with Henry Sutton about the dust complaint. He said his section could not get overly concerned about what was going on until they had reason to believe that there was significant quantities of lead contaminated sand/dust on the premises. If it were there, they would have to do an analysis of the waste before it was discarded.

Spoke with Dennis Salmen of the Mecklenburg County Department of Environmental Health about the Alternative Arts tattoo parlor dust situation. He will send his inspector out to the premises to check on the problem.

Mr. Tommie Espin is the landlord of the building. He operates Multi-Video, Inc., 15128 Birling Road, Charlotte, N. C. 28278 ((704) 583-3291.

My recommendation is that MCDEP forward a notice of violation letter to the Heaven proprietor Mr. James Funderburk for hiring a sandblasting contractor and not taking reasonable precautions to mimimize dust generation.

7-5-00 Joan Liu and Randy Poole of MCDEP discussed this situation with me. I briefed them on my findings. Joan received a call from a woman who said that someone from EPA had been to the scene and had instructed the proprietor at Alternative Arts (i.e. Mr. John Rainey) to close his business. I explained that I had gone in the establishment to look at the dust situation that was allegedly due to the sandblasting that had occurred. I went into the business just to get a general understanding of the extent of the problem. There was evidence of some dust accumulation in different areas of the shop (i.e. horizontal counter top, television screen, etc.). I told Joan that I would call the lady and talk to her.

called Ms. Shannon Brice of the Perch, telephone no. 566-0053, to discuss the situation. She said that she is the proprietor of The Perch, which is a comedy club located directly above Heaven. She said that they had no warning that the work was going to be done. Windows had been left open and dust had allegedly been deposited in her business.

told her that I had not told Mr. Rainey to close his business. He voluntarily chose to do so. I told her that she should possibly consider contacting the manufacturer of the sandblasting sand to discuss what would be the best way to clean up residual dust in her business. She could also get a MSDS form from them that would tell her more about the product and precautions to use during cleaning. A wet/dry vacuum may not be adequate and it might require a HEPA vacuum to properly collect the dust.

he only other concern might have come from the removal of paint from the building. She asked if the paint might have contained ead and I said that it possibly could have. She might consider having a sample of the dust analyzed before she made final rrangements to have the area cleaned. She said that she was going to pass along the clean up costs to the landlord. I mentioned at she might want to have her air conditioning unit checked to see if there were any excess deposits of sand. She said that her air onditioning unit had been shut off during the sand blasting.

he said that she did not know if the work had been completed.

6-00 Telephone call from Mr. John Rainey regarding this situation. He called to see how he would go about getting the material in s shop sampled. I told him that it would not be a service provided by MCDEP. I started to suggest area environmental consultants at he could approach for sampling assistance. He then commented that he might should talk to Dennis Salmen or Jeff Knight of the ealth Department before he did any sampling.

SERVICE REQUEST/WORK ORDER

I asked him about the status of the project. He said that it was now completed. The wood and the plastic that they used to contain the dust was now piled at the back of the building. The front of the building had been cleaned.

7-6-00 Draft notice of violation letter written for approval. DLH

7-17-00 Craig Miller of MCDEP Water Quality received a telephone call from Mr. John Rainey, proprietor of Alternative Arts (i.e. tattoo parlor), located at 1500 Central Avenue. Mr. Rainey has had a dust sample analyzed for its lead content. The anaylsis indicated the sample contained 1000 parts per million lead. It was not clear where Mr. Rainey had collected the sample.

Discussed this development of Henry Sutton of the MCDEP Solid Waste and Groundwater Section. He asked me to share the findings with Dennnis Salmen of Mecklenburg County Department of Environmental Health (Insect and Vector Division) since they do the majority of the lead enforcement work in Mecklenburg County. If Dennis could not address the issue, Solid Waste would see what if anything they could do about the matter.

Sent an e-mail to Dennis Salmen in this regard. His response was that his office could not do anything regarding an adult related lead exposure. It would be more of a matter for the North Carolina Occupational Safety and Health Administration (OSHA) to comment about. Informed Henry Sutton of Dennis Salmen's comments. I did not call Mr. Rainey.

7-16-00 David Caldwell of the Mecklenburg County Department of Environmental Protection Water Quality Section received a telephone call from the Charlotte Mecklenburg Fire Department. The fire department had responded to Mr. Rainey's call and had visited his business. However, they were not sure what they could do about the matter. It was more of a potential environmental problem than it was a matter for them to address.

David explained that Mr. Rainey had air sampling results of air samples gathered from his business establishment. The samples were gathered to determine possible lead presence. David commented that Mr. Rainey had spoken with Jim Ericson of the Mecklenburg County Department of Environmental Health about the air sampling results. Jim had said that the reported level of lead as determined in this air sample was about 4 times the allowable lead exposure level. There was nothing that Environmental Health could do about the matter. David left the information with Air Quality. Mr. Rainey could be contacted at 347-0616.

In Randy Poole's absence, I discussed the matter with Joan Liu of MCDEP Air Quality. Joan agreed that Air Quality had done all that we could do in this matter. The dust complaint had been investigated and a notice of violation had been issued. Air quality does not investigate indoor air quality pollution matters. She agreed that I should just call Mr. Rainey and tell him that Air Quality had done all that it could do. The matter will be referred to the MCDEP Solid Waste and Groundwater Section for further consideration.

Called Mr. Rainey. He explained that he had analysis of dust samples from both inside and outside his business. Both samples indicated the presence of lead. He said the lead concentration was 1000 parts per million in each sample. The samples were analyzed by Pace Analytical Laboratory. He also said he had air sampling results that had been processed through Onyx Laboratory. The result indicated that the lead level was 4 times the allowable standard. MCDEP has not received any copies of the laboratory results. Mr. Rainey also stated that he had gathered information off of the bags of sand product which had been used for the sand blasting. He reported that the label said the sand product was not to be used in an open air environment.

Mr. Rainey said that he had contacted a clean-up company about how much it would cost to decontaminate the interior of his business. The quote he received was $15, 260.

Mr. Rainey said the plastic barrier and wood that were used to erect a make shift enclosure shroud during the last part of the sandblasting work effort was piled on the ground at the back of his business. He also said that there is evidence of dust on the sidewalk, around the building foundation, at the back of the building and on the roof of the building. He also contends that the clothing being sold from the Heaven Clothing Store is contaminated by lead dust.

Explained that MCDEP Air Quality had done all that it could do because we had no other regulations that were applicable to this situation. We responded to the dust complaint and requested that arrangements be made for a minimal type of dust enclosure to be put into place to keep the dust from being scattered. [Note: MCDEP has also forwarded a notice of violation to the owner of the Heaven Clothing Store for the dust violation that occurred during this renovation project.]

SERVICE REQUEST/WORK ORDER

I told Mr. Rainey that the matter would be referred to MCDEP Solid Waste and Groundwater Section because they were the only ones who could provide any further assistance unless there was a directive from the department director to do something else.

Discussed this matter with Henry Sutton of MCDEP Solid Waste. He said that he would arrange to have the situation checked out to see if there was anything they could do to help resolve the problem. I also mentioned that the proprietor of The Perch comedy club, which was located on the second floor of the building directly above the Heaven Clothing Store, had commented that her business establishment windows had been open during the sandblasting event and a considerable amount of dust had gotten in her part of the building.

MCDEP Air Quality has done all we can do in regard to this matter. Please close the service request. DLH

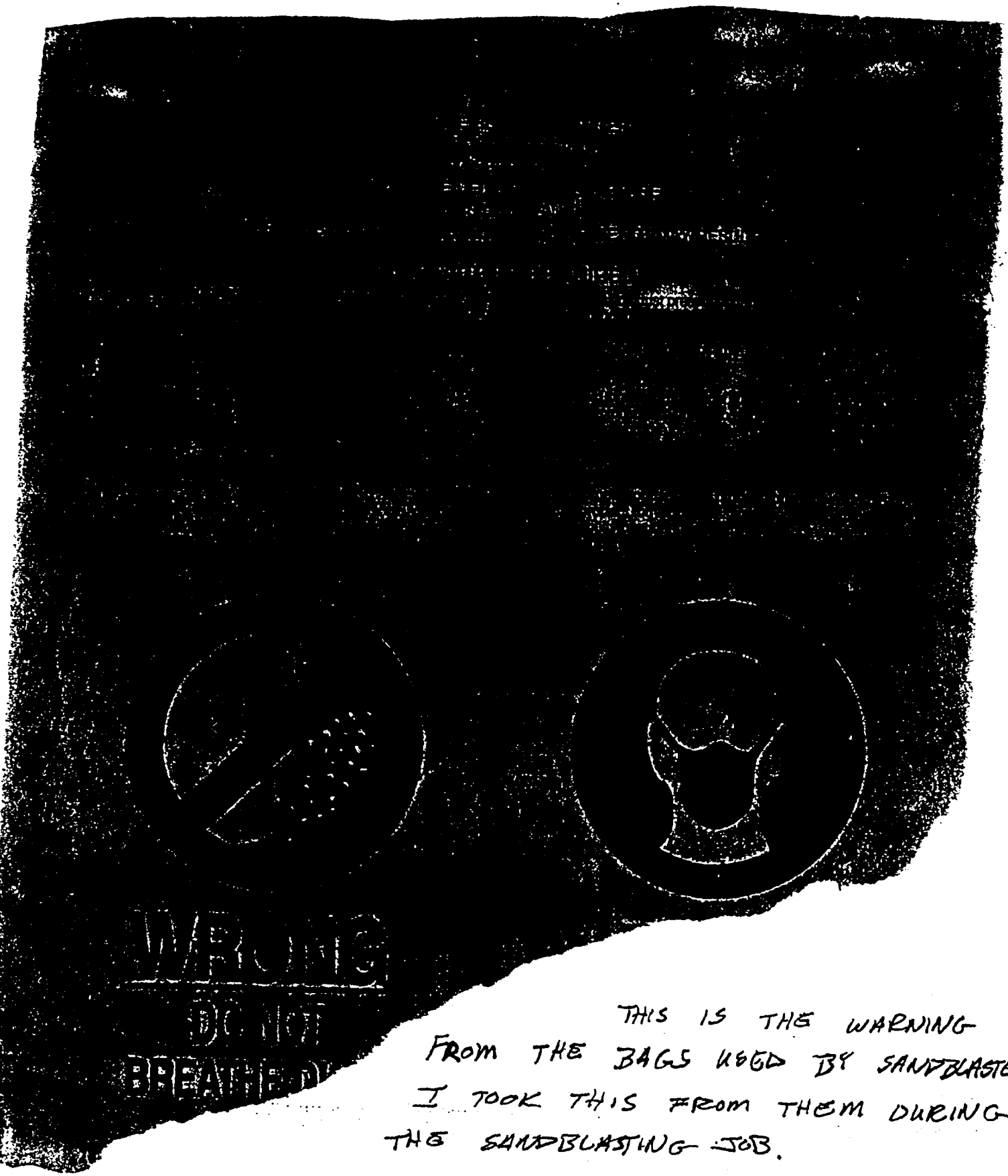
COMMENTS:

SERVICE REQUEST ATTACHMENTS

DISPOSITION, ETC.

NOTIFIED REQ PARTY:	Y	TIME ON SITE:	00:45
VERBAL OR WRITTEN:	V	TRAVEL TIME:	00:45
DATE NOTIFIED:	07/03/2000	ADMIN TIME:	05:20
STATUS:	CLOSE	MILEAGE:	10
DATE CLOSED:	07/19/2000	MISC. EXPENSES:	$0.00
NOTICE OF VIOLATION:	Y		
LEGAL ACTION:	N	RECALL DATE:	
NESHAP NOTIFICATION:	N		
FACILITY IDENTIFIED BY:			
VARIANCE REQUEST:	N		
EMERGENCY RESPONSE:	N		

REVIEWED BY: RCP 07/10/2000



THIS IS THE WARNING FROM THE BAGS USED BY SANDBLASTERS. I TOOK THIS FROM THEM DURING THE SANDBLASTING JOB.

Foster Dixiana

Foster Dixiana Corporation
P.O. Box 2005
Columbia, SC 29202

Phone: 800-774-7263
803-794-2872
Fax: 803-796-4877

FAX

Attn: Shannon

Company:

Fax No: 704-566-0053

From: Peesa

Re: MSDS.

Pages: 5

336 ~~5.46~~
5546

OSHA
~~864-848-3859~~

SECTION I: GENERAL INFORMATION

Foster Dixiana Corporation
Post Office Box 2005
Columbia, South Carolina 29202

Date of Latest Revision/Review:
December, 1996

Production Information Telephone: (803) 791-3129
Medical Emergency Telephone: (803) 791-3129

SECTION II: HAZARDOUS INGREDIENTS/IDENTITY INFORMATION

Hazardous Components: Crystalline Silica, Quartz (respirable)
Specific Chemical Identity: Silicon Dioxide SiO_2 (CAS 14808-60-7)
Common Names: Silica, Sand, Crystalline Silica, Quartz
FDC Trade Names: Filtration, Playsand, Bank, Traction, Blast - Sands common to all grades, Building, Golf Course, Foundry

OSHA PEL (Permissible Exposure Limit):
Exposure to respirable crystalline silica, quartz, shall not exceed an 8-hour time-weighted average (TWA) as stated in MSHA Standards, Subpart D, Section 56.5001 on air quality specifically "Silica: Crystalline :Quartz (respirable) PEL - $\frac{10 mg/m^3}{\%SiO_2+2}$ [29 CFR 1910.1000]

ACGIH TLV (Threshold Limit Value):
Respirable Quartz dust
TLV - TWA = 0.1 mg/m_3 (Respirable Dust)
See Threshold Limit Value and Biological Exposure Indices for 1989-1990 American Conference of Governmental Industrial Hygienists.

NIOSH National Institute for Occupational Safety and Health . Recommended standard maximum permissible concentration = 0.05 mg/m_3 (respirable crystalline silica) as determined by a TWA up to 10-hour working day, 40-hour week.

SECTION III: PHYSICAL CHEMICAL CHARACTERISTICS

Boiling Point:	N/A	Specific Gravity (H_2O = 1):	2.65
Vapor Pressure (mm Hg.):	N/A	Melting Point:	1470°C
Vapor Density (AIR = 1):	N/A	Evaporation Rate :	N/A (Butyl Acetate = 1)
Solubility in Water:	None		
Appearance & Odor:	White or tan sand, granular - no odor or taste		

SECTION IV: FIRE AND EXPLOSION HAZARD DATA

Flash Point:	N/A	Extinguishing Media:	Will not burn
Flammable Limits:	N/A	Special Fire Fighting Procedure:	N/A
LEL: None	UEL: None		

Unusual Fire and Explosion Hazards: Crystalline silica is neither a fire nor an explosion hazard.

SECTION V: REACTIVITY DATA

Stability:	Stable	Hazardous Decompositon or Byproducts:	None
Conditions to Avoid:	None	Hazardous Polymerization:	Will not occur

Incompatibity: Silica will dissolve in hydrofluoric acid and produce a corrosive gas--silicon tetra fluoride.

SECTION VI: HEALTH HAZARD DATA

Route(s) of Entry: Inhalation? Yes Skin? No Ingestion? No
Health Hazard (Acute and Chronic): Excessive inhalation of dust may result in respiratory disease, including silicosis, pneumoconiosis and pulmonary fibrosis. Acute or rapidly developing silicosis may occur in a short period of time in heavy exposure in certain occupations such as sandblasters. Silicosis is a form of disabling pulmonary fibrosis which can be progressive and may lead to death. Be sure to maintain current physicals.
*Carcinogenicity: The International Agency for Research on Cancer (IARC) held a meeting in October 1996. The overall evaluation was that "inhaled crystalline silica in the form of quartz or cristobalite from occupational sources is carcinogenic to humans (Group 1)."
*Draft of Section 5 of the Monograph. No. 1 Silica, 2nd draft. rev. 3

Signs and Symptoms of Exposure: Prolonged exposure to respirable silica may cause diminished lung capacity with shortness of breath during physical exertion and cause undue breathlessness, wheezing, cough and sputum production.

Medical Conditions Generally Aggravated by exposure: Individuals with pulmonary or respiratory disease such as asthma, bronchitis and emphysema should avoid prolonged exposure of silica dust. Pulmonary function may be reduced by inhalation of respirable crystalline silica. Also lung scarring produced by such inhalation may lead to a progressive massive fibrosis of the lung which may aggravate other pulmonary conditions and diseases and which increases susceptibility to pulmonary tuberculosis. Progressive massive fibrosis may be accompanied by right heart enlargement, heart failure, and pulmonary failure. Smoking aggravates the effects of exposure.

Emergency and First Aid Procedures: Eyes - wash eyes with large amounts of water, obtain medical attention if irritation persists. Extensive Inhalation - remove to an area of fresh air. Seek medical attention for treatment, observation and support as needed.

SECTION VII: PRECAUTIONS FOR SAFE HANDLING AND USE

Steps To Be taken In Case Material Is Released Or Spilled: Clean up by dustless methods (water or vacuum); put in closed container (note: do not use air or dry sweep). Use approved NIOSH or MSHA respirators for dust (29 CFR 1910.134) as noted below.

Waste Disposal Method: If uncontaminated, dispose as an inert, non-metallic mineral. If contaminated, use appropriate method in light of contamination in accordance with Federal, State, and Local Laws.

Precaution To be Taken in Handling and Storing: Avoid spillage. Use dustless systems for handling and employ engineering controls to reduce concentration of airborne dust. (Example: an approved bag house)

Other Precaution: Post warning signs to keep all persons alerted to dusty areas. Use dustless systems for handing, storage and clean up so that airborne dust does not exceed the PEL (Permissible Exposure Limit). Use adequate ventilation and dust collection. Practice good housekeeping. Maintain clean and fit, test respirators in accordance with OSHA regulations. See control measures in Section VIII.

See OSHA Hazard Communication Rule 29 CFR sections 1910.1200, 1915.99, 1917.28, 1926.59, and 1928.21, and state and local worker or community "right to know" laws and regulations. We recommend that smoking be prohibited in all areas where respirators must be used. **WARN YOUR EMPLOYEES (AND YOUR CUSTOMER USERS IN CASE OF RESALE) BY POSTING AND OTHER MEANS OF THE HAZARD AND OSHA PRECAUTIONS TO BE USED. PROVIDE TRAINING FOR YOUR EMPLOYEES ABOUT OSHA PRECAUTIONS.**

DHHS (NIOSH) Pub. 96-112 Preventing Silicosis & Death in Construction Workers.

SECTION VIII: CONTROL MEASURES

"Table 1. -NIOSH - recommended respiratory protection for workers exposed to respirable crystalline silica

Condition	Minumum respiratory protection required to meet the NIOSH REL (0.05mg/m3)
≤0.5 mg/m³* (10 x REL)‡	Any half-mask, air purifying respirator with a high-efficiency particulate filter†
≤1.25 mg/m³ (25 x REL)	Any powered, air-purifying respirator with a high-efficiency particulate filter, or Any supplied-air respirator equipped with a hood or helmet and operated in a continuous-flow mode (for example, type CE abrasive - blasting respirators operated in the continous-flow mode)
≤2.5 mg/m³ (50 x REL)	Any air-purifying, full-facepiece respirator with a high-efficieny particulate filter, or Any powered, air-purifying respirator with a tight-fitting facepiece and a high-efficiency particulate filter
≤50 mg/m³ (2,000 x REL)	Any supplied-air respirator equipped with a half-mask and operated in a pressure-demand or other positive-pressure mode (for example, a§ Type CE abrasive-blasting respirator operated in a positive-pressure mode)
≤100 mg/m³	Any supplied-air respirator equipped with a fullfacepiece and operated in a pressure-demand or other positive-pressure mode (for example , a Type CE abrasive-blasting respirator operated in a positive-pressure mode)
Planned or emergency entry into environments containing unknown concentrations or concentrations > 100 mg/m³ (2,000 x REL)	Any self-contained breathing apparatus equipped with a full facepiece and operated in a pressure-demand or other positive-pressure mode, or Any supplied-air respirator equipped with a full facepiece and operated in a pressure-demand or other positive-pressure mode in combination with an auxiliary self-contained breathing apparatus operated in a pressure-demand or other positive-pressure mode
Firefighting	Any self-contained breathing apparatus equipped with a full facepiece and operated in a pressure-demand or other positive-pressure mode
Escape only	Any air-purifying, full-facepiece respirator with a high-efficiency particulate filter, or Any appropriate escape-type, self-contained breathing apparatus

* ≤is less than or equal to;> is greater than.

†The new NIOSH respirator certification regulation (42CFR 84) became effective July 10, 1995, and replaces the old regulation (30 CFR11). High-efficiency is the appropriate filter for respirable crystalline silica under 30 CFR 11; N100, R100, and P100 are the appropriate filters for respirable crystaline silica under 42 CFR 84.

‡ Assigned protection factor (APF) times the NIOSH REL. The APF is the level of protection provided by each type of respirator.

§ Type CE abrasive-blasting respirators are the only respirators suitable for use in abrasive-blasting operations. Workers should receive instruction about the purpose and set-up of regulated areas marking the boundaries of work areas containing crystaline silica

** DHHS (NIOSH) Publication No96-112

SECTION VIII: CONTROL MEASURES (cont)

See also ANSI standard Z88.2-1980 "Practices for Respiratory Protection," and standard Z9.4-1984 "Ventilation and Safe Practices of Abrasive Blasting Operation," and the Mine Safety and Health Adminsitration (MSHA) (30 CFR Part 56).

Ventilation:	Local Exhaust - when possible to meet PEL Standards Special - An approved Wet Scrubber Mechanical - An Approved bag-house
Eye Protection:	Recommended at all times.
Hands:	Protective Gloves
Work/Hygienic Practices:	Avoid creating and breathing dust.

* * *

This form has been completed to meet all current State and Federal (OSHA) regulations but is offered without guarantee. Our company expressly disclaims all applications beyond our control. The data in this material safety data sheet relate only to the specific material designated herein and does not relate to use in combination with any other material or in any process.

The information set forth herein is based on technical data that Foster Dixiana Corporation believes reliable. It is intended for use by persons having technical skill and at their own discretion and risk. Since conditions of use are outside our control, we make no warranties, expressed or implied, and assume no liability in connection with any use of this information.

Nothing herein is to be taken as a license to operate under or recommendation to infringe any patents. Any use of this data and information must be determined by the user to be in accordance with Federal, State, and Local laws and regulations. Customers and users of silica must comply with all applicable health and safety laws, regulations, and orders.

TO: To

July 12, 2000

Mr. John Raney
Alternative Arts
1502 Central Ave.
Charlotte, NC

Dear Mr. Raney:

Onyx Environmental Services, Inc. is pleased to submit the following proposal for providing equipment and labor to clean lead contaminated dust from your site. Enclosed is a lump sum price for completing the project based upon the site visit.

Onyx Industrial will perform a complete wipedown of entire shop using mild detergent and rags. A shop vac will be used to clean large deposits of contamination around front door area. All material on the walls except awards will be put into 55-gal. Drums for disposal. All ceiling tiles will also be put into drums along with air conditioning unit and office equipment that cannot be cleaned. All personnel working on site will be tested for lead prior to start of project and at completion of project.

Onyx Environmental will be responsible for providing continuous lead monitoring during cleaning phase, 55-gal drums (est. 10 drums), disposal of all waste material and testing for lead after project is complete.

If awarded an Onyx services agreement must be signed prior to performing any services. Thank you for giving us the opportunity to be of service. If I can be of further assistance, please do not hesitate to contact me at (704) 522-8823.

Sincerely,

David Lee

David Lee
Onyx Environmental Services

2.42 Percent (Total) Lead

TCLP Maximum Concentration of Contaminants 5.0 PPM (D008)

[illegible] Tel.: 704 522 8823 · Fax: 704 522 8941

PRICE

Lump Sum Price **$15,260.00**

The above price is based on cleaning lead-contaminated dust from an est. 750sq.ft. room located at Alternative Arts in Charlotte, NC. It is based on thirty-six (36) hours of service.

The above lump sum price includes the following:

a. All supervision and labor.
b. All safety gear (resp. and tyveks).
c. All cleaning materials.
d. All personnel tested for lead prior to and after completion of cleaning phase.
e. One (1) twelve (12) hour shift per day.

Onyx Environmental to Supply:
a. 55-gal drums (10)
b. Disposal of all waste material.
c. Continuous lead monitoring during cleaning phase.
d. Final testing for lead contamination after project is complete.
e. On site supervisor.

Alternative Arts to Supply:
a. Water supply.

Dependent upon the method of disposal and the location of the facility, applicable hazardous waste taxes and/or surcharges imposed by the state will be charged.

ONYX's Payment Terms: Net thirty (30) days.

This is an estimate only. Actual costs are contingent upon total material removed, freight and manpower hours. This estimate is valid for thirty (30) days.

Pace Analytical™
www.pacelabs.com

Pace Analytical Services, Inc.
9800 Kincey Avenue, Suite 100
Huntersville, NC 28078
Phone: 704.875.9092
Fax: 704.875.9091

July 17, 2000

Mr. David Lee
ONYX
645 D Pressley Road
Charlotte, NC 28217

RE: Pace Project Number: 9215368
Client Project ID: Alternative Art Tattoo

Dear Mr. Lee:

Enclosed are the analytical results for sample(s) received by the laboratory on July 10, 2000. If you have any questions concerning this report, please feel free to contact me.

Sincerely,

Bonnie Hervey

Bonnie Hervey
Project Manager

Enclosures

Pace Analytical™
www.pacelabs.com

Pace Analytical Services, Inc.
7726 Moller Road
Indianapolis, IN 46268
Phone: 317.875.5894
Fax: 317.872.6189

DATE: 07/13/00
PAGE: 1

Pace Analytical Services, Inc.
9800 Kincey Avenue,Suite 100
Huntersville, NC 28078

Pace Project Number: 5010712
Client Project ID: ALTERNATIVE ART TATTOO

Attn: Project Manager
Phone: 704-875-9092

Solid results are reported on a wet weight basis

Pace Sample No: 50625490 Date Collected: 07/08/00 Matrix: Soil
Client Sample ID: A Date Received: 07/12/00

Parameters	Results	Units	PRL	Analyzed	Analyst	CAS#	Footnotes
Metals							
Lead, in Paint		Method: EPA 6010			Prep Method: Standard Methods		
Lead	2.25	% (w/w)	0.0443	07/12/00	HEB	7439-92-1	

REPORT OF LABORATORY ANALYSIS

This report shall not be reproduced, except in full,
without the written consent of Pace Analytical Services, Inc.

Pace Analytical™
www.pacelabs.com

Pace Analytical Services, Inc.
7726 Moller Road
Indianapolis. IN 46268
Phone: 317.875.5894
Fax: 317.872.6189

Pace Project Number: 5010712
Client Project ID: ALTERNATIVE ART TATTOO

PARAMETER FOOTNOTES

ND	Not Detected
NC	Not Calculable
PRL	Pace Reporting Limit

REPORT OF LABORATORY ANALYSIS

This report shall not be reproduced. except in full.
without the written consent of Pace Analytical Services. Inc.

Pace Analytical™
www.pacelabs.com

Pace Analytical Services, Inc.
7726 Moller Road
Indianapolis, IN 46268
Phone: 317.875.5894
Fax: 317.872.6189

QUALITY CONTROL DATA

DATE: 07/13/00

Pace Analytical Services, Inc.
9800 Kincey Avenue,Suite 100
Huntersville, NC 28078

Pace Project Number: 5010712
Client Project ID: ALTERNATIVE ART TATTOO

Attn: Project Manager
Phone: 704-875-9092

QC Batch ID: 15399
Analysis Method: EPA 6010
Associated Pace Samples: 50625490

QC Batch Method: Standard Methods
Analysis Description: Lead, in Paint

METHOD BLANK: 50625540
Associated Pace Samples:
50625490

Parameter	Units	Method Blank Result	PRL	Footnotes
Lead	% (w/w)	ND	0.05	

LABORATORY CONTROL SAMPLE: 50625557

Parameter	Units	Spike Conc.	LCS Result	Spike % Rec	Footnotes
Lead	% (w/w)	0.0500	0.04917	98.3	

SAMPLE DUPLICATE: 50625565

Parameter	Units	50625490	Dup. Result	RPD	Footnotes
Lead	% (w/w)	2.250	1.790	23	

REPORT OF LABORATORY ANALYSIS

This report shall not be reproduced, except in full,
without the written consent of Pace Analytical Services, Inc.

Pace Analytical™
www.pacelabs.com

Pace Analytical Services, Inc.
7726 Moller Road
Indianapolis, IN 46268
Phone: 317.875.5894
Fax: 317.872.6189

Pace Project Number: 5010712
Client Project ID: ALTERNATIVE ART TATTOO

QUALITY CONTROL DATA PARAMETER FOOTNOTES

Consistent with EPA guidelines unrounded concentrations are displayed and have been used to calculate % Rec and RPD values.

ND	Not Detected
NC	Not Calculable
PRL	Pace Reporting Limit
RPD	Relative Percent Difference

This report shall not be reproduced, except in full,
without the written consent of Pace Analytical Services, Inc.

ONYX ENVIRONMENTAL SERVICES

ONYX

SAMPLE SHIPPING DOCUMENT/ CHAIN OF CUSTODY

Number 9215368

Page 1 of 1

Onyx Environmental Services Client ALTERNATIVE ART TATTOO

CHARLOTTE, NC

ATTN: JOHN RAINEY

Laboratory Name PACE

Contact Name

Shipping Information

Proper Shipping Name	# Units	Total Quantity

- GARREN THOMAS } 522-8823
* DAVID LEE

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to all applicable international and national governmental regulations.

IN CASE OF EMERGENCY CALL 1-888-353-2387

Project Description (WIP #)

Reporting Type: NJ Reg Format, NJ Reduced Format, CLP, Level II, Level I (Data Sum), Other

TAT: 1 wk, 2 wk, 3 wk Other

SAMPLE LOCATION	DATE	TIME (Military)	SAMPLE NUMBER	Volatile Organic Compounds	Acid Extractable Compounds	Base/Neutral Extractable Compounds	CN Total/Amenable Method 9010	PCB's	Metals TCLP	BETX	Petroleum Hydrocarbons	TCLP Full	Ignitability	Corrosivity	(Other) LEAD				NO. OF SAMPLE CONTAINERS
SHOP	7/8/00	8:30	A											X					921082400

Relinquished by (signature):	Date	Time (Military)	Received by (Signature)	Date	Time (Military)	Relinquished by (signature):	Date	Time (Military)	Received by (Signature)	Date	Time (Military)
J. T. Walker	7/10	13:00 pm	Garren Thomas	7/10	13:00						
Relinquished by (signature):	Date	Time (Military)	Received by (Signature)	Date	Time (Military)						
Garren Thomas	7/10	5:10	C C Hart	7/10	5:10						

Send Results to Onyx Environmental Services

VIA: Verbal ☐ Fax ☐ Fed X ☐ Regular ☐

Purchase Order # Work Order #

REMARKS:

Form # OES-12

1139 COMMERCIAL AVE.
CHARLOTTE N.C. 28205

10
14
15
13
52 HR DECORATION ARTOK

MONDAY JULY 17, 2000

1 PM – 11 PM 10 HR

FIRST PHASE SHOP CLEANING, DETERGENT WASHING OF WALLS, CEILING, REMOVING EVERY THING FROM WAITING ROOM, FLASH, CHAIRS, RACKS, BOOKS, WASHING ALL ITEMS.

TUESDAY JULY 18, 2000

9 AM – 11 PM 14 HR

PRESSURE WASHING CHAIRS, SECOND WASH ON WAITING ROOM, BOOKS PHONE, CREDITCARD EQUIPMENT, COUCH, WATER COOLER, WORK ROOM WALLS, FLOURS, CHAIRS, REPEATED ALL FOR SECOND WASH DOWN.

