

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas
Robin B. Stilwell, Circuit Court Judge

Case No. 2016-CP-39-100
Appellate Case No. 2016-000762

MRR Pickens, LLC,.....Appellant

v.

County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
Individually and in their capacity as
Appointed members of the Pickens County
Planning Commission,.....Respondents,

RECORD ON APPEAL
VOLUME I

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SC Court of Appeals

INDEX

VOLUME I

ORDERS

Order on Plaintiff's Motion for Injunctive Relief filed on February 24, 2016	1
Order Denying Plaintiff's Motion to Reconsider filed on March 11, 2016	3
Order Denying Plaintiff's Rule 60 Motion for Relief filed on March 28, 2016	5

PLEADINGS

Verified Complaint and Petition for Appeal filed on February 1, 2016	6
Plaintiff MRR Pickens, LLC's Motion for an Emergency Preliminary Injunction and exhibits thereto filed on February 1, 2016	117
Plaintiff MRR Pickens, LLC's Memorandum in Support of Motion for an Emergency Preliminary Injunction and exhibits thereto filed on February 24, 2016	131
Response of Pickens County to Plaintiff MRR Pickens, LLC's Motion for an Emergency Preliminary Injunction and exhibits thereto signed February 17, 2016	252
Reply to Response of Pickens County to Plaintiff MRR Pickens, LLC's Motion for an Emergency Preliminary Injunction and exhibits thereto filed on February 24, 2016	391
Answer and Counterclaim of Pickens County filed March 2, 2016	413
Plaintiff MRR Pickens, LLC's Motion to Reconsider Order on Preliminary Injunction filed on March 3, 2016	439

VOLUME II

Answer and Counterclaim of Pickens County Planning Commission filed March 10, 2016	446
Pickens County Third-Party Complaint filed March 15, 2016	469
Plaintiff MRR Pickens, LLC's Motion Pursuant to Rule 60 for Relief Based on Deposition Testimony of SCDHEC Representative, Kent Coleman and exhibits thereto filed on March 28, 2016	531

Response by Pickens County to Plaintiff MRR Pickens, LLC’s Motion Pursuant to Rule 60 for Relief Based on Deposition Testimony of SCDHEC Representative, Kent Coleman and Request for Attorney Fees and Costs by Pickens County.....	607

TRANSCRIPTS

January 2015 Planning Commission Meeting Transcript.....	331
February 18, 2016 Transcript of Hearing	1066

TESTIMONY

Kent Coleman Deposition.....	624

VOLUME III

Kent Coleman Deposition Exhibits	860

EXHIBITS

Kent Coleman letter dated August 10, 2015.....	1060
Poliakoff letter dated February 29, 2016	1061

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)
)
MRR Pickens, LLC,)
)
Plaintiff,)
)
v.)
)
County of Pickens and William Cato,)
Weldon Clark, Robert Ballentine, Jo)
Johnston, Dennis Reinert, and Bob Young,)
individually and in their official capacity as)
appointed members of the Pickens County)
Planning Commission,)
)
Defendants.)
)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

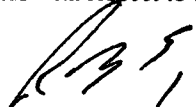
ORDER

Case No.: 2016-CP-39-100

This matter comes before the Court pursuant to the Plaintiff's Motion for Emergency Injunctive Relief pursuant to Rule 65 of the South Carolina Rules of Civil Procedure. Each party appeared for the hearing with its respective counsel.

In order to establish the necessity of a preliminary hearing, the moving party must demonstrate: 1) that it would suffer irreparable harm if the injunction is not granted; 2) that it will likely succeed on the merits of the litigation; and 3) there is no adequate remedy at law. *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121 (2004). After having heard arguments from counsel and thoroughly reviewed the materials submitted, this Court respectfully denies the Plaintiff's Motion for Injunctive Relief. Specifically, the Court finds that the Plaintiff has failed to establish irreparable harm and has failed to demonstrate that there is an inadequate remedy at law.

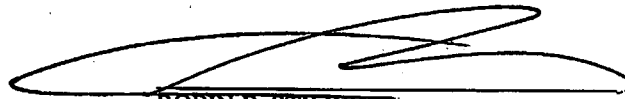
In addition, the Court notes that each party specifically conceded on the record that the parties did have an agreement and a meeting of the minds with respect to the operation of a Class



Two Landfill at 2180 Greenville Highway, Liberty, South Carolina, pursuant to a permit issued November 3, 2008, by the South Carolina Department of Health and Environmental Control. Therefore, upon concession by each party, the parties shall operate under the constraints and allowances of the subject permit issued November 3, 2008, during the pendency of this action. For further clarification, the Plaintiff is specifically proscribed from dumping any coal ash at the subject dump site during the pendency of this action.

The findings of fact and rulings of law in this matter are without prejudice to any ultimate finding of facts or rulings of law issued pursuant to a final hearing on the merits.

AND IT IS SO ORDERED.



ROBIN B. STILWELL

February 22, 2016
Greenville, South Carolina



STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MRR Pickens, LLC,

Plaintiff,

v.

County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
individually and in their official capacity as
appointed members of the Pickens County
Planning Commission,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

ORDER

Case No.: 2016-CP-39-100

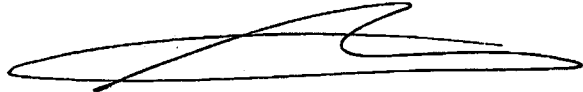
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CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

This matter comes before the Court pursuant to the Plaintiff MRR Pickens, LLC's Motion to Reconsider. After having reviewed the Motion, this Court respectfully denies the same. The Plaintiff's motion mischaracterizes this Court's previous Order as a *sua sponte* injunction against the Plaintiff dumping coal ash at the subject landfill. The previous Order of this Court is, more accurately, an absolute denial of the Plaintiff's Motion for Injunctive Relief. The proscription against the dumping of coal ash, complained of by the Plaintiff in its Motion to Reconsider, does not entertain or grant a Motion for Injunctive Relief from the Defendant nor is it a *sua sponte* injunction against the Plaintiff. The Plaintiff has mischaracterized the holding of the Court by taking the sentence out of context with the remainder of the Order. By concession of each of the parties, this Court allowed MRR to continue to conduct business in accordance with prescribed permits. The proscription against coal ash was a clarification of that provision such that these parties, animated by distrust and hostility, would have a clear understanding of the intent of the Court.

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1052

Now, therefore, having failed to be confused by the artful turn of a phrase, this Court respectfully denies the Plaintiff's Motion for Reconsideration.

AND IT IS SO ORDERED.



ROBIN B. STILWELL

March 8, 2016
Greenville, South Carolina

2016 MAR 11 PM 12 40
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS
MRR Pickens, LLC,
Plaintiff,
v.
County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
individually and in their official capacity as
appointed members of the Pickens County
Planning Commission,
Defendants.

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CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

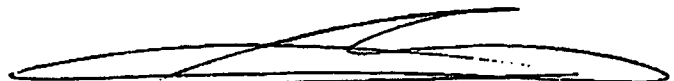
**ORDER DENYING PLAINTIFF'S
RULE 60 MOTION FOR RELIEF**

Case No.: 2016-CP-39-100

This matter comes before the Court pursuant to the Plaintiff MRR Pickens, LLC's Motion for Relief from judgment pursuant to Rule 60 of the South Carolina Rules of Civil Procedure. The Plaintiff's Motion is respectfully denied. Rule 60 motions may be granted to relieve a party from a final judgment or order. The previous Order from this Court was a Temporary Order which contemplates that there shall be a final hearing on the merits wherefrom a Final Order or Judgment will emanate. The deposition testimony provided to the Court in the Plaintiff's Rule 60 Motion is evidence appropriately offered at a final hearing on the merits.

NOW, THEREFORE, the Plaintiff's Motion is denied.

AND IT IS SO ORDERED.


ROBIN B. STILWELL

March 23, 2016
Greenville, South Carolina

STATE OF SOUTH CAROLINA ²⁰¹⁶ FEB 1 PM 1 IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS CLERK OF COURT THIRTEENTH JUDICIAL CIRCUIT
PICKENS COUNTY
MRR Pickens, LLC, SOUTH CAROLINA CIVIL ACTION No.: 2016-CP-39- 170
Plaintiff,
vs.
County of Pickens and William Cato, Weldon
Clark, Robert Ballentine, Jo Johnston, Dennis
Reinert, and Bob Young, individually and in
their official capacity as appointed members of
the Pickens County Planning Commission,
Defendants.

**VERIFIED COMPLAINT AND
PETITION FOR APPEAL**

COMES NOW Plaintiff MRR Pickens, LLC, by and through its undersigned attorneys, and states its Complaint and Petition for Appeal against Defendants County of Pickens, William Cato, Weldon Clark, Robert Ballentine, Jo Johnston, Dennis Reinert, and Bob Young, individually and in their official capacity as members of the Pickens County Planning Commission (collectively referred to as "Defendants") relating to their Land Use termination decision dated January 11, 2016 (attached as Exhibit A hereto) as follows:

PARTIES

1. Plaintiff MRR Pickens, LLC ("MRR Pickens") is a limited liability company organized under the laws of the State of South Carolina and authorized to conduct business in Pickens County, South Carolina.

2. MRR Pickens is the owner of real property located at 2180 Greenville Highway, Liberty, County of Pickens, South Carolina (hereinafter referred to as "the Subject Property") as more fully set forth in the deed and plat attached as Exhibit B.

3. Defendant County of Pickens ("County") is a political subdivision organized and existing under the laws of the State of South Carolina.

4. The Pickens County Planning Commission ("the Planning Commission") is a "local planning commission" pursuant to S.C. Code Ann. § 6-29-310 *et seq.* and Article III of the Pickens County Code of Ordinances.

5. Defendants William Cato, Weldon Clark, Robert Ballentine, Jo Johnston, Dennis Reinert and Bob Young serve as appointed members of the Planning Commission. They are sued in their individual and official capacities.

6. Jurisdiction and venue is proper in Pickens County.

FACTUAL BACKGROUND

-The Development Agreement and Class Two Permit for a Landfill-

7. On March 8, 2007 the County entered into a Development Agreement for the construction of a landfill owned and operated by MRR Pickens on the Subject Property. The Development Agreement is attached as Exhibit C.

8. At that time, the Subject Property was part of a larger tract of 446.70 acres of land as reflected on Pickens County Tax Map Number 4098-00-82-5916. See Exhibit D to Development Agreement.

9. In November of 2007, MRR Pickens applied to the South Carolina Department of Health and Environmental Control (DHEC) for a permit to operate a Class Two Landfill.

10. On November 3, 2008, DHEC issued a Class Two Landfill Permit to MRR Pickens (the "Class Two Permit") for the Subject Property under Reg. 61-107.19.¹ The Class Two Permit

¹ On May 23, 2008, S.C. Regulation 61-107.19 became effective, repealing and superseding certain solid waste landfill regulations including S.C. Regulation 61-107.11, Solid Waste Management: Construction, Demolition, and Land-Clearing Debris Landfills. These regulations are administered and enforced by the South Carolina Department of Health and Environmental Control ("DHEC"). With the repeal of S.C. Reg. 61.107.11 and the adoption of S.C. Reg. 61-107.19, persons cannot receive permits for Construction, Demolition (C&D) and Land-Clearing Debris (LCD) Landfills in South Carolina. Instead, since May 23, 2008, DHEC issues permits based on certain tiered classes. As relevant to this dispute, a "Class Two Landfill" is capable of accepting C&D/LCD and other

became effective on March 10, 2009 and was modified on August 10, 2015. DHEC Permit No. LF2-00003 is attached hereto as Exhibit D.

11. Section A(2) of MRR Pickens' Class Two Permit specifically allows "disposal of items listed in Appendix I of Reg. 61-107.19 and any other waste approved by [DHEC] for disposal in a Class Two Landfill pursuant to Reg. 61-107.19, Part IV, Section C.2."

12. On April 6, 2015, MRR Pickens and the County amended the Development Agreement ("Amended Development Agreement") to reflect the type of permit actually issued to MRR Pickens by DHEC in 2008 (the "Class Two Permit") and changes to DHEC regulations since the agreement was executed. The Amended Development Agreement is attached as Exhibit E.

13. The Amended Development Agreement deleted all references to "Construction and Demolition (C&D) Debris and Land-Clearing Debris (LCD)" contained in the Development Agreement and exhibits attached thereto, included but not limited to, Exhibits C ("Development Uses Permitted") and I ("Host Agreement"), and replaced them with "Class Two Solid Waste" and "Class Two Solid Waste Landfill", respectively.

14. The Development Agreement generally provides: (1) the Subject Property will be appropriately zoned for the duration of development; (2) the County will cooperate with MRR Pickens in obtaining all necessary local permits and approvals; (3) upon receipt of development and construction permits, MRR Pickens may proceed with the development and construction of the Subject Property; (4) MRR Pickens will be allowed to operate a Class Two Landfill on the Subject Property; and (5) MRR Pickens' rights will be vested for the duration of development.

15. The Host Agreement generally provides the landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, or any superseding regulations. See Exhibit I to Development Agreement. See Exhibit I to Development Agreement.

approved wastes as set forth in Reg. 61-107.19. MRR's original permit for the Subject Property was issued after May 23, 2008, and has always been a Class Two Permit.

16. In the Development Agreement, MRR Pickens contracted to convey approximately 39 acres of platted undeveloped property to the County at a fixed price and with necessary sewer easements at no cost, for development as Pickens County's industrial park expansion. See Exhibits C, Paragraph 1 and Exhibit I, Paragraphs 21-24 of the Development Agreement.

17. The County desired to purchase the 39 acres for future development of its industrial park but did not desire to purchase the larger tract which they were part of prior to MRR Pickens agreement to subdivide and convey the lots to the County.

18. On September 6, 2007, MRR Pickens parceled off the future industrial lots and conveyed the approximately 39 acres to the County as required by the Development Agreement. Attached as Exhibit F is the deed and aerial photograph illustrating the conveyance.

19. Section 8 of the Development Agreement states MRR Pickens will "dedicate and deed to the County an area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or other uses deemed appropriate by the County."

20. In consideration, MRR Pickens gifted by deed the approximately 162.2 acre tract to the County. A copy of the deed to the County and plat is attached as Exhibit G.

21. The property that MRR Pickens deeded to the County was appraised for One Million One Hundred Seventy Thousand and 00/100 (\$1,170,000.00) Dollars.

22. Defendants contractually represented and bound itself to grant MRR Pickens all local permits necessary to develop and construct the Class Two Landfill.

**-MRR Pickens' Land Use Approval for Class
Two Landfill Granted by Pickens County-**

23. In the Summer of 2014, MRR Pickens began applying for local permits and approval to develop and construct the Class Two Landfill.

24. On November 20, 2014, MRR Pickens submitted to the County its Letter of Intent, attached as Exhibit H, and Application for Land Use Review Hearing, attached as Exhibit I, for its Class Two Landfill.

25. The Application for Land Use Review Hearing stated the proposed land use of the Subject Property was a "SCDHEC Permitted Class 2 Landfill."

26. The Letter of Intent stated: "[t]he project will include . . . approximately 60 acres of lined landfill disposal area, and various sediment and erosion control structures." (emphasis added).