WEDSDAY JULY 19, 2000

11 AM – 2 AM 15 HR

REMOVED COUCH FROM OFFICE WASHED WALLS, DESK, EQUIPMENT EVERYTHING IN OFFICE, TROPHYS, HALL WAY, HEATER, WORK STATION, ALL MACHINES, INK BOTTLES, PLACKS PICTURES, TRASH CANS, ART TABLE, SUPPLYS, REPEAT WASHING

THURSDAY JULY 20, 2000

10 AM – 11 PM 13 HR

DETAILED CLEANING & INSPECTION OF ALL EQUIPMENT, SUPPLYS,

THURSDAY, JULY 20, 2000

10 AM — 11 PM

CONTINUED SHOP WASH DOWN,
MET WITH HEALTH DEPT,
EPA, HAZARDOUS WASTE
DEPT, INSPECTING SHOP,
AT 10 AM UNTILL 11:30 AM
CONTINUED CLEANING,

N. C. Department of Environment, Health, and Natural Resources
Division of Environmental Health

INSPECTION OF TATTOO ESTABLISHMENT

0206061000
Identification Number

6-26-00
Date of Inspection

A
Status Code

Mecklenburg
Health Department

John Rainey
Name of Tattoo Artist

Alternative Arts
Name of Establishment

1502 Central ave 28205
Location (Street Address)

Mailing Address of Tattoo Artist (if different from above)

RECORDS: (.3206; .3208)

01 Records maintained for each patron include name, address, phone number, date of birth, and signature ✓
02 Monthly records of bacterial endospore destruction tests maintained for each autoclave ✓

TATTOO ROOM: (.3205; .3207; .3208; .3210)

03 Separate and apart from areas used for other purposes ✓
04 Separate work stations for each artist ✓
05 Room clean and good repair ✓
06 Furniture easily cleanable, kept clean ✓
07 Instruments, dyes, carbons, stencils kept in clean closed containers, case or storage cabinet ✓
08 Sterile instruments packaged in sterile containers ✓
09 Rigid solid waste container with plastic liner ✓
10 No animals or use of tobacco in tattoo room ✓
11 No eating or drinking by artists in tattoo room ✓

LAVATORY: (.3203; .3204; .3207; .3208)

12 Accessible to tattoo room ✓
13 Use restricted to tattoo artists ✓
14 Clean and good repair, kept free of storage ✓
15 Hot and cold water under pressure, mixing faucet ✓
16 Antiseptic soap and germicidal solution provided ✓
17 Individual scrub brushes and fingernail files or orange sticks provided for each artist ✓
18 Individual disposable hand towels provided ✓
19 Approved water supply and sewage disposal ✓

TATTOOING PROCEDURES: (.3208; .3209)

20 Hands washed thoroughly before each patron ✓
21 Clean disposable latex gloves worn ✓
22 Clean gown or lap cloth used ✓
23 Sterile instruments handled by aseptic technique ✓
24 Ink dispensed into disposable ink caps ✓
25 Skin examined and only healthy skin tattooed ✓
26 New disposable or sterile razor used ✓
27 Germicidal solution applied to skin ✓
28 Only new sterile needles used ✓
29 Tattoo cleaned and sterile dressing applied ✓

PRECAUTIONS: (.3207; .3208; .3209)

30 Blood and body fluid precautions taken ✓
31 Protective coverings and lap cloths removed and disposed of or laundered ✓
32 Contaminated Equipment cleaned and disinfected ✓
33 Contaminated instruments properly stored, cleaned, and autoclaved ✓
34 Needles removed and placed in sharps container ✓

MISCELLANEOUS: (.3205; .3207; .3210)

35 Poisons in covered, labeled containers ✓
36 Premises free of vermin, flies, or mosquito breeding places ✓
37 Outdoor solid waste in watertight containers with tight lids, properly secured ✓
38 Litter and solid waste not allowed to accumulate ✓

REMARKS:

DEHNR T856 (Revised 12/96)
Environmental Health Services Section (Review 12/98)

Signed [signature] Agent
Division of Environmental Health

NORTH MECKLENBURG FAMILY PRACTICE GROUP,P.A.
6111 RUMPLE ROAD
CHARLOTTE, NC 28262
(704) 596-5067

Date :07/13/00
TAX ID#: 56-1074357

No : 45462

Patient No : 63043.
Patient : JOHN, JR. R RAINEY
Guarantor JOHN, JR. R RAINEY
Insurance :

DIAGNOSIS: 1 _____ 3 _____
2 _____ 4 _____

DESCRIPTION	CPT	FEE	DESCRIPTION	CPT	FEE
			PULM. FUNCTION	94010	
OFFICE VISIT, BRIEF,	99201		PA CHEST X-RAY	71010	
NEW PATIENT-ROUTINE	99202		PA AND LAT CHEST X-R	71020	
NEW PATIENT DETAILED	99203		AP AND LAT CERV. SPI	72040	
NEW PATIENT-MOD.COMP	99204		PA AND LAT LUMBO-SAC	72100	
EST. PATIENT-BRIEF	99211		SHOULDER, MIN. 2 VIE	73030	
EST. PATIENT-FOCUSED	99212		KNEE X-RAY, 3 VIEWS	73562	
EST.PATIENT-INTERMED	99213	50w	HAND X-RAYS,1 OR 2 V	73120	
EST. PATIENT-EXTEN.	99214		FOOT,AP AND LAT VIEW	73620	
EST.PATIENT-COMP. PE	99215		X-RAY ANKLE, AP AND	73600	
OTHER			X-RAY SPINE THORACIC	72070	
OTHER			Hydrocollator	97010	
INJECTIONS/IMMUNIZATIONS			**LABORATORY**		
CELESTONE 6MG/ML	J0704		URINALYSIS	81000	
DT	90702		URINE, DIPSTICK	81002	
TB TINE SKIN TEST	86585		HEMOGLOBIN	85018	
INFLUENZA VACCINE 19	90659		BLOOD SUGAR	82947	
B12 INJECTION PER 1C	J3420		EXECUTIVE PROFILE	80050	
KUTAPRESSIN, UP TO	J1910		CHOLESTEROL	82465	
PENICILLIN INJ. IM.	J2510		TRIGLYCERIDES	84478	
ASPIRAT. AND/OR INJE	20610		PREGNANCY TEST, URIN	81025	
DEMORAL/PHENERGAN IN	J2180		PT	85610	
OTHER			MONOSPOT	86308	
SPECIAL PROCEDURES			THROAT CULTURE	87060	
			URINE CULTURE	87086	
SURGERY			GONORRHEA CULTURE	87075	
MISC. SUPPLIES	99070		PAP SMEAR	88150	
MISC. SUPPLIES	99070		EKG, WITH INTERPRETA	93000	
PATHOLOGY	88304		Hemoccult	82270	
HYFERCATION-FIRST LE	17000		KOH	87205	
DO NOT USE	17001		**OTHER**		
CRYOTHERAPY	17340		Lead - 038158		40w
SIGMOIDOSCOPY, REGUL	45300				
FLEXIBLE SIGMOIDOSCO	45330				

Previous Balance	Today's Charges	Total Due	Today's Cash	Payments Check	New Balance
.00			90w		

DOCTORS' SIGNATURE: D Howard C

North Carolina State Laboratory of Public Health
N.C. Department of Health and Human Services
P.O. Box 28047 - 306 N. Wilmington St. - Raleigh, NC 27611-8047

Environmental Lead Report

Name: Alternative Tatoo
Address: 1502 Central Ave
Charlotte, N C **Zip:** 28205

Telephone:
County: Mecklenburg

Report To: Tom Wood
Address: Mecklenburg Co. Env. Health
Hal Marshall Service Ct.
Charlotte, NC 28202-2236

Collected By: TOM WOOD
Telephone: (704) 336-5101
Date Collected: 07/20/2000
Analysis Desired: Lead

Courier: 05-16-21

Analysis Method: ASTM D3335-85a
Ashing @ 490 degrees C; Digestion
with Nitric and Hydrochloric Acid
Flame Atomic Absorption Analysis
1985

Laboratory Number	Field Number	Sample Description	Results	MDL	Reference
AA07651		Dust Blank	<25 ug	25 ug	003519
AA07652		Dust Floor Front Door	33 ug	25 ug	003520
AA07653		Dust Work Bench	<25 ug	25 ug	003521

Comments:

Date Received: 07/24/2000
Date Analyzed: 08/02/2000

Date Reported: AUG 02 2000

Reported By: John L. Neal
John L. Neal, Supervisor
Environmental Organic Chemistry

John, levels are below clearance standard of 100 ug/ft.²

Tom

Report To: Tom Wood 432-6854
Address: Mecklenburg Co. Env. Health
Hal Marshall Service Ct.
Charlotte, NC 28202-2236

Courier: 05-16-21

John R. Rainey, Jr.

Alternative Arts Tattooing
1502 Central Avenue
Charlotte, NC 28205
704.347.0616

August 17, 2000

Gerry F. Huntley
CGU Southeast
P.O. Box 2498
Hendersonville, NC 28793

Dear Mr. Huntley,

After receipt of your letter dated August 7, 2000, and our subsequent telephone conversation on August 9, I am inclined to believe, as you stated, that you were not properly informed as to all of the facts surrounding your policyholder's actions on July 1 through July 4, 2000. It is also apparent that you were not fully aware of the immediate and long-term damages caused by your client's substandard and irresponsible business practices. Being impressed by your sincerity to settle my claim against Morningstar Sandblasting Company, I submit to you the written explanations you requested from me in a last attempt to settle this claim.

The first issue that I will address is the rejection of my proof of income by you and Mr. Mead. Alternative Arts Tattooing is a privately owned business. My business license code is 331, business description being "service companies, schools or consultants". Alternative Arts Tattooing is a personal service business with income based upon tattooing pre-designed and/or custom designed art. Payment for our services is based upon production and/or time. Alternative Arts does not sell any type of tangible product, therefore we do not charge sales tax, nor are required to have a federal or state tax ID number. Since we do not collect or pay sales tax, sales tax records are nonexistent, as explained to Mr. Mead.

As requested by Mr. Mead, Mr. Harris and I allowed him to examine our income ledgers. He was also supplied with copies of these, as requested. Also offered was complete access to all Alternative Arts business records, including liability release forms on all clients. These forms include all necessary information to cross-check and verify our ledgers. Enclosed is a copy of these forms. We also accept major credit, check and debit cards. These records, which represent yet another form for proof of income, were also offered to Mr. Mead. Apparently he did not find it necessary to pursue this issue further.

You stated in your letter that you were responsible for lost profits and not gross income. I contest this on the basis that, during the period of time in which Alternative Arts was closed, I continued to meet my financial obligations to my business creditors. My lease, power, water and telephone bills, checking account and credit card fees were all paid on time. Supplies such as bandages, paper towels, medical tape, gloves and sterile needles/tube setups were also lost due to lead contamination. These expenses are subtracted from the gross to establish net profit. All of the above is verifiable through checking account and sales receipts. Business property tax, health department license fees and business license fees are also paid through my business checking account. I submit to you that I have fulfilled my obligation for burden of proof on this issue of my claim and Mr. Harris and I are entitled to our lost gross incomes. This also due to the fact that Mr.

Harris shares the above mentioned expenses, pays for his permits, as well as reporting his own profits. Mr. Harris is an independent, professional artist, not my assistant.

The next issue that needs to be addressed is the advertising budget which I requested from you in my attempt to repair imminent, long-term profit loss. The largest percentage of Alternative Arts business is seasonal with June, July and August representing our highest profit period. The Spring and Summer months are the most visible months for showing tattoos and therefore motivate more clients to become tattooed. This is not an opinion or speculation, but proven fact. Being aware that skin art is permanent, people will seek out the artist with the best reputation and most experience. Alternative Arts is the longest established tattoo studio in Charlotte and I am world-class ranked with clientele consisting of famous musicians, professional athletes, television and movie actors. Again, this is fact in the form of newspaper articles, national television interviews and stories, which include USA Today, MTV, music, movie and international tattoo magazines. Because of such artists as myself, the tattoo industry is now ranked the sixth largest growing business in the United States and abroad.

In the last five years, sixteen tattoo studios have opened in Charlotte, NC alone. Again, fact. This represents a great deal of competition to me and Mr. Harris. Our competition does everything in their power to compete with us and try to take business through lower prices, more artists on staff for quicker service and, of course, using any information available to disuade potential clients to visit our studio. It is already common knowledge in the tattoo community that Alternative Arts was contaminated with lead. This is hurting us and will continue to do so. Because of our contamination and subsequent closing during a peak profit month, we not only lost first time walk-in business, but repeat business as well. This reflects in our current records after reopening.

My original intent was to advertise on radio, in magazines and newspaper with the requested advertsing budget to revitalize Alternative Arts' reputation and regenerate business. Because I was told first by James Funderburk, and then by you, that this claim would be handled quickly, I believed as much and did not see the need to arrange for funds from my personal accounts to be used for this purpose. Unfortunately, by the time I came to the realization that this claim would be prolonged to this point, it was too late to salvage the remaining season. It now looks as though I have learned a valuable lesson at great expense. I look forward to your solution on rectifying this issue in my claim.

Decontamination and cleanup expense is the next issue that I am addressing, along with the time frame involved. When Mr. Harris and I came to the studio on July 3, 12:00pm, Morningstar was sandblasting the building attached to Alternative Arts. The photos that you have copies of were taken by Mr. Harris that day. The dust was so thick that we had to wait until the sandblaster took a break before we could get into my studio. At this point, we discovered that the inside of the studio was completely covered with thick dust. Being concerned as to the contents of the dust, I took an empty sand bag from the sandblasters to read the warning label. Enclosed is a copy of the warning on that bag. This in itself merited my decision to close my studio.

It also occurred to me that, because of the extremely old coats of paint on the building, the probability of high lead content in the dust was present. I immediately contacted James, who had hired Morningstar, and showed him my studio. I first asked him why I was not notified of the project to sandblast, which he had no answer. I then asked him if he had the proper permits for this and his reply was that no permits were required. At this point, James apologized for damaging my studio and promised me that he would rectify the situation and I, as well as Mr. Harris, would be compensated for the damages. I returned to the studio on July 5 when the sandblasting was completed and cleanup of the sand had started. James intended to have his employees sweep and dust my studio. I showed him the warning label on the sandbag and expressed my concerns to him concerning lead contamnation. I would not allow his employees to be exposed to this. I explained to him that specialists would have to be brought in to clean my

studio. James agreed to this and promised to hire a qualified company to do so. For my own benefit, I bought a lead test kit from a local paint store in order to test for the presence of lead. The results of the test indicated high amounts of lead present. I informed James of this. At this point James attempted to bring in a janitorial cleaning crew. When asked if they were qualified to deal with lead contamination, the answer was no. At this point, I gave James one last opportunity to meet his obligations. I gave him an adequate deadline and he did not comply. I then informed James that I would find a qualified company for him. I called all available companies and decided upon Onyx Environmental Services because of their expertise in lead decontamination.

Jim Walker, of Onyx Environmental, responded to my call and did an inspection of my studio, along with taking dust samples to be tested by Pace Analytical. Upon receiving the results, which you have copies of, it was shown that the lead contamination in my studio was far above acceptable hazardous levels for safe exposure. Onyx Environmental then presented me with an estimate and contract that I immediately gave to James. Again, James failed to keep his word. At that point in my continuing attempt to mitigate my losses, I was forced to take on the responsibility to decontaminate the studio myself. I did a great deal of research and gathered all available data from sources such as the EPA and Health Department, in order to prepare for the job. I also had blood tests done to insure that I did not have lead poisoning. I followed all safety guidelines and decontamination procedures to clean the studio. Upon finishing, I had the EPA and Health Department inspect and do more tests before reopening. The Health Department stated the studio looked good and I was then given the option to reopen or to stay closed until the contamination tests were complete. Again, in my continued efforts to mitigate my losses, I reopened that very day, confident that I was successful in my decontamination attempt. The end result of my efforts was rewarded with test results from the Health Department two weeks later stating that I had succeeded and "was in the clear". These tests results are enclosed.

A general cleaning crew would not have been able to accomlish this, nor be qualified to take liability for the end result. Your source, indicating a rate of $25.50 per hour to be reasonable, is incorrect. I submit that I did everything in my power to safely and properly resolve my situation as quickly as possible. Therefore, I fulfilled my duties and believe that I am entitled to the amount of payment estimated by Onyx Environmental for accepting liability to decontaminate my studio.

The next issue I will address is my airconditioning unit. The a/c is approximately six years old. Until the sandblasting incident, the unit functioned perfectly. The a/c is now clogged with a great deal of sandblasting material and lead dust. This was inspected by Mr. Mead. I consider it reasonable to have the a/c replaced by a new one, especially since I did not ask for the funds to have it installed. Instead, I reasoned that installing the unit myself would offset the total cost of replacement and therefore, would be an acceptable solution to this issue.

There is also the question of replacing the couch that was located in my office. This couch was in perfect condition, but since it was covered in fabric, was not salvagable due to contamination. Although this couch was worth much more to me, I asked for $300.00 to replace it. This couch had been purchased approximately six years ago.

Next, is the fact that there are still large amounts of sand and lead dust contamination on the outside of my studio. In fact, the entire end of the block is contaminated. This affects me directly because, when anyone enters the studio, contaminates are tracked inside. I think you can understand the potential ramifications of this. You can either have the area decontaminated or compensate me for the continuing battle to keep my studio sterile. I leave this issue to your best judgment.

Another issue that I wish to address is the fact that I was unable to take my yearly vacation because of this situation. This was discussed previously in our telephone conversation. The value of this vacation was roughly $2,500.00. The mental value would have been priceless. Again, I leave this issue as well to your best judgment.

The final issue I wish to address was also discussed in our telephone conversation. The expected birth of my first child is on October 20. My original intentions were to put a nursery in my studio in order to help take care of my son. This is no longer an option to me because of your client's irresponsible and unlawful business practices. Lead contamination is far more dangerous to infants than to adults. You can certainly understand why I will not be able to allow my newborn son anywhere near the studio. I had discussed with many people my intent to care for my son at the studio for over five months prior to the lead contamination situation. If need be, this can be proven with sworn affidavits. I expect you to address this issue and I am looking forward to any solution you may have to resolve this.

In closing, I am offering, at your request, to allow you the oppportunity to settle this claim without me being forced to bring in legal representation. Your response, and the belief that I am being dealt with in a fair manner, will determine my next course of action. Because of our telephone conversation, I am giving you the benefit of the doubt.

Sincerely,

John R. Rainey, Jr.

CGU

GERRY F. HUNTLEY AIC ARM
Senior Adjuster

CGU Southeast
P.O. Box 2498, Hendersonville, NC 28793
Tel: 828-698-3879 or 877-495-4439
Fax: 828-698-8364
email: gerry_huntley@cguusa.com

August 21, 2000

Mr. John Rainey
Alternative Arts Tattooing
1502 Central Avenue
Charlotte, N.C. 28205

RE: Insured > Morningstar Sandblasting
Dates of Loss > July 1 > July 4, 2000 (approximate)
Our File > 0ZP 03135W AL

Dear Mr. Rainey:

Thank you for your letter and documentation of August 17, 2000.

Due to the amount claimed in this case the file will require review from management. The file will be reviewed by management in the very near future. There is a meeting in Atlanta this week. However, I expect your file to be reviewed next week, as soon as the manager is back in the office.

As soon as your file is reviewed I will be able to advise you the company position.

I appreciate your assistance, cooperation, and patience.

Sincerely,

Gerry F. Huntley

Gerry F. Huntley
Senior Claims Adjuster

CGU

CGU

CGU

GERRY F. HUNTLEY AIC ARM
Senior Adjuster

CGU Southeast
P.O. Box 2498, Hendersonville, NC 28793
Tel: 828-698-3879 or 877-495-4439
Fax: 828-698-8364
email: gerry_huntley@cguusa.com

August 7, 2000

Mr. John Rainey
Alternative Arts Tattoo
1502 Central Avenue
Charlotte, N.C. 28205

RE: Insured > Morningstar Sandblasting
Date of Loss > July 4, 2000 (approximate discovery)
Our File > 0ZP 03135W AL

Dear Mr. Rainey:

Thank you for the information you supplied the local Crawford & Company representative, Richard Mead.

We desire to pay you for the reasonable clean up of your business and any inspections by the EPA or other authorities. If they say the A/C must be replaced we are prepared to pay for this on an actual cash basis based on its age. We can also pay for the couch on an actual cash basis, based on its original cost less depreciation according to its age.

Regarding the clean up expense and the time frame, we are wandering why approximately two weeks lapsed before the cleaning was commenced. A person has a duty to mitigate his/her loss and we need an explanation about the delay in starting the clean up. We can pay the customary charge to clean up a situation such as yours. Our source indicated a rate of $25.50 per hour to be reasonable. My information is that you worked 52 hours in the clean up operation.

In order to consider any lost profits I must have copies of your tax records for the last couple of years. We have a duty to our policyholders to have verification of your income in this manner from a verifiable source. Also, we are responsible for lost profits only and not gross income. I will also need tax verification on your assistant, Mr. Harris.

I trust you understand our position in requiring verification on the claimed income loss. We certainly desire to be fair. We must have verifiable tax information on the above to reach that objective.

I look forward to your favorable reply.

Sincerely,

Gerry F. Huntley

Gerry F. Huntley
Senior Claims Adjuster

CGU

GERRY F. HUNTLEY AIC ARM
Senior Adjuster

CGU Southeast
P.O. Box 2498, Hendersonville, NC 28793
Tel: 828-698-3879 or 877-495-4439
Fax: 828-698-8364
email: gerry_huntley@cguusa.com

September 21, 2000

Mr. John Rainey
Alternative Arts Tattooing
1502 Central Avenue
Charlotte, N.C. 28205

RE: Insured > Morningstar Sandblasting
Loss Date > July 4, 2000 Holiday weekend
Our File > 0ZP 03135W AL

Dear Mr. Rainey:

Thank you for the information you have supplied to date on this situation.

Without verifiable tax returns you have submitted to the Federal Government in the last few years I cannot proceed to offer beyond $5000.00 to conclude your claim. You must prove your damages from a nonbiased source. The tax returns are that source. When you decide to furnish these documents to us we will be glad to consider your claim. As it stands now I cannot commit to anymore than $5000.00 to conclude your loss.

If Mr. Harris wishes to present a claim on his lost income I will need his tax returns also.

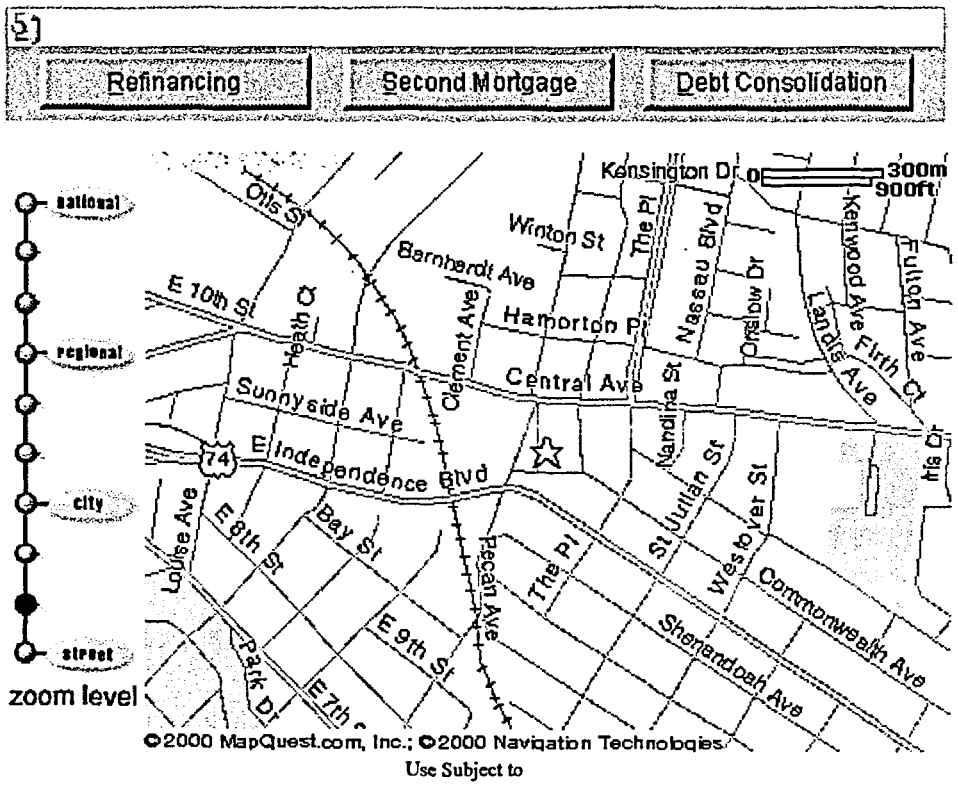
I look forward to the above information at an early date.

Sincerely,

Gerry F. Huntley

Gerry F. Huntley
Senior Claims Adjuster

[redacted]


Refinancing
Second Mortgage
Debt Consolidation
national
regional
city
street
zoom level
Kensington Dr
300m
900ft
Otis St
Winton St
The Pl
Nassau Blvd
Kenwood Ave
Fulton Ave
Bernhardt Ave
E 10th St
Heath Ct
Clement Ave
Hamorton Pl
Orslow Dr
Landis Ave
Firth Ct
Central Ave
Sunnyside Ave
Nandina St
Iris Dr
74
E Independence Blvd
St Julian St
Westover St
Louise Ave
E 8th St
Bay St
Pecan Ave
The Pl
Commonwealth Ave
Shenandoah Ave
E 9th St
Park Dr
E 7th
©2000 MapQuest.com, Inc.; ©2000 Navigation Technologies
Use Subject to

10/10/00

Dear Joe,

These are the dates as best I can tell from what I can gather

Blasted Building 7/2-4/00

7/4/00 3 trips from Heaven Store to Pickett's approximately 12 5-gallon buckets, 1 plastic 40 gallon Rubbermaid Garbage container ½ full, 2 50 gallon metal Drums ⅓ full. (when filled more than ½ full were too heavy to move).

Also laid down piece of scrap plastic & piled 3 or 4 buckets of sand on it because we didn't have enough buckets.

made 3 trips total, same amount

7/6/00 1 trip from heaven to Pickett's. approximately 12 Buckets, 1 plastic Rubbermaid bucket ⅓ full, 2 metal Drums ⅓ full (½ full was too hard for me to move by myself).

no plastic this time, too much hassle

All poured on Ground, Joe saw & took pictures

8/17/00 approximately 12 5 gallon buckets carried & put in a plastic drum, & metal Drums

9/1/00 Same again as 8/17/00

9/12/00 approximately 14 5 gallon buckets carried and put in metal drums

9/18/00 same again as 9/12/00

1 plastic barrel estimated 40-45 gall.
3 metal barrels estimated 45-50 gallon } at Pickett site

over

Picketts full name

Albert Eric Pickett
5621 mt. Olive church rd.
charlotte NC 28278
392 1823

I think this is everything you asked for

James Custner

c. Non-sterilized polyethylene centrifuge tubes (50 ml size) or equivalent hard-shell container that can be rinsed quantitatively in the laboratory.

d. Dust sample collection forms contained in these Guidelines

e. Camera & Film to document exact locations (Optional)

f. Template Options

i. Masking tape. Masking tape is used on-site to define the area to be wiped. Masking tape is required when wiping window sills and window wells in order to avoid contact with window jambs and channel edges. Masking tape on floors is used to outline the exact area to be wiped.

ii. Hard, smooth, reusable templates made of laminated paper, metal, or plastic. Note: Periodic wipe samples should be taken from the templates to determine if the template is contaminated. Disposable templates are also permitted so long as they are not used for more than a single surface. Templates must be larger than 0.1 ft^2, but smaller than 2 ft^2. Templates for floors are typically 1 ft^2. Templates are usually not used for windows due to the variability in size and shape (use masking tape instead).

g. Container labels or permanent marker.

h. Trash bag or other receptacle (do not use pockets or trash containers at the residence).

i. Rack, bag, or box to carry tubes (optional)

j. Measuring tape

k. Disposable shoe coverings (optional)

2. Single Surface Wipe Sampling Procedure

a. Outline Wipe Area:

Floors: Identify the area to be wiped. Do not walk on or touch the surface to be sampled (the wipe area). Apply adhesive tape to perimeter of the wipe area to form a square or rectangle of about one square foot. No measurement is required at this time. The tape should be positioned in a straight line and corners should be nominally perpendicular. When putting down any template, do not touch the interior wipe area.

Window sills and other rectangular surfaces: Identify the area to be wiped. Do not touch the wipe area. Apply two strips of adhesive tape across the sill to define a

wipe area at least 0.1 square foot in size (approx. 4 inches x 4 inches).

When using tape, do not cross the boundary tape or floor markings, but be sure to wipe the entire sampling area. It is permissible to touch the tape with the wipe, but not the surface beyond the tape.

b. Preliminary inspection of the disposable wipes:

Inspect the wipes to determine if they are moist. If they have dried out, do not use them. When using a container that dispenses wipes through a "pop-up" lid, the first wipe in the dispenser at the beginning of the day should be thrown away. The first wipe may be contaminated by the lid and is likely to have dried to some extent. Rotate the container before starting to ensure liquid inside the container contacts the wipes.

c. Preparation of centrifuge tubes:

Examine the centrifuge tubes and make sure that the tubes match the tubes containing the blind spiked wipe samples. Partially unscrew the cap on the centrifuge tube to be sure that it can be opened. Do not use plastic baggies to transport or temporarily hold wipe samples. The laboratory cannot measure lead left on the interior surface of the baggie.

d. Gloves

Don a disposable glove on one hand; use a new glove for each sample collected. If two hands are necessary to handle the sample, use two new gloves, one for each hand. It is not necessary to wipe the gloved hand before sampling. Use a new glove for each sample collected.

e. Initial placement of wipe:

Place the wipe at one corner of the surface to be wiped with wipe fully opened and flat on the surface.

f. First wipe pass - (side-to-side):

With the fingers together, grasp the wipe between the thumb and the palm. Press down firmly, but not excessively with both the palm and fingers (do not use the heel of the hand). Do not touch the surface with the thumb. If the wipe area is a square, proceed to wipe side-to-side with as many "S"-like motions as are necessary to completely cover the entire wipe area. (See step h for non- square areas.) Exerting excessive pressure on the wipe will cause it to curl. Exerting too little pressure will result in poor collection of dust. Do not use only the fingertips to hold down the wipe, because there will not be complete contact with the surface and some dust may be missed. Attempt to remove all visible dust from the wipe area.

g. Second wipe pass - (top-to-bottom):

Fold the wipe in half with the contaminated side facing inward. (The wipe can be straightened out by laying it on the wipe area, contaminated side up, and folding it over.) Once folded, place in the top corner of the wipe area and press down firmly with the palm and fingers. Repeat wiping the area with "S"-like motions, but on the second pass, move in a top-to-bottom direction. Attempt to remove all visible dust. Do not touch the contaminated side of the wipe with the hand or fingers. Do not shake the wipe in an attempt to straighten it out, since dust may be lost during shaking.

h. Rectangular areas (e.g. window sills):

If the surface is a rectangle (such as a window sill), two side-to-side passes must be made over half of this surface, the second pass with the wipe folded so that the contaminated side faces inward. For a window sill, do not attempt to wipe the irregular edges presented by the contour of the window channel. Avoid touching other portions of the window with the wipe. If there are paint chips or gross debris in the window sill, attempt to include as much of it as possible on the wipe. If all of the material cannot be picked up with one wipe, field personnel may use a second wipe at their discretion and insert it in the same container. Consult with the analytical laboratory to determine if they can perform analysis of two wipes as a single sample. When performing single-surface sampling, do not use more than two single surface wipes for each container. If heavily dust-laden, a smaller area should be wiped. It is not necessary to wipe the entire window well but do not wipe less than 0.10 ft^2 (approx 4" x 4").

i. Packaging the Wipe:

After wiping, fold the wipe with the contaminated side facing inward again, and insert aseptically (without touching anything else) into the centrifuge tube or other hard-shelled container. If gross debris is present, such as paint chips in a window well, make every attempt to include as much of the debris as possible in the wipe.

j. Labelling the Centrifuge tube:

Seal the tube and label with the appropriate identifier. Record the laboratory submittal sample number on the field sampling form (see Chapters 5 and 14).

k. Area Measurement:

After sampling, measure the surface area wiped to the nearest eighth of an inch using a tape measure or a ruler. The size of the area wiped must be at least 0.10 ft^2 in order to obtain an adequate limit of quantitation (25 µg/wipe is the typical detection limit with flame AA; 25 µg/0.10 square feet = 250 µg/ft^2, which is half of the HUD clearance criterion for interior window sills). No more than 2 square feet should be

wiped with the same wipe or else the wipe may fall apart. Record specific measurements for each area wiped on the field sampling form.

l. Form Completion

Fill out the appropriate field sampling forms (see Form 5.4 or Form 14.2 in these Guidelines) completely. Collect and maintain any field notes regarding type of wipe used, lot number, collection protocol, etc.

m. Trash Disposal:

After sampling, remove the masking tape and throw it away in a trash bag. Remove the glove; put all contaminated gloves and sampling debris used for the sampling period into a trash bag. Remove the trash bag when leaving the dwelling. Do not throw away gloves or wipes inside the dwelling unit where they could be accessible to young children, resulting in a suffocation hazard.

Repeat steps a. through m. for additional samples in the same dwelling unit.

3. Composite Wipe Sampling

Whenever composite sampling is contemplated, consult with the analytical laboratory to determine if the laboratory is capable of analyzing composite samples. When conducting composite wipe sampling, the procedure stated above should be used with the following modifications:

When outlining the wipe areas (step a), set up all of the areas to be wiped before sampling. The size of these areas should be roughly equivalent, so that one room is not over-sampled.

After preparing the centrifuge tube, put on the glove(s) and complete the wiping procedures for all subsamples (steps e-i). A separate wipe must be used for each area sampled. After wiping each area, carefully insert the wipe sample into the same centrifuge tube (no more than 4 wipes per tube).

Once all subsamples are in the tube, label the tube. Record a separate measurement for each area that is subsampled on the field collection form (see Form 5.4a or Form 14.2a for a sample form). Finally, complete trash disposal (step m), making sure that no masking tape is left behind.

Risk assessors and inspector technicians do not have to remove their gloves between subsample wipes for the same composite sample as long as their gloved hands do not touch an area outside of the wipe areas. If a glove is contaminated, the glove should be immediately replaced with a clean glove.

In addition to these procedural modifications, the following rules for compositing should be observed:

- Separate composite samples are required from carpeted and hard surfaces (*e.g.*, a single

composite sample should not be collected from both carpeted and bare floors).

- Separate composite samples are required from each different component sampled (*e.g.*, a composite sample should not be collected from both floors and window sills).

- Separate composite samples are required for each dwelling

4. Blank Preparation

After sampling the final dwelling unit of the day, but before decontamination, field blank samples should be obtained. Analysis of the field blank samples determines if the sample media is contaminated. Each field blank should be labeled with a unique identifier similar to the others so that the laboratory does not know which sample is the blank (i.e., the laboratory should be "blind" to the blank sample).

Blank wipes are collected by removing a wipe from the container with a new glove, shaking the wipe open, refolding as it occurs during the actual sampling procedure, and then inserting it into the centrifuge tube without touching any surface or other object. One blank wipe is collected for each dwelling unit sampled or, if more than one dwelling unit is sampled per day, one blank for every 50 field samples, whichever is less. Also, collect one blank for every lot used. Record the lot number.

5. Inspector Decontamination:

After sampling, wash hands thoroughly with plenty of soap and water before getting into car. A bathroom in the dwelling unit may be used for this purpose, with the owner's or resident's permission. If there is no running water in the dwelling unit, use wet wipes to clean the hands. During sampling, inspectors must not eat, drink, smoke, or otherwise cause hand to mouth contact.

6. Spike Sample Submission

Samples spiked with a known amount of leaded dust should be inserted into the sample stream randomly by the person conducting field sampling to determine if there is adequate quality control of the digestion process at the laboratory. Dust-spiked wipe samples should be submitted blindly to the laboratory by the individual performing field sampling at the rate of no less than one for every fifty field samples. Any laboratory can spike wipe samples using the procedure in Appendix 14.3. The laboratory performing the analysis of the field samples can also prepare the spike sample as long as the person performing the field sampling makes the spike sample indistinguishable from the field samples. The person conducting the field sampling should take the spike sample prepared in the laboratory and relabel the container with an identifier similar to the other field samples. The spike sample wipe should not be put into another container. Spike samples should be made using the same lot as that used in the field.

A dust-spiked sample is defined as a wipe or filter containing a known weight of lead-based paint dust, measured to the nearest 0.1 μg of leaded dust. A dust-spiked sample is prepared in a laboratory with the amount of lead-based dust present being between 50 - 1000 μg. For wipe

Appendix 13.1: Wipe Sampling for Settled Lead-Contaminated Dust

Wipe samples for settled leaded dust can be collected from floors (both carpeted and uncarpeted), interior and sash/sill contact areas, and other reasonably smooth surfaces. Wherever possible, hard surfaces should be sampled. Wipe media should be sufficiently durable so that it is not easily torn, but can be easily digested in the laboratory. Recovery rates of between 80-120% of the true value should be obtained for all media used for wipe sampling. Blank media should contain no more than 25 µg/wipe (the detection limit using Flame Atomic Absorption). Additional standards for wipe sampling can be found by consulting ASTM ES 30-94.

1. Wipe Sampling Materials and Supplies

a. Type of disposable wipe: Any wipe material that meets the following criteria may be used:

(i) Contains low background lead levels (less than 5 µg/wipe)
(ii) Is a single thickness
(iii) Is durable and does not tear easily (do not use Whatman™ filters)
(iv) Does not contain aloe
(v) Can be digested in the laboratory
(vi) Has been shown to yield 80-120% recovery rates from samples spiked with leaded dust (not lead in solution)
(vii) Must remain moist during the wipe sampling process (wipes containing alcohol may be used as long as they do not dry out)

Examples of acceptable wipe media include: "Little Ones Baby Wash Cloths™," "Little Ones Baby Wipes Natural Formula™," or "Little Ones Baby Wipes Lightly Scented™," available at K-Mart Stores. This product is also available under the brand names "Pure and Gentle Baby Wipes™" and "Fame Baby Wipes™." Individually-packaged "Wash'n Dri Wipes" are also acceptable. "Wet Wipes," which are available at Walgreens and other stores, may also be used. Other brands are also acceptable if equivalence in both lead contamination (analysis of blanks) and laboratory digestion recoveries (analysis of wipes spiked with known amounts of leaded dust, not lead in solution) can be established. The wipes listed above have proven to be sufficiently durable under field use and to have acceptable recovery rates. Do not use "Little Ones Diaper Wipes," also available at K-Mart stores, or any other brand of wipes for which recovery data have not been established. Do not use wipes that contain aloe. Wipes that contain alcohol may be used as long as they do not dry out during the wipe process.

b. Non-sterilized non-powdered disposable gloves. Disposable gloves are required to prevent cross-sample contamination from hands.

rated poor, a lead hazard screen is not an option. Risk assessors are responsible for informing owners of the frequency and duration that a dwelling should be reevaluated following lead hazard control treatments. Procedures to develop a site-specific Reevaluation Schedule are discussed in Chapter6.

3. Condition of Friction and Impact Surfaces

Deterioration on friction and impact surfaces should be determined by operating several of the windows and doors that are used most frequently (if known). Windows that do not operate smoothly and doors that bind or otherwise contact the frame improperly are indications of a potential source of leaded dust. Operating three or four windows and three or four doors is usually adequate; it is not necessary to operate all windows and doors in the dwelling. For risk assessment purposes, it is not necessary to analyze the paint for lead content on these surfaces unless it is deteriorating.

4. Chewed Surfaces

Surfaces with teeth marks are considered hazards if the paint is lead based.

5. Common Areas

Paint and building conditions should be evaluated in all common areas accessible to children.

B. Dust Sampling

1. General Guidance and Definitions

These *Guidelines* provide advice on deciding which rooms to sample and which components to sample within rooms. However, only general guidance can be offered on exactly where samples should be collected. The exact spot to be sampled should be chosen based on the risk assessor's visual observations and the results of any resident interviews and use patterns (if available). Of course, no interviews or observation of use patterns can be done in vacant units. Generally, floor dust samples should be collected from areas that are likely to be contacted by young children, such as play areas within rooms, high-traffic walkways, room midpoints, or areas immediately underneath windows. Window dust samples in a given room should be collected from the window that is most frequently operated or most frequently contacted by children, if known. For example, if toys are located on one window sill but not the other, the one with the toys should be sampled. Conversely, the window trough of windows that are difficult to open and are infrequently operated should *not* be sampled, since contact by children is unlikely.

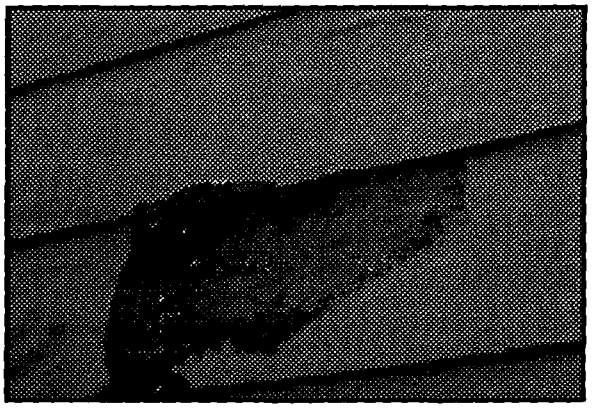


Figure 5.2f Forms of Paint Deterioration: Cracking, Peeling,and Blistering.

Courtesy: National Decorating Products Association

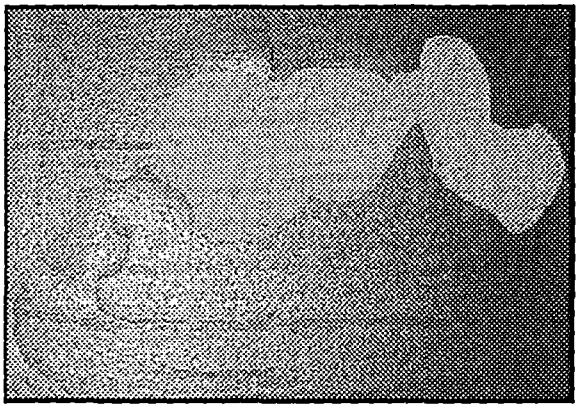


Figure 5.2g Forms of Paint Deterioration: Cracking and Peeling on Plaster.

Courtesy: National Decorating Products Association

Figure 5.3a shows where wipe samples should be collected from window assemblies. Samples should be collected from interior window sills (also known as stools or ledges), which are shown as Area C in Figure 5.3a. Samples should also be collected from window troughs (Area A or Areas A and B), formerly known as window wells (or exterior sills). It should be noted that the entire exterior sill is not sampled.

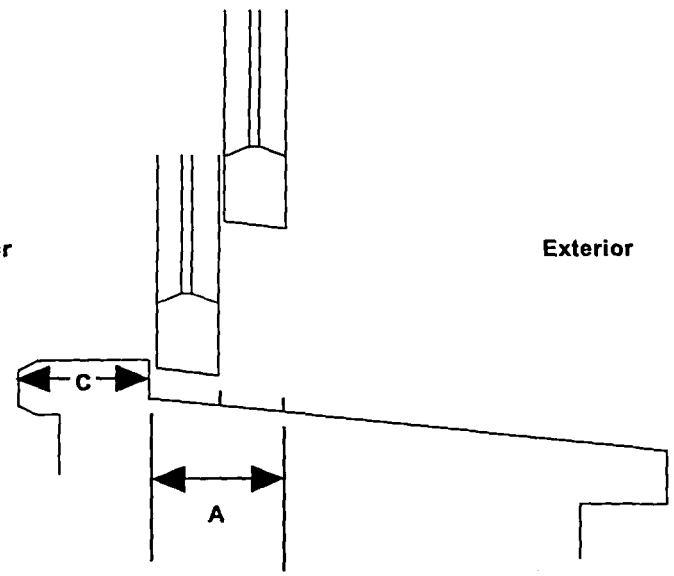
- Interior window sills—The portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when closed; technically called the window "stool."
- Window trough—The portion of the horizontal window sill that receives both the upper and lower window sashes when they are lowered, often located between the storm window and the interior window sash; sometimes called the window well. If there is no storm window, the window trough consists of the portion of the horizontal window trim that contacts the sashes when they are closed (i.e., not the entire exterior sill). See Figure 5.3 for an illustration of the window surfaces from which dust samples should be collected.

The risk assessor can conduct either composite or single-surface dust sampling. In composite sampling, samples are collected from common components in different rooms and analyzed as one. Composite sampling often reduces the total number of samples analyzed, thus lowering the cost, but offers only limited information about individual rooms. Single-surface sampling involves collecting and analyzing samples from individual components. Single-surface sampling incurs higher analytical costs, but provides specific information that may help focus hazard control efforts on particular surfaces and make hazard control more cost effective by limiting its scope to specific rooms.

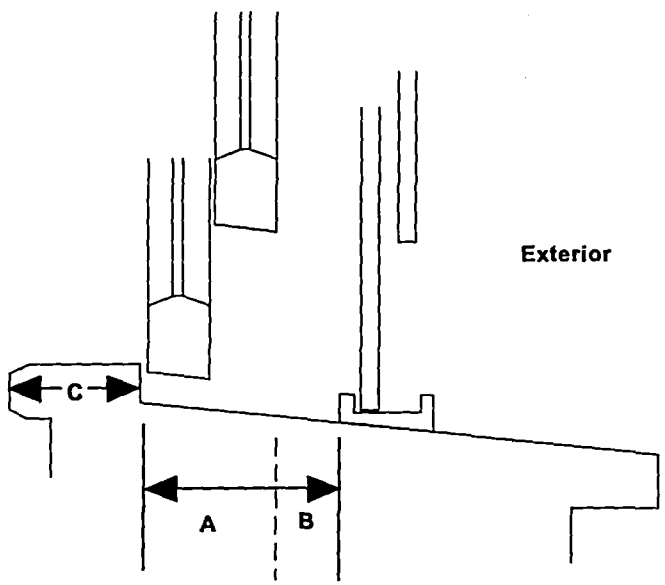
Dust samples can be collected using either a wet wipe or a special vacuum. The complete field sampling and analytical protocol for wipe sampling is contained in Appendixes 13 and 14. At this time, HUD is able to offer guidance on interpreting the results of wipe sampling only, because there is no recommended standard for vacuum sampling. While vacuum sampling may be used, it is up to the user to interpret the results. The results of wipe sampling and vacuum sampling are *not* interchangeable or equivalent. Further information on dust sampling will be available from EPA when health-based leaded dust standards are promulgated. The following considerations should be observed when collecting dust samples:

- Wipe sampling is the preferred method of dust collection because it is simple, inexpensive, and has been used successfully for a number of years in several States and in the public housing program. Recent research has indicated that wipe-sampling results correlate well with blood lead levels in children (Lanphear, 1994; Farfel, 1992). Currently, researchers are examining the efficacy of vacuum sampling, and HUD and EPA will provide further guidance on interpreting vacuum-sampling results pending further research.
- Whenever possible, dust samples from floors should be collected from hard surfaces. Wipe samples can be collected from the surface of carpets; however, carpet sampling is more ambiguous because of the variability among carpet styles.
- Only certain brands of wipes should be used, unless equivalence can be demonstrated through a blind dust-spike sample analysis (see Appendix 13.1).
- Whatman™ filters and thick diaper wipes should not be used. (Whatman™ filters are not sufficiently durable for use in the field, and many thick diaper wipes cannot be digested in routine lab analysis.)
- Unmarked spiked wipe samples should be submitted for analysis with regular field samples in order to ascertain the efficiency of the laboratory digestion procedure. See Section IV of this chapter and Appendix 14.3 for more information on spiking wipe-sample media with leaded dust.

Figure 5.3a Window Locations for Dust Sampling.



1. Sectional view of window (with no storm window) showing window trough area, A, to be tested. Trough is the surface where both window sashes can touch the sill when lowered. The interior window sill (stool) is shown as area C. Interior window sills and window troughs should be sampled separately.



2. Sectional view of window (including storm window) showing window trough area, A and B, to be tested. Trough extends out to storm window frame. The interior window sill (stool) is shown as area C. Interior window sills and window troughs should be sampled separately.

Figure 5.3b Deteriorated Window Troughs Often Contain High Levels of Lead-Contaminated Dust.

- Hard containers (not plastic bags) should be used to transport wipe samples from the sampling site to the lab, since the container will be rinsed quantitatively to recover all lead on the sample.
- Hard containers should be triple-rinsed in the laboratory to ensure quantitative transfer.
- Wipes should always be moist; if the wipes have dried out (e.g., from an open lid), they should not be used.

2. Composite Dust Sampling

If composite sampling is used, a minimum of three separate composite dust samples should be collected. A fourth composite sample would be needed if wall-to-wall carpets are present. The composite samples should be collected from floors, interior window sills, and window troughs.

Risk assessors should follow the composite sampling protocol found in Appendix 13.1. The following rules should be observed when conducting composite dust wipe sampling:

- Separate composite samples are required from carpeted and hard surfaces (e.g., a single composite sample should not be collected from both carpeted and bare floors).
- Separate composite samples are required from each different component sampled (e.g., a single composite sample should not be collected from both floors and interior window sills).
- Separate composite samples are required for each dwelling.
- Floor surface areas sampled in each room should be approximately the same size (1ft ^{2} or 929cm ^{2}). Window trough and interior window sill sampling sizes are dependent on window characteristics, but should be as similar as possible from room to room (e.g., the surface sampling area should not be skewed so that one room is oversampled).
- A new wipe should always be used for each spot sampled.
- No more than four different wipes should be inserted into a single container for a composite sample. Acceptable recovery rates (80–120 percent of the "true" value) have been found when no more than four wipes are analyzed as a single sample (Jacobs, 1993c).

While a risk assessor should exercise professional judgment about the number and location of samples, three or four composite dust samples are sufficient for most evaluations in smaller dwellings.

In an unoccupied dwelling or a dwelling facing turnover, the areas that are most likely to have lead-contaminated dust should be sampled. In general, floor samples should be collected in the four rooms with the greatest evidence of chipping and peeling paint. In a dwelling where children reside, however, areas where young children are most likely to be exposed to lead hazards should be sampled. The recommended subsampling locations for houses with children are the following:

- Principal playroom for children (usually the TV room, living room, or dining room).

- Kitchen.
- Bedroom of the youngest child, who is over 6 months of age (children under 6 months are unlikely to be exposed to dust).
- Bedroom of the next oldest child.

The preceding locations for subsamples can be used for both single-family and multifamily dwelling risk assessments. However, substitute locations will be necessary in dwellings where the room designations cannot be determined. For example, in vacant units, the living room should be substituted for the playroom and the smallest bedroom for the youngest child's room.

3. Single-Surface Dust Sampling

If composite sampling is not used, at least six to eight single-surface dust samples are necessary to evaluate the hazards in each dwelling. Children are most likely to come into contact with dust in the following areas:

- Entryway (including porches).
- Children's principal play area (usually the TV room, living room, or dining room).
- Children's bedrooms.
- Kitchen.
- Bathroom.

Within these rooms, components that are likely to have high dust levels are:

- Floors near friction or impact spots or in areas with deteriorated paint.
- Interior window sills (of frequently opened windows).
- Window troughs (of frequently opened windows).
- Cabinets with deteriorated paint (housing dishes, toothbrushes, eating utensils, etc.).

Risk assessors should combine this general guidance with the data from the visual inspection and any information gathered about the residents' use patterns to determine the exact number and location of dust samples to be collected. For a multiple-dwelling assessment, these suggestions may be used to assist the risk assessor in developing a sampling plan for each dwelling. An example of a dust sampling plan is shown on the next page. This plan guarantees a mix of dust samples from floors, interior window sills, and window troughs, with a preponderance of samples collected from floors, which are more frequently contacted by children.

In some cases, a mixture of single-surface and composite samples may be the most appropriate approach. Composite samples should be used when all the surfaces are fairly similar. Single-surface sampling should be used on surfaces that are unique in some way. For example, if there is a single window trough that serves as a storage space for toys, then it should not be sampled by a composite sample, since information is needed about that specific location. The selection of composite or single-surface sampling is a professional judgment that should be made by a certified risk assessor, and should be based on EPA standards when they are promulgated.

4. Common Areas (Multifamily Housing Only)

When sampling low-rise buildings (four stories or less), the risk assessor should collect two additional dust wipe samples: one from the entry area floor and one from the floor of the first-story landing of a common hallway or stairway. If there is a hallway window that is frequently used, the risk assessor should collect an interior window sill or window trough sample from this window and substitute this sample for the floor sample from the first-floor landing.

In high-rise buildings, the risk assessor should also collect two additional dust samples from the corridor of every fourth floor. The dust samples should be collected from floor areas and window troughs. If the window cannot be opened, or there is no trough present, a sample from the interior window sill should be collected. In addition, two dust samples should be collected from stairways: one from the stair treads, and one from the landing. When collecting the dust samples, the risk assessor should

Example of a Dust Sampling Plan

Dust samples should be collected from each of the following locations:

- One from the floor of the child's principal play area, TV room, or living room).
- One from the interior window sill of the most frequently opened window in the child's principal play area.
- One from the floor of the kitchen.
- One from the window trough of the kitchen window (if inaccessible, an interior window sill sample should be collected).
- One from the floor of the bedroom of the youngest child (older than 6 months).
- One from the interior window sill of the bedroom of the youngest child (older than 6 months).
- One from the floor of the bedroom of the next oldest child, if any.
- One from the window trough of the bedroom of the next oldest child, if any (if inaccessible, an interior window sill sample should be collected).

At least one window trough sample should be collected in each dwelling. If no playroom can be identified, the living room should be sampled. If the youngest child's bedroom cannot be identified, the smallest bedroom should be sampled.

Under this plan, three composite samples *or* eight single-surface samples would be collected. The risk assessor should use professional judgment to determine which method is most appropriate.

In some dwellings, it may be appropriate to delete or add a sample location. For example, if a window is never opened, the window trough should not be sampled. If an additional location is identified that displays both a visible accumulation of dust *and* has obviously been exposed to a child, an additional sample from that location should be collected. A dusty tabletop in the child's play area, or a cabinet with deteriorated paint that holds dishes, aresurfaces that should be sampled.

record the conditions of all painted surfaces in the corridor or stairway where the samples are collected.

5. Dust Sampling in Onsite Community Buildings, Day Care, Recreational, or Other Spaces Frequented by Children

For spaces up to 2,000 square feet, dust samples should be collected as follows:

- Floors: Collect two dust samples from widely separated locations in "high-traffic" areas regularly used or accessible to children.
- Windows: Collect two samples, one from an interior window sill and the other from a window trough.

For spaces over 2,000 square feet, dust samples should be collected as follows:

- Floors: Collect one additional sample for each increment of 2,000 square feet.
- Windows: Collect one additional sample of either an interior window sill or a window trough for each additional increment of 2,000 square feet.

In the building's management office, one dust sample should be collected from the floor of the resident waiting area (if children are ever present in the area); two samples should be collected if the area is more than 400 square feet. Dust samples may be composited according to the rules explained earlier.

C. Paint Sampling

As part of the risk assessment, the risk assessor should determine whether any deteriorated paint is lead-based and therefore constitutes a lead hazard. If a paint inspection has been conducted, and the risk assessor believes that the inspection adequately follows the principles of testing described in Chapter 7, then the inspection results should be used to determine which deteriorated surfaces are lead hazards. If an inspection has not been completed, or the risk assessor questions its reliability, building components that exhibit deteriorated paint should be analyzed. Paint-chip samples should be collected, or measured by x-ray fluorescence (XRF) analysis *after* dust sampling is conducted in order to minimize the possibility of cross-contamination of dust and paint samples.

1. Evaluating Previous Paint Testing

If previous testing of lead-based paint has been completed, the risk assessor should review the testing report to determine if the results are reliable. Past inspections may not conform to current standards of care and may not have accounted for important sources of error, possibly resulting in an incorrect determination of the location of lead-based paint.

The risk assessor should review the previous report using the checklist shown in Table 5.4. Chapter 7 contains detailed instructions on how repeated paint inspections can be completed.

If the answer to any of the Table 5.4 questions is negative, the past inspection or a portion of that inspection may not be reliable. All surfaces with questionable readings should be treated as though they were never tested. If the inspection report will be used to make decisions in the future, the owner should be encouraged to retest all of the surfaces where the results are questionable. It is usually *not* necessary to retest all surfaces.

If Table 5.4 indicates that paint testing was adequate, the risk assessor can use the previous results without additional sampling.

2. Deteriorated Paint Analysis

Deteriorated paint analysis can be performed with either a portable XRF lead-based paint analyzer or by laboratory paint-chip analysis. More information on XRF testing can be found in Chapter 7. Risk assessors should be aware that most XRF analyzers can only be used on surfaces where the paint is intact over an area of at least 3 square inches with all layers present. XRF testing should not be used to analyze peeling paint or paint chips. Peeling or chipped paint should only be analyzed by a laboratory, unless an intact area nearby can be used for XRF analysis. Other methods, such as spreading pulverized paint chips out on a sheet of paper and then analyzing them by XRF, should not be used for risk assessment purposes at this time because equivalence with other standard analytical methods has not been established.

Paint-chip samples for laboratory analysis are collected by removing *all* layers of paint from the surface without removing any substrate. It is important to collect all layers of paint from a sample location, not just the peeling layers. All layers of paint should be included in the sample for the following reasons: (1) All layers may be removed during the scraping involved in preparing the surface for repainting (repair process); (2) the result of the paint-chip analysis should be comparable to an XRF reading, which reads all layers; and (3) the cost of analyzing a single layer is the same as the cost of analyzing only the deteriorated layers. A complete protocol for sampling paint (intact, as well as deteriorated paint) can be found in Chapter 7 and Appendix 13.2. Minor cleanup of the immediate area should be done with wet wipes following any destructive paint-chip sampling effort.

One paint-chip sample should be collected from all similar building components with deteriorated paint that have similar painting histories. Paint chips should be collected from the exterior as well as the interior of the dwelling. As a rule of thumb, no more than five deteriorated painted surfaces are sampled for most risk assessments. If more surfaces must be sampled,

A minimum of two composite samples per dwelling or building sampled are recommended: one sample from the child's principal play area, one sample from bare soil areas in the front or back yard (if present), and/or an additional sample from the foundation drip line. The yard and building perimeter drip line areas can be combined into a single composite sample, but the play areas should be composited as a separate sample. If there is *no* bare soil, soil sampling is not necessary. However, in most cases, there will be at least small bare areas that should be sampled.

Samples may be collected using a coring tool to acquire the top half inch (1 cm) of soil. Alternatively, a stainless steel scoop or the lip of the sample container may be used. Soil coring devices may not be useful in sandy, dry, or friable soil.

Each composite sample should consist of approximately equal soil subsamples collected from 3–10 distinct locations roughly equidistant from each other along an axis. For samples collected along the foundation drip line, subsamples should be collected at least 2–6 feet away from each other. At other sampling locations, samples should be collected at roughly equidistant points along each axis of an "x" shaped grid.

If paint chips are present in the soil, they should be included as part of the soil sample. However, there should be no special attempt to oversample paint chips. The laboratory should be instructed to disaggregate ("break up") paint chips by forcing them through a sieve in the laboratory. Although paint chips should not be oversampled, they should also not be excluded from the soil sample, since they are part of the soil matrix.

Since it is not necessary to know the lead concentration in each soil subsample, the soil standard is *not* divided by the number of subsamples included in the composite sample. The sample result for the soil composite sample should be compared directly to the standard, as is the case for dust.

E. Water Sampling

Water sampling is not required for a routine risk assessment, but may be requested by the property owner. Local water authorities are already mandated by the EPA to monitor the lead levels of the water they supply. If the owner is concerned that lead may be leaching into the water between the service line and the faucet, samples can be collected and analyzed using the standard EPA protocol (see Appendix 13.5).

F. Lead Hazard Screen Risk Assessment Sampling Protocol

For a lead hazard screen risk assessment, the first step is to determine whether the dwelling is in good condition by completing Form 5.1. The risk assessor should take a 5- to 15-minute tour of the dwelling to note paint and building conditions, and to decide where to take dust samples. If the assessor observes painted surfaces in "poor" condition, then paint samples should be collected (or the painted surfaces should be measured by XRF) during the lead hazard screen risk assessment. The deteriorated paint sampling protocol in a screen is identical to the sampling performed in a full risk assessment. The lead hazard screen risk assessment is unlikely to be cost effective in dwellings in poor condition; in these situations, a full risk assessment should be completed to avoid the expense of a screen and a repeated trip to the site by a risk assessor.

In a lead hazard screen risk assessment, two composite dust samples are collected, one from floors and the other from window troughs. Each composite should include dust samples from the child's principal play area, the child's bedroom, the main entryway (usually the front porch or interior entryway), and one additional location to be determined by the risk assessor. The entryway is sampled in the screen since no soil samples are typically collected (soil sampling is optional). However, if there is evidence of paint chips from an earlier exterior repainting job, soil sampling should be done as part of the screen. A screen does not include any water or air sampling, and does not gather any data on property management or condition, which will be collected only if a full risk assessment is

Example of Targeted Dwelling Selection

A risk assessor is hired to conduct a risk assessment for 30 dwellings owned by a single property owner. Twenty-five of these dwellings are apartments in the same building, have similar construction and painting histories, and were acquired simultaneously. The other five were acquired from different owners at different times, have had little previous rehabilitation work, and have different construction styles. One of the 25 similar dwellings is known to house a child with an elevated blood lead level. The local health department has already informed the risk assessor that the department has no plans to evaluate the dwelling due to a staffing shortage.

In this case, the risk assessor will evaluate the following:
Five dwellings of different construction.
One dwelling housing the child with the elevated blood lead level (see Chapter 16).
Ten dwellings of similar construction (in Table 5.3, 24 total dwellings require 10 dwellings to be sampled).

The risk assessor will conduct sampling in 16 dwellings, with the 10 targeted dwellings used to represent the 24 similar dwellings that do not house children with elevated blood lead levels.

For the 24 similar dwellings, the owner has provided the following information about residents:
Six dwellings have three children under age 6.
Three dwellings have two children under age 6.
Five dwellings have one child under age 6.
Nine dwellings have an unknown number of children.
One dwelling is vacant and has recently been prepared for reoccupancy.

In addition, the owner has supplied the following resident use and maintenance information:
Two dwellings have building code violations (one with three children, one with one child).
Three dwellings have a history of chronic maintenance problems and are in relatively poor condition (two with an unknown number of children, one with two children).
There are no known day-care facilities.

Based on this information, the risk assessor targets the following dwellings:
Two dwellings with building code violations (one with three young children).
Three dwellings rated in poor condition.
One dwelling recently prepared for reoccupancy.

This yields six dwellings. The final four dwellings should be selected from among the five remaining similar dwellings that house three young children. Since there are no distinguishing factors among the five dwellings, the final four dwellings are selected randomly from this group.

B. Special Quality Control Procedures for Wipe Samples

Because of inadequate digestion techniques, the use of commercial wipe media may result in low recovery rates in the laboratory (Jacobs, 1991c). Currently, no laboratory proficiency testing program manufactures durable wipe material spiked with known amounts of leaded dust. For example, the Environmental Lead Proficiency Analytical Testing (ELPAT) program supplies Whatman™ filters spiked with known amounts of leaded dust, but Whatman™ filters have not been found to be sufficiently durable in the field. Therefore, the analytical recovery results from spiked Whatman™ filters may not reflect the results for more durable wipe media. As a result, Whatman™ filters are not recommended for risk assessment or clearance sampling purposes. Risk assessors should use more durable wipe media, such as Little Ones Baby Wash Cloths™ and Little Ones Diaper Wipes™ (both manufactured for KMart), since they have been shown to exhibit recovery rates

between 80 to 120 percent on a routine basis when spiked with leaded dust (HES, 1992). The National Institute for Occupational Safety and Health (NIOSH) has reported that Wash'n Dry™ wipes have acceptable recovery rates, although this has not been established in routine practice (NIOSH, 1993b). Other media may also have acceptable recovery rates, but must be evaluated before use. Other acceptable brands include Pure and Gentle Baby Wipes™, Walgreens Wet Wiper™, and Fame Baby Wipes™.