27. On January 12, 2015, the Planning Commission held a public meeting and unanimously approved MRR Pickens' Land Use Approval request. Attached as Exhibit J are minutes from Planning Commission Meeting of Jan. 12, 2015.

28. On January 13, 2015, the Planning Commission issued its land use approval to MRR Pickens to construct and operate a Class Two Landfill on the Subject Property ("Land Use Approval"). The Land Use Approval is attached as Exhibit K.

29. The Land Use Approval did not place any conditions on the approval, including conditions on the type of Class Two waste that could be disposed of in the landfill. Further, only DHEC, not the County, is vested with the authority to control and enforce the type of waste proper for disposal in the Class Two Landfill.

30. In 2015, MRR Pickens actively began developing its Class Two Landfill.

31. To date, MRR Pickens has spent approximately 3.9 Million Dollars (\$3,900,000.00) for the approved proposed use of the Subject Property as a Class Two Landfill.

**-Defendants' Unlawful Termination
of MRR Pickens' Land Use Approval-**

32. On January 11, 2016, Defendants held the regularly scheduled Pickens County Planning Commission Meeting.

33. The published January 11, 2016, Planning Commission Meeting Agenda did not include any mention of possible action on MRR Pickens' Land Use Approval as an item to be considered at the meeting. The Agenda is attached hereto as Exhibit L.

34. Almost a year after its issuance and at the January 11, 2016 Planning Commission Meeting, the Defendants took away and terminated MRR Pickens' Land Use Approval.

35. Specifically, on January 11, 2016, Defendants executed a letter to MRR Pickens (the "Termination Notice") ordering it to immediately cease and desist any and all activities at the Subject Property based on unsubstantiated "rumors" and "media reports" that it was constructing a *Class Three* landfill. The Termination Notice is attached as Exhibit A.

36. To date, MRR Pickens has not received the original Termination Notice from the Defendants. Rather, MRR Pickens received a copy of the Termination Notice from a local newspaper reporter via electronic mail on January 12, 2016.

37. In the Termination Notice, Defendants threatened MRR Pickens with criminal prosecution if it conducted any activities on the Subject Property, with penalties to include significant fines and jail time.

38. At all relevant times, MRR Pickens has not acted in violation of the Development Agreement, Land Use Approval or its permit for a *Class Two* Landfill.

39. In issuing the Termination Notice, Defendants took action against MRR Pickens without proper notice or a hearing.

40. Defendants' Termination Notice denied MRR Pickens of its due process rights.

41. Defendants' Termination Notice is overly broad and prohibits MRR Pickens from accepting any waste at the *Class Two* Landfill.

42. Further, in issuing this Termination Notice, Defendants wrongfully relied on Section 1504(d) of the Unified Development Standards Ordinance (UDSO). The UDSO does not permit the indefinite termination of the Land Use Approval.

43. In the Termination Notice, Defendants falsely accused MRR Pickens of: (a) attempting to construct a Class Three landfill; (b) attempting to accept waste only permitted for disposal in a Class Three landfill; (c) representing that a liner would not be required; and (d) intending for a shorter life span of the facility.

44. The accusations setting forth the basis for Defendants to issue the Termination Notice are factually false, contrary to law, and were exercised in violation of established laws and regulations.

45. MRR Pickens is not attempting to construct or operate a Class Three landfill.

46. MRR Pickens is not accepting, or intending to accept, waste that is not lawfully allowed in its Class Two landfill.

47. MRR Pickens never represented to the Defendants that the landfill, or portion thereof, would be unlined. In fact, the Letter of Intent clearly states the site would have "approximately 60 acres of lined landfill disposal area." (emphasis added).

48. The minutes from the Planning Commission Meeting of January 12, 2015, attached as Exhibit H, do not reflect or contain any statement that the landfill would not contain a liner.

49. MRR Pickens has a right to accept any and all waste that the law and DHEC allow to be placed in its Class Two Landfill.

50. MRR Pickens has a right to accept, subject to DHEC approval, all coal combustion residuals (CCR) and other wastes not listed in Appendix I that demonstrate similar properties to the wastes listed and are approved by DHEC on a case-by-case basis, or waste that test less than ten

(<10) times the maximum contaminant level (MCL) as published in R. 61-58, State Primary Drinking Water Regulation.

51. Defendants are not allowed to usurp the role and responsibilities of DHEC, or dictate what types of Class Two waste MRR Pickens is allowed to accept.

**-The Defendant's Unlawful Termination Will
Cause Irreparable Harm to MRR Pickens-**

52. MRR Pickens has a preliminary agreement with a third-party to accept CCR waste for disposal in its Class Two Landfill.

53. MRR Pickens cannot, and will not, accept CCR waste unless it meets the requirements as an approved waste under its Class Two Permit allowing the "disposal of items listed in Appendix I of R. 61-107-19 and any other waste approved by the Department for disposal in a Class Two landfill pursuant to R. 61-107.19, Part IV, Section C.2."

54. The preliminary agreement recognizes that DHEC must approve the CCR waste after characterization determines it meets the requirements for disposal at the Class Two Landfill.

55. The CCR that MRR Pickens would accept does meet the regulatory requirements for a lined Class Two Landfill under South Carolina law.

56. The deadline for MRR Pickens to submit necessary documentation to accept CCR that meets its Class Two Landfill Permit requirements is in late February 2016.

57. MRR Pickens has been informed by the generator of the CCR that it will be deemed "Non-Responsive" and considered ineligible to receive the CCR Class Two waste as a result of the Defendants' Termination Notice.

58. Defendants' illegal termination of MRR Pickens' 2015 Land Use Approval has caused MRR Pickens to incur actual losses to date in the amount of \$3,900,000.00.

59. Defendants' illegal termination of MRR Pickens' 2015 Land Use Approval has, and will in the future, prevent MRR Pickens from receiving profits in excess of \$25,000,000.00 over the life of the landfill by preventing it from receiving CCR waste allowed under its Class Two Permit.

60. Additionally, the Defendants' illegal termination of MRR Pickens' 2015 Land Use Approval has and will prevent MRR Pickens from receiving other non-CCR Class Two waste, resulting in a loss of millions of dollars in revenue and profits to MRR Pickens.

61. Defendants' illegal termination of MRR Pickens' 2015 Land Use Approval has and will continue to cause MRR Pickens to incur other actual, consequential, and incidental damages in addition to lost profits.

62. The illegal termination of MRR Pickens' 2015 Land Use Approval has, and will in the future, cause MRR Pickens to incur significant attorney's fees and associated litigation costs.

63. The harm is irreparable as MRR Pickens is being denied the ability to conduct any activities on the Subject Property or use it in any manner without being subject to criminal prosecution.

64. Defendants' decision has and will result in injury that threatens the very existence of MRR Pickens' business and will result in loss of goodwill and other losses that are incapable of fully calculating into pecuniary terms.

-DHEC Solid Waste Permitting Regulations-

65. MRR Pickens received its original Class Two Permit and any modifications thereto from DHEC pursuant to Reg. 61-107.19, promulgated under the authority of S.C. Code Ann. §44-96-10 *et. seq* (as amended).

66. S.C. Code Reg. 61-107.19, Part IV.A.1 states: "Applicability. Part IV. Established minimum criteria for all landfills used for the disposal of: waste as outlined in Appendix I of this regulation; other wastes not listed in Appendix I that demonstrate similar properties to the wastes

listed and are approved by [DHEC] on a case-by-case basis; or waste that test less than ten (<10) times the maximum contaminant level (MCL) as published in R. 61-58, State Primary Drinking Water Regulation current at the time of submittal of the permit application. Hereinafter, these landfills will be referred to as Class Two Landfills.”

67. S.C. Code Reg. 61-107.19, Part IV.C.2 states: “The Class Two landfill shall, prior to receipt of any waste materials that are not specifically listed in the permit application, submit for [DHEC] approval a characterization of the waste materials to determine the suitability for disposal in the landfill unless [DHEC] grants an exemption for like materials.”

68. To date, MRR Pickens has not submitted to DHEC a characterization of CCR waste for approval.

FOR A FIRST CAUSE OF ACTION
(Appeal Pursuant to the Local Planning - Land Development Regulations)
(S.C. Code Ann. § 6-29-1150)

69. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

70. Pursuant to S.C. Code Ann. § 6-29-1150(D)(1), MRR Pickens is entitled to appeal the Defendants’ decision to this Court.

71. MRR Pickens is aggrieved by Defendants’ unilateral and unlawful decision to indefinitely terminate its Land Use Approval issued on January 13, 2015.

72. Defendants’ Land Use Approval termination decision was taken without notice or a right to a hearing.

73. Defendants wrongfully concluded with any evidence that MRR Pickens was attempting to construct a Class Three landfill and attempting to accept waste only allowed in a Class Three landfill.

74. Defendants wrongfully concluded the CCR waste that MRR Pickens could accept is a Class Three waste.

75. The Termination Notice is overly broad and prohibits MRR Pickens from conducting any activities on the Subject Property, subject to criminal prosecution.

76. By way of the Termination Notice, Defendants are wrongfully and illegally usurping the role of DHEC, and becoming the *de facto* enforcement agency in Pickens County as to what constitutes Class Two or Class Three waste under South Carolina law.

77. MRR Pickens appeals Defendants' decision and requests this Court reverse the same and lift the termination to allow it to develop and use the Subject Property for a Class Two Landfill pursuant to the Land Use Approval, the Development Agreement and its Class Two Permit.

78. MRR Pickens prays for any and all such further equitable and legal relief as the Court may deem just and proper.

79. Pursuant to S.C. Code Ann. § 15-77-300 and the laws of the State of South Carolina, MRR Pickens further prays for an award of its reasonable attorneys' fees and costs.

FOR A SECOND CAUSE OF ACTION
(Petition for Writ of Mandamus)

80. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

81. Defendants have a duty to allow MRR Pickens to lawfully operate a Class Two landfill on the Subject Property pursuant to the Development Agreement, Class Two Permit, and the Land Use Approval.

82. The decision to grant MRR Pickens approval to use and develop the Subject Property is ministerial in nature based on the agreements and approvals MRR Pickens has already obtained.

83. Defendants' discharge of this duty is necessary to allow MRR Pickens' access to a specific legal right.

84. MRR Pickens lacks any other legal remedy.

85. The Writ of Mandamus shall command the Defendants to: (1) rescind the termination of the Land Use Approval; and (2) direct the Defendants treat the Subject Property as

approved for the use as a Class Two Landfill as permitted by DHEC, and timely issue all applicable development, construction and building approvals and/or permits.

86. Pursuant to Rule 65(f)(2), SCRPC, and S.C. Code Ann. § 15-77-300, MRR Pickens is entitled to an award of all costs and attorneys' fees.

FOR A THIRD CAUSE OF ACTION
(Declaratory Judgment - S.C. Code Ann. § 15-53-10, et seq.)

87. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

88. MRR Pickens is entitled to an order and judgment of this Court declaring the following:

- a. The use contemplated and granted by the Defendants conforms with the USDO and the documents of record, including but not limited to, the Development Agreement, the Amended Development Agreement, the Letter of Intent and the Land Use Approval;
- b. Defendants have no authority to indefinitely terminate the Land Use Approval under these circumstances;
- c. The indefinite termination of the Land Use Approval is invalid and Defendants acted in excess of their lawfully delegated authority;
- d. The decision to impose an indefinite termination of the Land Use Approval violated MRR Pickens' rights to due process both constitutionally and statutorily;
- e. MRR Pickens is entitled to construct and operate the Subject Property as a Class Two Landfill, and to accept Class Two permitted waste as deemed acceptable by DHEC;
- f. Defendants and other Pickens County agencies or appointees must apply the Class Two Landfill use as the appropriate permitted use under the USDO and other development ordinances in evaluating all applications by MRR Pickens in connection with the Subject Property, including but not limited to construction and building permit applications; and
- g. The Defendants have no authority to determine if CCR or any other waste stream is a Class Two waste under DHEC regulations or permitted for disposal on the Subject Property.

89. Pursuant to S.C. Code Ann. § 15-77-300, MRR Pickens prays for an award of reasonable attorney's fees and costs.

FOR A FOURTH CAUSE OF ACTION
(Breach of Contract)

90. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

91. MRR Pickens and the County entered into lawful and binding contracts regarding the use and development of the Subject Property.

92. In consideration of the Development Agreement, MRR Pickens conveyed approximately 39 acres to the County to allow further expansion of its future industrial park.

93. In consideration of the Development Agreement, MRR Pickens dedicated and deeded to the County approximately 162.2 acres for use as a County recreational facility or other uses.

94. The County contracted to allow MRR Pickens to develop the Subject Property as a Class Two Landfill.

95. The Defendants materially breached the Development Agreement, Amended Development Agreement, and the Land Use Approval by ordering MRR Pickens to cease and desist any and all activities at the Subject Property as of January 11, 2016.

96. The Defendants further advised MRR Pickens that the alleged violation of the Land Use Approval warrants criminal liability.

97. As a result of the County's breach of the Development Agreement, Amended Development Agreement, and Land Use Approval, the County has directly and proximately caused MRR Pickens to incur irreparable harm, in addition to actual, consequential, and incidental damages and lost profits that exceed Thirty Million and 00/100 dollars (\$30,000,000.00).

FOR A FIFTH CAUSE OF ACTION
(Tortious Interference with Current and Prospective Contractual Relations)

98. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

99. MRR Pickens has entered into contractual relationships related to the operation of its Class Two landfill on the Subject Property.

100. Further, MRR Pickens has an identifiable prospective contract or expectation of a contractual relationship related to waste that it has a right to accept under its Class Two Permit.

101. The Defendants has knowledge of MRR Pickens' contractual relationship and prospective contractual relationships for its Class Two landfill on the Subject Property.

102. By issuing the Termination Notice, Defendants have intentionally caused and procured a breach of MRR Pickens' contractual and prospective contractual relationships for the Subject Property.

103. The Defendants knew, or should have known, the Termination Notice would have a material effect on MRR Pickens' ability to honor its current and prospective contractual relations.

104. The interference into MRR Pickens' contractual relationship and prospective contractual relationships were taken for an improper purpose and/or by improper methods.

105. As a result of Defendants' tortious and intentional interference, MRR Pickens has, and will in the future incur irreparable harm, in addition to actual, consequential, and incidental damages and lost profits that exceed Thirty Million and 00/100 (\$30,000,000.00) dollars.

FOR A SIXTH CAUSE OF ACTION
(Promissory Estoppel)

106. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

107. MRR Pickens was entitled to rely, and did justifiably rely, upon the actions and promises of the County to invest approximately Three Million Nine Hundred Thousand and 00/100 (\$3,900,000.00) dollars into the Subject Property.

108. The promises the County made to MRR Pickens were unambiguous.

109. MRR Pickens' reliance on the County's promises was expected and foreseeable.

110. MRR Pickens has sustained injuries and damages by relying to its detriment on the County's confirmation and ratification of the above described agreements, by trusting the commitment made by the County within the public record by virtue of the Development Agreement and by relying on the County's established course of dealing maintained before and for approximately 8 years after execution of the Development Agreement, until the County's abrupt and inexplicable reversal of position.