Laboratories can usually prepare spiked wipes upon request by risk assessors. Since there is no national proficiency program that examines laboratory performance of digestion procedures, it is necessary for risk assessors to insert spiked wipe samples with known amounts of leaded dust, at a frequency of 1 spiked wipe per 50 samples (see Appendixes 13 and 14.1 for complete protocol). The laboratory should be blinded to the amount of leaded dust on each wipe. These spiked samples are in addition to spiked samples prepared by the laboratory for its internal quality control/quality assurance program. Wipe samples should be spiked with leaded dust in the range of 50–300 µg lead/wipe (generally, 100 µg/ft^2 is the region of interest and 1 square foot is the area usually wiped). The risk assessor should relabel (but not repackage) the spiked wipe samples so that the laboratory is as "blind" as possible to which samples are spiked samples and which samples are field samples. Repackaging will result in some loss of leaded dust from the sample. Containers for spiked samples and field samples should be identical, and both composite and single-surface wipes should be spiked. Wipes can be spiked with Urban Particulate Standard Reference Material 1648 or Powdered Lead-Based Paint Standard Reference Material 1579a, both available from the National Institute for Standards and Technology, or an equivalent "secondary" reference material, such as that used in the ELPAT program. EPA recommends that wipe samples be spiked with leaded dust, not lead in solution (EPA, 1993b).

At the present time, blind spiking is the only way for a risk assessor to judge the performance of a laboratory's digestion procedure on commercial wipes. If the results of the blind spiked samples are within 20 percent of the actual value of lead on the wipe, then the laboratory's performance is acceptable. If the results are outside of this range, the risk assessor should consult with the laboratory about the discrepancy. Retesting may be necessary if questions about the laboratory results cannot be resolved. Risk assessors should also record the lot number of the wipes as a way of monitoring the performance of that lot.

V. Evaluation of Findings

The ultimate goal of any risk assessment is to use the data gathered from the questionnaires and/or interviews, the visual inspection, and the environmental sampling to determine whether any lead-based paint hazards are present. (Hazardous levels of lead for risk assessment purposes are summarized in Table 5.7.) If lead hazards are found, the risk assessor will also identify acceptable options for controlling the hazards in each property. These options should allow the property owner to make an informed decision about what actions should be taken to protect the health of current and future residents. The risk assessor's recommendations could include hazard control measures to correct current lead-based paint hazards, and/or new property management and maintenance policies designed to prevent hazards from occurring or recurring.

A. Evaluating Lead-Based Paint Hazards

Table 5.7 shows the criteria to be used for interpreting environmental samples collected during lead-based paint risk assessments.

1. Dust

Until EPA releases its health-based leaded dust standards (as mandated by Title X under TSCA, Title IV, Section 403), the HUD interim dust standards in Table 5.7 should be used to determine if hazardous leaded dust levels are present. These interim standards may change as a result of ongoing research. If leaded dust

samples collected by wipe sampling exceed the levels in Table 5.7, a lead-based paint hazard exists. (Even though this is technically a "dust hazard," the term "lead-based paint hazard" is used to remain consistent with the statutory definition in Title X.)

Vacuum sampling methods may also be acceptable, although each vacuum method will need its own standard. At this time HUD does not have interim standards for leaded dust using vacuum sampling.

Since the results represent *all* surfaces sampled, composite dust sampling results should *not* be divided by the number of subsamples collected.

Some State and local jurisdictions use different standards for lead-contaminated dust. At least one State (Rhode Island) measures hazardous levels of lead in dust in parts per million (known as concentration), instead of micrograms per square foot (known as loading). If it is necessary for the dwelling to pass a local lead-contaminated dust standard, the risk assessor should be familiar with the local standard and how that standard is measured. Loading is a better indicator of elevated blood lead levels and total amount of leaded dust present inside the dwelling and is easily measured by the most widespread and inexpensive method of settled dust sampling (wipe sampling). In addition, cleaning can reduce loading but not necessarily concentration. Thus, loading is the most informative measure for risk assessment and postabatement clearance purposes currently available. Vacuum sampling can determine both concentration and loading, while wipe sampling measures loading only.

For all hazard evaluations, the data should be examined to determine if consistent patterns emerge (e.g., the window troughs contain high levels, while floors and interior sills are low); such patterns will aid in the development of recommendations for focused, cost-effective control measures.

Table 5.7 Hazard Levels for Lead-Based Paint Risk Assessments

Media	Level	
Deteriorated paint (single-surface)	5,000 µg/g or 1 mg/cm²	
Deteriorated paint (composite)	5,000 µg/g or 1 mg/cm² / Number of subsamples	
Dust (wipe sampling only) (includes both single-surface and composite)	Risk assessment	Risk assessment screen (dwellings in good condition only)
		—
Carpeted floors*	100 µg/ft²	50 µg/ft²
Hard floors*	100 µg/ft²	50 µg/ft²
Interior window sills	500 µg/ft²	250 µg/ft²
Window troughs	800 µg/ft²	400 µg/ft²
Bare soil (dwelling perimeter and yard)	2,000 µg/g	
Bare soil (small high-contact areas, such as sandboxes and gardens)	400 µg/g	
Water (optional)—first draw	15 ppb (µg/L)	

* Whenever possible, sample hard floors, not carpets.

assuming that the paint contains about 50% solids and has a spreading rate of 400 ft^2/gallon. This would correspond to a paint film thickness of about 50 μm for a single coat of paint. 1 mil is equal to about 25.4 microns. Plastic films are also measured in mil.

Conversion to Areas and Volumes

An area is a measure of the length times the width of some object. The area is expressed as a "square unit" (^{2}). Square feet (ft^2) is an area unit. Similarly, in the metric system we can have square meters (M^2) or square centimeters (cm^2).

$$1\ ft^2 = 929\ cm^2$$
$$1 \text{ square cm} = 1\ cm^2$$
$$1 \text{ square inch} = 1\ in^2$$

The volume is a measure of an area times a height of a cylindrical object. The volume is expressed as a cubic unit (^{3}) such as a cubic foot (ft^3). A liter is a metric unit of volume equivalent to 1000 cm^3 or 1000 cubic centimeters, abbreviated cc. A milliliter is 1/1000 of a liter and is abbreviated ml. The terms cm^3, cc and ml are used interchangeably to refer to small liquid volumes. In the English System we use quarts, gallons, etc., as volume measures. A liter is equal to 1.057 quarts.

Concentration Units

Weight per cent or % by weight (%w/w): The weight of lead in some mass unit per 100 weights of the total sample (in the same mass units). For example, if a 1 gram paint sample contains 0.1 g of lead, then the paint is 10.0% lead by weight (w/w). Also, 1 ounce of lead in 10 ounces of paint is 10% w/w lead. All weight per cent measurements refer to the dried paint film.

Parts per million (ppm): The weight of lead per 1,000,000 weights of the total (including lead) sample. For example, if a paint sample contains 5,000 μg of lead in 1 g of paint, then the lead concentration is 5,000 PPM or 0.5% w/w.

Area concentration: A mass of lead per unit area of the total paint sample, sometimes called "loading". This is independent of the volume (or thickness) of the paint sample. This unit is encountered in measuring paint by portable X-ray fluorescence instruments and laboratory techniques. The HUD regulatory level is 1.0 mg/cm^2 or 1000 $\mu g/cm^2$. Area concentration (loading) is also used to describe settled leaded dust levels in $\mu g/ft^2$ (micrograms of lead per square foot of surface area). 200 $\mu g/ft^2$ equals 1.85 mg/m^2 (milligrams of lead per square meter).

One cannot convert from ppm or % by weight to area concentration (mg/cm^2) as measured by an X-ray fluorescence instrument in any predictable way unless the total mass per unit area of the sample is known. One reason is that the dilution factor of adding more non-leaded paint layers over an existing leaded one will not change the area concentration. However, adding additional layers of paint will change the % by weight. The area concentration is independent of the thickness of the paint layers. The XRF determines the lead mass per unit area as measured by X-ray emission from a lead layer (mg/cm^2). The weight percent method measures the percent

of lead in the bulk paint films by determining the weight of lead in the total paint sample.

Consider the case of many layers of paint each containing 0.5% lead by weight. The theoretical concentration limit for all the layers together cannot exceed 0.5% but if (about) 20 or more layers are present then the corrected XRF response may indicate 1.0 mg/cm² or higher. The 1 mg/cm² regulatory level is, in this case, a more stringent standard than the 0.5% standard. Conversely, consider the case of a leaded paint layer with 10% lead by weight. If another layer of non-leaded paint of the same thickness and density is added to the leaded paint layer, the concentration of both layers together would be: 10%/2 layers=5%.

Also, one cannot convert ppm in leaded dust to loading (μg/ft²) unless the total weight of the dust is known. The total weight of dust cannot be determined by wipe sampling.

Some examples will serve to illustrate the concepts and quantities indicated in the previous discussion.

If we assume that a gallon of paint (12 lbs/gallon) having almost 50% solids and 12% lead is applied over 400 square feet, the area lead concentration would be

$$\frac{(0.5)(0.12)(12 \text{ pounds/gallon})(1000 \text{ mg/g})}{(400 \text{ ft})^2\text{gallon})(2.54 \text{ cm/in})^2 (12 \text{ in/ft})^2 (0.0022 \text{ pounds/g})} = 0.88 \text{ mg/cm}^2$$

This example illustrates that, in theory, 1 mg/cm² corresponds to a lot of lead in a single layer of paint (about 12% lead). Because of the presence of many layers of paint in target housing, on average 1 mg/cm² is about equal to 1% lead.

To conceptualize quantities of lead in paint we can make some reasonable assumptions. If one assumes a lead pigment particle size of about 1 mm in diameter, and that the particles are about the size of grains of salt (but heavier) and that one of these pigment grains weighs about 30 μg, only about 30 of these grains distributed in an area of 1 cm² will be required to give an area concentration near 1 mg/cm². The lead pigment particles will actually occupy only a small fraction of the total 1 cm² area. This small amount will usually be visible to the eye, under conditions of good light and contrast, on an abated surface, if present as a post-abatement residue.

Can painting over leaded dust create a lead-based paint? While one could conceivably apply the definition of lead-based paint (5,000 ppm) and assume a certain thickness in the new paint film to calculate the weight concentration of lead in the new paint film from the dust loading in μg/ft², the result is well above the dust clearance standards. Consider the following example: If, after treatment, 35,000 μg/ft² of leaded dust remains on the surface, and it is painted over with a lead-free new paint at a rate of 400 ft²/gallon with a density of 12 lbs/gallon and 50%

solids by weight, the total weight of the paint solids per unit area is 7.3 mg/cm². Thus, the weight percent concentration of lead in the new paint film would be about 5,000 ppm:

$$\frac{(12 \text{ pounds/gallon})(0.5)(0.488 \text{ g/cm}^2 \text{ / pounds/ft}^2)(1000 \text{ mg/g})}{400 \text{ ft}^2\text{/gallon}} = 7.3 \text{ mg/cm}^2$$

$$35{,}000 \ \mu\text{g/ft}^2 \ (0.001 \text{ mg/}\mu\text{g}) \ (1 \text{ ft/12 inches})^2 \ (1 \text{ inch/2.54 cm})^2 = 0.038 \text{ mg/cm}^2$$

$$\text{ppm by weight} = \frac{0.039 \text{ mg/cm}^2}{7.3 \text{ mg/cm}^2} \times 1{,}000{,}000 = 5{,}200 \text{ ppm}$$

Since the current HUD standard for lead-based paint is 5,000 ppm (0.5%), this means that the new lead-free paint would become lead-based paint. However, it is extremely unlikely that 35,000 μg/ft² would be found on stripped surfaces if the surfaces have been stripped and cleaned adequately.

If one relied on XRF testing to determine lead contamination of surfaces where the lead paint had been removed, it would almost certainly be necessary to correct for substrate effects, since the readings would probably be quite low. If some of the lead did soak into the substrate during the removal process, determination of the true substrate effect would be quite difficult, if not impossible. Current XRF instruments have detection levels well above 0.038 mg/cm².

The diameter of a lead particle found in paint will be on the order of 0.1 to 10 micrometers (μm). Scraping, sanding, and heating lead-based paint will result in the formation of small particles. These particles are usually much smaller than the salt grain examples used above. These very small particles actually float in the air and can be inhaled as we breathe. Very small particles do not settle very rapidly. For this reason very stringent worker protection and clean-up measures are needed for lead hazard control work in lead-based paint abatement.

Heat gun removal at temperatures below 1,100°F will not melt and vaporize lead into the air. It could, however, produce paint "soot" particles from the paint film which will trap the tiny lead particles and allow them to become airborne. Welding and open flame burning temperatures melt and vaporize lead compounds in paint; these temperatures are much higher than those generated by heat guns.

Biological Quantities of Lead in Lead-Based Paint

Blood lead levels are expressed in micrograms of lead (μg) per deciliter of blood (dl). A deciliter is one tenth of a liter. Blood lead levels are reported in μg/dl. A child can eliminate approximately 5 micrograms of lead for each kilogram of body weight in one day. If a ten kilogram (22 lb) child ingested a paint chip containing 1.0 mg of lead, that child would ingest approximately 20 times more lead than could be eliminated by his body in one day (assuming that the digestive system were able to digest the entire paint chip). If we allow that only 10% of the lead in the paint chip is absorbed into the child's body then the child would still ingest twice as much lead, from one paint chip, as his body could eliminate in 24 hours.

Dr. Julian Chisholm in "Lead Based Paint in Housing", National Institute of Building Sciences LBP Task Force Report, February 20, 1988, pp. 23-24, writes:

> *Experimental and human data indicate that chronic average daily ingestion of lead of 16.8 μg Pb/kg of body weight or 168 μg Pb/day in a 10 kg child from paint could raise blood lead concentrations from 20 to 54 μg/dl.*

Currently, the definition of an elevated blood lead level in children is 10 μg/dL.

TSCA Section 403: Sampling Guidance for Identifying Lead-Based Paint Hazards

Public Review Draft

Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
Washington, DC 20460

June 3, 1998

Preface to the Public Review Draft

This guidance document is intended to provide advice to risk assessors on how to select, collect, and measure samples that can be compared to the lead-based paint hazard standards. This purpose of this draft is to obtain public comment on the substantive content of the document. The Agency will consider all comments when it finalizes this guidance document. As part of this process, the Agency will revise the text to make it more readable and reformat the document to make it easier to find information. EPA will issue final sampling guidance when it promulgates the final section 403 regulation.

Table of Contents

1.0	Risk Assessment Dust Sampling
2.0	Risk Assessment Paint Sampling
3.0	Risk Assessment Soil Sampling
4.0	Dust Clearance Sampling
5.0	References
Table 1.	Number of Units to Be Tested in Multifamily Housing Using Random Selection Approach
Table 2.	Minimum Number of Units to Be Tested in Multifamily Housing Using Targeted Sampling

1.0 Risk Assessment Dust Sampling

Synopsis

This section describes how to conduct dust sampling so as to select, collect, and measure dust samples that are valid samples with lead levels that can be compared to the dust standards in 40 CFR 745.65(d).

Why Sample

The purpose of dust sampling is to test dust in residential housing for high levels of lead. Lead in dust is thought to be the primary route by which children are exposed to lead in residential housing.

Who Should Select and Collect Samples

Dust samples should be selected and collected by a certified risk assessor.

When to Sample

The U.S. Environmental Protection Agency (EPA) recommends that dust sampling be conducted as part of a risk assessment as defined in 40 CFR 745.223. Risk assessments may be conducted at any time.

Where to Sample

Single-family housing

Dust samples from uncarpeted floors and interior window sills should be collected in all living areas where one or more children, age six and under, are most likely to come into contact with dust. Examples of such living areas are play areas within rooms, high-traffic walkways, room midpoints, and areas underneath windows. Interior window sill dust samples in a given room should be collected from the window that is most frequently operated or most frequently contacted by children.

Multifamily housing

For multifamily housing, three approaches are possible to select dwelling units for sampling, provided that the dwelling units in question are similarly constructed and maintained. First, a random sample of units can be selected from all the units in the multifamily complex following the approach for dust clearance testing described in Section 4.0 below. Sample sizes for this approach are listed in Table 1. This approach would meet the performance specification in Section 4.0.

Two alternative approaches are described in 1995 U.S. Department of Housing and Urban Development (HUD) ***Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing***: targeted sampling and worst case sampling. Targeted sampling is based on records and interviews to select dwelling units according to the following criteria (which are listed in order of decreasing importance):

- dwellings cited with housing or building code violations in the last year;
- dwellings that the owner believes are in poor condition;
- dwellings that contain two or more children between the ages of six months and six years, with preference to the dwellings that contain the largest number of children;
- dwellings that serve as day-care facilities; and
- dwellings prepared for re-occupancy within the past three months.

Additional dwellings can be selected by a random procedure to bring the total to the sample size goals for targeted housing in the HUD Guidelines. Table 2 lists the samples sizes for a targeted sample of dwelling units as recommended by the HUD Guidelines.

Worst case sampling requires a walk-through survey of all dwellings by a risk assessor to determine, on the basis of direct visual evidence, which units should be selected. The highest risk dwellings should be selected for sampling, such as dwelling units cited for housing or building code violations or dwelling units in deteriorated condition. There are no specific sample sizes for worst case sampling.

Common areas adjacent to a sampled dwelling unit should be sampled. Other common areas where one or more children, age six and under, are likely to come into contact with dust should also be sampled.

Individual dwelling units and common areas should be sampled as a single-family house would be sampled.

How to Sample

The wipe method is a recommended method for collecting dust samples on (uncarpeted) interior window sills. Wipe methods are not recommended for highly textured surfaces such as brickwork and rough concrete.

The recommended protocol for collecting wipe samples is described in Chapter C of the EPA report ***Residential Sampling for Lead: Protocols for Dust and Soil Sampling***. Equivalent methods, such as the wipe sample protocol in Appendix 13.1 of the 1995 HUD ***Guidelines for the Evaluation and Control of Lead-Based Paint Hazards*** in Housing or ASTM E 1728, Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques, may be used, provided carpets and

highly textured surfaces are not sampled. ASTM E 1792, Standard Specification for Wipe Sampling Materials for Lead in Surface Dust, may also be of interest.

Vacuum methods may be used. However, the user is required to determine an equivalent dust standard, as the EPA dust standards are expressed as wipe sample standards. The recommended protocol for vacuum collection is described in the U. S. EPA 1996 report ***Lead-Based Paint Abatement and Repair and Maintenance Study in Baltimore: Pre-Intervention Findings*** (EPA report number 747-R-95-012) or in the journal article by Farfel, MR, Bannon, D, Chisholm, JJ Jr, Lees, PSJ, Lim, B, and Rohde, CA entitled "Comparison of a wipe and vacuum collection method for the determination of lead in residential dusts" published in ***Environmental Research 65:291-301.***

Composite Samples

Samples collected may be composited (that is, combined) for laboratory analysis provided that samples for different components (i.e., floors and interior window sills) are combined in separate composites. The number of samples in a composite will increase the weight of the sample. EPA recommends that the laboratory that will do the chemical analysis be consulted to determine the appropriate number of samples that can be combined in one composite. All subsamples in a composite should be collected from approximately the same size area.

Laboratory Analysis

Dust samples should be analyzed by a laboratory recognized by EPA pursuant to Section 405(b) of the Toxic Substances Control Act (TSCA) as being capable of performing analyses for lead compounds in dust samples. A list of such laboratories can be obtained by calling the Lead Clearinghouse at 1-800-424-LEAD and requesting the NLLAP (National Lead Laboratory Accreditation Program) list of laboratories.

2.0 Risk Assessment Paint Sampling

Synopsis

This section describes how to conduct paint sampling so as to select, collect, and measure paint samples that are valid samples that can be compared to the paint standards in 40 CFR 745.65(a).

Why Sample

The purpose of paint sampling is to test all deteriorated painted surfaces and all accessible painted surfaces. Deteriorated painted surfaces have been linked to high levels of lead in dust and soil. Accessible surfaces are defined as painted interior window sills.

Who Should Select and Collect Samples

Paint samples should be selected and collected by a certified risk assessor.

When to Sample

EPA recommends that paint sampling be conducted as part of a risk assessment as defined in 40 CFR 745.223. Risk assessments may be conducted at any time.

Where to Sample

Single-family housing

For a single-family dwelling, a visual inspection shall be undertaken to locate the existence of deteriorated paint on the interior and on the exterior of the property associated with the dwelling unit. Each surface with deteriorated paint that has a distinct painting history is to be tested. Accessible surfaces are defined as painted interior window sills. Each painted interior window sill that has a distinct painting history is to be tested.

Multifamily housing

For multifamily housing, three approaches are possible to select dwelling units for sampling, provided the dwelling units are similarly constructed and maintained. First, a random sample of units can be selected from all the units in the multifamily complex following the approach described for dust clearance testing in Section 4.0 below. This approach would meet the performance specification in Section 4.0. Table 1 lists the sample sizes for this approach.

Two alternative approaches are described in 1995 HUD ***Guidelines for the Evaluation***

and Control of Lead-Based Paint Hazards in Housing: targeted sampling and worst case sampling. Targeted sampling is based on records and interviews to select dwelling units according to the following criteria (which are listed in order of decreasing importance):

- dwellings cited with housing or building code violations in the last year;
- dwellings that the owner believes are in poor condition;
- dwellings that contain two or more children between the ages of six months and six years, with preference to the dwellings that contain the largest number of children;
- dwellings that serve as day-care facilities; and
- dwellings prepared for re-occupancy within the past three months.

Additional dwellings can be selected by a random procedure to bring the total to the sample size goals for targeted housing in the HUD Guidelines. Table 2 lists the samples sizes for the targeted sample of dwellings as recommended by the HUD Guidelines.

Worst case sampling requires a walk-through survey of all dwellings by a risk assessor to determine, on the basis of direct visual evidence, which units should be selected. The highest risk dwellings should be selected for sampling, such as dwelling units cited for housing or building code violations or dwelling units in deteriorated condition. There are no specific sample sizes for worst case sampling.

Common areas adjacent to a sampled dwelling unit should be sampled. Other common areas where one or more children, age six and under, are likely to come into contact with deteriorated painted surfaces or accessible surfaces should also be sampled.

Individual dwelling units and common areas should be sampled as a single-family house would be sampled.

How to Sample

In general, there are two ways to sample paint: collection of a paint chip sample followed by laboratory analysis or an *in situ* measurement of a location on a painted component by a portable XRF instrument. Portable XRF is most practical on intact painted surfaces; paint chip sampling may be necessary on a deteriorated or a curved surface because of limitations of the XRF instruments on such surfaces.

A representative area on each component to be tested should be identified. This should be neither the thickest nor the thinnest spot on the component, but one that is characteristic of the overall thickness of the component. It is acceptable to select a non-deteriorated area or non-curved area on the component for sampling, as long as the available evidence and information indicates that the non-deteriorated or non-curved portion has the same painting history as the deteriorated or curved portion.

If paint chip samples are collected for laboratory analysis, a standard protocol for collecting paint chip samples should be followed. Examples of such protocols are ASTM E 1729, Standard Practice for Field Collection of Dried Paint Samples for Lead Determination by Atomic Spectrometry Techniques, and the paint chip collection protocol in Appendix 13.2 of the 1995 HUD Guidelines. ASTM E 1645, Standard Practice for the Preparation of Dried Paint Samples for Subsequent Lead Analysis by Atomic Spectrometry, is a related standard that may also be consulted regarding the preparation of paint chip samples for laboratory analysis. Care should be taken to collect all layers of paint in the area selected and to obtain a sufficient size sample for the anticipated chemical analysis method.

The results may be reported in either milligrams of lead per square centimeter or in micrograms of lead per gram or both. If results are reported in milligrams per square centimeter, sampling must be done with a demarcated area, and all paint within that area needs to be collected. If results are reported in micrograms per gram, inclusion of the material underneath the paint must be minimized. Results in milligrams per square centimeter are usually not affected by the inclusion of the material underneath the paint. Results in micrograms per gram are lower than would otherwise be the case when the material underneath the paint is included in the sample.

If an *in situ* measurement is made with a portable XRF instrument, the instrument should be operated in accordance with the procedures in the HUD Guidelines and with the procedures in the EPA/HUD Performance Characteristic Sheets (or equivalents to the Performance Characteristic Sheets). Substrate correction should be implemented when recommended. A paint chip sample should be collected for laboratory analysis in cases where the XRF reading would be suspect due to deterioration of the painted surface or curvature of the surface. A paint chip sample is necessary when the XRF result is inconclusive, as defined by the Performance Characteristic Sheets or their equivalents. XRF results are reported in milligrams per square centimeter.

Composite Samples

Paint chip samples may be composited (that is combined) to reduce the cost of chemical analysis. The number of samples in the composite will increase the weight of the sample. EPA recommends that the laboratory that will do the chemical analysis be consulted to determine the appropriate number of samples that can be combined in one composite. Composite sample results can be expressed in milligrams per square centimeter or micrograms per gram. To report the results in milligrams per square centimeter, all the sub-samples in the composite should have been collected from approximately the same size surface area. To report the results in micrograms per gram, all the sub-samples in the composite should be of approximately the same mass. As a practical matter, it is easier to maintain a constant surface area than equal mass for different paint samples.

Portable XRF Analysis

If a portable XRF instrument is used to measure lead in paint, then, as stated above, the instrument should be used as recommended in the 1995 HUD Guidelines and supplementary information in the XRF Performance Characteristic Sheets released by HUD and EPA and available from the National Lead Information Center by calling 1-800-424-LEAD, or an equivalent to the XRF Performance Characteristic Sheets. The most current Performance Characteristic Sheets (or their equivalents) should be used for testing guidance and interpreting results.

Laboratory Analysis

Paint chip samples that are analyzed by chemical analysis should be analyzed by a laboratory recognized by EPA pursuant to Section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint samples. A list of such laboratories can be obtained by calling the Lead Clearinghouse at 1-800-424-LEAD and requesting the NLLAP (National Lead Laboratory Accreditation Program) list of laboratories.

3.0 Risk Assessment Soil Sampling

Synopsis

This section describes how to conduct soil sampling so as to select, collect, and measure soil samples that are valid samples with lead levels that can be compared to the soil standard in 40 CFR 745.65(c).

Why Sample

The purpose of soil sampling is to test soil in residential housing for high levels of lead. Lead in soil is thought to be a pathway by which lead, originally from lead-based paint, the past use of lead in gasoline, and other sources, reaches children,. Lead in soil can be directly ingested through normal hand-to-mouth behavior; it can also contribute to the contamination of household dust.

Who Should Select and Collect Samples

Soil samples should be selected and collected by a certified risk assessor.

When to Sample

EPA recommends that soil sampling be conducted as part of a risk assessment as defined in 40 CFR 745.223. Risk assessments may be conducted at any time.

Where to Sample

Single-family housing

Soil samples should be collected from the following areas:

1) dripline/foundation areas where bare soil is present; and
2) areas near the middle of yard around the house where bare soil is present.

Dripline/foundation areas are by definition within 3 feet of the house. If there is no bare soil within 3 feet of the house, sample the bare soil nearest to the house as the "dripline" sample. The middle of the yard is the area on each side of the house approximately halfway between the foundation of the house and the property boundary. If the risk assessor can identify a play area (i.e., areas identified by parents or care givers where children spend most of their outdoor playtime, such as the location of play equipment) in the middle of the yard, the mid-yard sample should be taken from this area. If there is no bare soil in the middle of the yard, sample the nearest bare soil to the middle of the yard as the "mid-yard" sample. While only bare soil in

these areas needs to be sampled, EPA recommends that covered soil be sampled if the risk assessor has reason to believe that a soil lead hazard is present. Indicators of hazard include the presence of children with elevated blood-lead levels in the community, high soil-lead levels in neighboring yards, the presence of nearby industrial sources, and the presence of a nearby steel structure such as a bridge or a highway overpass.

The easiest and most cost-effective way to sample soil is to collect field composite samples. A field composite sample consists of individual sub-samples collected from two or more locations and combined into a single sample for analysis. At least two composite samples should be collected: one for the bare dripline/foundation area and one for the bare mid-yard areas. Other composite samples may be collected for additional sites that are sampled. No more than 10 sub-samples should be combined into one composite sample. More than 10 sub-samples may add extra laboratory costs without much gain in representativeness.

The determination of sub-sample locations may be done by either option A or option B described below.

Option A. Sub-sampling locations for bare mid-yard areas are selected by first sketching the area and then drawing a circle just encompassing the accessible bare area. A second circle is drawn inside the first with one-half the radius. Three equally spaced sampling locations are selected at random on the inner circle. Soil sub-samples are then collected at each location. This process may be repeated for up to three mid-yard areas, if present.

To sample the bare areas of dripline/foundation, take four individual sub-samples. Where possible, given the accessibility limitations and the availability of bare soil, each sub-sample should be located at random in a bare soil area at the dripline/foundation on a different side of the house. Combine the four individual sub-samples into one composite sample.

At additional sites for sampling, follow the procedures for play or mid-yard samples.

Option B. Each composite sample should consist of bare area soil sub-samples collected from three to 10 distinct locations roughly equidistant from each other along an axis. For samples collected along the dripline/foundation, sub-samples should be collected at least 2 to 6 feet away from each other. At other sampling locations, samples should be collected at roughly equidistant points along each axis of an "X" shaped grid.

This option can be used for sampling additional soil sites.

Multifamily housing

Regard each separate building in a multifamily housing development as a single-family house. Follow the same procedures as for single-family housing.

How to Sample

Soil sub-samples may be collected using either a coring method or a scoop method. A coring method would not be appropriate for sandy, dry, or friable soil. In these cases, a scooping method would be necessary. Recommended protocols for collection of soil sub-samples are presented in Chapter B of the EPA report ***Residential Sampling for Lead: Protocols for Dust and Soil Sampling***. These protocols call for collection of the top half inch of soil. If paint chips are collected in the soil sub-sample, they should be included as part of the soil matrix. However, there should be no attempt to over sample paint chips.

Equivalent protocols, such as the soil sample protocol in the Appendix 13.3 of the 1995 HUD ***Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*** or ASTM E 1727, Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques, may also be used. The top half inch of soil is to be collected when using these protocols.

Composite Samples

As described above, compositing of soil sub-samples for laboratory analysis is the recommended approach for soil sampling. Combining soil samples usually does not present the same level of difficulties associated with combining dust or paint samples. This is because composited soil samples can be readily dried, sieved, homogenized, and then subsampled before chemical analysis. Nevertheless, it is recommended that the laboratory that will do the chemical analysis be consulted to make sure the samples submitted for chemical analysis can be analyzed without any problems. Soil sub-samples in a composite should be approximately the same mass.

Laboratory Analysis

Soil samples should be analyzed by a laboratory recognized by EPA pursuant to Section 405(b) of TSCA as being capable of performing analyses for lead compounds in soil. A list of such laboratories can be obtained by calling the Lead Clearinghouse at 1-800-424-LEAD and requesting the NLLAP (National Lead Laboratory Accreditation Program) list of laboratories.

4.0 Dust Clearance Sampling

Synopsis

This section describes how to conduct dust clearance sampling so as to select, collect, and measure dust clearance samples that are valid samples with lead levels that can be compared to the clearance standards in 40 CFR 745.227.

Why Sample

The purpose of dust clearance testing is to ascertain that the interior of a residence or common area in a building has been cleaned to the point that normal occupancy can be resumed. Dust clearance testing is expected to be conducted after abatement (as defined in 40 CFR 745.223) is performed, but can also be conducted after application of interim controls. 40 CFR 745.227 requires dust clearance testing if abatement work is performed by a lead professional.

Who Should Select and Collect Samples

Dust clearance samples should be selected and collected by a certified risk assessor or by a certified inspector. It is recommended that the dust clearance testing be conducted by a firm or by individuals that are independent of the firm or individuals who conducted the abatement or applied the lead hazard controls. In any case, the persons responsible for abatement or cleaning should not know the location of the dust clearance samples.

When To Sample

Dust clearance testing should not begin until after a visual inspection determines that all abatement or lead hazard control work has been completed, all finishing coatings and sealants have been applied, and there is no visible dust or debris in the residence or common area. In the case of abatement, 40 CFR 745.227 requires that dust clearance samples be taken at least one hour after the completion of final post-abatement cleanup activities to allow for settling of suspended dust.

Where to Sample

<u>Single-family housing</u>

<u>Containment between abated and unabated areas</u>

40 CFR 745.227 (as amended by the Section 403 regulation), requires collection of dust samples from at least four rooms, hallways, or stairways within the containment area. Within each room, hallway, or stairway, one dust sample is to be taken from the floor, one dust sample

is to be taken from an interior window sill (if present), and one sample is to be taken from a window trough (if present). If there are fewer than four rooms, hallways, or stairways within the containment area, then all rooms, hallways, and stairways are to be sampled. In addition, one sample is to be taken from the floor outside the containment area.

Dust samples can be taken from either 1) specific locations near the area where the lead abatement or hazard control was done or 2) nearby high traffic areas such as around doorways. The type of abatement or hazard control, visual observation, or professional judgment may be used to determine the specific area for sampling. If none of these approaches provides a way to select areas for sampling, areas for sampling can be selected randomly. For example, if there are more than four rooms, hallways, and stairways, a sample of these may be selected randomly. Random selection may also be used to select which interior window sill to sample (if there is more than one present in a room), which window trough to sample (if there is more than one present in a room), and the specific location on the floor for sampling.

The floor sample taken outside the containment area should be taken within 10 feet of the airlock.

No containment between abated and unabated areas

If there is no containment within a residence, 40 CFR 745.227 (as amended by the section 403 regulation), requires collection of dust samples from at least four rooms, hallways, or stairways in the residence. Within each room, hallway, or stairway, one dust sample is to be taken from the floor and one dust sample is to be taken from the interior window sill. If there are fewer than four rooms, hallways, or stairways in the residence, then all rooms, hallways, and stairways are to be sampled.

Dust samples can be taken from either 1) specific locations near the area where the lead abatement or hazard control was done or 2) nearby high traffic areas such as around doorways. The type of abatement or hazard control, visual observation, or professional judgment may be used to determine the specific area for sampling. If none of these approaches provides a way to select areas for sampling, areas for sampling can be selected randomly. As in the case with containment, random selection may be used to select rooms, hallways, and stairways; interior window sills; window troughs; and locations on floors for sampling when other approaches do not identify areas for sampling.

Multifamily housing

For multifamily housing, clearance testing may be conducted in all dwelling units that have been treated or, provided the dwelling units are similarly constructed and maintained (in this context "maintained" means abated and cleaned), in a sample of the treated dwelling units. If sampling is carried out, 40 CFR 745.227 requires that a sufficient number of residential

dwellings be selected to provide a 95% level of confidence that no more than 5% or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels. Table 1 lists sample sizes that meet this criterion for a randomly selected sample. 40 CFR 745.227 also requires that the persons who abate or clean the residential dwellings do not know which residential units will be selected for the random sample.

If common areas in multifamily housing were abated, then either all the abated common areas should be sampled for clearance or similarly constructed and maintained common areas can be randomly sampled as if they were residential dwelling units following the procedures for dwelling units. If there was containment in a common area, then one floor sample should be taken outside the containment area, within 10 feet of the airlock.

Each dwelling unit or common area should be sampled following the procedures above for single-family housing, with one exception. In common areas, there should be one floor sample for every 2000 square feet of area.

How to Sample

The wipe method is a recommended method for collecting dust samples on uncarpeted floors and on (uncarpeted) interior window sills and window troughs. Wipe methods are not recommended for highly textured surfaces such as brickwork and rough concrete. Selection of additional rooms, hallways, or stairways with alternate floor areas and/or windows for sampling should be carried out if carpeted or highly textured surfaces are present in the originally selected rooms, hallways, or stairways.

The recommended protocol for collection of wipe samples is that in Chapter C of the EPA report ***Residential Sampling for Lead: Protocols for Dust and Soil Sampling***. Equivalent methods, such as the wipe sample protocol in Appendix 13.1 of 1995 HUD ***Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*** or in ASTM E 1728, Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques, may be used, provided carpets and highly textured surfaces are not sampled. ASTM E 1792, Standard Specification for Wipe Sampling Materials for Lead in Surface Dust, may also be consulted.

Vacuum methods may be used. However, the user is required to determine an equivalent clearance standard, as the EPA clearance standards are expressed as wipe sample standards. The recommended protocol for vacuum collection is described in the U. S. EPA 1996 report ***Lead-Based Paint Abatement and Repair and Maintenance Study in Baltimore: Pre-Intervention Findings*** (EPA report number 747-R-95-012) or in the journal article by Farfel, MR, Bannon, D, Chisholm, JJ Jr, Lees, PSJ, Lim, B, and Rohde, CA entitled "Comparison of a wipe and vacuum collection method for the determination of lead in residential dusts" published in ***Environmental Research 65:291-301.***

Composite Samples

Samples collected may be composited (that is, combined) for laboratory analysis provided that samples for different components (i.e., floors, interior window sills, and window troughs) are combined in separate composites. The number of samples in a composite will increase the weight of the sample. EPA recommends that the laboratory that will do the chemical analysis be consulted to determine the appropriate number of samples that can be combined in one composite. All sub-samples in a composite should be collected from approximately the same size area.

Laboratory analysis

The work practice standards found at 40 CFR 745.227 require that clearance samples be analyzed by a laboratory recognized by EPA pursuant to Section 405(b) of TSCA as being capable of performing analyses for lead compounds in dust samples. A list of such laboratories can be obtained by calling the Lead Clearinghouse at 1-800-424-LEAD and requesting the NLLAP (National Lead Laboratory Accreditation Program) list of laboratories.

5.0 References

1. U. S. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances. *Residential Sampling for Lead: Protocols for Dust and Soil Sampling,* EPA 747-R-95-001, March 1995.

2. U.S. Department of Housing and Urban Development, Office of Lead-Based Paint Abatement and Poisoning Prevention (now the Office of Lead Hazard Control). *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*, HUD-1539-LBP, July 1995.

3. American Society for Testing and Materials. *Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*, ASTM E 1728.

4. American Society for Testing and Materials. *Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*, ASTM E 1792.

5. U.S. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances. *Lead-Based Paint Abatement and Repair and Maintenance Study in Baltimore: Pre-Intervention Findings*, EPA 747-R-95-012, August 1996.

6. Farfel, M.R., D. Bannon, J.J. Chishom Jr., P.S.J. Lees, B. Lim, and C.A. Rohde. "Comparison Of A Wipe And Vacuum Collection Method For The Determination Of Lead In Residential Dusts," *Environmental Research*, 65:291-301.

7. American Society for Testing and Materials. *Standard Practice for Field Collection of Dried Paint Samples for Lead Determination by Atomic Spectrometry Techniques*, ASTM E 1729.

8. American Society for Testing and Materials. *Standard Practice for the Preparation of Dried Paint Samples for Subsequent Lead Analysis by Atomic Spectrometry*, ASTM E 1645.

9. American Society for Testing and Materials. *Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*, ASTM E 1727.

10. U.S. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances. *Methodology for XRF Performance Characteristic Sheets*, EPA 747-R-95-008, September 1997.

Table 1: Number of Units to Be Tested in Multifamily Housing Using Random Selection Approach

Number of Units Similarly Constructed and Maintained	Number of Units to be Tested
21-26	20
27	21
28	22
29-30	23
31	24
32	25
33-34	26
35	27
36	28
37	29
38-39	30
40-50	31
51	32
52-53	33
54	34
55-56	35
57-58	36
59	37
60-73	38
74-75	39
76-77	40
78-79	41
80-95	42
96-97	43
98-99	44
100-117	45
118-119	46
120-138	47
139-157	48
158-177	49
178-197	50
198-218	51
219-258	52
259-299	53
300-379	54
380-499	55
500-776	56
777-1004	57
1005-1022	58
1023-1039	59

For cases of 1040 units or more, test 5.8 percent of the number of units, rounded to the nearest unit. EXAMPLE: If there are 2,170 units, 5.8 percent is 125.86, so 126 units should be tested.

Table 2. Minimum Number Of Units To Be Tested In Multifamily Housing Using

Targeted Sampling

Number of Units Similarly Constructed and Maintained	Number of Dwellings to Sample
1-4	All
5-20	4 units or 50%, whichever is greater
21-75	10 units or 20%, whichever is greater
76-125	17
126-175	19
176-225	20
226-300	21
301-400	22
401-500	23
501+	24+1 dwelling for each additional increment of 100 dwellings or less

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com

STL Tallahassee

LOG NO: T1-31381
Received: 18 MAY 01
Reported: 17 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N635-01/Heaven,LLC
Sampled By: Client
Code: 170910517

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , QC REPORT FOR SOLID/SEMISOLID	DATE/ TIME SAMPLED
31381-9	Method Blank	
31381-10	Accuracy (%Rec)	
31381-11	Precision (%RPD)	

PARAMETER	31381-9	31381-10	31381-11
Lead (6010), mg/kg dw	<0.50	110 %	7.5 %
Analysis Date	05.15.01	05.15.01	---

Lead Criteria Leve

Main Page

Organizational Members

Lead Fact Sheet
(Revised August 1996)
Criteria Level Summary for Lead

Type	Level	Guidance
Air	50 µg/m^3 PEL 30 µg/m^3 AL	OSHA 29 CFR 1910.1025 29 CFR 1926.62
Surfaces	100 µg/sf floors 500 µg/sf windo sills 800 µg/sf window troughs	EPA Guidance, July 14, 1994
Soil	100 ppm - 1000 ppm, 400, 2000, 5000 ppm	Varies by State EPA Guidance, July 14, 1994
Water	15 ug/L	EPA 40 CFR 141.80
New Paint	0.06% by weight (600 ppm)	CPSC, 1978, for residential paints, toys and furniture
Paint Requiring Abatement	1.0 mg/cm^3 or 0.5% by weight	HUD (Rule Varies By State)
Waste	5 mg/L TCLP	EPA 40 CFR 261
Blood	10 µg/dl - Children 40 µg/dl - Workers 50 µg/dl - Workers Medical Removal	CDC Action Level/ Rescreen OSHA 29 CFR 1910.1025 29 CFR 1926.62

A list of accredited laboratories can be obtained by calling the American Industrial Hygiene Association at 703-849-8888 or American Association for Laboratory Accreditation at 301-670-1377.

Abbreviations:

AL = Action Level
CFR = Code of Federal Regulations
PEL = Permissible Exposure Limit
ppm = parts per million
dl = deciliter
TWA = Time Weighted Average
µg/g = µg/ml = ppm = % by weight
µg/L = ppb
ACGIH = American Conference of Governmental Industrial Hygienists
ASTM = American Society for Testing and Materials
CDC = Federal Centers for Disease Control and Prevention
CPSC = Consumer Products Safety Commission
EPA = US Environmental Protection Agency
HUD = US Department of Housing & Urban Development
OSHA = Occupational Safety & Health Administration
NIOSH = National Institute of Occupation Safety & Health

E-mail

Main Page

info@eia-usa.org
Environmental Information Association
4915 Auburn Avenue, Suite 303
Bethesda, MD 20814
Voice (301) 961-4999
Fax (301) 961-3094

This page was created and maintained by Crest Communications, Inc.
©1999-2001, All Rights Reserved

2846 Industrial Park Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com

STL Tallahassee

LOG NO: T1-31381
Received: 10 MAY 01
Reported: 17 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9105 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven,LLC
Sampled By: Client
Code: 170910317

REPORT OF RESULTS

Page 3

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31381-8	Pb-TCLP Blue Barrel @ Ficketts	05-09-01/11:00

PARAMETER	31381-8
TCLP extraction - non-volatile (1311)	
TCLP Extraction Date	05.15.01
Lead (TCLP), mg/l	45*F69
Analysis Date	05.17.01
Percent Solids	91

NCDENR

JAMES B. HUNT JR.
GOVERNOR

BILL HOLMAN
SECRETARY

WILLIAM L. MEYER
DIRECTOR

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WASTE MANAGEMENT

December 11, 2000

IMMINENT HAZARD
NOTICE OF VIOLATION
Docket # 2001-031

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Costner
Morningstar Sign and Sandblasting
7327 Sheffingdell Drive
Charlotte, N.C. 28226

Mr. Will Espin
Multi-Video, Inc.
15128 Birling Road
Charlotte, N.C. 28278

Mr. James Funderburk
Heaven Clothing
1500 Central Avenue
Charlotte, N.C. 28205

Mr. Albert Eric Pickett
5631 Mt. Olive Church Road
Charlotte, N.C. 28278

Dear Messrs. Costner, Espin, Funderburk and Pickett:

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (Section) was authorized to operate the State Resource Conservation Recovery Act (RCRA) Hazardous Waste Program under the Solid Waste Management Act (Act), N.C.G.S. 130A, Article 9 and rules promulgated thereto at 15A NCAC 13A (Rules) in lieu of the federal RCRA program.

On August 11, 2000, Mr. Joseph Parker, Waste Management Specialist with the Hazardous Waste Compliance Branch conducted a complaint investigation at Heaven Clothing, Mecklenburg County, Charlotte, North Carolina. Heaven Clothing operator, Mr. James Funderburk, leases the 1500 Central Avenue property from Multi-Video, Inc., located at 15128 Birling Road, Mecklenburg County, Charlotte, North Carolina 28278. During that investigation, Mr. Parker observed an undetermined amount of sand that had been leftover from a

FIRST

1646 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1646
401 OBERLIN ROAD, SUITE 150, RALEIGH, NC 27605
PHONE 919-733-4996 FAX 919-715-3605
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

sandblasting operation that occurred between July 3 & 5, 2000. Mr. James Costner, owner of Morningstar Sign and Sandblasting performed the sandblasting operation at the Multi-Video, Inc./Heaven Clothing site. Mr. Costner transported contaminated sand from this event to the Albert Pickett property located at 5631 Mt. Olive Church Road, Mecklenburg County, Charlotte, North Carolina 28278. On August 11, 2000, two samples of contaminated sand were collected on the Pickett property by Section personnel and analyzed by the State of North Carolina Public Health Laboratory. The results of this sampling event were received on September 22, 2000. Both samples were tested to be 26.52 mg/l lead and 30.10 mg/l lead (TCLP) respectively. The hazardous waste regulatory level for lead is 5.0 mg/l (TCLP). The concentration of lead in the sand samples would cause the sand to be characterized as a D008 hazardous waste and thus require immediate removal and proper disposition. During the investigation, the following violations were noted:

A. 40 CFR 261.1(a), codified at 15A NCAC 13A .0106, states that this part identifies those solid wastes which are subject to regulation as hazardous wastes under Parts 262 through 265 and Parts 270, 271 and 124 of this Chapter and which are subject to the notification requirements of Section 3010 of RCRA.

B. 40 CFR 261.2(b), codified at 15A NCAC 13A .0106, states that materials are solid waste if they are abandoned by being (1) disposed of; or (2) burned or incinerated; or (3) accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

C. 40 CFR 261.3(a), codified at 15A NCAC 13A .0106, states that a solid waste, as defined in Section 261.2 is a hazardous waste if:

1. It is not excluded from regulation as a hazardous waste under Section 261.4(b); and

2. It meets any of the following criteria:

i. It exhibits the characteristics of hazardous waste identified in Subpart C.

ii. It is listed in Subpart D and has not been excluded from the lists in Subpart D under Sections 260.20, and 260.22 of this chapter.

iii. It is a mixture of solid waste and hazardous waste that is listed in Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C.

iv. It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D and has not been excluded from this paragraph under Sections 260.20 and 260.22 of this chapter.

D. N.C.G.S. 130A-290(6), defines "Disposal" as the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

E. It is the determination of the Section that the disposal of the lead contaminated sand at the Pickett property in Charlotte, North Carolina by Mr. James Costner of Morningstar Sign and Sandblasting, constitutes disposal of a hazardous waste and is subject to all applicable requirements of 40 CFR 262 through 265 and 270. Specifically:

1. 15A NCAC 13A .0109(a), states that any person who treats, stores or disposes of hazardous waste shall comply with the requirements set forth in this section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this section.

   Morningstar Sign and Sandblasting is in violation of 15A NCAC 13A .0109(a), in that lead contaminated sand determined to be a hazardous waste has been disposed at the Pickett property without complying with the requirements set forth in this section.

COMPLIANCE SCHEDULE

By the dates specified below, Morningstar Sign and Sandblasting located at 7327 Sheffingdell Drive, Charlotte, North Carolina 28226 shall comply with the following requirements:

1. Comply with 15A NCAC 13A .0109(a). Morningstar Sign and Sandblasting shall no longer dispose of hazardous waste on-site, and all hazardous waste previously on-site shall be shipped to a permitted hazardous waste treatment, storage or disposal facility. Due to a known disposal of hazardous waste on the Pickett property, a comprehensive site characterization and removal of the hazardous waste is required.

   During the interim, pending shipment of the waste, 40 CFR 262.34(a), codified at 15A NCAC 13A .0107 states that:

   a. If the waste is placed in containers, the generator must comply with Subpart I of 40 CFR Part 265 or if the waste is placed in tanks, the generator must comply with

Subpart J of 40 CFR Part 265 except 265.193;

b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

d. The generator complies with the requirements for owners or operators in Section 265.16.

By January 5, 2001, Morningstar Sign and Sandblasting must develop and submit to this office a comprehensive sampling and analysis report which will characterize soil and sand contamination (inorganic) at the Pickett property (and/or develop and submit to this office the attached Phase I Questionnaire which will fully characterize suspected or known releases at the site specific to the property in question. This characterization will include identifying the sources of contamination, the nature and extent of contamination, determining site hydrogeologic conditions, evaluation of fate/transport of the contaminants, pathways for migration, and identifying potential human and environmental receptors).

The Phase I Questionnaire or comprehensive sampling and analysis report will be reviewed by the Section to determine its completeness. If it is determined to be complete, the Section will determine whether the project will be handled as a generator closure under guidance of the Section's Compliance Branch or be referred to the Programs Branch. If the remediation of the site remains with the Compliance Branch, a Remediation Plan must be submitted to this office within forty-five (45) days of the Section's determination. Elements required in the development of a remediation plan are outlined in the attached Phase II Remediation document. The Remediation Plan will fully describe all facets of the remediation, a schedule of activities, sampling and analysis methods, and proposed cleanup standards. Failure by Morningstar Sign and Sandblasting to complete an effective site remediation may subject the site to additional requirements including closure plans, financial assurance for closure/post closure and groundwater monitoring.

Upon verification that hazardous waste or hazardous waste constituents have been disposed, Morningstar Sign and Sandblasting must immediately cease the disposal of hazardous waste to the environment and all hazardous waste or hazardous waste constituents determined to have been disposed shall be removed and manifested to a permitted hazardous waste treatment, storage, or disposal facility or other approved disposal facility. The removal must be completed within ninety (90) days of approval of the remediation plan.

If you should have any questions concerning this Notice, you may contact Mr. Joseph

Parker at (919)380-7144. Questions concerning site characterization and remediation should be addressed to Ms. Roberta Proctor at (828) 625-0171.

If the requirements above are not met, pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13A .0701-.0707, an administrative penalty of up to $25,000.00 per day may be assessed for violation of the hazardous waste law or regulations.

Sincerely,

Jill B. Pafford

Jill Pafford, Acting Chief
Hazardous Waste Section

cc: Doug Holyfield
Jesse Wells
Joseph Parker
Susan Love
Central Files
Mecklenburg Co. Environmental Health
Mecklenburg Co. Environmental Protection

Robin Proctor

NCDENR

JAMES B. HUNT JR.
GOVERNOR

BILL HOLMAN
SECRETARY

WILLIAM L. MEYER
DIRECTOR

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WASTE MANAGEMENT

December 11, 2000

IMMINENT HAZARD
NOTICE OF VIOLATION
Docket # 2001-030

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Will Espin
Multi-Video, Inc.
15128 Birling Road
Charlotte, N.C. 28278

Mr. James Funderburk
Heaven Clothing
1500 Central Avenue
Charlotte, N.C. 28205

Mr. James Costner
Morningstar Sign and Sandblasting
7327 Sheffingdell Drive
Charlotte, N.C. 28226

Dear Messrs. Espin, Funderburk, and Costner:

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (Section) was authorized to operate the State Resource Conservation Recovery Act (RCRA) Hazardous Waste Program under the Solid Waste Management Act (Act), N.C.G.S. 130A, Article 9 and rules promulgated thereto at 15A NCAC 13A (Rules) in lieu of the federal RCRA program.

On August 11, 2000, Mr. Joseph Parker, Waste Management Specialist with the Hazardous Waste Compliance Branch conducted a complaint investigation at Heaven Clothing, Mecklenburg County, Charlotte, North Carolina. Heaven Clothing operator, Mr. James Funderburk, leases the 1500 Central Avenue property from Multi-Video, Inc., located at 15128 Birling Road, Mecklenburg County, Charlotte, North Carolina 28278. Information received during the investigation indicated that Mr. Will Espin acts as the landlord for the property at 1500 Central Avenue. During that investigation, Mr. Parker observed an undetermined amount of sand that had been leftover from a sandblasting operation that occurred between July 3 & 5, 2000. Sand from the rock garden and driveway was sampled by Section personnel and analyzed by the State of North Carolina Public Health Laboratory. The results of this sampling event were received by the

FIRST IN AMERICA

1646 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1646
401 OBERLIN ROAD, SUITE 150, RALEIGH, NC 27605
PHONE 919-733-4996 FAX 919-715-3605
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

Section on September 22, 2000. Both samples were tested to be 42.92 mg/l lead and 15.85 mg/l lead (TCLP) respectively. The hazardous waste regulatory level for lead is 5.0 mg/l (TCLP). The concentration of lead in the sand samples would cause the sand to be characterized as a D008 hazardous waste, and thus requires immediate removal and proper disposition. During the investigation, the following violations were noted:

A. 40 CFR 261.1(a), codified at 15A NCAC 13A .0106, states that this part identifies those solid wastes which are subject to regulation as hazardous wastes under Parts 262 through 265 and Parts 270, 271 and 124 of this Chapter and which are subject to the notification requirements of Section 3010 of RCRA.

B. 40 CFR 261.2(b), codified at 15A NCAC 13A .0106, states that materials are solid waste if they are abandoned by being (1) disposed of; or (2) burned or incinerated; or (3) accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

C. 40 CFR 261.3(a), codified at 15A NCAC 13A .0106, states that a solid waste, as defined in Section 261.2 is a hazardous waste if:

1. It is not excluded from regulation as a hazardous waste under Section 261.4(b); and

2. It meets any of the following criteria:

i. It exhibits the characteristics of hazardous waste identified in Subpart C.

ii. It is listed in Subpart D and has not been excluded from the lists in Subpart D under Sections 260.20, and 260.22 of this chapter.

iii. It is a mixture of solid waste and hazardous waste that is listed in Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C.

iv. It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D and has not been excluded from this paragraph under Sections 260.20 and 260.22 of this chapter.

D. N.C.G.S. 130A-290(6), defines "Disposal" as the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted

into the air or discharged into any waters, including groundwater.

E. It is the determination of the Section that the disposal of the lead-contaminated sand at Multi-Video, Inc./Heaven Clothing in Charlotte, North Carolina, constitutes disposal of a hazardous waste and is subject to all applicable requirements of 40 CFR 262 through 265 and 270. Specifically:

1. 15A NCAC 13A .0109(a), states that any person who treats, stores or disposes of hazardous waste shall comply with the requirements set forth in this section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this section.

   Multi-Video, Inc./Heaven Clothing is in violation of 15A NCAC 13A .0109(a), in that lead contaminated sand determined to be a hazardous waste has been disposed of onsite without complying with the requirements set forth in this section.

COMPLIANCE SCHEDULE

By the dates specified below, Multi Video, Inc./Heaven Clothing located at 1500 Central Avenue, Charlotte, North Carolina 28205 shall comply with the following requirements:

1. Comply with 15A NCAC 13A .0109(a). Multi Video, Inc./Heaven Clothing shall no longer dispose of hazardous waste on-site, and all hazardous waste previously on-site shall be shipped to a permitted hazardous waste treatment, storage or disposal facility. Due to a known disposal of hazardous waste on the Multi-Video, Inc./Heaven Clothing property and surrounding businesses, a comprehensive site characterization and removal of the hazardous waste is required.

   During the interim, pending shipment of the waste, 40 CFR 262.34(a), codified at 15A NCAC 13A .0107 states that:

   a. If the waste is placed in containers, the generator must comply with Subpart I of 40 CFR Part 265 or if the waste is placed in tanks, the generator must comply with Subpart J of 40 CFR Part 265 except 265.193;

   b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

   c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

d. The generator complies with the requirements for owners or operators in Section 265.16.

By January 5, 2001, Multi-Video, Inc./Heaven Clothing must develop and submit to this office a comprehensive sampling and analysis report which will characterize soil and sand contamination (inorganic) at your site (and/or develop and submit to this office the attached Phase I Questionnaire which will fully characterize suspected or known releases at the site specific to the property in question. This characterization will include identifying the sources of contamination, the nature and extent of contamination, determining site hydrogeologic conditions, evaluation of fate/transport of the contaminants, pathways for migration, and identifying potential human and environmental receptors).

The Phase I Questionnaire or comprehensive sampling and analysis report will be reviewed by the Section to determine its completeness. If it is determined to be complete, the Section will determine whether the project will be handled as a generator closure under guidance of the Section's Compliance Branch or be referred to the Programs Branch. If the remediation of the site remains with the Compliance Branch, a Remediation Plan must be submitted to this office within forty-five (45) days of the Section's determination. Elements required in the development of a remediation plan are outlined in the attached Phase II Remediation document. The Remediation Plan will fully describe all facets of the remediation, a schedule of activities, sampling and analysis methods, and proposed cleanup standards. Failure by Multi-Video, Inc./Heaven Clothing to complete an effective site remediation may subject the site to additional requirements including closure plans, financial assurance for closure/post closure and groundwater monitoring.

The sampling and analysis report or any other report submitted in satisfaction of this Notice must include an evaluation of the existing interior and exterior conditions at the potentially affected businesses in the area. This should include, but not be limited to, the following businesses: Heaven Clothing (1500 Central Avenue), The Perch (above Heaven Clothing), Alternative Arts Tattoo (1502 Central Avenue), Bohemia Antiques (1504 Central Avenue), Reggae Central & Arroba Tailoring Shop (1506 Central Avenue), Century (furniture store) (1508 Central Avenue), Senior Transitions (1510 Central Avenue), Hall Clock Store (1512 Central Avenue), Central Records (1514 Central Avenue), Central Avenue Jewelry (1516 Central Avenue), Johns Country Kitchen (1518 Central Avenue), Fuel Pizza (1501 Central Avenue), Nova's Bakery (1511 Central Avenue), CVS Drug Store (across Pecan Avenue from Heaven's Clothing), Duron Paints and Wallcoverings (1218 Gordon Street). The exterior conditions must address the roof of these businesses, storm drains, storm sewers and any run-off areas where this sand could collect. This report must specify constituents analyzed, sampling procedures, sampling locations, and depths that will assess the horizontal and vertical extent of contamination.

Upon verification that hazardous waste or hazardous waste constituents have been disposed,

Multi-Video, Inc./Heaven Clothing must immediately cease the disposal of hazardous waste to the environment and all hazardous waste or hazardous waste constituents determined to have been disposed shall be removed and manifested to a permitted hazardous waste treatment, storage, or disposal facility or other approved disposal facility. The removal must be completed within ninety (90) days of approval of the remediation plan.

If you should have any questions concerning this Notice, you may contact Mr. Joseph Parker at (919)380-7144. Questions concerning site characterization and remediation should be addressed to Ms. Roberta Proctor at (828) 625-0171.

If the requirements above are not met, pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13A .0701-.0707, an administrative penalty of up to $25,000.00 per day may be assessed for violation of the hazardous waste law or regulations.

Sincerely,

Jill Pafford, Acting Chief
Hazardous Waste Section

cc: Jesse Wells
Doug Holyfield
Joseph Parker
Roberta Proctor
Susan Love
Central Files
Mecklenburg Co. Environmental Protection
Mecklenburg Co. Environmental Health

KILPATRICK STOCKTON LLP

Ms. Roberta Proctor
February 28, 2001
Page 2

Cc: Mr. James Costner, Morningstar Sign and Sandblasting
Mr. Thomas N. Griffin, III, Parker, Poe, Adams & Bernstein L.L.P.
Edward H. Stephens, LG, Aware Environmental, Inc.
Mr. Stanford N. Baird, Kennedy Covington Lobdell & Hickman, L.L.P.

9033:99993-253052
CLTLIB01:625903.1

KILPATRICK STOCKTON LLP

Attorneys at Law
3500 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6001
Telephone: 704.338.5000
Facsimile: 704.338.5125
Web site: www.kilpatrickstockton.com

SUSAN H. COOPER
E-mail: scooper@kilpatrickstockton.com
Direct Dial: 704.338.5102

February 28, 2001

VIA FACSIMILE 828.625.0171

Ms. Roberta Proctor
Environmental Chemist
North Carolina Department of Environment
and Natural Resources
Interchange Building
59 Woodfin Place
Asheville, North Carolina 28801

Re: Revised Comprehensive Sampling and Analysis Plan
1500 Central Avenue and 5631 Mount Olive Church Road Sites
Charlotte, North Carolina
Notice of Violations ("NOVs") Docket Numbers 2001-030 and 2001-031

Dear Robin:

As promised, please find enclosed the revised Comprehensive Sampling and Analysis Plan regarding the above-referenced matter. This revised plan is being submitted on behalf of Morningstar Sign and Sandblasting and Heaven, LLC. This revised plan incorporates your changes and comments from our recent telephone discussion. We appreciate your comments and hope this revised sampling plan will meet with your approval. After you have a chance to review this revised sampling plan, please let me or Tom Griffin know whether it is approved so that the work may begin.

Thank you for your cooperation and we look forward to hearing from you soon.

Sincerely,

Susan H. Cooper

SHC/pld
Enclosure

Hazardous Waste Section
January 30, 2001

Certified Mail Return Receipt

Mr. Thomas N. Griffin
Parker, Poe, Adams & Bernstein, LLP
401 S. Tryon Street, Suite 3000
Charlotte, North Carolina 28202

RE: Sampling and Analysis Plan for Notice of Violation Docket Numbers 2001-030 and 2001-031.

Dear Mr. Griffin:

I have reviewed the Sampling and Analysis Report for the Central Avenue and the Picket farm lead sites, please incorporate the following comments into the Plan and resubmit to my office for approval. Upon receiving approval, the work as described in the plan may be initiated.

1. In item two and three of the plan: Additional areas of concern and/or businesses that may be identified in the survey of air deposition must be added to the sampling activities identified in item four of the plan. The visual and sampling survey must include potentially affected areas and businesses along Gordon Street between Heaven Clothing and Duron Paints. This area is documented in photos 19 - 24 of Joseph Parker's report.

2. In item four of the plan: Interior sampling of buildings/ businesses: At a minimum, two wipe samples of surfaces from each building/ business that is potentially affected must be collected and two samples in heating/ air-conditioning units. The interior surfaces should not be painted and be comprised of permanent surfaces where visual accumulations of dust are present. The heating/ air-conditioning unit components to be sampled are the ducts of intakes that are closest to where affected persons congregate. Samples should be taken immediately inside the duct or air intake. Heating/ air-conditioning units on the roofs of buildings that may have been affected by the lead dust/ sand will need additional sampling.