111. MRR Pickens is entitled to injunctive relief and an award of damages for the significant losses and damages it has and continues to suffer.

FOR A SEVENTH CAUSE OF ACTION
(Regulatory Taking)

112. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.

113. MRR Pickens has been deprived of the economically viable use of the Subject Property resulting from the Defendants' unreasonable and illegal regulatory action.

114. Defendants' unreasonable and illegal actions constitute an overly broad and unconstitutional taking of MRR Pickens' developable land without just compensation.

115. As a result of the Defendants' overly broad and unconstitutional taking, the Defendants have interfered with MRR Pickens' distinct and reasonable investment.

116. Defendants' actions have interfered and destroyed MRR Pickens' distinct investment-backed expectations to the Subject Property.

117. Defendants' actions have and will result in economic losses that threaten the very existence of MMR Pickens' business and will result in loss of goodwill and other losses that cannot be easily calculated into pecuniary terms.

118. MRR Pickens is entitled to injunctive relief and judgment against the Defendants for their unconstitutional taking of the Subject Property for damages.

FOR AN EIGHTH CAUSE OF ACTION
(Violation of 42 U.S.C. § 1983)

119. MRR Pickens re-alleges the allegations above as if fully repeated verbatim herein.
120. The United States Constitution provides: "[N]or shall any State deprive any person of life, liberty, or property, without due process of law." U.S. Const., Amend. XIV
121. The United States Constitution provides: "[N]or shall private property be taken for public use, without just compensation." U.S. Const., Amend. V.
122. As a result of Defendants' actions, MRR Pickens has suffered a deprivation of rights and privileges secured by the Constitution and laws of the United States.
123. Defendants' termination of the Land Use Approval was an act causing MRR Pickens' deprivation and was committed by a person acting under the color of law.
124. The actions of the Defendants were procedurally invalid, overly broad, and constitute a wrongful denial of MRR Pickens' rights to procedural due process.
125. The Termination Notice was not handled in accordance with the procedural requirements of the S.C. Code of Laws and consistent local ordinances of the County.
126. Defendants issued the Termination Notice based on false accusations and wrongful interpretation of the law without reasonable notice and an opportunity to be heard at a meaningful time and in a meaningful manner.
127. Defendants' decision to issue the Termination Notice has no foundation in reason and is a mere arbitrary and irrational exercise of power.
128. The Termination Notice has no substantial relation to the public health or public welfare as MRR Pickens has been authorized to operate pursuant to its Class Two Permit, and to accept waste deemed acceptable by DHEC under it permit.
129. Defendants have substantively deprived MRR Pickens of its cognizable property interest.

130. Defendants have taken the Subject Property without just compensation.

131. Defendants William Cato, Weldon Clark, Robert Ballentine, Jo Johnston, Dennis Reinert and Bob Young were not acting within the scope of discretionary authority when they decided to indefinitely terminate MRR Pickens from any use of the Subject Property, and threatened criminal prosecution against MRR Pickens, its owners and employees.

132. Defendants William Cato, Weldon Clark, Robert Ballentine, Jo Johnston, Dennis Reinert and Bob Young's conduct was motivated by wrongful motives or intent, or otherwise involved by reckless or callous indifference to the federally protected rights of MRR Pickens.

133. MRR Pickens is entitled to judgment, including injunctive relief, against the Defendants for its violation of Section 1983 of the Civil Rights Act of 1971, 42 U.S.C § 1983, in an amount of actual and compensatory damages to be proven at trial.

134. MRR Pickens is entitled to an award of punitive damages against Defendants William Cato, Weldon Clark, Robert Ballentine, Jo Johnston, Dennis Reinert and Bob Young.

135. MRR Pickens is also entitled to an award of all costs and attorney's fees associated with bringing this action, pursuant to 42. U.S.C. § 1983 and S.C. Code Ann. § 15-77-300.

WHEREFORE, MRR Pickens respectfully requests this Honorable Court issue judgment against the Defendants, jointly and severally, and to be awarded the following:

- 1) Appellate relief pursuant to S.C. Code Ann. § 6-29-1150;
- 2) Issuance of a Writ of Mandamus;
- 3) Declaratory Judgment;
- 4) For actual, incidental, and consequential damages;
- 5) Preliminary and permanent injunctive relief;
- 6) For an award of the attorney's fees and costs;
- 7) Prejudgment interest; and

8) For other and further relief as this Court may deem just and proper.

Dated this 30th day of January 2016.

Respectfully Submitted,

WILLIAMS MULLEN



Jessica J.O. King (S.C. Bar #11202)
A. Keith McAlister, Jr. (S.C. Bar # 78213)
1441 Main Street, Suite 1250
Columbia, South Carolina 29201
Telephone: (803) 567-4000
Facsimile: (803) 567-4601
Email: jking@williamsmullen.com
Email: kmcalister@williamsmullen.com

GOINGS LAW FIRM, LLC



Robert F. Goings (S.C. Bar # 74855)
Goings Law Firm, LLC
914 Richland Street, Suite A-101
Columbia, South Carolina 29201
Telephone: (803) 350-9230
Facsimile: (877) 789-6340
Email: rgoings@goingslawfirm.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT A

EXHIBIT A

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Chairman
WELDON CLARK, District 4, Vice Chairman
BOB BALLENTINE, District 1
JO JOHNSTON, District 3
DENNIS REINERT, District 5
BOB YOUNG, District 6

January 11, 2016

MRR Pickens, LLC
7413 Six Fork Road #358
Raleigh, NC 27615

Delivery USPS Certified Mail
91 7108 2133 2934 1312 8892

Re: Land Use Approval on Case No: LU-15-001
SCDHEC Class II Landfill

To MRR Pickens LLC,

We, the Pickens County Planning Commission (the "Commission"), are writing in regard to the above-referenced land use permit dated January 12, 2015. The approval of this permit was granted after your company appeared for a public hearing on your application for a renewal of your February 12, 2007 land use permit for a proposed C&D (now Class II) landfill off Highway 93 near Liberty, South Carolina.

In your 2007 appearance before the Commission, Mr. Ronald Gilbertson of your company characterized the type of waste for this project as "lumber, vinyl siding, concrete and brick," "grass clippings, leaves, limbs," and "storm debris." He also indicated that the life span of the project would be for "20-25 years." No mention was made of the disposal of coal combustion residuals ("CCR"), the need for a landfill liner, or plans to fill up the landfill quickly. Based in part on these representations by your company, the Planning Commission granted your land use request.

In your 2015 appearance before the Commission, Mr. Dan Moore of your company indicated that there were "no changes" from the 2007 request, and estimated that the proposed landfill would serve the citizens of the county for "50 years or more." No mention was made of the disposal of CCR. When you were specifically asked by a Commissioner about the need for a liner, Mr. Moore stated that no liner would be required. Based on these representations by your company, the Planning Commission granted your renewed use request.

We now understand from media reports that your company plans to dispose of CCR in the proposed landfill. We have also learned that your filings with SCDHEC include plans for a significantly shorter life span of the facility (5 years) and that a liner would be installed in order to comply with Class III requirements despite the fact that you repeatedly characterized this landfill as a Class II facility in all of your communications with the Commission.

These are significant deviations from the information you provided to us in 2007 and 2015. We consider these changes to be material alterations to the land use approved by the Commission, and constitute violations of your land use permit. Accordingly, pursuant to the authority granted under the Unified Development Standards Ordinance ("UDSO") Section 1504(d) and elsewhere, the Commission hereby suspends your land use permit for this project. You are directed to cease and desist any and all activities at the proposed site until such time as you have presented sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your permit from the Commission.

Please be advised that Section 1505 of the UDSO provides that any violation of a land use approval is a misdemeanor with a punishment of a fine and/or jail time for each act or omission thereof. Also note that each and every day of a continuing violation constitutes a separate offense.

MRR Pickens, LLC
January 11, 2016
Page 2 of 2

If you have any questions about this stop work notification, or about the land use permitting process, please contact Chris Brink, Director of Community Development at 864 898 5958, or Ken Roper, County Attorney at 864 878 1577.

Sincerely,



William Cato, Chair
Pickens County Planning Commission
District 2



Weldon Clark, Vice-Chair
Pickens County Planning Commission
District 4

ABSENT

Robert Baillentine
Pickens County Planning Commission
District 1



Jo Johnston
Pickens County Planning Commission
District 3



Dennis Reinert
Pickens County Planning Commission
District 5

ABSENT

Bob Young
Pickens County Planning Commission
District 6

Cc: Pickens County Council
Senator Larry Martin
Representative Davey Hiott
SCDHEC

EXHIBIT B

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT CRAIG HARRIS MCDANIEL;
WILLIAM JASON MCDANIEL, III, BY HIS ATTORNEY-IN-FACT CRAIG H.
MCDANIEL; AND MARY MCDANIEL RIDGEWAY, BY HER ATTORNEY-IN-FACT
CRAIG H. MCDANIEL,

in consideration of ONE DOLLAR AND OTHER CONSIDERATION

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and
by these presents do grant bargain sell and release unto:

MRR PICKENS, LLC, its successors and assigns, forever:
431 Raleigh View Road
Raleigh, NC 27610

"ALL that certain piece, parcel, or lot of land lying and being in the State of South
Carolina, County of Pickens, east of Liberty, S.C., fronting on S.C. Highway 93,
Cartee Road, and Woodbine Road, consisting of Tract "A" containing 405.120
acres, more or less, Tract "B" containing 21.203 acres, more or less, and Tract "C"
containing 17.039 acres, more or less, for a total of 443.362 acres, more or less, all
according to a plat thereof dated March 28, 2007 and prepared for MRR Pickens,
LLC by B.P. Barber & Associates, Inc., with said plat being recorded in Plat Book
575 at Pages 8 to 15 on April 9, 2007 and the metes and bounds of the property
herein conveyed as shown on said plat are incorporated herein by reference."
Note: Tract "D" as shown on the plat is excluded from this conveyance.

For derivation see the following deeds:

Deed from Henry H. Harris, Jr., Trust by W. Jason McDaniel, Jr., Trustee to Craig
Harris McDaniel, William Jason McDaniel, III, and Mary McDaniel Ridgeway dated
October 20, 2002 and recorded November 7, 2002 at the Register of Deeds Office
for Pickens County, South Carolina in Deed Book 704 at Page 302.

Deed of Distribution from the Estate of Jean Harris Knight to Craig Harris McDaniel
dated June 15, 2006 and recorded June 22, 2006 at the Register of Deeds Office
for Pickens County, South Carolina in Deed Book 914 at Page 205.

Parcel No: 4098-00-82-5918

000006747
RECORDED 04/12/2007 11:53:33AM
Fee:10.00 State:5764.20
County:2428.70 Emmet:.....
Pickens County, SC
Register of Deeds

Together, with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee(s)' heirs or successors and assigns, forever. And the grantor(s) do(es) hereby bind the grantor(s) and the grantor(s)' heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors and assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS, the grantor(s)' hand(s) and seal(s) this 10th day of April, 2007.

SIGNED, sealed and delivered
In the presence of:

James M. Robinson
[Signature]

Gregory H. McDonald REAL
William Jean McDonald OFF
by Gregory H. McDonald REAL
Mary McDonald Ridgeway
by Gregory H. McDonald REAL POA

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor(s)' act and deed, deliver the within written deed and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 10th
day of April, 2007.

James M. Robinson
Notary Public for State of South Carolina
My Commission expires: 9-5-11

[Signature]

ROBINSON LAW FIRM, P.A.
P. O. BOX 732
EASLEY, SC 29641
894/859-7501

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

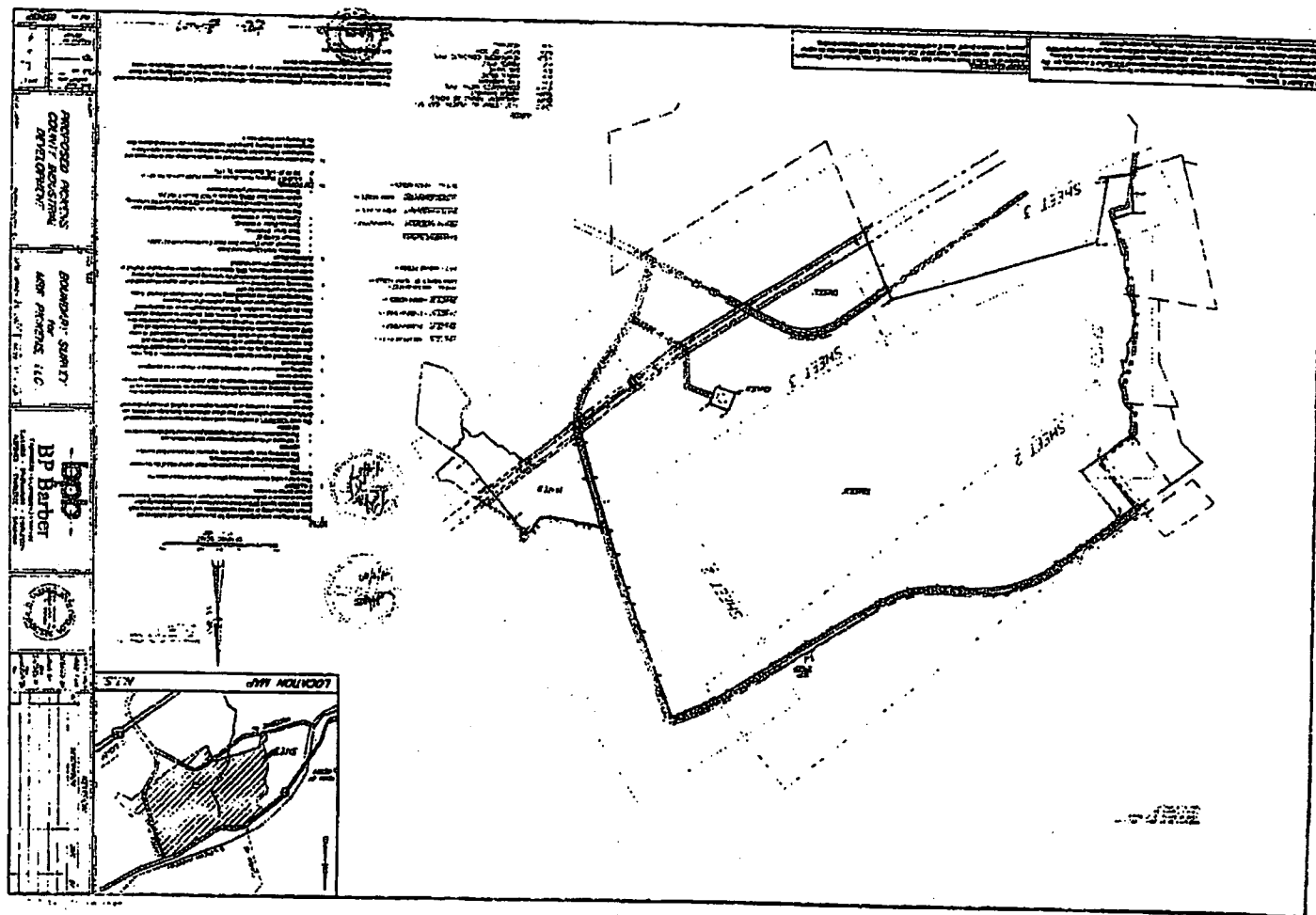
AFFIDAVIT 4747 BKD1091 PG13

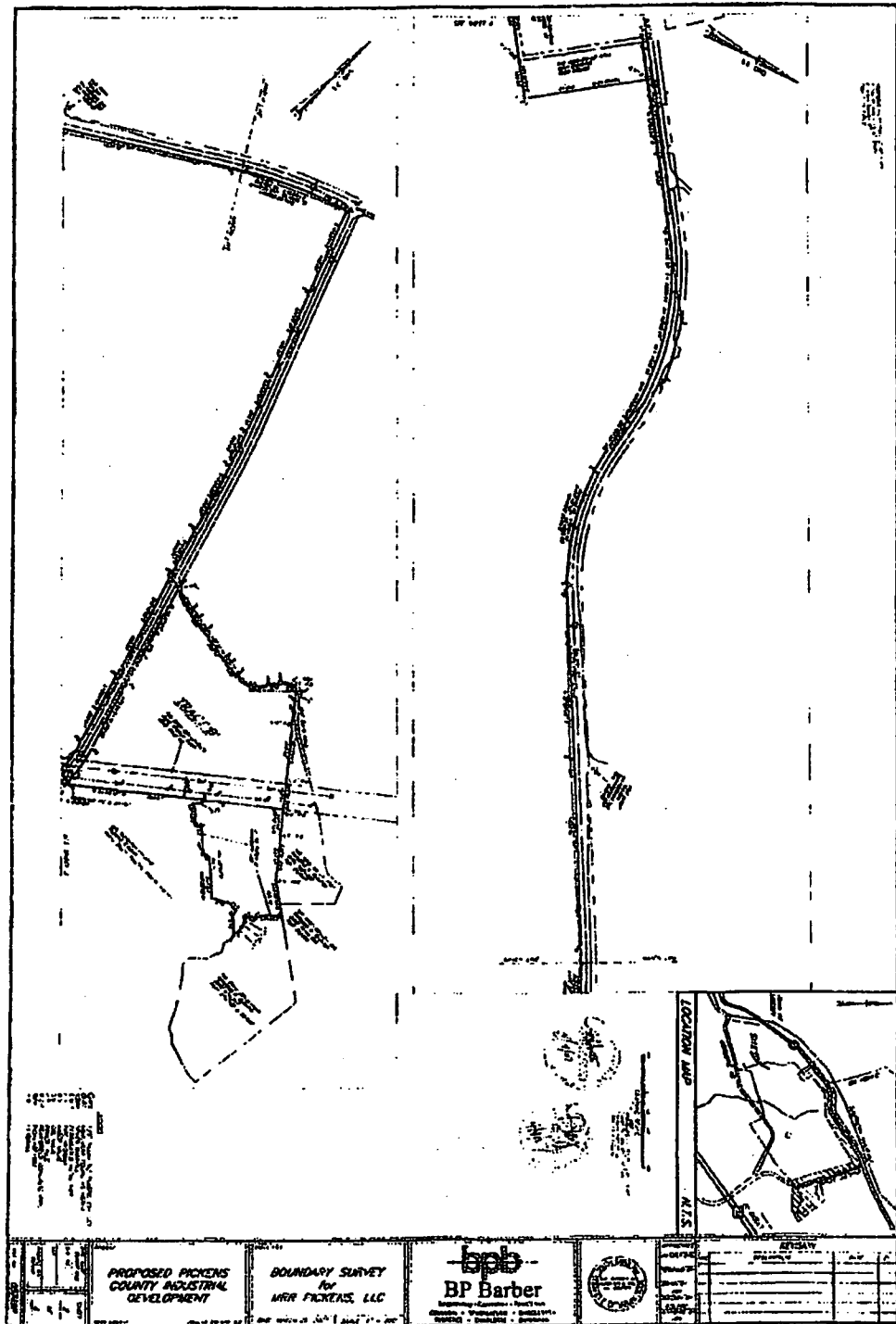
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

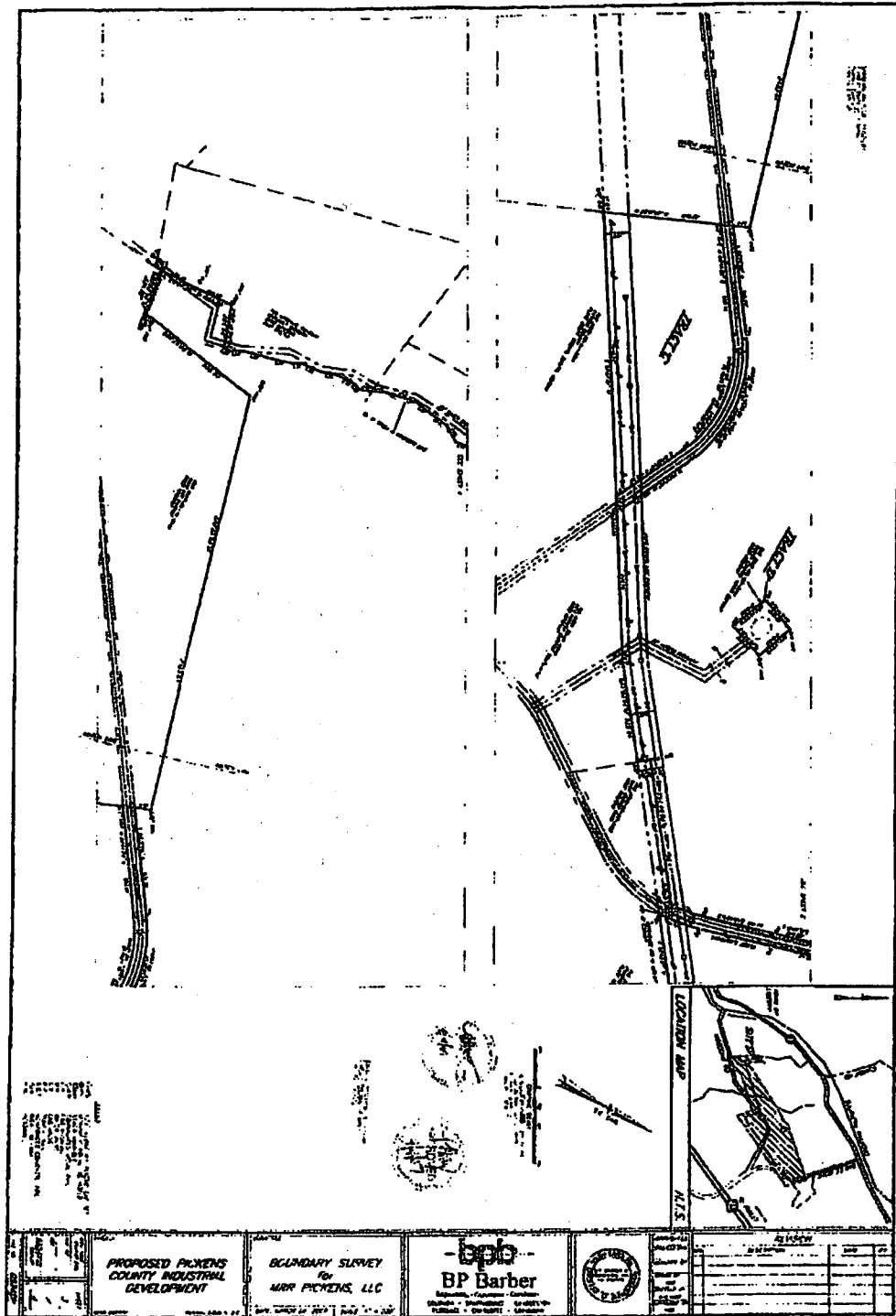
1. I have read the information on this affidavit and I understand it.
2. The property being transferred is located on S.C. Highway 93, Cartee Road and Woodbine Road and bears Pickens County Parcel Number 4088-00-82-5916, was transferred by Craig H. McDaniel, et al to MRR Properties, LLC on April 10, 2007.
3. Check one of the following: The deed is
(a) Subject to the deed recording fee as:
X transfer for consideration paid or to be paid in money or money's worth,
subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(b) Exempt from the deed recording fee because: _____
4. Check one of the following if item 3(a) above has been checked:
(a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ 2,216,810.00
(b) The fee is computed on the fair market value of the realty to be the amount of \$ _____
(c) The fee is computed on the fair market value of the realty as established for property tax purposes in the amount of \$ _____
5. Check Yes or No X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____
6. The deed recording fee is computed as follows:
(a) Place the amount listed in item 4 above here: \$ 2,216,810.00
(b) Place the amount listed in item 5 above here: \$ 0.00
(c) Subtract Line 6(b) from Line 6(a) and place result here: \$ 2,216,810.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this 10th
day of April, 2008

[Signature]
Notary Public for South Carolina
My Commission Expires: 6-3-08







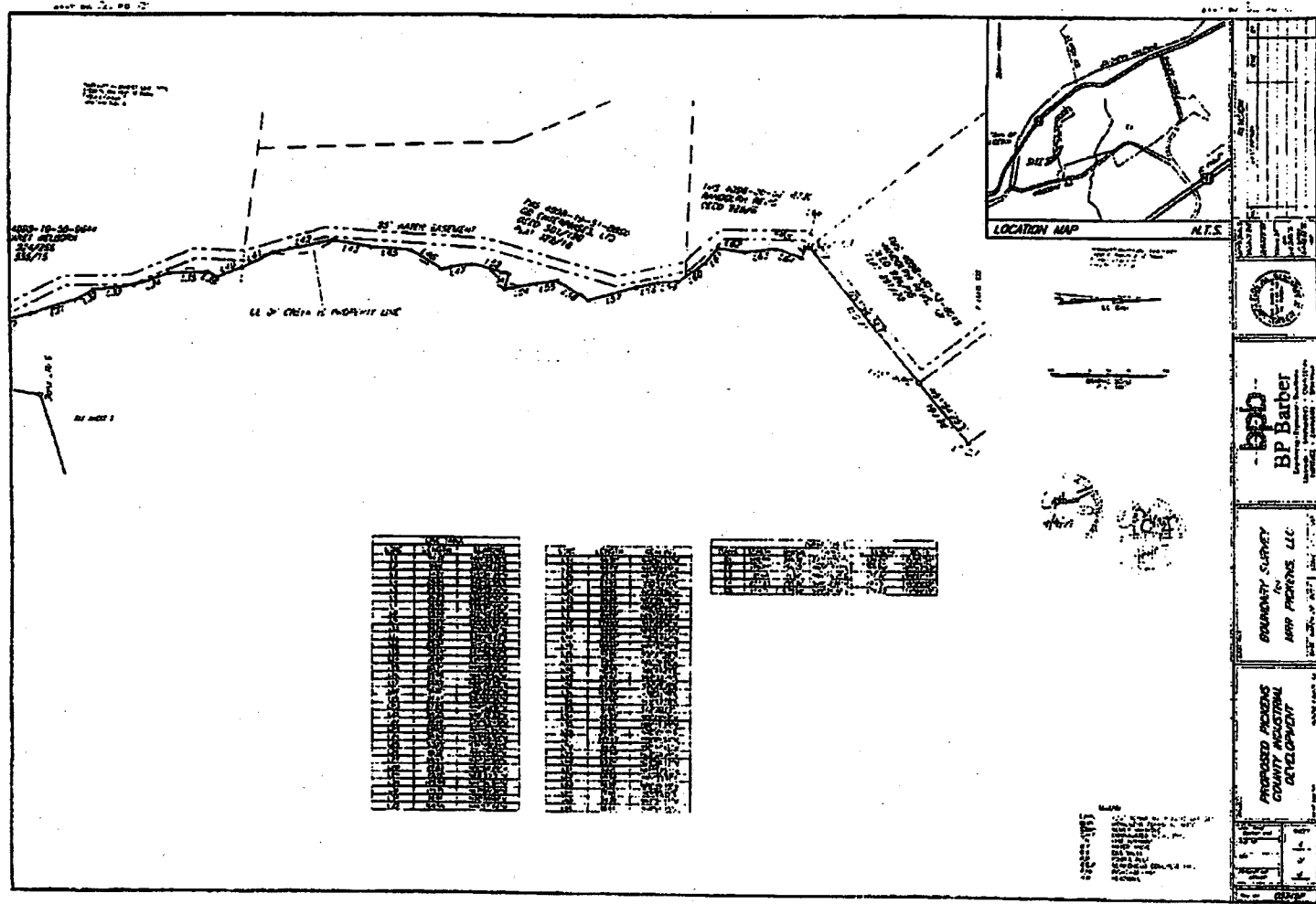


EXHIBIT C

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS) DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the 8th day of March, 2007, by and between MRR PICKENS, LLC, a South Carolina Limited Liability Company having its principal place of business in Pickens County, South Carolina, (the "Developer"); and the COUNTY OF PICKENS, a political subdivision of the State of South Carolina (the "COUNTY") (collectively, the Developer, and the County are referred to as the "Parties").

WHEREAS, the Developer desires to develop certain real property owned by Craig Harris McDaniel, William Harris McDaniel, and Mary McDaniel Ridgeway. E. Scott Sanders, LLC has this property under an option to purchase. E. Scott Sanders, LLC has assigned this option to CG Property Holdings, LLC. CG Property Holdings LLC, is a wholly owned subsidiary of MRR Southern, LLC, a North Carolina Limited Liability Company and the owner of Developer. The property consists of approximately 446.70 acres of land, bounded on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916. A copy of the legal description of the 446.70 acre property covered by this Agreement is attached hereto as EXHIBIT A.

WHEREAS, pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160 in the South Carolina Code of Laws, 1976, as amended (the "Act"), the County and the Developer have agreed to enter into this Agreement to set forth the terms and conditions of the development of the Property in order to more fully protect the Developer's development rights;

000004479 03/08/2007 12:34:21PM
 Filed At Register of Deeds
 Pickens County SC
 Fees Paid \$0.00

WHEREAS, the Developer desires to obtain from the County in connection with the development of the Property assurances that: (1) the Property will be appropriately zoned for the duration of the period of development; (2) upon receipt of development and construction permits the Developer may proceed with the development of and construction on the Property; and (3) the Developer's development rights will be vested for the duration of the period of development;

WHEREAS, in connection with the proposed development, the Developer and the County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County.

WHEREAS, the County certifies that there is no applicable zoning designation for the property; and that said fact allows the development of industrial uses, County Park/Recreational uses, operation of a construction and demolition and land clearing debris landfill, and operation of associated recycling equipment.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants of the Parties herein, and pursuant to the Act, the County and Developer, intending to be legally bound hereby, agree as follows:

Section 1. Definitions. Terms not otherwise defined herein have the meaning set forth in the Act, the provisions of which are incorporated herein by reference. As used in this Agreement, the following terms mean:

(A) "Land Development Regulations" and "Laws" means all ordinances, resolutions, regulations, comprehensive plans (if any), policies and rules enacted by the appropriate governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, sign regulations and includes laws

governing permitted uses of the Property, density, design, improvement, and construction standards and specifications, and consistency with the Pickens County Solid Waste Management Plan. All applicable "Land Development Regulations" and "Laws" as such are listed on EXHIBIT B except as provided in Section 6-31-140(A), S. C. Code Ann. (1976).