3. If access for sampling is not granted by a business, this denial must be documented in writing including original signatures of the owner of the business.

4. In item five of the plan: Areas where sand is discovered and removed must be cleaned per U.S. HUD Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing.

5. In item six of the plan: samples must be collected from each non-paved area that may have been affected, including those documented in photos 19, 20, 21, 24, 43, 44 of Joseph Parker's report. The rock garden where lead sand was disposed must be sampled from soil from beneath the liner.

   Background sampling: For statistical reasons, at least five separate samples must be collected to determine "naturally occurring" levels of metals in soils. Due to the nature of the disposition of the lead sand/ dust, determining background levels of lead may not be applicable to the remediation of this site.

6. The Remedial goal for surfaces inside the buildings/ businesses has been determined to be 100 ug/ ft^2 total lead. This is a conservative level that is protective of children and adults based on ingestion and inhalation of lead contaminated dust. The remedial goal for soil/ unpaved areas is 270 mg/kg total lead. This level is based on ingestion of soil and is protective of groundwater resources.

   At a minimum, areas/ businesses that exceed the remedial goals, must be cleaned per U.S. HUD Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing and the filters removed and disposed of correctly from the heating and air-conditioning units in those businesses/ buildings. Outside areas where lead dust is discovered during the survey and/or removed must be cleaned per the HUD guidelines. Impacted soils/ unpaved areas must be remediated to below the 270 mg/kg remediation level.

7. Item seven of the plan is unclear. Where sand and obviously impacted soils are to be removed, confirmatory sampling is required. The floor and each side wall of the excavation must be sampled. The sidewalls must be sampled if the depth of the excavation exceeds 18". Samples are required for each 20 feet of the excavation vertically and horizontally in all horizons. Confirmatory samples must be analyzed for total lead content, not TCLP. Background levels of lead must be determined by collecting at least five separate samples in areas representative of native soils.

8. Include each sample location on the scaled site map for each site (Central Avenue and Picket farm).

9. Joseph Parker and I must be present at all sampling event(s). Please notify us at least one week before the date(s) scheduled for collecting samples.

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Kathleen Waylett
Doug Holyfield
Jesse Wells
Joe Parker
Brad Murphy

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO: Robin Proctor

FAX NO.: (828) 625-0171

FROM: Tom Griffin

DATE: January 16, 2001

NO. OF PAGES: Three (3)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Re: Heaven, LLC

Robin, thanks for taking the time to talk with me about the proposed sampling plan for the 1500 Central Avenue and Pickett Farm locations. I have enclosed a copy of the pages of Aware Environmental's proposal describing what in essence will be our comprehensive sampling plan. As we discussed, I have asked Aware to add some swipe samples for the Central Avenue location. We will be preparing and submitting a formal plan for your consideration by the Friday deadline (January 19), but I wanted to get your thoughts ahead of time to make sure that we had addressed your concerns. Our sampling plan will also include a schedule for the work and, where possible, our thoughts on our potential remedial approaches.

I would be grateful if you would call me at 704/335-9049 to let me know your thoughts on the proposed work. Thanks, and take care,

Tom Griffin

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

AWARE ENVIRONMENTAL INC.®

VIA FACSIMILE

December 29, 2000

Mr. James Funderburk
c/o Parker, Poe, Adams & Bernstein, L.L.P.
Three First Union Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202

Attn: Mr. Thomas N. Griffin, III, Esquire

Re: Proposal to Address Notice of Violation Docket #s2001-030 and 031
1500 Central Avenue and 5631 Olive Church Road
Charlotte, NC

Dear Mr. Griffin:

Per Mr. Funderburk's request, AWARE Environmental Inc.® (AEI) has prepared the following proposal to address the Notice of Violation (NOV) Docket #s 2001-030 and -031 issued by the North Carolina Department of Environmental and Natural Resources – Division of Waste Management (NCDENR-DWM). It is AEI's understanding that sand generated as a result of sandblasting activities conducted at the 1500 Central Avenue site and disposal at the 5631 Olive Church Road site was sampled by DWM personnel and found to contain elevated inorganic lead levels by TCLP. It is also AEI's understanding that the DWM has requested that a Comprehensive Sampling and Analysis Plan to address the NOV concerns be submitted for review by January 5, 2001. AEI proposes the following Scope of Service to prepare a Comprehensive Sampling and Analysis Plan.

SCOPE OF SERVICE:

1. An AEI representative will interview Mr. James Funderburk (1500 Central Ave, property owner) and Mr. James Costner (Morningstar Sign and Sandblasting) to discuss and document the sandblasting activities and disposal concerns. This task assumes the cooperation of the prospective interviewees.

2. AEI will obtain pertinent meteorological data to determine the generally prevailing wind direction(s) at the time sandblasting activities were conducted at the subject site.

3. AEI personnel will visually survey the interior and exterior of the subject property (1500 Central Ave.), the public sidewalks and driveways adjacent to the subject property, and the roofs of the immediately adjacent properties (i.e., 1502 Central Ave. and the health food store on Pecan Ave.) for the potential presence of lead-contaminated sand. AEI will determine the extent of wind borne deposition by surveying the area in the prevailing wind direction. Photographs will be taken to document findings.

4. In general, AEI personnel will collect a sample of sand from every 100 square feet of homogeneous area in which sand is observed for analysis of inorganic lead by TCLP. In areas where sand may have been dispersed or transported by surface water or wind, samples will be collected that are considered representative of the accumulated deposits. Should sand be observed on bare ground, AEI will also collect a soil sample at a depth of 2 to 4 inches for total inorganic lead analysis by SW-846 3050/6010. Further, AEI will collect a background soil sample for total lead analysis. Soil samples (including the background sample) may also be analyzed by TCLP for lead should elevated lead levels be detected by total lead analysis.

5. AEI will also collect a sample of the sand that was removed from the subject sandblasting site and disposed at the 5631 Mt. Olive Church Road site. The sand sample will be collected from the disposal area for lead analysis by TCLP. Two (2) soil samples will be collected from beneath the disposed sand at depths of 2 to 4 inches for total inorganic lead analysis by SW-846 3050/6010. Further, AEI will collect a background soil sample for total lead analysis. Soil samples (including the background sample) may also be analyzed by TCLP for lead should elevated lead levels be detected by total lead analysis.

- TOTAL for post X
- TCLP for disposal
- map of sample locations

6. AEI will prepare the following reports for review by the DWM:

   A. Comprehensive Sampling and Analysis Plan
   B. Comprehensive Sampling and Analysis Report

wipe test -

PARKER POE

PARKER POE ADAMS & BERNSTEIN L.L.P.

Attorneys and Counselors at Law

THOMAS N. GRIFFIN, III
PARTNER

DIRECT DIAL
704-335-9049

tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

February 1, 2001

VIA FACSIMILE (919/715-3605) AND U.S. MAIL

Ms. Jill Pafford
Acting Chief, Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
Division of Waste Management
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Notice of Violation – Docket No. 2001-030

Pickett Farm Property
Notice of Violation – Docket No. 2001-031

Dear Ms. Pafford:

I am writing on behalf of Heaven, LLC to respond again to the Notices of Violation (Docket Nos. 2001-030 and 2001-031) that were issued as a result of the sandblasting activities performed and managed by Morningstar Sign and Sandblasting. I have previously written to submit the Comprehensive Sampling Plan requested by your office for both the Central Avenue site where Morningstar conducted the work and the Pickett Farm location where Morningstar deposited the sand. After submitting that package, I spoke with Joe Parker to ask how best to address the recommendation that an administrative penalty be assessed against Heaven for Morningstar's work, one of our primary concerns being that much of the key information provided to Mr. Parker was, in our view, inaccurate. Joe suggested that I contact you to provide our input. If there is some other tack that you believe that we should take, please let us know and we will be happy to do so.

As you may know, Heaven operates a small retail clothing store at the Central Avenue location. Neither Heaven nor its members have any experience with hazardous waste issues -- such expertise is simply not required to operate the store because it does not generate hazardous waste. In particular, Heaven did not have any familiarity with lead waste management issues or the requirements that may apply to sandblasting. It relied on Morningstar to provide that expertise. While Heaven recognizes that ignorance of the law is certainly no excuse for non-compliance, we do believe that its level of expertise (and the absence of need to develop that expertise) is a substantial mitigating factor when deciding whether to impose civil penalties. Indeed, the RCRA regulations and their application can remain impenetrable and mysterious even to an environmental professional, and much more so to the average citizen. In light of Heaven's willingness (along with Morningstar) to take responsibility for the two locations involved in this matter, at substantial expense relative to its size, we respectfully submit that the implementation of additional cost through administrative penalties is not necessary to achieve the goals of the RCRA program or to ensure compliance in the future.

We also think, as I suggested above, that some of the information provided to Joe Parker and the Branch paints an unnecessarily harsh and incorrect picture of Heaven and its involvement in this matter. With this in mind, we wanted to highlight several points, and also to point out where information may have been misunderstood or was not correct. In particular:

- Heaven coordinated this matter thoroughly with its landlord and received explicit, written permission to proceed with the work. In fact, Heaven understood that the landlord affirmatively wanted the work performed and was glad to have someone else pay for it. The landlord eventually gave the upstairs tenant a free month's rent to get that tenant to go along with the work. Heaven has only been a tenant in the space since October, 1998, and at no time was Heaven provided any information that the paint on the building might be sufficiently old to warrant special attention or treatment.

- We believe that Mr. Parker may have misunderstood Heaven's relationship with Morningstar. Morningstar had not performed several jobs for Heaven. Mr. Funderburk explained that Mr. Costner had performed work for several people in the neighborhood and had been recommended by someone who works at a large property management company. Mr. Costner had performed only one small job for Mr. Funderburk prior to the Central Avenue job. In short, Heaven did not know that Morningstar did not have the expertise or experience to perform the job safely and in accordance with law.

- Mr. Funderburk of Heaven **did not**, as Mr. Rainey suggested, know that the paint on the building leased by Heaven was lead-based. Heaven believed that the paint on the building was latex and, as indicated above, did not receive any information to the contrary.

  In fact, in thinking back on the situation, Heaven recalls that it was told by an employee of the previous tenant that the building was unpainted until the 1980's, well after the 1978 threshold date for lead-paint concerns. It also recalls that the sandblasting uncovered an old, painted "Pepsi" sign under the paint over the Rock Garden, which may have been the source of the lead. Heaven could not have known of this older sign before beginning the work.

- It does not appear from Mr. Parker's report that sand other than that found on the retail location itself was tested for TCLP, so we cannot comment on the suggestion that lead-containing sand migrated off of the sandblasting site. Heaven did notice, however, that Morningstar spilled a substantial amount of unblasted sand while filling its hopper on the sidewalk in front of the neighboring tattoo parlor. This unused sand is probably reflected in some of the pictures included in the report. Similarly, Heaven used sand in its prior landscaping work, and believes that some residual sand in the photographs listed on page 9 of the report may be left over from the old landscaping. We have never received copies of the photos so we cannot provide a more accurate response, but Heaven submits that there were "clean" sources for sand found at the site.

- Heaven believes that the interview with Mr. Rainey provided especially inaccurate information. On a careful reading, the interview does not provide information relevant to the hazardous waste issues before you for consideration. Nevertheless, I would like to take some time to correct the record on several points, to the extent that you think them important. In brief, Heaven has informed me that:

  - The sandblasting was performed in connection with Heaven changing its line of clothing to reach a different market. Heaven did indeed sell some of its old stock at 80% or more off normal prices, but only to get rid of the prior inventory. In fact, as I write this letter, Heaven is having a winter clearance sale on merchandise, all received since Heaven reopened as a new store, with advertised prices up to 75% off and some items marked down more than that, based on how well they sold. I am told that this is a customary practice in the retail industry,

especially to advertise your highest markdown, when in fact some things may only be marked down to 10 or 20% off. In any event, the sale noted by Mr. Rainey actually began before the sandblasting work and had nothing to do with the sand or dust. The few articles affected by the dust were not sold.

- Mr. Funderburk did not offer to make his employees clean the dust in Mr. Rainey's tattoo parlor. Mr. Funderburk, not knowing that lead might be involved, offered to do the work himself. He brought cleaning supplies and a HEPA vacuum to do the work. Mr. Rainey refused, and also refused an offer to have a cleaning service come to his shop. Heaven then offered to have Chem-Clean clean the shop, as they are experienced in cleaning doctor's offices where surgery is performed . Heaven had confirmed with the EPA hotline that the cleaning method proposed by Chem-Clean would be appropriate. Mr. Rainey refused again. Finally, Mr. Rainey contacted Onyx Environmental Services and received a quote of $15,260.00 to clean the shop. Contrary to what Mr. Rainey said, Heaven offered to pay Onyx directly. Mr. Rainey refused, suggesting that Heaven pay him that amount and he would clean the shop himself. Heaven declined to pay Mr. Rainey unless Onyx did the work, and understands that Mr. Rainey then did the work himself.

- As noted in Mr. Parker's report, the testing of the dust in Mr. Rainey's shop came back at 2.25 total lead. I am unaware of any testing of the dust for TCLP lead, but I do not think that if could have exceeded the 5 mg/l limit, based on the total level.

- Heaven believes that there is no air conditioning unit on Mr. Rainey's or Heaven's roof. There are only condenser units on top of the buildings. Heaven believes that Mr. Rainey's shop is cooled by a window unit.

- Mr. Rainey believed that he saw an employee of Heaven washing down the sidewalk. Heaven believes that this work was performed by a painter who was cleaning paint off of the sidewalk, unknown to Heaven. Other cleanup efforts were made while finishing construction, but at no time was it Heaven's intent to improperly address any remaining sand at the site.

I bring these matters to your attention to emphasize the fact that Heaven acted reasonably and responsibly in this situation, and to ensure that the Branch is not presented with an inaccurate impression of Heaven's attitude or activities based on information provided to Mr. Parker.

There is no doubt that Heaven was placed in an untenable and unfortunate situation by a contractor who was clearly over its head in undertaking the sandblasting work. Heaven subsequently responded appropriately to its neighbor's concerns, and has responded to the Branch's request that it investigate and remediate the situation. With this in mind, and for the reasons noted above, we would again submit that the imposition of penalties against Heaven is not warranted or necessary to further the Branch's programs, and we would ask that penalties not be imposed.

As always, we appreciate your courtesy and your consideration of our position. Please do not hesitate to contact me if you should have any questions or need any further from me along these lines.

Very truly yours,

Thomas N. Griffin, III

TNG/cmh

cc: Mr. James Funderburk, Heaven, LLC
Mr. Jesse Wells
Ms. Robin Proctor
Mr. Joe Parker

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO:	Ms. Robin Proctor	(828) 625-0171
cc:	Ms. Jill Pafford	(919) 715-3605
	Mr. Jesse Wells	(828) 926-4326
	Mr. Joe Parker	(919) 380-7144

FROM: Tom Griffin

DATE: February 2, 2001

NO. OF PAGES: Three (3)
(including cover page)

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Re:

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

PARKER POE
PARKER POE ADAMS & BERNSTEIN LLP
Attorneys and Counselors at Law

THOMAS N. GRIFFIN, III
PARTNER

DIRECT DIAL
704-335-9049

tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

February 2, 2001

VIA FACSIMILE

Ms. Roberta Proctor
Environmental Chemist
Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
59 Woodfin Place
Asheville, NC 28801

Re: 1500 Central Avenue Property, Charlotte, North Carolina
Notice of Violation – Docket No. 2001-030

Picket Farm Property
Notice of Violation – Docket No. 2001-031

Dear Robin:

Following up on my voice-mail message today, I was touching base to see if you would have time to have a conference call on the Heaven, LLC Comprehensive Sampling Plan, perhaps Tuesday morning or Wednesday of next week. We would like to discuss with you your comments to the plan and a few thoughts that we have before we revise and submit the Plan for your final approval. If you are available, please feel free to call or e-mail me and I will set things up. My e-mail address is tomgriffin@parkerpoe.com.

Thanks as always for your courtesy and help on this project. Please call me if you should have any questions.

Very truly yours

Thomas N. Griffin, III

TNG/cmh

cc: Ms. Jill Pafford
Mr. Jesse Wells
Mr. Joe Parker

facsimile
TRANSMITTAL

to: Doug Holyfield
fax #: 3367714631
re: Heaven Clothing - Dennis Salmen Response
date: June 21, 2001
pages: 3, including this cover sheet.

Doug: Attached is Dennis Salmen's response. From reading the last paragraph they are deferring notification responsibilities back to DENR (US). My first inclination is to provide the owners the findings to date and notify them that exposure issues should be addressed by contacting the local health department and let them explain the results as we are not expertise on exposure issues as they may effect humans. The only other avenue within DENR that I can think of is to get the results to the Department's Epidemiology staff and ask for their assistance. Please review his response and let me know your opinion on this. Thanks, Jesse

OSHA Rfer

From the desk of...

Jesse W. Wells
Western Compliance Supervisor
NCDENR
59 Woodfin Place
Asheville, N.C.

(828) 926-4326
Fax: (828) 926-4326

PARKER POE
PARKER POE ADAMS & BERNSTEIN LLP
Attorneys and Counselors at Law

Thomas N. Griffin III
Partner
Telephone: 704.335.9049
Direct Fax: 704.335.9567
tomgriffin@parkerpoe.com

Three First Union Center
401 South Tryon Street
Suite 3000
Charlotte, NC 28202
Telephone 704.372.9000
Fax 704.334.4706
www.parkerpoe.com

June 15, 2001

VIA FACSIMILE

Mr. Joseph S. Parker, Jr.
Waste Management Specialist
Hazardous Waste Section
North Carolina Department of Environment
and Natural Resources
919 North Main Street
Mooresville, NC 28115

Re: Heaven, LLC
Morningstar Sign and Sandblasting Matter

Dear Joe:

Following up on my voice-mail message, I wanted to request more formally that you permit Heaven, LLC and Morningstar Sign and Sandblasting to have additional time to continue to conduct the sampling activities and evaluation of remedial alternatives at the Central Avenue and Pickett Farm sites. In particular, I would propose that we have an additional 30 days, until July 15, 2001, to finalize and assimilate the data and present to you remedial alternatives for both sites. As I discussed with Robin, we are moving forward to obtain remediation quotes for the dust at the various Central Avenue locations, so we may be able to proceed more quickly than the 30-day period. I would like, however, ensure that we have plenty of time to do the job properly. In addition, with respect to the Pickett site, we may eventually need additional time to properly characterize and profile the material for disposal. We will coordinate with you on this potential if it arises.

Thank you for your courtesy and flexibility in this matter. Please do not hesitate to call me if you should have any questions.

Very truly yours,

Thomas N. Griffin, III

TNG/cmh

cc: Robin Proctor

FAX TRANSMITTAL

Parker, Poe, Adams & Bernstein L.L.P.
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
Phone: (704) 372-9000 Fax: (704) 334-4706

Direct Dial
(704) 335-9049

TO:	Joe Parker	(919) 380-7144
CC:	Robin Proctor	(828) 625-0171
FROM:	Tom Griffin	
DATE:	June 15, 2001	
NO. OF PAGES: (including cover page)	Three (3)	

In case of difficulty in transmission, please call (704) 372-9000, Ext. 2318

Transmitted by:

Client/Matter No.:

The information contained in this facsimile is confidential and may be privileged and is intended only for the use of the addressee. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU.

AWARE ENVIRONMENTAL INC.®

JESSE WELLS
828-926-4326

FAX COVER SHEET

Date: 5/30/01 Job. No. N435-01

Transmitted by: ED STEPHENS Time:

Total Pages: (including cover page)

Attention: MR. JOE PARKER

Company: NCDENR

City:

FAX NUMBER: 919 380 - 7144

From: ED STEPHENS

Message: PER YOUR REQUEST, I AM SENDING:
1) CENTRAL AVE. SAMPLE ANALYTICAL RESULTS SUMMARY, AND
2) PICKETT'S FARM SAMPLE ANALYTICAL DATA REPORT.
CALL W/ QUESTIONS OR COMMENTS.

If you do not receive this transmission in its entirety, please call AEI at (704) 845-1697.

HARD COPY TO FOLLOW !! ~~X~~
Yes No

3305 MONROE ROAD • SUITE J • CHARLOTTE, N.C. 28270-1490 • TELEPHONE (704) 845-1697 • FAX (704) 845-1759

Robin Proctor

828-625-0171

AWARE ENVIRONMENTAL INC.®

FAX COVER SHEET

Date: 5/30/01 Job. No. N435-01

Transmitted by: ED STEPHENS Time:

Total Pages: (including cover page)

Attention: MR. JOE PARKER

Company: NCDENR

City:

FAX NUMBER: 919 380 - 7144

From: ED STEPHENS

Message: PER YOUR REQUEST, I AM SENDING:
1) CENTRAL AVE. SAMPLE ANALYICAL RESULTS SUMMARY, AND
2) PICKETT'S FARM SAMPLE ANALYTICAL DATA REPORT.
CALL W/ QUESTIONS OR COMMENTS.

If you do not receive this transmission in its entirety, please call AEI at (704) 845-1697.

HARD COPY TO FOLLOW [ ] Yes [X] No

8205 MONROE ROAD • SUITE J • CHARLOTTE, N.C. 28270-1430 • TELEPHONE (704) 845-1697 • FAX (704) 845-1759

Fax message

Severn Trent Laboratories, Inc.
STL Tallahassee
2846 Industrial Plaza Drive
Tallahassee, FL 32301

Tel (850) 878-3994
Fax (850) 878-9504
www.stl-inc.com

Date: 05/18/01

To: ED STEPHENS

Company: AWARE

Fax: 009

From: Janet Pruitt

Subject: HEAVEN

Pages: 6

T131381- COMPLETED REPORT

Thank you.

facsimile
TRANSMITTAL

to: Robin
fax #:
re:
date: June 21, 2001
pages: 4, including this cover sheet.

Robin: FYI, JW

From the desk of...

Jesse W. Wells
Western Compliance Supervisor
NCDENR
59 Woodfin Place
Asheville, N.C.

(828) 926-4326
Fax: (828) 926-4326

[redacted]

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stl-inc.com

STL Tallahassee

LOG NO: T1-31381
Received: 10 MAY 01
Reported: 17 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven,LLC
Sampled By: Client
Code: 170910517

REPORT OF RESULTS

Page 1

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31381-1	SD-1 Commonwealth/Gordon St. Storm Drain	05-09-01/10:30
31381-2	Bkgd-LS Left of Disposal Area	05-09-01/11:05
31381-3	Bkgd-RS Right of Disposal Area	05-09-01/11:20
31381-4	Bkgd-Rear Rear of Disposal Area	05-09-01/11:15
31381-5	Bkgd-Front Front of Disposal Area	05-09-01/11:10

PARAMETER	31381-1	31381-2	31381-3	31381-4	31381-5
Lead (6010), mg/kg dw	250	25	24	280	54
Analysis Date	05.15.01	05.15.01	05.15.01	05.15.01	05.15.01
Percent Solids	97	82	87	89	71

North Carolina

DEPARTMENT OF HEALTH & HUMAN SERVICES

DIVISION OF PUBLIC HEALTH

HEALTH HAZARDS CONTROL UNIT

DATE 1/25/00

TO NAME Robin Proctor

COMPANY

FAX NUMBER 828-625-0171

FROM Danny Linebarger

NUMBER OF PAGES (INCLUDING COVER)

MESSAGE Info. on Lead Contamination

PHONE NUMBER - (919) 733-0820
FAX NUMBER - (919) 733-8495
ADDRESS – 1912 MAIL SERVICE CENTER, RALEIGH NC 27699-1912

If you have any problems receiving this fax, or any questions regarding the content please call (919) 733-0820

7/14/99CW

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Epidemiology
P.O. Box 27687 • Raleigh, North Carolina 27611-7687

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

J. N. MacCormack, M.D., M.P.H.
Director

August 27, 1992

MEMORANDUM

TO: Bill Furney
EHNR, Public Affairs Office

FROM: Pat Curran
Asbestos Hazard Management Branch

SUBJECT: Lead Contamination in the Highway Building and Annex

Attached find analytical results from samples collected in the Highway Building and Annex. Samples were collected to detect the presence of lead, both in the air and on surfaces, in the buildings.

The results indicate the presence of lead in dust, in varying amounts, in most areas. These samples are described as "wipe samples". The results of air samples collected indicated that very little to non-detectable amounts of airborne lead is in the buildings.

Based on research and biostatistical modeling, it was decided that a very conservative risk factor, 50 ug/sq.ft., would be used in determining potential health risks to building occupants. Note that only a few of the total wipe samples collected exceeded 50 ug/sq.ft., and that these samples were dispersed throughout the area.

Even though it appears that the risk to building occupants is minimal, it was decided that a statistically random sampling of blood lead levels would be collected to absolutely determine occupant risk. The results of those tests will be available as soon as possible. If you have any questions, please call me at (919) 733-0820.

ATTACHMENTS

An Equal Opportunity Affirmative Action Employer

ANALYSIS REPORT
HIGHWAY BUILDING
RALEIGH, NORTH CAROLINA

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m³)
Samples collected 4/30/92		
MO 92490-1	Air sample, room 504	<0.98
MO 92490-7	Blank	
MO 92490-8	Air sample, 5th floor library	<1.09
MO 92490-16	Air sample, 5th floor library storage	<0.79
MO 92490-18	Air sample	<1.03
MO 92490-24	Air sample	<1.03
1	Wipe, 5th floor library storage wall	<10 ug./sq.ft.
2	Wipe, 5th floor library storage window sill	672 ug./sq.ft.
3	Blank	

Samples collected 6/23/92		RESULTS (as indicated)
HB-01	Wipe sample, duct, 5th floor library	168 total ug 1700 ug/sq.ft.
HB-02	Piece of furnace filter, 5th floor library	0.018 %/wt. 1560 ug/sq.ft.
HB-03	Bulk sample from top of boxes, 5th floor library	1.03 %/wt.
HB-04	Passive sample collected over 48 hours, 5th floor library storage	1.38 total ug 23.70 ug/sq.ft.
HB-05	Passive sample collected over 48 hours, Room 112	1.58 tot/ug 27.20 ug/sq.ft.

Highway Building Annex
Page 2

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m^3)
AA-01	Air sample, outside room 600	<3.85
AA-02	Air sample, room 614	<3.85
AA-03	Air sample, room 585	3.88
AA-04	Air sample, room 559	<3.92
AA-05	Air sample, room 447	4.38
AA-06	Air sample, outside room 459	4.49
AA-07	Air sample, room 356	4.46
AA-08	Air sample, room 348	3.99
AA-09	Air sample, room 254	3.99
AA-10	Air sample, room 275	5.29
AA-11	Blank	
AA-12	Blank	

Highway Building
Page 3

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/sq.ft.)
HB-26	Wipe, room 346C, floor	134
HB-27	Wipe, room 346C, desk	26
HB-28	Wipe, room 346C, interior of duct	20,500
HB-29	Wipe, room 229(AHU), floor	155
HB-30	Wipe, room 229, window sill	80
HB-31	Wipe, room 229, top of AHU	1,127
HB-32	Wipe, room 202, floor	14
HB-33	Wipe, room 202, desk top	29
HB-34	Blank	10
HB-35	Blank	10

Samples collected
7/22/92

HB-36	Wipe, room 146, desk top	<10
HB-37	Wipe, room 129, floor	27
HB-38	Wipe, room 129, file cabinet	12
HB-39	Wipe, room 102, floor	90
HB-40	Wipe, room 102, AHU	128
HB-41	Wipe, room 32(outside), floor	56
HB-42	Wipe, room 32, floor	43
HB-43	Wipe, room 32, top of 2x2 ceiling tile	2730
HB-44	Wipe, room 32, inside duct	167
HB-45	Wipe, room 30, inside duct	151
HB-46	Wipe, outside room 17, floor	<10
HB-47	Wipe, room 17, inside duct	51
HB-48	Blank	<10
HB-49	Blank	<10

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m^3)
Samples collected 7/22/92		
HBA-01	Air sample, room 506	<3.31
HBA-02	Air sample, room 521	<3.39
HBA-03	Air sample, room 555	<3.53
HBA-04	Air sample, room 445	<3.50
HBA-05	Air sample, outside room 429 (AHU)	<3.58
HBA-06	Air sample, outside room 403	<3.38
HBA-07	Air sample, room 307	<3.40
HBA-08	Air sample, outside room 329 (AHU)	<3.45
HBA-09	Air sample, room 346C	<3.48
HBA-10	Air sample, room 247	<3.52
HBA-11	Air sample, room 229 (AHU)	<3.55
HBA-12	Air sample, outside room 203	<3.57
HBA-13	Air sample, room 103	<3.59
HBA-14	Air sample, room 129	<3.66
HBA-15	Air sample, outside room 34	<3.64
HBA-16	Blank	
HBA-17	Blank	

ANALYSIS REPORT
HIGHWAY BUILDING ANNEX
RALEIGH, NORTH CAROLINA

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/sq.ft.)
Samples collected 7/23/92		
A-1	Wipe, room 603, interior of duct	1230.0
A-2	Wipe, room 603, outside, floor	11.0
A-3	Wipe, room 603, table	12.0
A-4	Wipe, room 566, outside, AHU intake	109.0
A-5	Wipe, room 566, floor	<10.0
A-6	Wipe, room 448, floor	15.0
A-7	Wipe, room 448, interior of duct	712.0
A-8	Wipe, room 362, floor (entry)	20.0
A-9	Wipe, room 363, file cabinet	38.0
A-10	Wipe, room 363, interior of duct	1195.0
A-11 *	Wipe, room 257, outside, floor	Void
A-12 *	Wipe, room 257, AHU intake	Void
A-13 *	Wipe, outside 1st floor mech. room, floor	Void
A-14 *	Wipe, outside 1st floor mech. room, intake	Void
A-15	Blank	
A-16	Blank	

*Note: Samples 11-14 misnumbered.

Highway Building
Page 2

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (as indicated)
Samples collected 7/20/92		
HB-06	Bulk sample of debris, 5th floor library storage. Note: This sample submitted for lead speciation, formal results pending	0.8 %/wt.
		RESULTS (in µg/sq.ft.)
HB-07	Wipe, room 502, floor	147
HB-08	Wipe, room 502, boxes	330
HB-09	Wipe, room 502, interior of duct	5993
HB-10	Wipe, room 555, floor	46
HB-11	Wipe, room 555, desk top	15
HB-12	Wipe, room 555, computer	234
HB-13	Wipe, room 400, floor	12
HB-14	Wipe, room 400, desk top	<10
HB-15	Wipe, room 400, interior of duct	71
HB-16	Wipe, room 429, window louvers	614
HB-17	Wipe, room 435, floor	<10
HB-18	Wipe, room 435, file cabinet	419
HB-19	Wipe, room 445, floor	<10
HB-20	Wipe, room 445, file cabinet	72
HB-21	Wipe, room 445, interior of duct	13,350
HB-22	Blank	
HB-23	Blank	
Samples collected 7/21/92		
HB-24	Wipe, room 307, desk top	<10
HB-25	Wipe, room 307 interior of duct	153,700

cc Pat Carson
Mary Grigsby
me
GS

State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Epidemiology
P.O. Box 27687 • Raleigh, North Carolina 27611-7687

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

J. N. MacCormack, M.D., M.P.H.
Director

September 1, 1992

MEMORANDUM

TO: Thomas J. Harrelson, Secretary
Department of Transportation

FROM: J. N. MacCormack, M.D., M.P.H., Director
Division of Epidemiology

SUBJECT: Results of Blood Lead Testing on Department of Transportation Employees and Results of Environmental Sampling in the Department of Transportation Building, Raleigh, North Carolina

Of the 60 employees randomly selected in the Highway Building, 56 (93.3%) agreed to have their blood tested for lead on August 27, 1992. All 56 employees had blood lead levels of 5 micrograms per deciliter (ug/dL) or lower. The average blood lead level for the 56 employees was 1.7 ug/dL, an average that is much less than the United States average of 4 ug/dL for 1991 (April 1991, Final Regulatory Impact Analysis of National Primary Drinking Water Regulations for Lead and Copper). A blood lead level of < 10 ug/dL is not considered to be indicative of lead poisoning (October 1991, Centers for Disease Control) and is considered to be protective for children less than 6 years of age and safe for pregnant women and adults of reproductive age. These blood lead results provide further evidence that there is no significant risk of lead exposure from either breathing or ingesting dust in the Highway Building. In addition, the average blood lead levels in the groups of employees who volunteered were also very low: 32 Highway Building employees - 1.8 ug/dL (range, none detected to 6 ug/dL); 20 Annex Building employees - 2.0 ug/dL (range, none detected to 7 ug/dL); and 22 Museum employees - 1.8 ug/dL (range, none detected to 6 ug/dL). All of the 74 volunteers had blood lead levels below 10 ug/dL.