(B) "Property" means the real property identified by Pickens County Tax Map Number 4098-00-82-5916 and identified on EXHIBIT A.

(C) "Development Uses Permitted" mean the uses identified on EXHIBIT C, and the Site Layout Map identified on EXHIBIT D, specifically the C&D Landfill, Reprocessing Area, Industrial Lots, and Park Area identified therein.

Section 2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the development of the Property in order to protect the Developer's development rights and to accomplish the statutory aims of comprehensive, orderly planning, and development within the County.

Section 3. Property Covered by Agreement. The Property covered by this Agreement, and its legal description and the names of the Property's legal and equitable owners, is the approximately 446.70 acre parcel designated by TMS # 4098-00-82-5916, described in EXHIBIT A, which is attached hereto and incorporated herein by reference.

Section 4. Duration. Except as may be otherwise provided in this Agreement, this Agreement shall terminate ten (10) years from the date of execution.

Section 5. Development Uses. The description of the uses proposed by the Developer and permitted on the property are those as described in EXHIBIT C.

Section 6. Development Plan. The Developer may make modifications in the development plan so long as the development plan remains in accordance with Land Development Regulations and Laws and this Agreement.

Section 7. Public Facilities that will service the development. As part of the Industrial Park Expansion, and the County Park/Recreational Area, County will be responsible for providing water, sewer, and all utilities to these areas. For the Landfill and associated recycling center, Developer will be responsible for all necessary infrastructure.

Section 8. Dedication of Land, Environmentally Sensitive Areas. Within thirty (30) days of the issuance of a final DHEC landfill permit Developer will dedicate and deed to County an area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or other uses deemed appropriate by County as depicted on EXHIBIT D. Developer shall comply with all legal and permit requirements necessary to protect any streams or environmentally sensitive areas on the Property.

Section 9. Local Development Permits. The County agrees to cooperate with the Developer in the permitting process, including any state and federal permits. Local Development Permits that are required for this project are listed in Exhibit G. The development of the site will require review by the Pickens County Planning Commission as per Pickens County Code Chapter 14, Article V. The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions.

Section 10. Finding of Consistency. The County finds that this Agreement and the development, as permitted or proposed, is consistent with the County's Laws and Land

Development Regulations, as applicable. The County further finds that the development is consistent with the County's current Solid Waste Management Plan.

Section 11. Development Schedule, Changes.

(A) The schedule for development of the Property is to immediately commence construction of the landfill within 30 days of receipt of a final permit to construct and operate to be issued by the South Carolina Department of Health and Environmental Control.

(B) The County and Developer acknowledge that the schedule for development is an estimate and that events outside the control of the Parties can affect this schedule.

(C) The County agrees that it will not unreasonably withhold consent to any modification to the schedule of development during the life of this Agreement.

Section 12. Vested Rights.

(A) The County agrees that the Developer, upon receipt of its development permits as required herein, may proceed to develop the Property according to the terms and conditions of this Agreement. As of the date of this Agreement, the right to develop the Property is vested with the Developer for the duration of this Agreement.

(B) The County agrees that the Land Development Regulations and Laws in force at the time of execution of this Agreement govern all aspects of the development of the Property for the duration of this Agreement, unless otherwise provided in this Agreement. The Land Development Regulations and Laws in force at the time of execution of this Agreement are those as contained in EXHIBIT B, attached hereto and incorporated by reference.

(C) The County agrees that it will not modify its current Solid Waste Management Plan to render this development inconsistent with the provisions of said Plan for the duration of this Agreement.

(D) The County may apply Land Development Regulations and Laws adopted after the execution of this Agreement to the development of the Property only if the County Council holds a public hearing and determines:

(1) the subsequently adopted Land Development Regulations and Laws are not in conflict with the Land Development Regulations and Laws governing this Agreement and do not prevent the development set forth in this Agreement;

(2) the Land Development Regulations and Laws are essential to the public health, safety, or welfare and the Land Development Regulations and Laws expressly state that they apply to the development that is subject to this Agreement;

(3) the Land Development Regulations and Laws are specifically anticipated and provided for in the Development Agreement;

(4) that substantial changes have occurred in pertinent conditions existing at the time this Agreement was approved which changes, if not addressed by County, would pose a serious threat to public health, safety, or welfare; or

(5) the Agreement is based on substantially and materially inaccurate information supplied by the Developer.

(E) Notwithstanding the provisions of subsection (B), the Developer agrees to comply with any applicable construction codes subsequently adopted by the County and as authorized by Chapter 9 of Title 6 of the Code.

(F) This section does not abrogate or in any way affect any rights that may vest pursuant to common law or state statute in the absence of this Agreement.

Section 13. Periodic Review.

(A) At least every twelve months, the Pickens County Planning Department shall conduct a review of the Developer's compliance with the terms of this Agreement. At the time of the review, the Developer must demonstrate good faith compliance with the terms of this Agreement.

(B) If, as a result of the periodic review, as conducted pursuant to subsection (A), the County finds and determines that the Developer has committed a material breach of the terms and conditions of this Agreement, then the County may serve notice in writing, within a reasonable time after the periodic review, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(C) If the Developer fails to cure the material breach within the time given, then the County may unilaterally terminate or modify this Agreement. Prior to such termination or modification, the County must first give the Developer the opportunity to:

(1) Rebut the finding and determination;

(2) Consent to amend this Agreement to meet the concerns of the County with respect to the findings and determinations.

Section 14. Amendments, Cancellation, Modifications. This Agreement may be amended or cancelled by mutual consent of the Parties to the Agreement. A major modification of this Agreement may occur only after public notice and a public hearing by the County.

Section 15. Successors in Interest. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to this Agreement.

Section 16. Public Notice and Hearings. The County represents and warrants that in the deliberations and approval of this Agreement, the County has, in accordance with Section 6-31-50 of the South Carolina Code of Laws: (1) conducted at least two public hearings; (2) advertised in a newspaper of general circulation in the County notice of intent to consider a development agreement; and (3) included in any required notices the prescribed information.

Section 17. Recording of Agreement. The Developer agrees to record this Agreement with the Register of Deeds within fourteen days after the Developer and the County enter into this Agreement.

Section 18. Later Enacted Federal or State Laws. In the event state or federal laws or regulations, enacted after this Agreement has been entered into, prevent or preclude compliance with one or more provisions of this Agreement, the provisions of this Agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

Section 19. Severability. If any provision of this Agreement or the application of any provision of this Agreement is held invalid by a court of competent jurisdiction, the invalidity shall apply only to the invalid provision and the remaining provisions of this Agreement, and the application of this Agreement, shall remain in full force and effect.

Section 20. Governing Law. This Agreement is governed by, and shall be construed in accordance with the Act and the laws of the State of South Carolina.

Section 21. Effective Date. This Agreement is effective upon execution by the County and the Developer.

Section 22. Executed Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to constitute an original.

Section 23. Host Agreement. A separate Host Agreement between the Parties governing the rights and duties between and among the Parties including, but not limited to, acceptance of County waste is incorporated into this Development Agreement as Exhibit J and shall survive the expiration of this Development Agreement.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto.

WITNESS:

Ona F. Baker
Sheila W. Linsley

MRR PICKENS, LLC

By: Ronald C. Gilkerson
RONALD C. GILKERSON, MANAGER, SC OPERATIONS
Date: 3/8/07

PICKENS COUNTY, SOUTH CAROLINA

Madame C. C. Pope
Sheila W. Linsley

By: Neil Smith
Neil Smith, Chairman
Date: 3/09/07

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me Dorcas F. Dikens who, on oath says that (s)he saw the within MRR PICKENS, LLC by its Manager, S.C. Opus sign, seal, and as its act and deed deliver the within Development Agreement, and that (s)he with Sheila W. Tinsley witnessed the execution thereof.

Dorcas F. Dikens
Witness

SWORN to before me this
8th day of March, 2007.
Sheila W. Tinsley (SEAL)
Notary Public for South Carolina
My Commission Expires: 1/24/2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS) PROBATE

PERSONALLY appeared before me Margaret C. Pope who, on oath says that (s)he saw the within Pickens County, South Carolina by its Council Chairman, Neil Smith, sign, seal, and as its act and deed deliver the within Development Agreement, and that (s)he with Sheila W. Tinsley witnessed the execution thereof.

Margaret C. Pope
Witness

SWORN to before me this
8th day of March, 2007.

Sheila W. Tinsley (SEAL)
Notary Public for South Carolina
My Commission Expires 1/24/2012

EXHIBIT A

REAL PROPERTY

All that certain piece, parcel, or tract of land lying, being and situate in the County of Pickens, State of South Carolina, between Basloy and Liberty, being known as the Bogg Mountain Tract, and containing approximately 446.70 acres of land, bounded on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916. The Property is owned by Craig Harris McDaniel, William Harris McDaniel, and Mary McDaniel Ridgeway. R. Scott Sanders, LLC has this property under an option to purchase. R. Scott Sanders, LLC has assigned this option to CG Property Holdings, LLC. CG Property Holdings LLC, is a wholly owned subsidiary of MRR Southern, LLC, a North Carolina Limited Liability Company and the owner of Developer.

EXHIBIT B

**LAND DEVELOPMENT REGULATIONS AND LAWS IN FORCE AT THE TIME OF
EXECUTION OF THIS AGREEMENT AND APPLICABLE TO THIS DEVELOPMENT**

Pickens County Code of Ordinances: Chapter 14, Article V, Supplemental Development
Standards for Certain Land Uses

Pickens County Code of Ordinances: Chapter 14, Article IV, 4.11, Special Buffer Yard and
Screening Requirements

Pickens County Code of Ordinances: Chapter 14, Article IV, Development Standards

Pickens County Code of Ordinances: Chapter 14, Article VI, Performance Standards for
Industrial, Commercial, and Non-Residential Uses

Pickens County Code of Ordinances: Chapter 14, Article VIII, Signs

Pickens County Code of Ordinances: Chapter 24, Flood Damage Prevention, Division 2, Section
24-62, Establishment of Development Permit

Pickens County Code of Ordinances: Chapter 32, Article IV, Division 3, Requests for Roadside
Access

Pickens County Solid Waste Management Plan, Section X, Creation of New Facilities,
Construction & Demolition Landfills

EXHIBIT C

DEVELOPMENT USES PERMITTED

1. Conveyance to County of approximately 39 acres of platted undeveloped property for development as Pickens County industrial park expansion as depicted on Exhibit D.
2. Conveyance to County of approximately 162.2 acres of undeveloped property for use as a County Park/Recreational Facility or for other purposes deemed appropriate by County as depicted on Exhibit D.
3. Construction and Operation of a Construction and Demolition and Land-Clearing Debris Landfill in area depicted on Exhibit D.
4. Construction and Operation of a Solid Waste Processing and Recycling Facility to process and recycle Construction and Demolition and Land-Clearing Debris in area depicted on Exhibit D.
5. Staging area for grinding/processing Disaster Debris.
6. Development of an additional 93.1 acres by MRR for Industrial Lots as depicted on Exhibit D.

4479 BKD1082 PG75

EXHIBIT D
SITE LAYOUT

4479 EKD1082 PG76



EXHIBIT E

PUBLIC FACILITIES

1. County shall be responsible for construction/provision of all public facilities to service the Industrial Park Expansion and Park/Recreational facility. Developer shall be responsible for provision of all infrastructure, utilities, and roads to service the Landfill, associated processing/recycling/disaster waste staging areas, and the MRR Industrial Lots. No roads built by Developer shall be dedicated to County during the lifetime of this Agreement.

EXHIBIT F

LAND TO BE DEDICATED OR RESERVED

Within thirty (30) days of the issuance of a final DHEC landfill permit Developer will dedicate and deed to County an area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or for other purposes deemed appropriate by County as depicted on Exhibit D. At least 121.6 acres of this property will be reserved for use as a County Park/Recreational facility.

EXHIBIT G

LOCAL DEVELOPMENT PERMITS

1. Prior to construction of a landfill, review of by the Pickens County Planning Commission is required pursuant to Pickens County Code of Ordinances: Chapter 14, Article V, Supplemental Development Standards for Certain Land Uses.
2. Construction of any scale house, office building or similar structure will require a building permit under Pickens County Code of Ordinances: Chapter 14, Article IV, Development Standards.
3. A permit may be required for any permanent free-standing sign that Developer may desire to install, depending on the location, size, and type of sign under Pickens County Code of Ordinances: Chapter 14, Article VIII, Signs.
4. A development permit may be required under Pickens County Code of Ordinances: Chapter 24, Flood Damage Prevention, Division 2, Section 24-62, Establishment of Development Permit.
5. A permit may be required for constructing an access driveway tying in to County maintained roads under Pickens County Code of Ordinances: Chapter 32, Article IV, Division 3, Requests for Roadside Access.

EXHIBIT H

DEVELOPMENT SCHEDULE, CHANGES

1. Immediate construction of Solid Waste Disposal Facility within 30 days after receipt of permit from South Carolina Department of Health and Environmental Control. Such construction shall continue until facility is complete, unless potential administrative challenges to the permit delay construction. Upon completion, operations shall commence immediately.
2. Conveyance to County of approximately 162.2 acre Park Area within 30 days of the issuance of a final permit from the South Carolina Department of Health and Environmental Control.
3. Conveyance to County of approximately 39 acres of platted undeveloped property for use as industrial park expansion within 90 days of Developer's acquisition of fee simple title to the Property.
4. Development of MRR Industrial Lots at any time during the life of this Agreement.

EXHIBIT I

STATE OF SOUTH CAROLINA	)	HOST AGREEMENT FOR A LONG TERM
	)	CONSTRUCTION, DEMOLITION AND
COUNTY OF PICKENS	)	LAND-CLEARING DEBRIS LANDFILL AND
		OTHER ASSOCIATED DEVELOPMENT

WHEREAS, MRR Pickens, LLC is under contract to purchase an approximately 446.70 acre site ("the Site") in Pickens County, South Carolina ("County"); shown on Exhibit I to this Agreement ("the Host Agreement"); and;

WHEREAS, County previously conducted a study on the Site, which study found that portions of the Site are well situated to serve as an expansion of the County's present industrial park, which is contiguous to the Site; and;

WHEREAS, County has previously expressed its desire to purchase the Site and develop all or a portion of the Site for expansion of its nearby industrial park; and;

WHEREAS, MRR Pickens, LLC wishes to construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill and associated recycling, composting, and waste processing activities (collectively, the "Landfill") on a portion of the Site; and;

WHEREAS, County's current Construction, Demolition and Land-Clearing Debris Landfill has nearly exhausted its capacity; and;

WHEREAS, County needs additional Construction, Demolition and Land-Clearing Debris disposal capacity; and;

WHEREAS, the South Carolina Department of Health and Environmental Control ("DHEC") has made a preliminary finding that construction of this facility is consistent with the Pickens County Solid Waste Management Plan; and;

WHEREAS, in addition to both of these portions of the Site which (i) MRR Pickens, LLC desires to use as the location of the Landfill and (ii) that which is suitable as an expansion

of the County's industrial park (the "Pickens Co. Industrial Lots"), there is a portion of the Site consisting of approximately 162.2 acres which, due to poor topography, is unsuitable for development; and;

WHEREAS, MRR Pickens, LLC wishes to convey to County this area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or for other uses deemed appropriate by County; and;

WHEREAS, pursuant to negotiations County and MRR Pickens, LLC have reached an agreement which would allow each to meet their respective goals. MRR Pickens, LLC, on the one hand, will own and manage a Landfill that will serve as the replacement Construction, Demolition and Land Clearing Debris Landfill for the County. On the other hand, the County will have the benefit of the Landfill which will serve the County in an environmentally appropriate manner and in accordance with the requirements set forth in this Agreement will acquire additional properties for economic development and a Park to further meet the recreational needs of County residents.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that MRR Pickens, LLC, and Pickens County agree as follows:

LANDFILL OPERATIONS

1. MRR Pickens, LLC shall construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill at the Site.

2. The location of the Site is designated as Pickens County Tax Map Number 4098-00-82-5916 and consists of 446.70 acres, more or less, and has the following coordinates: W 34°47'50", Latitude N 82°40'30". The Landfill, associated reprocessing, stormwater ponds, and buffer areas are depicted on Exhibit 1, which is incorporated into this Agreement and consists of

the approximately 147.4 acre parcel designated on Exhibit 1 as "LF FACILITY."

3. County shall allow MRR Pickens, LLC to construct and operate a Long-Term Construction and Demolition and Land Clearing Debris Landfill as long as it is operated in accordance with the terms and conditions of this Host Agreement.

4. The Landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, specifically S.C. Code Ann. Regs 61-107.11 Part IV or its equivalent under any superseding regulations and S.C. Code Ann. §§44-96-10 *et. seq.*

5. During operating hours and upon 24 hours telephonic notice, representatives authorized by the County shall have the right to enter and inspect the Landfill and the Landfill records of MRR Pickens, LLC.

6. MRR Pickens, LLC must report any notice of violation of regulations or permit requirements from DHEC to the County Administrator within seventy-two (72) hours after notification by DHEC.

7. All reports required to be submitted to DHEC by MRR Pickens, LLC must be simultaneously submitted to the County Administrator. On a fiscal year basis MRR Pickens, LLC shall provide data to the County indicating the amount, in tons per year, of Construction and Demolition Debris ("C&D") and Land Clearing Debris ("LCD") recycled. Data relating to LCD generated through curbside collection programs may be used by the County to demonstrate progress toward achievement of the County's solid waste recycling goals under the South Carolina Solid Waste Policy and Management Act, S.C. Code Ann. § 44-96-50 (G).

8. All complaints received by MRR Pickens, LLC from the public, whether verbal or written must be reported to the County Administrator on a monthly basis, along with any resolution or proposed resolution.

9. MRR Pickens, LLC shall buffer the Landfill using appropriate landscaping techniques and vegetative buffer of appropriate width and height in accordance with specifications approved by the County's Planning Commission.

10. MRR Pickens, LLC shall not conduct any active Landfill operations within five hundred (500) feet of the Highway 93 entrance to the Landfill.

11. Waste Acceptance, Mulch, Compost Material

A. County Generated Waste.

The County will be allowed to dispose of all County Generated Waste (as defined below) at a rate of 57% of the Landfill's published "gate" rate at the time of disposal. Any time MRR Pickens, LLC adjusts its published "gate" rate it shall provide County 90 days written notice of said change before applying this adjustment to the County rate, which shall at all times remain no more than 57% of the published "gate" rate. Notwithstanding any provision to the contrary herein, the actual rate charged to the County shall not be greater than the actual rate charged to any other Landfill customer.

"County Generated Waste" shall be limited to a) C&D, LCD and other DHEC -approved waste streams generated from demolition, repairs, renovation, or construction of buildings under the County's ownership or control, or as a result of enforcing nuisance or condemnation ordinances; b) C&D, LCD and other DHEC -approved waste streams found illegally dumped at unpermitted sites that the County undertakes to clean up and transport to the MRR Pickens, LLC Landfill utilizing County-owned resources; c) non-commercial C&D, LCD and other DHEC-approved waste streams deposited at Convenience Centers owned by the County and transported to the Landfill by County vehicles. County Generated Waste must be transported to the Landfill by County vehicles or by pre-designated vehicles owned by contractors employed by the County.

B. Curbside Yard Trash.

The County and municipalities within the County will be allowed to dispose of domestic Yard Trash (excluding tree stumps) generated through publicly administered curb-side pick-up programs at the Landfill free of charge. Curbside Yard Trash must be transported to the Landfill by government owned vehicles or by pre-designated vehicles owned by contractors of the public entity administering the program. This Curbside Yard Trash waste may be composted or mulched for recycling by MRR Pickens, LLC.

C. Disaster Waste.

MRR Pickens, LLC will maintain a storm debris staging area at the Landfill for County or municipally generated storm debris that can be staged onsite for grinding by the County or under the auspices of a Federal Emergency Management Agency ("FEMA") funded project. MRR Pickens, LLC will allow use of this staging area free of charge. County will be responsible for delivery, grinding and disposal of disaster waste, and for defraying the costs of said activities.

D. Onsite Construction LCD.

MRR Pickens, LLC shall accept any LCD generated by the County or its contractors as part of the development of the adjacent Pickens County Commerce Park or lots purchased by the County from MRR Pickens, LLC free of charge.

E. Mulch/Compost Material.

MRR Pickens, LLC shall allow the County available mulch and/or composted soil additive product generated by the Landfill at no charge upon reasonable notice.

F. Fill Dirt for Closure of County Landfill.

MRR Pickens, LLC shall allow County access at no charge to any excess soil not required by the Landfill for its daily operations or closure and to be used by the County for

closure of the existing County C&D landfill. The County shall be responsible for excavating and transporting said materials.

12. In lieu of a host fee, MRR Pickens, LLC agrees to maintain the provisions of paragraph 11 above for the County and any municipality located within the County for the permitted operational lifetime of the Landfill.

13. The maximum yearly disposal rate is set by S.C. Code Ann. Regs 61-107.17. DHEC has currently approved a disposal rate of seventy thousand five hundred (70,500) tons per year for the Landfill. As circumstances change MRR Pickens, LLC shall be entitled to increases in this annual disposal rate, up to the maximum permitted by R. 61-107.17. MRR Pickens, LLC shall not require County approval for increases in the permitted disposal rate that may occur solely as a result of DHEC's review of the current 10 mile planning area as defined by R. 61-107.17. Should subsequent regulatory amendments result in a change in the way DHEC calculates a Landfill's maximum annual disposal rate, or otherwise increases the size of the planning area under R. 61-107.17, such requests for increases in the permitted disposal rate shall require approval from County in writing.

14. The disposal "footprint" of the Landfill shall not exceed approximately 68 acres (including the 10 acre reprocessing area, within which area landfilling may also be conducted) as permitted by DHEC or as allowed in the final permit to operate issued by DHEC.

15. MRR Pickens, LLC shall maintain a recycling center for waste processing and recycling at the Landfill.

16. No lateral expansions to the Landfill will be allowed without written permission of County and only under such terms and conditions as to be prescribed by County.

17. MRR Pickens, LLC shall post such Financial Assurance as may be required by

DHEC providing for DHEC approved closure and post-closure care of the Landfill in the event of insolvency or bankruptcy of MRR Pickens, LLC or the death of its managers/owners. By this agreement MRR Pickens, LLC agrees that the Financial Assurance instrument shall be limited to an irrevocable letter of credit, surety bond, or cash.

18. By this agreement MRR Pickens, LLC hereby covenants that it will retain the permit in its name throughout the closure and post-closure process and shall remain responsible for all costs associated with all monitoring, any required corrective action, and liabilities associated with closure and post-closure for the Landfill.

19. MRR Pickens, LLC shall not convey the Landfill or transfer the permit to any unrelated third party without the express written consent of the County and only upon the execution of a substantially similar agreement binding transferee to performance of all the terms and conditions of this agreement for the life of the landfill.

20. Upon closure of the Landfill, and at County's option, MRR Pickens, LLC shall make the Landfill available to the County for any appropriate public use consistent with a closed C&D landfill site. Should County so request, prior to the change in use, MRR Pickens, LLC agrees to and will assist County in having the site of the Landfill enrolled in DHEC's Brownfields program with MRR Pickens, LLC listed on Brownfields contracts as a "Responsible Party" and with County listed as a "Non-Responsible Party" if this is permitted by DHEC.

INDUSTRIAL PARK EXPANSION PORTION

21. As part of the development of the Site, MRR Pickens, LLC shall sell, and the County shall purchase approximately 39 acres of platted property depicted on Exhibit 1 attached hereto as "PICKENS CO. INDUSTRIAL LOTS" for industrial development lots within 90 days of the date of MRR Pickens, LLC's acquisition of fee simple title to the Site.

22. The County will be responsible for construction and grading for all lots, roads, and the construction of or otherwise acquisition of all necessary utilities for the Industrial Park Expansion Portion.

23. MRR Pickens, LLC shall sell the Industrial Lots to County at a price of \$10,000.00 per acre.

24. Contemporaneously with the sale of the 39 acre Industrial Lots MRR Pickens, LLC shall grant to the County a sewer easement so that County can provide sewage disposal to the Industrial Lots, provided such easement does not interfere with the planned Landfill operations. This easement shall be granted to County at no cost to the County, and using a routing agreeable to both MRR, Pickens, LLC and County.

COUNTY RECREATIONAL FACILITY

25. Within 30 days of the issuance of a final DHEC landfill permit MRR Pickens, LLC shall deed the approximately 162.2 acre area depicted on Exhibit 1 as "Future County Park" to County for use as a recreational facility or for other uses deemed appropriate by County at no cost to the County. County may, at its option place restrictive covenants or other property use restrictions on this property consistent with said use. County shall be responsible for development of this land.

This Agreement shall be binding on the parties hereto, their successors, personal representative or assigns.

This Agreement shall be executed contemporaneously with a separate Development Agreement between the Parties and survive the expiration of the Development Agreement between the Parties.

The term of this Agreement commences upon execution of this Agreement by the Parties and shall terminate upon fulfillment of MRR Pickens, LLC's closure and post-closure obligations under the permit issued by DHEC for operation of the Landfill ("Term"). The County may terminate this Agreement prior to the expiration of the Term only upon a material breach of this Agreement, which is limited to the occurrence of one of the following:

- a) Revocation by DHEC of the permit issued for the operation of the Landfill;
- b) MRR Pickens, LLC's failure to deed to the County the property described in and pursuant to the provisions of paragraph 25 above; or
- c) MRR Pickens, LLC's refusal to accept waste pursuant to paragraphs 11 and 12 above.

Upon the occurrence of (a), (b), or (c) above, the County shall provide MRR Pickens, LLC with notice in writing of the material breach as defined herein. The County may elect to terminate this Agreement upon MRR Pickens, LLC's failure to cure a material breach of this Agreement within one hundred eighty (180) days of such written notice. Upon termination of this Agreement pursuant to the provisions of this paragraph, MRR Pickens shall initiate and complete closure of the Landfill.

4479 BKD1082 PG90

WITNESS, our hands and seals this 8th day of March, 2007.

WITNESSES

MRR Pickens, LLC

Its: _____

PICKENS COUNTY

Its: County Administrator

EXHIBIT 1

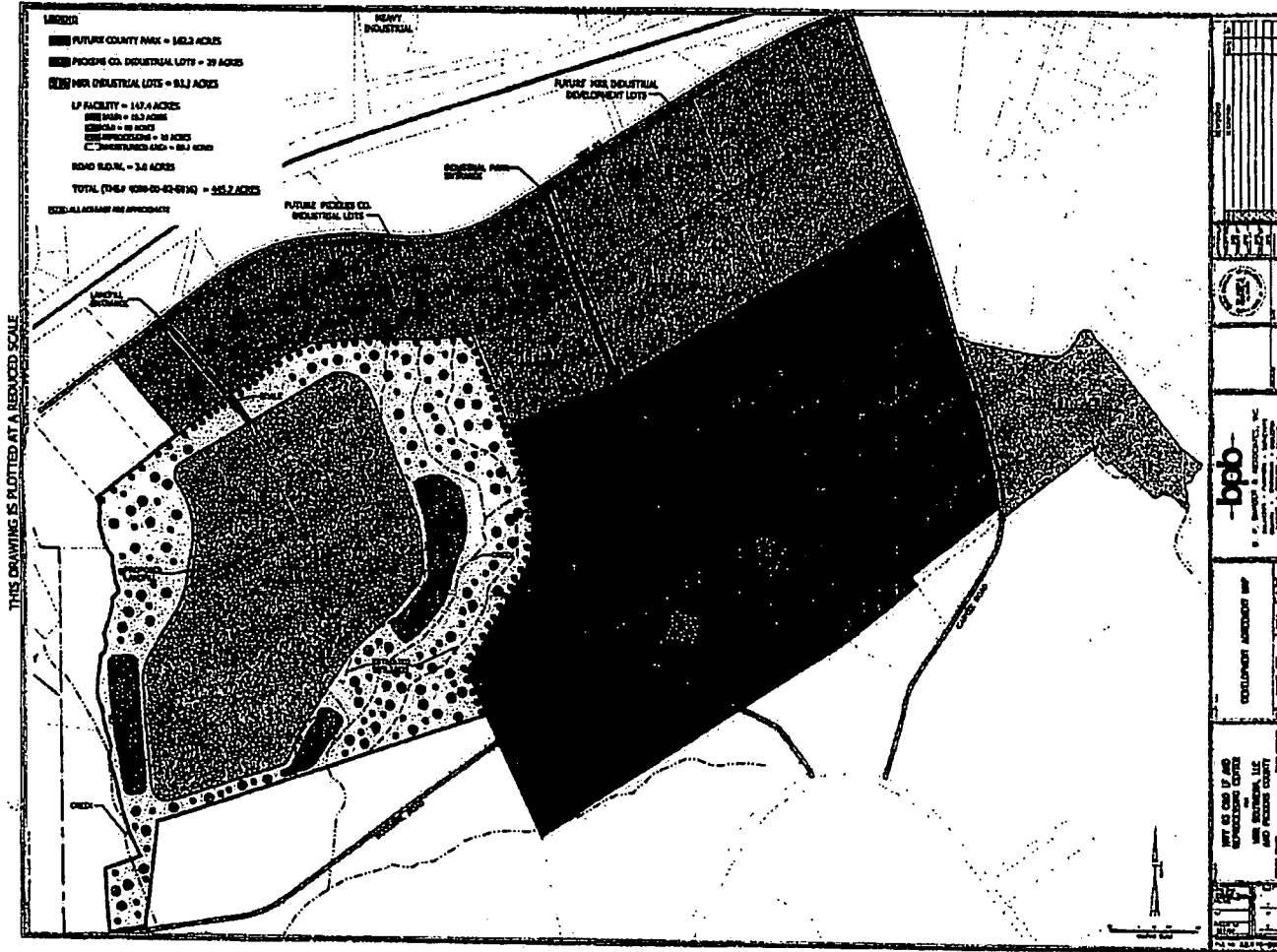


EXHIBIT D

EXHIBIT D



Catherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

OFFICE OF ENVIRONMENTAL QUALITY CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT
CLASS 2 LANDFILL
PERMIT No. LF2-00003

Date of Issuance: November 3, 2008

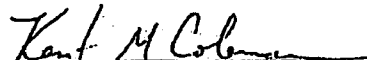
Date of
Modification: August 10, 2015

Permission is hereby granted to:

Name of Facility: Highway 93 Class 2 Landfill
Permittee: MRR Pickens, LLC
Address: 5842 Faringdon Place, Suite 1
Raleigh, NC 27609
Supervisor: Mr. Christopher T. Roof
Phone: (919) 436-3570

for the operation of a Class 2 landfill at 2180 Greenville Highway, in Pickens County located off Highway 93 near the City of Liberty, SC 29657.