Environmental sampling was again conducted in the Highway Building and the Annex on August 25, 1992. Please see the attached results. The sampling consisted of collecting both air and wipe samples to determine if lead-containing dust remains in the building. The results of the air samples

indicate that airborne levels of lead remain extremely low. The results of wipe samples indicate that, although reduced, lead-containing dust remains in the heating and air conditioning duct work and on surfaces in the building. Therefore, in order to prevent any possible significant lead exposure in the future, the following is recommended:

(1) Reclean heating and air conditioning duct work throughout the building using HEPA-equipped vacuum cleaners and/or wet cleaning techniques. All work should be conducted by trained personnel using methods which minimize dust generation.

(2) Clean all building surfaces of visual accumulations of dust using similar techniques.

(3) Conduct post-cleaning environmental sampling and follow-up sampling in six months.

Thank you for your cooperation in this investigation. If you have any questions about the blood lead results, please call Dr. Peter Morris or Dr. Luanne Williams at (919) 733-3410. If you have any questions about the environmental sampling or the above recommendations, please call Mr. Pat Curran at (919) 733-0820.

JNM:tm

cc: Secretary William Cobey
Dr. Ronald Levine
Dr. Thad Wester

DRAFT: Lead Contamination in Department of Transportation Highway Building
August 25, 1992

In late June, at the request of Department of Transportation (DOT) Officials, industrial hygienists in the Occupational Health Section of the North Carolina Department of Environment, Health, and Natural Resources (DEHNR) collected dust samples from the ventilation ductwork in the DOT Highway Building located on Wilmington Street. After laboratory analyses of the dust samples revealed the presence of lead, air and dust samples from various interior surfaces such as desk tops, file cabinets, computers, and floors were taken in the main Highway Building and the Highway Building Annex. The sampling was completed in late July, and the final results were received on August 17, 1992.

All of the air samples showed levels well below 30 ug/m^3 which the Occupational Safety and Health Administration (OSHA) considers to be safe. Because the air levels were well below the OSHA standard, breathing the air within the Highway Building should not pose a health risk to employees there. Most of the dust samples collected from the interior surfaces were below 200 ug/sq. ft., the level which the U. S. Department of Housing and Urban Development (HUD) considers safe. The majority of dust samples that were above 200 ug/sq. ft. were taken from surfaces that workers do not touch on a regular basis such as floors, windows, tops of filing cabinets, and storage boxes. Based on these results and the fact that adults ingest very little dust from their hands, a team of physician epidemiologists, toxicologists, and industrial hygienists in DEHNR believe that the risk of significant exposure to lead from the air and the interior surfaces of the building is minimal.

In spite of these encouraging results, DEHNR medical staff felt that it was prudent to take blood samples from a limited number of DOT personnel and have the blood analyzed for lead. On August 27, 1992, 127 individual blood samples were taken from employees of the Highway Building, Highway Building Annex, and

Museum which are all connected. The blood lead level results should be reported within a week from the time the samples were collected. After the blood lead level results are received, they will be assessed by DEHNR medical staff and any necessary recommendations for further action will be forwarded to DOT. Until then, medical staff in DEHNR do not believe that workers need to vacate their offices or workspaces, or alter their work activities.

August 28, 1992

ENVIRONMENTAL SAMPLE RESULTS
NORTH CAROLINA HIGHWAY BUILDING AND ANNEX
RALEIGH, NORTH CAROLINA

HIGHWAY BUILDING

SAMPLES COLLECTED 4/30/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m^3)
MO 92490-1	Air sample, room 504	<1.96
MO 92490-7	Blank	
MO 92490-8	Air sample, 5th floor library	<2.16
MO 92490-16	Air sample, 5th floor library storage	<1.94
MO 92490-18	Air sample	<2.06
MO 92490-24	Air sample	<2.06

		RESULTS (in ug/sq.ft.)
1	Wipe, 5th floor library storage wall	<10.0
2	Wipe, 5th floor library storage window sill	672.0
3	Blank	

Highway Building and Annex
Environmental Sample Results
Page 2

SAMPLES COLLECTED 6/23/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (as indicated)
HB-01	Wipe sample, duct, 5th floor library	152 total ug 1700 ug/sq.ft.
HB-02	Piece of furnace filter, 5th floor library	0.018 %/wt. 1560 ug/sq.ft.
HB-03	Bulk sample from top of boxes, 5th floor library	1.03 %/wt.
HB-04	Passive sample collected over 48 hours, 5th floor library storage	1.38 total ug 23.7 ug/sq.ft.
HB-05	Passive sample collected over 48 hours, Room 112	1.58 tot/ug 27.2 ug/sq.ft.

Highway Building and Annex
Environmental Sample Results
Page 3

SAMPLES COLLECTED 7/20/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (as indicated)
HB-06	Bulk sample of debris, 5th floor library storage. Note: This sample submitted for lead speciation, formal results pending	0.3 %/wt.

		RESULTS (in ug/sq.ft.)
HB-07	Wipe, room 502, floor	147.0
HB-08	Wipe, room 502, boxes	330.0
HB-09	Wipe, room 502, interior of duct	5893.0
HB-10	Wipe, room 555, floor	46.0
HB-11	Wipe, room 555, desk top	15.0
HB-12	Wipe, room 555, computer	234.0
HB-13	Wipe, room 400, floor	12.0
HB-14	Wipe, room 400, desk top	<10.0
HB-15	Wipe, room 400, interior of duct	71.0
HB-16	Wipe, room 429, window louvers	516.0
HB-17	Wipe, room 435, floor	<10.0
HB-18	Wipe, room 435, file cabinet	418.0
HB-19	Wipe, room 445, floor	<10.0
HB-20	Wipe, room 445, file cabinet	72.0
HB-21	Wipe, room 445, interior of duct	13,350.0
HB-22	Blank	
HB-23	Blank	

Highway Building and Annex
Environmental Sample Results
Page 4

SAMPLES COLLECTED 7/21/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (in cc/[illegible])
HB-24	Wipe, room 307, desk top	<10.0
HB-25	Wipe, room 307 interior of duct	153,700.0
HB-26	Wipe, room 346C, floor	134.0
HB-27	Wipe, room 346C, desk	20.0
HB-28	Wipe, room 346C, interior of duct	20,500.0
HB-29	Wipe, room 229(AHU), floor	155.0
HB-30	Wipe, room 229, window sill	80.0
HB-31	Wipe, room 229, top of AHU	1,127.0
HB-32	Wipe, room 202, floor	14.0
HB-33	Wipe, room 202, desk top	29.0
HB-34	Blank	10.0
HB-35	Blank	10.0

Highway Building and Annex
Environmental Sample Results
Page 5

SAMPLES COLLECTED 7/22/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (in ug/sq.ft.)
HB-36	Wipe, room 146, desk top	<10.0
HB-37	Wipe, room 129, floor	27.0
HB-38	Wipe, room 129, file cabinet	12.0
HB-39	Wipe, room 102, floor	90.0
HB-40	Wipe, room 102, AHU	128.0
HB-41	Wipe, room 32(outside), floor	58.0
HB-42	Wipe, room 32, floor	43.0
HB-43	Wipe, room 32, top of 2x2 ceiling tile	2750.0
HB-44	Wipe, room 32, inside duct	167.0
HB-45	Wipe, room 30, inside duct	151.0
HB-46	Wipe, outside room 17, floor	<10.0
HB-47	Wipe, room 17, inside duct	51.0
HB-48	Blank	<10.0
HB-49	Blank	<10.0

Highway Building and Annex
Environmental Sample Results
Page 6

SAMPLES COLLECTED 7/22/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m³)
HBA-01	Air sample, room 506	<3.31
HBA-02	Air sample, room 521	<3.39
HBA-03	Air sample, room 555	<3.53
HBA-04	Air sample, room 445	<3.50
HBA-05	Air sample, outside room 429 (AHU)	<3.58
HBA-06	Air sample, outside room 403	<3.38
HBA-07	Air sample, room 307	<3.40
HBA-08	Air sample, outside room 329 (AHU)	<3.45
HBA-09	Air sample, room 345C	<3.48
HBA-10	Air sample, room 227	<3.52
HBA-11	Air sample, room [illegible] (AHU)	<3.55
HBA-12	Air sample, outside room 203	<3.57
HBA-13	Air sample, room 103	<3.59
HBA-14	Air sample, room 129	<3.66
HBA-15	Air sample, outside room 54	<3.64
HBA-16	Blank	
HBA-17	Blank	

Highway Building and Annex
Environmental Sample Results
Page 7

ANNEX

SAMPLES COLLECTED 7/23/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/sq.ft.)
A-1	Wipe, room 603, interior of duct	1230.0
A-2	Wipe, room 603, outside, floor	11.0
A-3	Wipe, room 603, table	12.0
A-4	Wipe, room 566, outside, AHU intake	109.0
A-5	Wipe, room 566, floor	<10.0
A-6	Wipe, room 448, floor	15.0
A-7	Wipe, room 448, interior of duct	712.0
A-8	Wipe, room 362, floor (entry)	20.0
A-9	Wipe, room 363, file cabinet	38.0
A-10	Wipe, room 363, interior of duct	1195.0
A-11 *	Wipe, room 257, outside, floor	Void
A-12 *	Wipe, room 257, AHU intake	Void
A-13 *	[illegible]	[illegible]
A-14 *	Wipe, outside 1st floor room. [illegible]	[illegible]
A-15	Blank	
A-16	Blank	

*Note: Samples 11-14 misnumbered.

Highway Building and Annex
Environmental Sample Results
Page 8

SAMPLES COLLECTED 7/23/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/m³)
AA-01	Air sample, outside room 600	<3.26
AA-02	Air sample, room 614	<3.26
AA-03	Air sample, room 585	3.29
AA-04	Air sample, room 559	<3.32
AA-05	Air sample, room 447	3.74
AA-06	Air sample, outside room 459	3.81
AA-07	Air sample, room 356	3.81
AA-08	Air sample, room 348	3.41
AA-09	Air sample, room 254	3.41
AA-10	Air sample, room 275	4.52
AA-11	Blank	
AA-12	Blank	

HIGHWAY BUILDING and ANNEX

SAMPLES COLLECTED 8/25/92

SAMPLE NUMBER	SAMPLE DESCRIPTION	RESULTS (ug/sq.ft.)
HB-50	Wipe, room 502, inside of duct	1014.0
HB-51	Wipe, room 502, window sill	34.0
HB-52	Wipe, room 502, floor	54.0
HB-53	Wipe, room 445, inside of duct	18050.0
HB-54	Wipe, room 445, filing cabinet	<10.0
HB-55	Wipe, room 445, floor	31.0
HB-56(A)	Wipe, room 363, Annex, inside of duct	143.0
HB-57(A)	Wipe, room 363, Annex, desk top	<10.0
HB-58(A)	wipe, room 363, Annex, floor	<10.0
HB-59	Wipe, room 202, inside of duct	85.0
HB-60	Wipe, room 202, desk top computer	<10.0
HB-61	Wipe, room 202,	<10.0
HB-62(A)	Wipe, room 257, Annex, [illegible]	10.0
HB-63(A)	Wipe, room 257, floor	15.0
HB-64	wipe, room 102, inside of duct	191.0
HB-65	Wipe, room 102, window sill	85.0
HB-66	Wipe, room 30, inside duct	164.0
HB-67	Wipe, room 30, cable tap	12.0
HB-68	wipe, room 30, floor	<10.0
HB-69	Blank	<10.0
HB-70	Blank	<10.0

Highway Building and Annex
Environmental Sample Results
Page 10

SAMPLE NUMBER	SAMPLE DESCRIPTION	[illegible]
HBA-18	Air sample, room 506	<4.48
HBA-19	Air sample, outside room 329	<4.48
HBA-20	Air sample, room 103	<4.48
HBA-21	Blank	
HBA-22	Blank	

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9544 • www.stl-inc.com

STL Tallahassee

LOG NO: T1-31381
Received: 10 MAY 01
Reported: 17 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: M435-01/Kaaven,LLC
Sampled By: Client
Code: 091710518
Page 5

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION . QC REPORT FOR SOLID/SEMISOLID	DATE/ TIME SAMPLED
31381-12	TCLP Extraction Fluid Blank	
31381-13	Regulatory Limit	

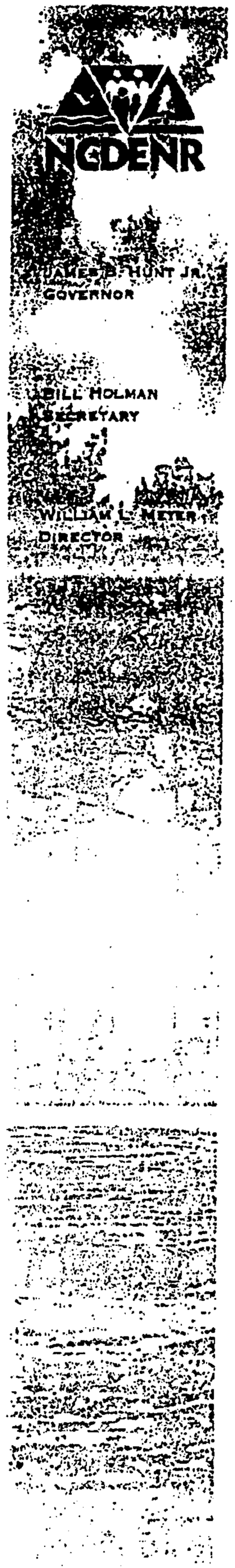
PARAMETER	31381-12	31381-13
Lead (TCLP), mg/l	<0.20	5.0
Analysis Date	05.17.01	---

These test results meet all the requirements of NELAC. All questions regarding this test report should be directed to the STL Project Manager who signed this test report.

Method: EPA SW-846, Update III.
NC Certification No. 389

*969 Analyte concentration exceeded the TCLP regulatory limit.

Janet B. Pruitt, Project Manager



NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WASTE MANAGEMENT

December 11, 2000

IMMINENT HAZARD
NOTICE OF VIOLATION
Docket # 2001-030

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Will Espin
Multi-Video, Inc.
15128 Birling Road
Charlotte, N.C. 28278

Mr. James Funderburk
Heaven Clothing
1500 Central Avenue
Charlotte, N.C. 28205

Mr. James Costner
Morningstar Sign and Sandblasting
7327 Sheffingdell Drive
Charlotte, N.C. 28226

Dear Messrs. Espin, Funderburk, and Costner:

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (Section) was authorized to operate the State Resource Conservation Recovery Act (RCRA) Hazardous Waste Program under the Solid Waste Management Act (Act), N.C.G.S. 130A, Article 9 and rules promulgated thereto at 15A NCAC 13A (Rules) in lieu of the federal RCRA program.

On August 11, 2000, Mr. Joseph Parker, Waste Management Specialist with the Hazardous Waste Compliance Branch conducted a complaint investigation at Heaven Clothing, Mecklenburg County, Charlotte, North Carolina. Heaven Clothing operator, Mr. James Funderburk, leases the 1500 Central Avenue property from Multi-Video, Inc., located at 15128 Birling Road, Mecklenburg County, Charlotte, North Carolina 28278. Information received during the investigation indicated that Mr. Will Espin acts as the landlord for the property at 1500 Central Avenue. During that investigation, Mr. Parker observed an undetermined amount of sand that had been leftover from a sandblasting operation that occurred between July 3 & 5, 2000. Sand from the rock garden and driveway was sampled by Section personnel and analyzed by the State of North Carolina Public Health Laboratory. The results of this sampling event were received

1646 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1646
401 OBERLIN ROAD, SUITE 150, RALEIGH, NC 27605
PHONE 919-733-4996 FAX 919-715-3605
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

Section on September 22, 2000. Both samples were tested to be 42.92 mg/l lead and 15.85 mg/l lead (TCLP) respectively. The hazardous waste regulatory level for lead is 5.0 mg/l (TCLP). The concentration of lead in the sand samples would cause the sand to be characterized as a D008 hazardous waste, and thus requires immediate removal and proper disposition. During the investigation, the following violations were noted:

A. 40 CFR 261.1(a), codified at 15A NCAC 13A .0106, states that this part identifies those solid wastes which are subject to regulation as hazardous wastes under Parts 262 through 265 and Parts 270, 271 and 124 of this Chapter and which are subject to the notification requirements of Section 3010 of RCRA.

B. 40 CFR 261.2(b), codified at 15A NCAC 13A .0106, states that materials are solid waste if they are abandoned by being (1) disposed of; or (2) burned or incinerated; or (3) accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

C. 40 CFR 261.3(a), codified at 15A NCAC 13A .0106, states that a solid waste, as defined in Section 261.2 is a hazardous waste if:

1. It is not excluded from regulation as a hazardous waste under Section 261.4(b); and

2. It meets any of the following criteria:

i. It exhibits the characteristics of hazardous waste identified in Subpart C.

ii. It is listed in Subpart D and has not been excluded from the lists in Subpart D under Sections 260.20, and 260.22 of this chapter.

iii. It is a mixture of solid waste and hazardous waste that is listed in Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C.

iv. It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D and has not been excluded from this paragraph under Sections 260.20 and 260.22 of this chapter.

D. N.C.G.S. 130A-290(6), defines "Disposal" as the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted

into the air or discharged into any waters, including groundwater.

E. It is the determination of the Section that the disposal of the lead-contaminated sand at Multi-Video, Inc./Heaven Clothing in Charlotte, North Carolina, constitutes disposal of a hazardous waste and is subject to all applicable requirements of 40 CFR 262 through 265 and 270. Specifically:

1. 15A NCAC 13A .0109(a), states that any person who treats, stores or disposes of hazardous waste shall comply with the requirements set forth in this section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this section.

   Multi-Video, Inc./Heaven Clothing is in violation of 15A NCAC 13A .0109(a), in that lead contaminated sand determined to be a hazardous waste has been disposed of onsite without complying with the requirements set forth in this section.

COMPLIANCE SCHEDULE

By the dates specified below, Multi Video, Inc./Heaven Clothing located at 1500 Central Avenue, Charlotte, North Carolina 28205 shall comply with the following requirements:

1. Comply with 15A NCAC 13A .0109(a). Multi Video, Inc./Heaven Clothing shall no longer dispose of hazardous waste on-site, and all hazardous waste previously on-site shall be shipped to a permitted hazardous waste treatment, storage or disposal facility. Due to a known disposal of hazardous waste on the Multi-Video, Inc./Heaven Clothing property and surrounding businesses, a comprehensive site characterization and removal of the hazardous waste is required.

   During the interim, pending shipment of the waste, 40 CFR 262.34(a), codified at 15A NCAC 13A .0107 states that:

   a. If the waste is placed in containers, the generator must comply with Subpart I of 40 CFR Part 265 or if the waste is placed in tanks, the generator must comply with Subpart J of 40 CFR Part 265 except 265.193;

   b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

   c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

d. The generator complies with the requirements for owners or operators in Section 265.16.

By January 5, 2001, Multi-Video, Inc./Heaven Clothing must develop and submit to this office a comprehensive sampling and analysis report which will characterize soil and sand contamination (inorganic) at your site (and/or develop and submit to this office the attached Phase I Questionnaire which will fully characterize suspected or known releases at the site specific to the property in question. This characterization will include identifying the sources of contamination, the nature and extent of contamination, determining site hydrogeologic conditions, evaluation of fate/transport of the contaminants, pathways for migration, and identifying potential human and environmental receptors).

The Phase I Questionnaire or comprehensive sampling and analysis report will be reviewed by the Section to determine its completeness. If it is determined to be complete, the Section will determine whether the project will be handled as a generator closure under guidance of the Section's Compliance Branch or be referred to the Programs Branch. If the remediation of the site remains with the Compliance Branch, a Remediation Plan must be submitted to this office within forty-five (45) days of the Section's determination. Elements required in the development of a remediation plan are outlined in the attached Phase II Remediation document. The Remediation Plan will fully describe all facets of the remediation, a schedule of activities, sampling and analysis methods, and proposed cleanup standards. Failure by Multi-Video, Inc./Heaven Clothing to complete an effective site remediation may subject the site to additional requirements including closure plans, financial assurance for closure/post closure and groundwater monitoring.

The sampling and analysis report or any other report submitted in satisfaction of this Notice must include an evaluation of the existing interior and exterior conditions at the potentially affected businesses in the area. This should include, but not be limited to, the following businesses: Heaven Clothing (1500 Central Avenue), The Perch (above Heaven Clothing), Alternative Arts Tattoo (1502 Central Avenue), Bohemia Antiques (1504 Central Avenue), Reggae Central & Arroba Tailoring Shop (1506 Central Avenue), Century (furniture store) (1508 Central Avenue), Senior Transitions (1510 Central Avenue), Hall Clock Store (1512 Central Avenue), Central Records (1514 Central Avenue), Central Avenue Jewelry (1516 Central Avenue), Johns Country Kitchen (1518 Central Avenue), Fuel Pizza (1501 Central Avenue), Nova's Bakery (1511 Central Avenue), CVS Drug Store (across Pecan Avenue from Heaven's Clothing), Duron Paints and Wallcoverings (1218 Gordon Street). The exterior conditions must address the roof of these businesses, storm drains, storm sewers and any run-off areas where this sand could collect. This report must specify constituents analyzed, sampling procedures, sampling locations, and depths that will assess the horizontal and vertical extent of contamination.

Upon verification that hazardous waste or hazardous waste constituents have been disposed,

Multi-Video, Inc./Heaven Clothing must immediately cease the disposal of hazardous waste to the environment and all hazardous waste or hazardous waste constituents determined to have been disposed shall be removed and manifested to a permitted hazardous waste treatment, storage, or disposal facility or other approved disposal facility. The removal must be completed within ninety (90) days of approval of the remediation plan.

If you should have any questions concerning this Notice, you may contact Mr. Joseph Parker at (919)380-7144. Questions concerning site characterization and remediation should be addressed to Ms. Roberta Proctor at (828) 625-0171.

If the requirements above are not met, pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13A .0701-.0707, an administrative penalty of up to $25,000.00 per day may be assessed for violation of the hazardous waste law or regulations.

Sincerely,

Jill Pafford, Acting Chief
Hazardous Waste Section

cc: Jesse Wells
Doug Holyfield
Joseph Parker
Roberta Proctor
Susan Love
Central Files
Mecklenburg Co. Environmental Protection
Mecklenburg Co. Environmental Health

[redacted]

2846 Industrial Plaza Dr. • Tallahassee, FL 32301 • Tel: 850 878 3994 • Fax: 850 878 9504 • www.stlinc.com STL Tallahassee

LOG NO: T1-31381
Received: 10 MAY 01
Reported: 17 MAY 01

Mr. Edward Stephens
Aware Environmental, Inc
9305 Monroe Road Suite J
Charlotte, NC 28270-1490

Project: N435-01/Heaven.LLC
Sampled By: Client
Code: 170910517
Page 2

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE/ TIME SAMPLED
31381-6	Bkgd-Random	05-09-01/11:20
31381-7	DA-1 Sand from Disposal Area	05-09-01/11:30

PARAMETER	31381-6	31381-7
Lead (6010), mg/kg dw	12	900
Analysis Date	05.15.01	05.15.01
Percent Solids	80	98

facsimile
TRANSMITTAL

to: Mr. Henry Sutton/ Mr. Dennis Salmen
fax #: 704.336.4391
re: Lead Sample Analysis
date: June 4, 2001
pages: 3, including this cover sheet.

Mr. Sutton & Mr. Salmen: I am faxing you the following information in hopes that you could put me in touch with the right county agency that could possibly address our concerns. The following samples were collected from various commercial locations near the Heaven LLC site on Central Avenue. The samples were collected from various interior locations and air vent ducts and analyzed for lead. The samples were collected as a part of the on-going investigation of the site and as a precaution to address the sandblast operation that took place near these locations.

Our primary concern is the potential health exposure to persons working and or otherwise visiting the locations. At the present time we have not been able to show a causative relationship between the sandblast operation and the levels of lead detected in the interior samples. Since this is a possible health exposure issue I wanted to get these results to the proper person within environmental health or occupational health that could address these levels. I did not know who to contact to determine proper protocol for notification of the potential impacted parties.

Please be advised that we are continuing our investigation of the environmental impacts of this sandblast incident but the potential exposure issues which have surfaced are beyond our expertise. As this is seen as a potential health exposure issue, your assistance in this matter would be much appreciated. I will follow up with a letter including a copy of the results once the right contact person has been determined. If you have any questions please contact me at (828) 926-4326.
Sincerely, Jesse W. Wells

cc: Doug Holyfield
Joe Parker
Robin Proctor

From the desk of...

Jesse W. Wells
Western Compliance Supervisor
NCDENR
59 Woodfin Place
Asheville, N.C.

(828) 926-4326
Fax: (828) 926-4326

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
HAZARDOUS WASTE SECTION

ACTIVITY REPORT

SUBJECT: Heaven Site
LOCATION: Mecklenburg Co. DATE: June 12, 2001
ADDRESS: Block of 1500 Central Ave. TIME SPENT: 11.5 hr (Drive)
CITY: Charlotte STATE: N.C. ZIP: 28205

BY WHOM: Joseph Parker - Waste Management Specialist
Brad Murphy - Waste Management Specialist
Jesse Wells - Western Area Compliance Supervisor

PERSONS CONTACTED: Kristin Kulow - Aware Environmental

REASON FOR VISIT: Sampling of media

COPIES TO: Jesse Wells - Western Area Supervisor

REPORT:

On the above day, Mr. Joseph Parker and Mr. Brad Murphy, Waste Management Specialists with the NC Hazardous Waste Section and Mr. Jesse Wells, Western Area Compliance Supervisor with the NC Hazardous Waste Section attended a sampling event at the Heaven site. The sampling was a follow up to the sampling event that occurred on April 30, 2001. Due to the Lead levels found during the initial sampling, this sampling was scheduled to retrieve dust samples from other surrounding businesses.

The information contained within this report will follow in the order in which it occurred. Pictures taken during the sampling will be found at the end of this report.

Diallo, Inc. - 1506-B Central Ave.

This store location is directly above the Safari International store, located at 1504 Central Ave. Two businesses are located above the Safari International site. Diallo Inc. operates as an African Hair Braiding & Beauty Supply store. Mr. Diallo Cherif operates the business. During our sampling, Mr. Cherif told me that he has been in this location since the first of the year. During the sandblasting incident last year, Reggae Central was located in this space. They are now located downstairs at 1506 Central Ave. Mr. Cherif also told me that before moving into this location, he painted the entire inside of the store.

The store area is approximately 400 square feet and has no central heat or air. An air conditioning unit is located in one of the windows, which faces West, towards the Heaven site. A dust sample was taken from the ledge area located to the left of the business's air conditioning unit. During the sampling of the ledge area, it was noted that Mr. Cherif's infant child was asleep on the

couch, which sits in front of the air conditioning unit, shown in the picture. Picture 1 documents the location where this sample was taken.

W. Stanley Russell, Architect - 1506-A Central Ave.

This store location is directly above the Safari International store, located at 1504 Central Ave. Two businesses are located above the Safari International site. Mr. W. Stanley Russell operates his architectural firm in this location. Mr. Russell has been at this location for the last 14 years. During our sampling, Mr. Russell told us that he remembered the sandblasting operation which was performed last July. As a result of the sandblasting operation, Mr. Russell told us that the generated sand and dust actually penetrated the seal around his front windows. These windows face Central Ave. He told us that he did clean off the dust that settled on the computer, but that everything else has remained the same.

The office area is approximately 400 square feet and has no central heat or air. An air conditioning unit is located in one of the windows, which faces West, towards the Heaven site. A dust sample was taken from the window ledge area, facing Central Ave. Picture 2 documents the location where this sample was taken.

Century Furniture - 1508 Central Ave.

A sample was to be taken during this visit to the Central Ave. site, but the Century Furniture Store is closed on Tuesdays. It was agreed to by Mr. Brad Murphy of the NC Hazardous Waste Section and Ms. Kristin Kulow of Aware Environmental that they would meet the next day to obtain the sample from the business. When Mr. Brad Murphy submits his report on the sampling, a copy will be placed in the file.

Sample Results Attached

Site Pending

ACTIVITY TYPE: CHECK MOST APPROPRIATE

1. COMPLAINT
2. SPILL
3. TECHNICAL ASSISTANCE
4. REMEDIAL ACTION (other than WPCA)
5. PRESENTATION
6. TRAINING
7. MEETING
8. OTHER - SAMPLING - X

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
HAZARDOUS WASTE SECTION

ACTIVITY REPORT

SUBJECT: Heaven Site
LOCATION: Mecklenburg Co. DATE: June 12, 2001
ADDRESS: Block of 1500 Central Ave. TIME SPENT: 11.5 hr (Drive)
CITY: Charlotte STATE: N.C. ZIP: 28205

BY WHOM: Joseph Parker - Waste Management Specialist
Brad Murphy - Waste Management Specialist
Jesse Wells - Western Area Compliance Supervisor

PERSONS CONTACTED: Kristin Kulow - Aware Environmental

REASON FOR VISIT: Sampling of media

COPIES TO: Jesse Wells - Western Area Supervisor

REPORT:

On the above day, Mr. Joseph Parker and Mr. Brad Murphy, Waste Management Specialists with the NC Hazardous Waste Section and Mr. Jesse Wells, Western Area Compliance Supervisor with the NC Hazardous Waste Section attended a sampling event at the Heaven site. The sampling was a follow up to the sampling event that occurred on April 30, 2001. Due to the Lead levels found during the initial sampling, this sampling was scheduled to retrieve dust samples from other surrounding businesses.

The information contained within this report will follow in the order in which it occurred. Pictures taken during the sampling will be found at the end of this report.

Diallo, Inc. - 1506-B Central Ave.

This store location is directly above the Safari International store, located at 1504 Central Ave. Two businesses are located above the Safari International site. Diallo Inc. operates as an African Hair Braiding & Beauty Supply store. Mr. Diallo Cherif operates the business. During our sampling, Mr. Cherif told me that he has been in this location since the first of the year. During the sandblasting incident last year, Reggae Central was located in this space. They are now located downstairs at 1506 Central Ave. Mr. Cherif also told me that before moving into this location, he painted the entire inside of the store.

The store area is approximately 400 square feet and has no central heat or air. An air conditioning unit is located in one of the windows, which faces West, towards the Heaven site. A dust sample was taken from the ledge area located to the left of the business's air conditioning unit. Picture 1 documents the location where this sample was taken.

W. Stanley Russell, Architect - 1506-A Central Ave.

This store location is directly above the Safari International store, located at 1504 Central Ave. Two businesses are located above the Safari International site. Mr. W. Stanley Russell operates his architectural firm in this location. Mr. Russell has been at this location for the last 14 years. During our sampling, Mr. Russell told us that he remembered the sandblasting operation which was performed last July. As a result of the sandblasting operation, Mr. Russell told us that the generated sand and dust actually penetrated the seal around his front windows. These windows face Central Ave. He told us that he did clean off the dust that settled on the computer, but that everything else has remained the same.