This permit is issued pursuant to Sections 44-96-10 et seq., and 25A S.C. Code Regulation 61-107.19. The authority granted hereunder is subject to the requirements of the aforementioned laws and regulations and the attached conditions.


Kent M. Coleman, Director

Division of Mining and Solid Waste Management
Bureau of Land & Waste Management

Permit No. LF2-00003
August 10, 2015
Page 1 of 4

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

**MRR PICKENS, LLC
CLASS 2 LANDFILL
PERMIT No. LP2-00003**

A. SPECIAL CONDITIONS

1. The Permittee shall adhere to the approved design specifications, and construction plans received November 30, 2007; revised August 26, 2008, and last revised August 5, 2015, unless permit conditions state otherwise.
2. This permit is limited to the disposal of the items listed in Appendix I of R.61-107.19 and any other waste approved by the Department for disposal in a Class Two Landfill pursuant to R.61-107.19, Part IV, Section C.2.
3. The allowable rate of disposal for this facility is seventy thousand five hundred (70,500) tons per fiscal year (July 1 to Jun30). Information concerning the facility's previous Fiscal Year's waste receipts is due on the form of an annual report to the Department no later than September 1st of each year, as required by R.61-107.19 Part IV. Subpart C.16, to the attention of:

**Manager, Solid and Hazardous Waste Compliance Section
SC DHEC Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201**

4. All Appendix-I acceptable wastes must be covered at least once every thirty (30) days with a minimum of six (6) inches of clean soil, except for asbestos-containing material, which must be covered with a minimum of six (6) inches of clean soil immediately upon placement in the landfill.
5. The total surface area within the permitted waste disposal footprint that has not been deemed closed by the Department is limited to five (5) acres. For an area to be considered closed, the following items shall be completed:
 - a. Official certification from a Professional Engineer registered in the State of South Carolina that the area has been closed in accordance with final cover requirements pursuant to Regulation 61-107.19, Part IV, Subpart F.1.
 - b. The area shall be inspected and deemed closed by Department staff.
6. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that the total surface area within the permitted waste disposal footprint that is not deemed officially closed by the Department pursuant to Special Condition No. 5 (above) is equal to or less than five (5) acres (at the time of the certification). The certification shall be completed within sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.

Permit No. LP2-00003
August 10, 2015

7. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that enough soil is currently available to use for final cover (16,133 yd³ of soil for 5 acres with 2' thickness). The certification shall have been completed within the last sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.
8. Sixty (60) days prior to starting construction of the Class Two landfill, the Permittee shall notify the Department of their selection between Option 1 (traditional Class Two landfill design), or Option 2 (alternate liner design). If the financial assurance mechanism needs to be increased, this shall be done prior to the acceptance of waste into the landfill.

B. GENERAL PERMIT CONDITIONS

1. If the landfill should become inundated with water, all water shall be removed before continuing disposal of waste.

C. ENVIRONMENTAL MONITORING PERMIT CONDITIONS

1. GROUNDWATER DETECTION MONITORING SYSTEM

- a) The Permittee shall maintain a groundwater detection monitoring system consistent with the most recently approved Groundwater Sampling and Analysis Plan and as required in R.61-107.19, Part IV, Section E. The groundwater detection monitoring system shall consist of monitoring wells as designated in the most recently approved Groundwater Sampling and Analysis Plan and any other monitoring wells specified by the Department. Modifications to the current groundwater detection monitoring system shall be in accordance with the requirements of R.61-107.19, Part IV, Section E.
- b) The Permittee shall perform all groundwater sampling activities in accordance with the most recently approved Groundwater Sampling and Analysis Plan and in accordance with the requirements of R.61-107.19, Part IV, Section E, along with any subsequent modifications deemed necessary by the Department to uphold the intent of this permit. The Permittee shall evaluate analytical results in accordance with the most recently approved Groundwater Sampling and Analysis Plan and any subsequent modifications required by the Department.
- c) The Permittee must determine during each sampling event the groundwater elevation in each well relative to mean sea level (MSL) to the nearest one-hundredth of a foot. All elevations should be determined on the same day. The Permittee shall determine the total depth of each well on an annual basis.
- d) Groundwater samples shall be analyzed by a laboratory certified by the State of South Carolina.

2. ASSESSMENT OF GROUNDWATER IMPACT

If the Permittee determines that a groundwater protection standard has potentially been exceeded for one or more constituents for routine at any monitoring well at the relevant point of compliance, then the Permittee shall perform any necessary groundwater assessment actions in accordance with the requirements of R.61-107.19 Subpart E.3.

3. REPORTING

- a) The permittee shall submit to the Department the result of the groundwater monitoring program as specified in the most recently approved Groundwater Sampling and Analysis Plan, in accordance with the following schedule:

Sampling Schedule	Results Due
November/December	January 15 (Semi-Annual)
May/June	July 15 (annual Report)

- b) The Permittee shall submit a properly bound annual report signed by a South Carolina qualified professional summarizing the semi-annual determinations of groundwater flow rate and direction. In addition, the report shall make a determination as to whether the monitoring well network continues to meet requirements of permit condition C.1.a.
- c) The groundwater data collected by the implementation of the groundwater monitoring program as specified by this Permit shall be submitted to the SCDHEC Bureau of Land and Waste Management, Division of Mining and Solid Waste Management, Solid Waste Ground water Section, and to the Solid Waste Consultant in Upstate Region BEHS Greenville.

4. METHANE MONITORING

In accordance with R.61-107.19, Part IV, Subpart C, methane monitoring is not required at the time of issuance of this permit. However, should the Department determine that methane is of concern at this Facility, the Facility may be required to comply with R.61-107.19, Part IV, Section C.21.

EXHIBIT B

EXHIBIT E

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)
FIRST AMENDMENT
TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into as of the 4 day of April, 2015, by and between **NIRR PICKENS, LLC**, a South Carolina Limited Liability Company having its principal place of business in Pickens County, South Carolina ("Developer"); and the **COUNTY OF PICKENS**, a political subdivision of the State of South Carolina ("County") (collectively, the Developer and County are referred to herein as the "Parties");

RECITALS:

WHEREAS, the Developer and the County entered into a Development Agreement (the "Agreement") dated and recorded March 8, 2007, (Book 1082, Page 60), to allow Developer to develop and use certain real property located in Pickens County and as more particularly set forth in Exhibit A to the Agreement ("the Property") for constructing and operating a solid waste landfill;

WHEREAS, Section 1(C) and Exhibit C of the Agreement specifically defines and sets forth "Development Uses Permitted" for the Property to include, but not be limited to, a "C&D Landfill", "Reprocessing Area", "Industrial Lots", "Park Area," "Construction and Operation of a Construction and Demolition and Land-Clearing Debris Landfill," a "Solid Waste Processing and Recycling Facility," and a "Staging area for grinding/processing Disaster Debris";

WHEREAS, Exhibit I of the Agreement, "Host Agreement For a Long Term Construction, Demolition and Land-Clearing Debris Landfill and Other Associated Development" in its title and text references "Construction, Demolition and Land-Clearing Debris," and "Construction, Demolition and Land-Clearing Debris Landfill" relating to the Developer's permitted use of the Property;

WHEREAS, SC Regulation 61-107.11, the applicable regulations that governed permitting, construction and operation of "Construction, Demolition, and Land-Clearing Debris Landfills," at the time the Agreement was executed, was repealed on May 23, 2008, and immediately replaced with SC Regulation 61-107.19 ("the Current Solid Waste Management Regulations");

WHEREAS, the Current Solid Waste Management Regulations no longer use the defined terms "Construction and Demolition and Land-Clearing Debris Landfill" or "C&D/LCD Landfill" for the purpose of permitting, constructing or operating a solid waste landfill that is permitted to handle construction, demolition and land-clearing debris and other authorized solid wastes listed in Appendix I to the regulations;

WHEREAS, the Current Solid Waste Management Regulations refer to solid waste landfills permitted to handle Construction & Demolition (C&D) Debris and Land-Clearing Debris ("LCD") as "Class Two Landfills";

WHEREAS, Section 14 of the Agreement states that it may be amended by mutual consent of the Parties; and

WHEREAS, this First Amendment will not alter the Developer's commitment, as set forth in the Agreement, to handle Class Two solid waste from the County and the applicable planning area.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following amendments to the Agreement:

- 1. All capitalized terms appearing in this First Amendment and not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.**
- 2. Section 1(C) of the Agreement is amended to delete the terms "C&D Landfill" and replace it with the term "Class Two Solid Waste Landfill";**
- 3. Exhibit C, "Development Uses Permitted," is amended as follows: In Paragraphs 3 and 4 of Exhibit C, the term "Construction and Demolition and Land-Clearing Debris Landfill" is replaced with the term "Class Two Solid Waste Landfill" and the term "Construction and Demolition and Land-Clearing Debris" is replaced with "Class Two Solid Waste";**
- 4. Exhibit I, "Host Agreement For a Long Term Construction, Demolition and Land-Clearing Debris Landfill and Other Associated Development" is amended as follows:**
 - a. All references to "Construction, Demolition and Land-Clearing Debris", and "Construction, Demolition and Land-Clearing Debris Landfill" in the title and within the document are replaced with "Class Two Solid Waste" and "Class Two Solid Waste Landfill"; and,**
 - b. All references to "C&D" and "LCD" waste or debris are replaced with "Class Two Solid Waste."**
- 5. All other references in the Agreement or any Exhibits thereto referencing "Construction, Demolition and Land-Clearing Debris" or "C&D" and "LCD" Debris and not specifically listed herein are hereby replaced with the terms "Class Two Solid Waste."**
- 6. Except as otherwise modified herein, the terms and conditions of the Agreement remain in full force and effect.**
- 7. The First Amendment may be executed in multiple counterparts and by facsimile or electronic mail, each of which shall be deemed an original, but all of which shall constitute one in the same instrument.**

[SIGNATURES TO FOLLOW ON NEXT PAGE]

WITNESS our hands and seals this 10 day of March, 2015

WITNESSES

MRR Pickens, LLC

Christopher T. Roof
Printed Name Christopher T. Roof

[Signature]
Its MEMBER MANAGER

SRIKANTH GADDAM
Printed Name

[Signature]

Pickens County

[Signature]
Printed Name Ken Rogers

[Signature]
Its Chairman

Donna Owen
Printed Name

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

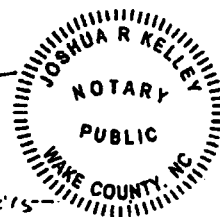
PROBATE

Christopher T. Roof dt 5.11.2015

PERSONALLY appeared before me Joshua R. Kelley, who, on oath says that (s)he saw the within MRR PICKENS, LLC by its Managing Member, sign, seal, and as its act and deed deliver the within First Amendment to Development Agreement, and that (s)he with Christopher T. Roof witnessed the execution thereof.



Joshua R. Kelley
Witness Christopher T. Roof



SWORN to before me this dt day of March, 2015

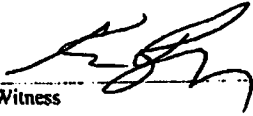
Denise Battaglia (SEAL)
Notary Public for North Carolina

dt 5.11.2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me Tha Pope, who, on oath says that
(s)he saw the within PICKENS COUNTY, SOUTH CAROLINA by its Chairman, Franklin
sign, seal, and as its act and deed deliver the within First Amendment to Development
Agreement, and that (s)he with Don Lopez witnessed the execution thereof.


Witness

SWORN to before me this
6 day of April, 2015.

 (SEAL)
Notary Public for South Carolina
My Commission Expires 1-14-2019

EXHIBIT F

EXHIBIT F

17934 BKD1133 PG145

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

GENERAL WARRANTY DEED

KNOW ALL BY THESE PRESENTS THAT MRR PICKENS, LLC, hereinafter referred to as the "Grantor", in the State aforesaid, in consideration of the sum of Three Hundred Ninety Thousand and no/100 Dollars (\$390,000.00) to Grantor well and truly paid by PICKENS COUNTY, SOUTH CAROLINA, hereinafter referred to as the "Grantee", at and before the sealing and delivery hereof, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee all of its interest in and to the following:

ALL that certain piece, parcel, or lot of land lying and being in the State of South Carolina, County of Pickens, and being shown and designated as 5 ACRES on a plat entitled "BOUNDARY SURVEY for PICKENS COUNTY" by B.P. Barber & Associates, Inc. dated May 4, 2007 and recorded in the Register of Deeds Office for Pickens County in Plat Book 579 at Page 546. Reference to said plat is hereby made for a more complete and accurate description.

AND ALSO all that certain piece, parcel, or lot of land lying and being in the State of South Carolina, County of Pickens, and being shown and designated as 34 ACRES on a plat entitled "BOUNDARY SURVEY for PICKENS COUNTY" by B.P. Barber & Associates, Inc. dated May 4, 2007 and recorded in the Register of Deeds Office for Pickens County in Plat Book 587 at Page 349. Reference to said plat is hereby made for a more complete and accurate description.

This being the same property conveyed to Grantor by deed of Craig Harris McDaniel et al, dated April 10, 2007, and recorded in Deed Book 1091 at page 11.

THIS CONVEYANCE IS MADE SUBJECT TO: All conditions, covenants, easements, restrictions and rights-of-way indicated by instruments, including plats, of record, and to all applicable zoning or other land use regulations or restrictions of any political subdivision in which the subject property is situate.

TMS NO: Portion of TMS No: 4098-00-82-5916
GRANTEE: County of Pickens
ADDRESS: 244 McDaniel Avenue
Pickens, SC 29671

000017934
RECORDED 09/14/2007 10:24:22AM
Fee:10.00 State:1014.00
County:429.00 Extent:-----
Pickens County, SC
Register of Deeds

Together with all and singular, the rights, members, hereditaments, and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, Grantee's successors and assigns forever.

COUNTY ASSESSOR COUNTY AUDITOR
222 McDANIEL AVE., B-7 222 McDANIEL AVE., B-7
PICKENS, SC 29671 PICKENS, SC 29671

And Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee, Grantee's successors and assigns, against Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Grantor's hand and seal this 6th day of September, in the year of our Lord Two Thousand Seven.

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:

Samuel Moore
Witness
[Signature]
Witness

[Signature]
MRR PICKENS, LLC, Grantor
By Ron Gilkerson, its member

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this 6th day of September, 2007
by Ron Gilkerson, member of MRR Pickens, LLC, the Grantor.