The office area is approximately 400 square feet and has no central heat or air. An air conditioning unit is located in one of the windows, which faces West, towards the Heaven site. A dust sample was taken from the window ledge area, facing Central Ave. Picture 2 documents the location where this sample was taken.

Century Furniture - 1508 Central Ave.

A sample was to be taken during this visit to the Central Ave. site, but the Century Furniture Store is closed on Tuesdays. It was agreed to by Mr. Brad Murphy of the NC Hazardous Waste Section and Ms. Kristin Kulow of Aware Environmental that they would meet the next day to obtain the sample from the business. When Mr. Brad Murphy submits his report on the sampling, a copy will be placed in the file.

Sample Results Pending

Site Pending

ACTIVITY TYPE: CHECK MOST APPROPRIATE

1. COMPLAINT
2. SPILL
3. TECHNICAL ASSISTANCE
4. REMEDIAL ACTION (other than WPCA)
5. PRESENTATION
6. TRAINING
7. MEETING
8. OTHER - SAMPLING - X

AWARE Environmental® Inc.
9305-J Monroe Road
Charlotte, North Carolina 28270-1490

Fax Cover Sheet

DATE: June 26, 2001 **TIME:** 10:02 AM

TO: Mr. Joe Parker, NC DENR
Mr. Brad Murphy, NC DENR
Ms. Robin Proctor, NC DENR
Ms. Susan Cooper, Kilpatrick Stockton, LLP
Mr. Tom Griffin, PPA&B

FAX:

FROM: Kristin Kulow
AWARE Environmental® Inc.

PHONE: (704) 845-1697
FAX: (704) 845-1759

RE: Heaven, LLC Lead Sampling
AEI Job No.: N435-01

Number of pages including cover sheet: 2

Message:

Attached please find an updated summary of the laboratory analyses of the lead samples taken from businesses surrounding Urban Evolution.

Please note that the sample taken from the business most distant from Urban Evolution, 1510 Uncommon Home, was below the criteria. No further sampling is proposed based on these results.

If you have any questions, please call.

Thank you,
Kristin

Hard Copy to Follow { } Yes { X } No

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
HAZARDOUS WASTE SECTION

ACTIVITY REPORT

COPY

SUBJECT: Heaven Clothing

LOCATION: Mecklenburg Co. DATE: June 13, 2001

ADDRESS: 1510 Central Avenue TIME SPENT: 2 hr

CITY: Charlotte STATE: N.C. ZIP: 28205

BY WHOM: Bradley D. Murphy - Waste Management Specialist BDM

PERSONS CONTACTED: Ms. Kristin Kulow, Aware Environmental
Mr. Perry Leeds, Fifteen Ten
Ms. Allison Speaks, Century

REASON FOR VISIT: Sampling

COPIES TO: Joseph Parker, Waste Management Specialist
Robin Proctor, West Chemist
Jesse Wells, Western Unit Supervisor

REPORT:

On June 13, 2001, I arrived at 1508 Central Avenue at 1:35 p.m. and met with Ms. Kristin Kulow to conduct environmental sampling in accordance with two (2) Notices of Violation, Docket # 2001-031 and Docket # 2001-030, which required a comprehensive site characterization following sandblasting activities which were conducted between July 3 & 5, 2000 at 1500 Central Avenue, Charlotte, North Carolina.

Activities conducted on-site include wipe samples and collecting environmental media from surrounding business, ranging from the exterior and roofs of buildings to the interiors of air ducts. Samples collected on this day will include wipe samples from intake air ducts inside two businesses, Century, located at 1508 Central Avenue, and Fifteen Ten, located at 1510 Central Avenue. Air conditioning units on the roofs are connected to ducts which travel vertically down into the stores. When the ducts reach a height of approximately ten (10) feet from the floor, they separate and travel horizontally to the front and rear of the stores. Vents are located at 12-16 foot intervals which supply air to the store.

The sample collected from Century was located at the first air vent, inside the horizontal duct traveling to the rear of the store. An area was measured and wiped with a vinegar gauze to collect

all dust particles in the duct. The sample gauze was placed into a sealed container, labeled, dated and logged into the chain of custody. Upon discussion with the store owner, Ms. Allison Speaks, it was discovered that both 1508 and 1510 Central Avenue were once one large store. Only until recently were they sectioned off to create two separate businesses. This split occurred approximately 6 months ago. Ms. Speaks also indicated that at the time the sandblasting was occurring in July 2000, store personnel closed the exterior doors to the street, and thus had little sand material enter through the front of the store, either through the doors or windows. Ms. Speaks requested a copy of the lab results when they become available.

The sample collected from Fifteen Ten was located at the first air vent, inside the horizontal duct traveling to the rear of the store. An area was measured and wiped with a vinegar gauze to collect all dust particles in the duct. The sample gauze was placed into a sealed container, labeled, dated and logged into the chain of custody. Upon discussion with the store owner, Mr. Perry Leeds, it was discovered that the air conditioning units were more than likely in operation during the sandblasting activities, however, he estimated that the units over his portion of the building were operated more often that those at Century. He also informed us that he has recently suffered worse than usual allergies and congestion problems, and wondered if the events in July, 2000 affected his condition. I informed Mr. Leeds that while we are sampling for RCRA purposes, the Section would forward the sample results to both him and the Mecklenburg County Health Department-Lead Paint Program for a health-risk review.

At approximately 3 p.m., both Ms. Kulow and I left the site.

Kennedy Covington

ATTORNEYS AT LAW

Stanford D. Baird
704/331-7595
sbaird@kennedycovington.com

June 26, 2001

Ms. Roberta Proctor
Department of Environment and Natural Resources
Hazardous Waste Section
P.O. Box 394
Lake Lure, North Carolina 28746

Re: Pickett Farm, 5631 Mt. Olive Church Road and
Heaven Clothing Central Avenue Site, 1500 Central Avenue
Charlotte, Mecklenburg County, NC
Notices of Violation – Docket Numbers 2001-30 & 2001-31

Dear Ms. Proctor:

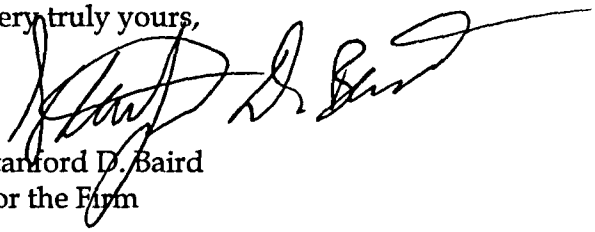
I have received your letter dated June 18, 2001 regarding the above-referenced matters. Your letter came as a surprise to me as I was unaware of any request by Mr. Griffin regarding an extension of time for compliance with the Notices of Violation. As you know, Mr. Griffin's client, Heaven, LLC, and Susan Cooper's client, Morningstar Sign and Sandblasting, have prepared the assessment plan for the two sites and are undertaking all efforts to comply with the Notices of Violation. It was not until I received your letter that I received additional information related to Heaven's and Morningstar's implementation of the assessment plan.

I have been in contact with Mr. Griffin who has assured me that Heaven and Morningstar are moving forward to complete the assessments of both sites and to comply in every way of the Notices of Violation. It is my understanding that Mr. Griffin will be in touch with you or Joe Parker regarding the timetable for these activities.

Please telephone me at the number listed above if you have any questions regarding this letter.

1982800.01
LIB: CH

Very truly yours,



Stanford D. Baird
For the Firm

cc: Mr. Will Espin
Carol Jones Van Buren, Esq.
Mr. Tom Griffin, Esq.
Ms. Susan Cooper, Esq.

NCDENR
NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

CERTIFIED MAIL
RETURN RECEIPT

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 18, 2001

Albert Eric Pickett
5631 Mt. Olive Church Road
Charlotte, NC 28278

Dear Mr. Pickett:

In response to Mr. Griffin's request dated June 15, 2001 for an extension for the compliance periods specified in NOV Docket Numbers 2001-030 and 2001-031, the Section has determined that additional time may be needed to complete remedial activities. Therefore, the following deadlines have been set:

The Albert Eric Pickett property has an extension until July 16, 2001 for the completion of the remediation of the site. This deadline includes the determining the horizontal and vertical extent of all lead contamination in the disposal area(s); removal and off-site disposal of all contaminated soils, removal and off-site disposal of contaminated soil/sand in containers; post-excavation sampling; sampling and removal of any additional soils on the Pickett property that may have been contaminated with lead, and a final report to be submitted to my office.

The Central Avenue site has an extension deadline of July 16, 2001 and August 30, 2001. By July 16, 2001, a detailed remediation plan must be submitted to my office detailing all proposed activities for remediating inside affected businesses and outdoor areas exhibiting lead contamination. When the plan is approved, it must be implemented immediately. If changes are required to the plan, they must be completed within seven days of notification of the deficiency(s). Upon approval, The plan must be implemented and a completed remediation report submitted to my office within 30 days of the date of approval with a maximum date of September 15, 2001.

PO Box 394 Lake Lure, North Carolina 28746
Telephone and FAX 828-625-0171
An Equal Opportunity Affirmative Action Employer
50% recycled/10% post-consumer paper

If you have any questions concerning this matter, Please contact me at 828-615-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Alison Corum
Albert Eric Pickett
Susan Cooper
Thomas Griffin
Stanford Baird

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analysis µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	362.31	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	250.83	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	16722.00	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	715.33	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	148.64	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	139.35	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts.	12	111.48	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	176.51	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	241.54	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	603.85	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northwestern air intake vent in Nova's Bakery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			2500.00
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			450.00
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			270.00
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			790.00
SS-7	Soil	04/30/2001	Landscaped area at Water N Health			14.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central (southernmost pile).			500.00
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bistro Café.	21	195.09	

* Analytical results are reported in units of µg/100 cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in bold font exceed the respective media standards of 100 µg/ft² for interior dust and 270 mg/kg for soil

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analysis µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	362.31	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	250.83	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	16722.00	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	715.33	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	148.64	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	139.35	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts.	12	111.48	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	176.51	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	241.54	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	603.85	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northeastern air intake vent in Nova's Bakery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			2500.00
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			450.00
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			270.00
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			790.00
SS-7	Soil	04/30/2001	Landscaped area at Water N Health.			34.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central (southernmost pile).			500.00
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bisous Café.	21	195.09	

* Analytical results are reported in units of µg/cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in bold font exceed their respective media standards of 100 µg/ft² for interior dust and 270 mg/kg for soil.

9 sq ft up to 1200'

919-733-8415
Jeff Dillingham

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analytic µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	362.31	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	250.83	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	16722.00	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	715.33	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	148.64	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	139.35	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts	12	111.44	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	176.51	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	241.54	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	603.85	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northeastern air intake vent in Nova's Bakery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			2500.00
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			450.00
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			270.00
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			790.00
SS-7	Soil	04/30/2001	Landscaped area at Water N Health			14.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central (southernmost pile).			500.00
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bistro Café.	21	195.09	

* Analytical results are reported in units of µg/cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in bold font exceed their respective media standards of 100 µg/ft² for surface dust and 270 mg/kg for soil

NCDENR

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina Department of Environment and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 28, 2001

Dennis Salmen
Mecklenburg County Health Department
700 N. Tryon Street, suite 208
Charlotte, North Carolina 28202

RE: Lead contamination from sand blasting

Dear Mr. Salmen

Additional wipe-samples were collected in several businesses near the businesses that were previously sampled on Central Avenue in Charlotte. This sampling was conduced as a result of an investigation of sand-blasting of lead-based paint. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We have also sent a copy of these results to the North Carolina Department of Labor. Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation that is presently under investigation.

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention. The businesses have been sent a copy of these results.

The following is a list of the additional business names and addresses:

All are Charlotte, North Carolina 28205

Diallo Inc. 1506-B Central Avenue; contact: Mr. Diallo Cherif
W. Stanley Russell, Architect - 1506-A Central Avenue
Century Furniture, 1508 Central Avenue
Uncommon Home, 1510 Central Avenue

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Allison Corum
Laura Manns
Thomas Griffin
Susan Cooper
Stanford Baird

NCDENR
NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 28, 2001

Laura Manns
Health Compliance Officer
901 Blair Hill Road, Suite 200
Charlotte, North Carolina 28217-1578

RE: Lead contamination from sand blasting

Dear Ms. Manns:

Additional wipe-samples were collected in several businesses near the businesses that were previously sampled on Central Avenue in Charlotte as a result of an investigation of sand-blasting of lead-based paint. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We have also sent a copy of these results to the Mecklenburg County Health Department Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation that is presently under investigation.

PO Box 384, Lake Lure North Carolina 28746 **Telephone and FAX 828-625-0171**
An Equal Opportunity Affirmative Action Employer **50% recycled/10% post-consumer paper**

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention based on worker safety. The businesses have been sent a copy of these results.

The following is a list of the additional business names and addresses:

All are Charlotte, North Carolina 28205

Diallo Inc. 1506-B Central Avenue; contact: Mr. Diallo Cherif
W. Stanley Russell, Architect - 1506-A Central Avenue
Century Furniture, 1508 Central Avenue
Uncommon Home, 1510 Central Avenue

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Allison Corum
Dennis Salomen
Thomas Griffin
Susan Cooper
Stanford Baird

NCDENR
NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 28, 2001

Laura Manns
Health Compliance Officer
901 Blair Hill Road, Suite 200
Charlotte, North Carolina 28217-1578

RE: Lead contamination from sand blasting

Dear Ms. Manns:

Additional wipe-samples were collected in several businesses near the businesses that were previously sampled on Central Avenue in Charlotte as a result of an investigation of sand-blasting of lead-based paint. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We have also sent a copy of these results to the Mecklenburg County Health Department Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation that is presently under investigation.

PO Box 384, Lake Lure North Carolina 28746 **Telephone and FAX 828-625-0171**
An Equal Opportunity Affirmative Action Employer **50% recycled/10% post-consumer paper**

NCDENR
NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 28, 2001

Laura Manns
Health Compliance Officer
901 Blair Hill Road, Suite 200
Charlotte, North Carolina 28217-1578

RE: Lead contamination from sand blasting

Dear Ms. Manns:

Additional wipe-samples were collected in several businesses near the businesses that were previously sampled on Central Avenue in Charlotte as a result of an investigation of sand-blasting of lead-based paint. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We have also sent a copy of these results to the Mecklenburg County Health Department Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation that is presently under investigation.

PO Box 384, Lake Lure North Carolina 28746 **Telephone and FAX 828-625-0171**
An Equal Opportunity Affirmative Action Employer **50% recycled/10% post-consumer paper**

NCDENR
NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 28, 2001

Laura Manns
Health Compliance Officer
901 Blair Hill Road, Suite 200
Charlotte, North Carolina 28217-1578

RE: Lead contamination from sand blasting

Dear Ms. Manns:

Additional wipe-samples were collected in several businesses near the businesses that were previously sampled on Central Avenue in Charlotte as a result of an investigation of sand-blasting of lead-based paint. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We have also sent a copy of these results to the Mecklenburg County Health Department Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation that is presently under investigation.

PO Box 384, Lake Lure North Carolina 28746 **Telephone and FAX 828-625-0171**
An Equal Opportunity Affirmative Action Employer **50% recycled/10% post-consumer paper**

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention based on worker safety. The businesses have been sent a copy of these results.

The following is a list of the additional business names and addresses:

All are Charlotte, North Carolina 28205

Diallo Inc. 1506-B Central Avenue; contact: Mr. Diallo Cherif
W. Stanley Russell, Architect - 1506-A Central Avenue
Century Furniture, 1508 Central Avenue
Uncommon Home, 1510 Central Avenue

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Allison Corum
Dennis Salomen
Thomas Griffin
Susan Cooper
Stanford Baird

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention based on worker safety. The businesses have been sent a copy of these results.

The following is a list of the additional business names and addresses:

All are Charlotte, North Carolina 28205

Diallo Inc. 1506-B Central Avenue; contact: Mr. Diallo Cherif
W. Stanley Russell, Architect - 1506-A Central Avenue
Century Furniture, 1508 Central Avenue
Uncommon Home, 1510 Central Avenue

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Allison Corum
Dennis Salomen
Thomas Griffin
Susan Cooper
Stanford Baird

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention based on worker safety. The businesses have been sent a copy of these results.

The following is a list of the additional business names and addresses:

All are Charlotte, North Carolina 28205

Diallo Inc. 1506-B Central Avenue; contact: Mr. Diallo Cherif
W. Stanley Russell, Architect - 1506-A Central Avenue
Century Furniture, 1508 Central Avenue
Uncommon Home, 1510 Central Avenue

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Joe Parker
Allison Corum
Dennis Salomen
Thomas Griffin
Susan Cooper
Stanford Baird

Kennedy Covington

ATTORNEYS AT LAW

FACSIMILE TRANSMISSION SHEET

June 28, 2001

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Roberta Proctor
FAX NUMBER: 828/625-0171

COMPANY: DENR - Hazardous Waste Section
TELEPHONE:

FILE NUMBER: 002075-206
FROM: Stanford D. Baird

TOTAL PAGES (INCLUDING COVER): 3
DIRECT DIAL: 704/331-7595

COMMENTS OR SPECIAL INSTRUCTIONS

IF YOU DO NOT RECEIVE THE TOTAL NUMBER OF PAGES INDICATED ON THIS TRANSMISSION SHEET, PLEASE CALL US AT (704) 350-4428.

Thank you for a copy of the attached letter; however, neither the analytical results of the lead wipe samples nor the copy of the Health Department's response were enclosed with this letter. Please forward any copies of those documents to me as soon as possible. Thank you for your assistance in this matter.

THIS COMMUNICATION MAY CONTAIN CONFIDENTIAL OR LEGALLY PRIVILEGED INFORMATION AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING OR OTHER USE OF THIS COMMUNICATION OR ANY INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE COLLECT AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS BELOW VIA THE U.S. POSTAL SERVICE. WE WILL BE GLAD TO REIMBURSE YOU FOR POSTAGE. THANK YOU.

KENNEDY COVINGTON LOBDELL & HICKMAN, L.L.P.
CHARLOTTE RALEIGH ROCK HILL

www.kennedycovington.com
phone 704.331.7400
facsimile 704.331.7598

BANK OF AMERICA CORPORATE CENTER
100 NORTH TRYON STREET, 42nd FLOOR
CHARLOTTE, NORTH CAROLINA 28202-4006

Fuel Pizza- 1501 Central Avenue- contact: unknown
Nova's Bakery- 1511 Central Avenue- contact Sladjana Novakovic
Water-n-Health Store- 1228 Gordon Street- contact: Juanita Aughtry
Duron Paints- 1218 Gordon Street- manager: Rusty Connell
Bisous Cafe- 1509 Central Avenue- contact: unknown

If you have any questions on this matter, please contact me at 828-625-0171.

Sincerely,

Roberta Proctor, Environmental Chemist
Hazardous Waste Section

cc: Jill Pafford
Doug Holyfield
Jesse Wells
Allison Corum
Joe Parker
Dennis Salomen
Thomas Griffin
Susan Cooper
Stanford Baird

NCDENR
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

State of North Carolina
Department of Environment
and Natural Resources
Hazardous Waste Section

Michael F. Easley, Governor
William G. Ross Jr., Secretary

June 21, 2001

Laura Manns
Health Compliance Officer
901 Blair Hill Road, Suite 200
Charlotte, North Carolina 28217-1578

RE: Lead contamination from sand blasting

Dear Ms. Manns:

Wipe-samples were collected in several businesses located on Central Avenue in Charlotte as a result of an investigation of sand-blasting of lead based paint. The samples were collected following HUD and EPA guidance. The analytical results (summary attached) show elevated levels of lead in several of these businesses. We sent a copy of these results to the Mecklenburg County Health Department requesting assistance in determining if there were any health concerns due to these levels of lead. A copy of the Health Department's response is attached to this letter. Please be advised that the Hazardous Waste Section (Section) has not determined any correlation between the sample results and the sand blasting operation which is presently under investigation.

The Section has no authority to make health assessments from exposure to indoor contaminants. We are therefore referring this matter to your attention based on worker safety. The businesses have been sent a copy of these results.

The following is a list of the business names and addresses:

All are Charlotte, North Carolina 28205

Urban Evolution- 1500 Central Avenue- contact: James Funderburk
The Perch- 1500 Central Ave (above Urban Evolution)- contact: Ms. Shannon Brice
Alternative Arts Tattoo- 1502 Central Avenue- contact: John Rainey
Safari International- 1504 Central Avenue- manager: Imani; owner: unknown
Reggae Central- 1506 Central Avenue- contact: Carolyn Barber

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analysis µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	**362.31**	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	**250.83**	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	**16722.00**	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	**715.33**	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	**148.64**	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	**139.35**	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts.	12	**111.48**	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	**176.51**	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	**241.54**	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	**603.85**	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northeastern air intake vent in Nova's Bakery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			**2500.00**
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			**450.00**
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			**270.00**
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			**790.00**
SS-7	Soil	04/30/2001	Landscaped area at Water N Health.			34.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central (southernmost pile).			**500.00**
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bisous Café.	21	**195.09**	
DB-1	Wipe	06/12/2001	Western windowsill adjacent to window air conditioning unit inside Diallo's Braiding.	72	**668.88**	
SR-1	Wipe	06/12/2001	Windowsill of northern front window inside Stanley Russell's office.	21	**195.09**	
CF-1	Wipe	06/13/2001	Inside vent along western wall across from cash register at Century Furniture.	11	**102.19**	
UH-1	Wipe	06/13/2001	Inside first vent from main unit in back room of Uncommon Home.	5.3	49.24	

* Analytical results are reported in units of µg/cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in bold font exceed their respective media standards of 100 µg/ft² for interior dust and 270 mg/kg for soil.

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analysis µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	362.31	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	250.83	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	16722.00	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	715.33	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	148.64	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	139.35	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts.	12	111.48	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	176.51	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	241.54	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	603.85	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northeastern air intake vent in Nova's Bakery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			2500.00
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			450.00
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			270.00
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			790.00
SS-7	Soil	04/30/2001	Landscaped area at Water N Health.			34.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central (southernmost pile).			500.00
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bistous Café.	21	195.09	

* Analytical results are reported in units of µg/cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in **bold** font exceed their respective media standards of 1000 µg/ft² for interior dust and 270 mg/kg for soil.

95 gt opto 1200'

Table 2
Sample Descriptions
Heaven, LLC
Charlotte, NC
AEI Project Number 435-01

Sample ID	Sample Type Collected	Date Collected	Location of Sample	Lead Sample Analysis µg/100 cm²	µg/ft²*	mg/kg
L-1	Wipe	04/30/2001	Southwestern corner of center light fixture inside Urban Evolution.	39	362.31	
L-2	Wipe	04/30/2001	Northern end of center light fixture inside Urban Evolution.	27	250.83	
PW-1	Wipe	04/30/2001	On floor beneath northwestern window inside The Perch.	1800	16722.00	
PS-1	Wipe	04/30/2001	On top of neon sign inside of southwestern window inside The Perch.	77	715.33	
HW-1	Wipe	04/30/2001	On top of bookshelf just south of doorway inside Health N Water.	7.1	65.96	
V-1	Wipe	04/30/2001	Inside of southwestern-most vent on the center light fixture inside Urban Evolution.	16	148.64	
V-2	Wipe	04/30/2001	Inside of northeastern-most vent on the center light fixture inside Urban Evolution.	15	139.35	
T-1	Wipe	04/30/2001	On top ledge of eastern office wall in Alternative Arts	12	111.48	
A-1	Wipe	04/30/2001	Top of duct along western wall of Safari International.	19	176.51	
A-2	Wipe	04/30/2001	Inside vent along western wall of Safari International.	26	241.54	
R-1	Wipe	04/30/2001	Inside air intake vent in southeastern corner of Reggae Central.	65	603.85	
F-1	Wipe	04/30/2001	Ceiling ledge above women's restroom in Fuel Pizza.	<0.5	<4.65	
N-1	Wipe	04/30/2001	Inside northeastern air intake vent in Nova's Battery.	4	37.16	
D-1	Wipe	04/30/2001	Top of shelving unit along eastern wall inside Duron Paints.	1.3	12.08	
SS-1	Soil	04/30/2001	Rock Garden.			84.00
SS-2	Soil	04/30/2001	Rock Garden.			220.00
SS-3	Soil	04/30/2001	At water meter at Urban Evolution.			2500.00
SS-4	Soil	04/30/2001	At water meter at Alternative Arts.			450.00
SS-5	Soil	04/30/2001	At end of downspout at Alternative Arts.			270.00
SS-6	Soil	04/30/2001	Center, rear of Alternative Arts.			790.00
SS-7	Soil	04/30/2001	Landscaped area at Water N Health			14.00
RT-1	Sand	05/01/2001	West side of roof at 1500 Central, (southernmost pile).			500.00
RT-2	Wipe	05/01/2001	On top of duct from southwestern air conditioning unit on top of Bistro Café.	21	195.09	

* Analytical results are reported in units of µg/cm². All results were multiplied by a factor of 9.29 for conversion to µg/ft².

Values in bold font exceed their respective media standards of 100 µg/ft² for surface dust and 270 mg/kg for soil

MECKLENBURG COUNTY
Health Department

Peter E. Safir, Director

(704) 336-4700

June 21, 2001

To: Jesse Wells
Western Compliance Supervisor
NC DENR

From: Dennis Salmen, R.S. Das Mrsb
Program Chief

Re: Lead Sampling Results From 1500 Central Ave, Charlotte, NC (AKA Heaven, LLC)

Mr. Wells:

I have reviewed the lead dust and soil sample results for the property above. The Mecklenburg County Health Department regulates the presence of lead-based paint and other lead hazards in child-occupied facilities and settings in which children under the age of six are identified as lead-poisoned as defined by N.C. General Statute (G.S.) 130A, Childhood Lead Poisoning Prevention. In both these settings, there are dust and soil standards for lead set by State law. Although the locations at Central Avenue do not appear to meet either of these situations, I will be glad to comment on their impact on human health.

References made below to "N.C. law" are those which exist in the Childhood Lead Poisoning Prevention regulations, under NC G.S. 130A, unless otherwise stated. Children 'situations' referenced below are those where children under the age of six are either identified as lead-poisoned or are cared for in child-occupied facilities for a set time.

1. **Floor sample results-** The current N.C. acceptable level of lead in dust in children 'situations' is 100 ug/ft². U.S. EPA and HUD recently adopted a lower standard of 40 ug/ft². A level of 16,722 ug/ft² (sample #PW-1) would, in my opinion, be an unacceptable level anywhere humans may be exposed. Lead dust on floors may be inhaled or ingested by humans when disturbed by dry sweeping, foot traffic, etc. Additionally, shoes or other items dropped on the floor and retrieved could subsequently contaminate homes, vehicles, or persons to whom they are transported.

2. **Vent, Duct sample results-** I am not aware of any health lead-laden dust standards on surfaces in air vents. Certainly the fact that these surfaces are subject to forced area, thereby creating potential for airborne lead inhalation, is a concern. Your sampling indicates lead levels ranging from 139-603 ug/ft² in these areas. I would consider any lead level in dust capable of being circulated throughout a structure by an air-handling system to be of great concern.

3. **Horizontal surface sampling results-** Very few specific horizontal surfaces have standards for lead in dust (floors, window sills, and window troughs do in children situations). Where standards (normally interior ones) do exist, they range from 100 ug/ft² for floors to 800 ug/ft² for window troughs. These are construed as either areas frequented by young children, areas subject to frequent disturbance, or where high dust lead levels areas

are frequently found. Although I would consider a level of 715 ug/ft² on an interior sign ledge to be high, its potential for exposure to humans is minimal.

4. **Soil sample results-** The current N.C. acceptable level of lead in soil, in child 'situation', ranges from 400-2,000+ parts per million (ppm) depending on the areas' usage by children. Your soil sampling results indicate levels in this range to be from 450-2,500 ppm. If these are not areas frequented by people, particularly children, their impact on human health is minimal. I am not in a position to address their impact on surface water quality should run-off or leaching occur. However, any future disturbance of these areas by people could present an exposure risk.

5. **Sampling results: General-** There are rules and regulations which address the adulteration of food prepared or handled in food service facilities such as Nova's Bakery or Fuel Pizza. The highest sample result recorded in your sampling was a dust sample analysis of 37 ug/ft² in a vent at Nova's Bakery. I have advised Bill Hardister, Program Chief of the Health Department's County's Food Program, of this result.

I hope this gives you some initial groundwork in formulating how affected area persons should be advised of these results. In conclusion, there are few N.C. statutory requirements addressing lead hazards in these particular settings. I do support DENR's desire to notify all the businesses sampled and would be glad to participate in meeting with these business owners if you elect to do so.

Subject: **Re: Heaven**
Date: Thu, 21 Jun 2001 16:14:10 -0400
From: Joe Parker <Joe.Parker@ncmail.net>
Organization: NC DENR - Winston-Salem Regional Office
To: ROBERTA PROCTOR <rhp@blueridge.net>
CC: Jesse Wells <Jesse.Wells@ncmail.net>, Doug Holyfield <Doug.Holyfield@ncmail.net>, Joe Parker <Joe.Parker@ncmail.net>

Robin,

The following addresses are as follows:

Urban Evolution (formerly Heaven) - 1500 Central Ave. - contact Mr. James Funderburk
The Perch (above Urban Evolution) - 1500 Central Ave. - Ms. Shannon Brice - Owner/Operator
Alternative Arts Tattoo - 1502 Central Ave. - Mr. John Rainey - owner/operator
Safari International - 1504 Central Ave. - Owner unknown, Imani - Manager, her Uncle is the owner
Bohemia Antiques - moved out of 1504 location earlier in the year - unknown contact
Reggae Central - 1506 Central Ave. - Carolyn Barber - owner
Fuel Pizza - 1501 Central Ave. - unknown owner name
Nova's Bakery - 1511 Central Ave. - Ms. Sladjana Novakovic - owner/operator
Water -n- Health Store - 1228 Gordon Street - Juanita Aughtry - owner/operator
Duron Paints - 1218 Gordon Street - Mr. Rusty Connell - Manager
Bisous Cafe - 1509 Central Ave. - unknown owner name

All are Charlotte, NC 28205

When the second round of sampling analysis are returned, I'll give you those addresses. If you need anything else, let me know.

Joe

Jesse Wells wrote:

> *Joe: Please provide the mailing addresses via e-mail to Robin of the*
> *parties in which inside lead sampling has occurred. I have asked Robin*
> *to draft a letter to each party notifying them of the results to date.*
> *We are also going to attach with the notification a memo that I received*
> *today from Mecklenburg County Health Dept concerning exposure issues.*
> *The parties will be directed to contact either the health department or*
> *OSHA concerning any exposure questions. Robin is also going to do a*
> *referral to OSHA via telephone & letter to address the potential*
> *workplace exposure issues. When you get this please let me know and I*
> *will fax the Mecklenburg County response to you. If any questions*
> *please contact me. Thanks, Jesse*

--
Joseph S. Parker Jr. - Joe.Parker@ncmail.net
Waste Management Specialist
North Carolina Dept. of Environment & Natural Resources
Div. of Waste Management - Hazardous Waste Section
919 N. Main St.
Mooresville, NC 28115
Ph: (704) 663-1699 Fax: (704) 663-6040

Joe Parker <Joe.Parker@ncmail.net>
Waste Management Specialist
NC DENR - Winston-Salem Office
Div. of Waste Management - Hazardous Waste Section

Attorney for Will Espin:
Stanford Baird
Kennedy, Covington, Lobdell & Hickman, L.L.P.
Bank of America Corporate Center
100 North Tryon Street, 42nd Floor
Charlotte, NC 28202-4006
704-331-7595

Attorney for James Costner:
Susan Cooper
Kilpatrick Stockton L.L.P.
3500 One First Union Center
301 South College Street
Charlotte, NC 28202-6001
704-338-5102

Attorney for James Funderburk:
Thomas Griffin
Parker, Poe, Adams, Bernstein L.L.P.
Three First Union Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202
704-372-9000

Albert Eric Pickett
5631 Mt. Olive Church Road
Charlotte, NC 28278