SWORN to before me this 6th day of
September, 2007.

[Signature]
Notary Public for South Carolina
My commission expires 2/10/13
My Commission Expires 2/10/13

This Document was Prepared by:
Roper Law Firm, LLC
18 South Commerce Street
Post Office Box 330
Limeville, SC 29667
(864) 843-0004

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located at bearing Pickens County Tax Map Number Portion of TMS No: 4098-00-82-5916, and was transferred by MRR Pickens, LLC to Pickens County on September 6, 2007.
3. Check one of the following: This deed is
 - (a) ☒ subject to the deed recording fee as a transfer for consideration paid in money or money's worth.
 - (b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) ☐ exempt from the deed recording fee because (See information section of affidavit):
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See information section of this affidavit.):
 - (a) ☐ The fee is computed on the consideration paid in money or money's worth in the amount of \$300,000.00.
 - (b) ☐ The fee is computed on the fair market value of the realty which is _____.
 - (c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes ☐ or No ☒ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.
6. The deed recording fee is computed as follows:
Place the amount listed in item 4 above here: \$300,000.00
Place the amount listed in item 5 above here: -0-
Subtract Line 6(b) from Line 6(a) and place result here: \$300,000.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above and is: \$ _____.
8. Check if Property other than Real Property is being transferred on this Deed.
(a) ☐ Mobile Home (b) ☐ Other _____
9. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor.
10. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Ron Gilkerson
Responsible Person Connected
with the Transaction
Ron Gilkerson
Print or Type Name Here

SWORN to before me this 6th day of
September, 2007.

[Signature]
Notary Public for South Carolina
My Commission Expires: _____



39 Acres deeded to County

Account No: R0078148
Parcel No: 4098-00-73-4856
Tax Area: 12 Liberty Fire
Acres: 39
Deed: 589/3

Owner Name: PICKENS COUNTY
SOUTH CAROLINA
Mailing Address: 222 MCDANIEL AVE
B-4
PICKENS, SC 29671

The Pickens County Assessors office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The Assessor parcel maps are for assessment use only and do NOT represent a survey. Any person or entity who relies on any information obtained from this website does so at his or her own risk.

Legal Description: S/SIDE GREENVILLE HWY
PLAT 589/3 PLAT 589/5
Situs Address:

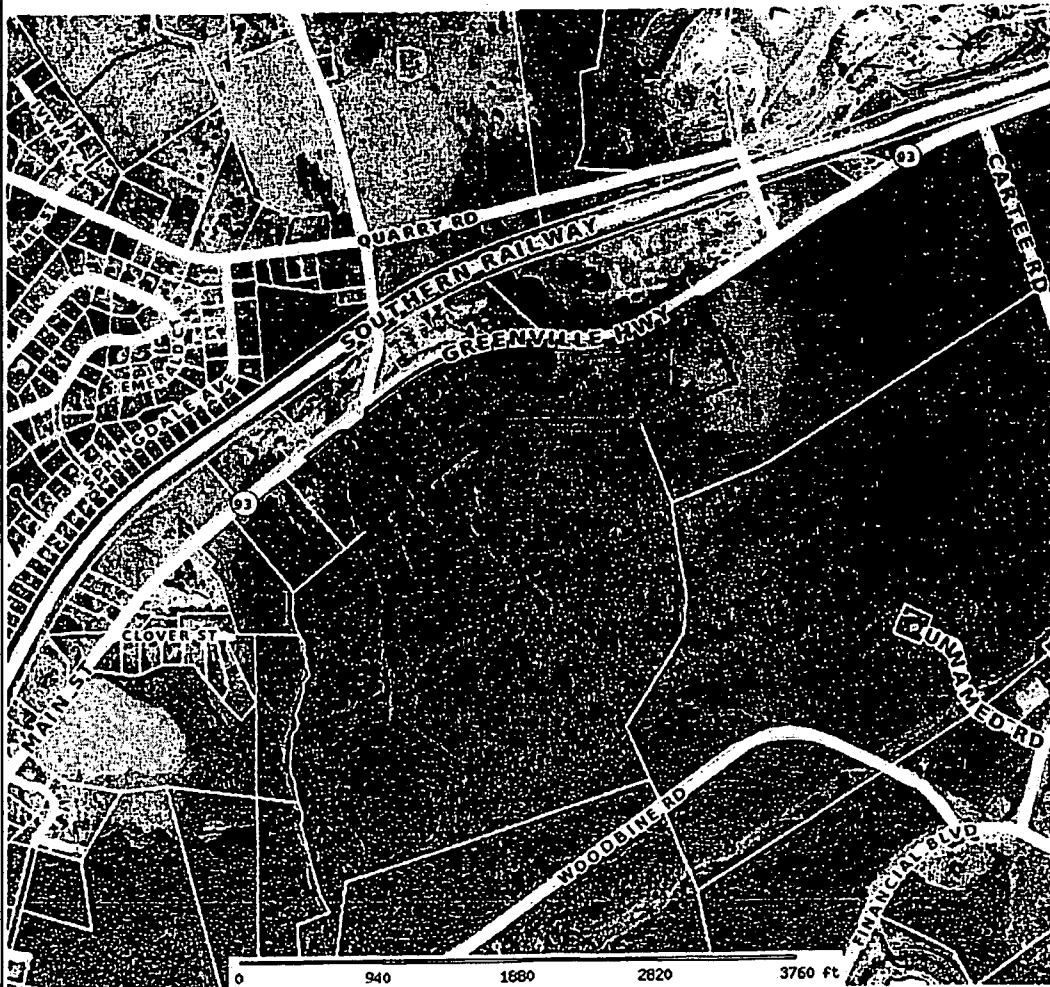


EXHIBIT G

EXHIBIT G

Inst # 201418920 DocType:DEED Page 1
of 4 BKD:1653 PG:88 12/30/2014 at
11:35:59 AM, EXEMPT, PAUL MCGUFFIN
REGISTER OF DEEDS PICKENS CO., SC

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT MRR PICKENS, LLC, ITS SUCCESSORS AND ASSIGNS, hereinafter referred to as the "Grantor", in the State aforesaid, in consideration of the sum one dollar (\$1.00) to Grantor, the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant bargain sell and release unto COUNTY OF PICKENS, A POLITICAL SUBDIVISION OF THE STATE OF SOUTH CAROLINA, hereinafter referred to as the "Grantee", at and before the sealing and delivery hereof, all of its interest in and to the following:

ALL those certain pieces, parcels, or lots of land, together with improvements thereon, situate, lying and being in the State of South Carolina, County of Pickens, east of Liberty, S.C., designated as "Tract 'A-1'", containing One Hundred Forty-One and 35/100 (141.35) acres, more or less, and "Tract 'C'" containing Seventeen and 04/100 (17.04) acres, more or less, together with a 128 foot Duke Power Easement and 50 foot Access Easement of Easley Central Water District, as shown and delineated on a plat of the property prepared by Gramling Brothers Surveying, LLC titled "Boundary Survey for: MRR Pickens, LLC" dated November 14, 2014, which is recorded in the Register of Deeds Office for Pickens County, South Carolina, in Plat Book 601 at Page 83 (the "Plat"), and the metes and bounds of the property herein conveyed as shown on said Plat are incorporated herein by reference, less and except the parcel designated as Easley Central Water District, TMS No. 5008-00-02-6411, as shown on the Plat is excluded from this conveyance.

For derivation see the following deed:

Deed from Craig Harris McDaniel, William Jason McDaniel, III, by his Attorney-In-Fact Craig H. McDaniel, and Mary McDaniel Ridgeway, by her Attorney-In-Fact Craig H. McDaniel, to MRR Pickens, LLC, its successors and assigns, dated April 10, 2007, and recorded April 12, 2007, at the Register of Deeds Office for Pickens County, South Carolina in Deed Book 1091 at Page 11.

THIS CONVEYANCE IS MADE SUBJECT TO: All conditions, covenants, easements, restrictions and rights-of-way indicated by instruments, including plats of record, and to all applicable zoning or other land use regulations or restrictions of any political subdivision in which the subject property is situate.

TMS NOS: 5008-00-01-0747 and 4098-00-91-0242
GRANTEE: Pickens County, South Carolina
ADDRESS: 244 McDaniel Avenue
Pickens, SC 29671

County Auditor
222 McDaniel Ave., B-7
Pickens, SC 29671

County Assessor
222 McDaniel Ave., B-8
Pickens, SC 29671

Together with all and singular, the rights, members, hereditaments, and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, Grantee's successors and assigns forever.

And Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee, Grantee's successors and assigns, against Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Grantor's hand and seal this 22 day of December, 2014.

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:

Christy T. Huff
Witness

Daniel M. Wade
Witness

F. Norbert Hector Jr.
MRR Pickens, LLC, Grantor
By: F. Norbert Hector Jr.
Its: Manager

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this 22nd day of December, 2014 by F. Norbert Hector Jr. the Grantor.

SWORN to before me this 22nd day of December, 2014.

Reed L. Cruess
Notary Public for REED L. CRUESS
My commission expires MAY 3, 2018



STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS) AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located in Pickens County and bearing County Tax Map Numbers 5008-00-02-0747 and 4098-00-91-0242, and was transferred by MRR Pickens, LLC to Pickens County on December 30, 2014.
3. Check one of the following: The deed is
 - (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee because (See Information section of affidavit): transferring property to a political subdivision of the State of South Carolina (If exempt, please skip items 4 – 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):
 - (a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____.
 - (b) _____ The fee is computed on the fair market value of the realty which is _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes _____ or No X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.
6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: _____
 - (b) Place the amount listed in item 5 above here: _____
 (If no amount is listed, place zero here.)
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: _____
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for Grantor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this
day of December 2014

30th

Elizabeth P. Connor
Notary Public for South Carolina
My Commission Expires: February 1, 2013

COLUMBIA 1188102v1

J.O. King
Responsible Person Connected with the Transaction

Print or Type Name Here

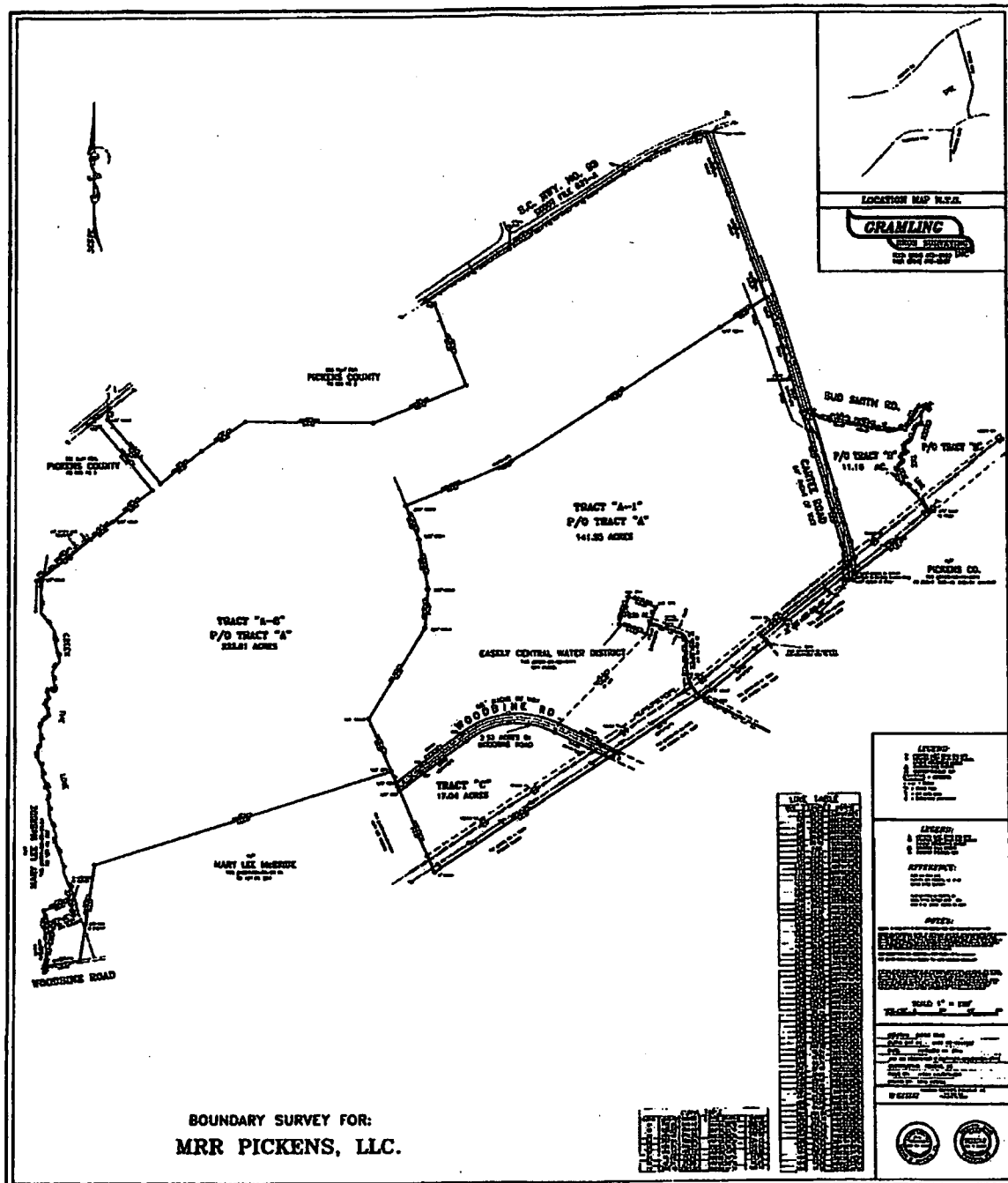


EXHIBIT H

EXHIBIT H



November 20, 2014

Mr. J. Marshall Brown, AICP
County Planner
Pickens County Planning Department
Pickens County Administration Building
222 McDaniel Avenue, B-10
Pickens, SC 29671

RE: Letter of Intent
Application for Land Use Review
Parcel ID # 4098-00-92-1867

Dear Mr. Brown,

The purpose of this letter is to notify your department of our intent to file an Application for Land Use Review. The subject property is a 149-acre (+/-) undeveloped parcel located at 2180 Greenville Highway, Liberty, SC.

In March 2007, MRR Pickens, LLC (MRR) entered into a Development Agreement (Enclosure 1) with Pickens County for a construction and demolition debris landfill. Section 9 of the Agreement states that the project requires review by the Pickens County Planning Commission.

The project will include a commercial entrance, truck scales, scale house/office trailer (approximate dimensions 15 feet X 75 feet), approximately 60 acres of lined landfill disposal area, and various sediment and erosion control structures.

A SCDHEC landfill permit for the project (Enclosure 2) was issued in November 2008, during a flagging economy and construction of the facility was delayed accordingly. We are now considering construction of the facility, and in doing so, look forward to working with the Planning Department staff and those in any additional departments that may be involved.

Sincerely,
MRR Southern, LLC

A handwritten signature in dark ink, appearing to read "F. Norbert Hector, Jr.", written in a cursive style.

F. Norbert Hector, Jr.
Managing Member

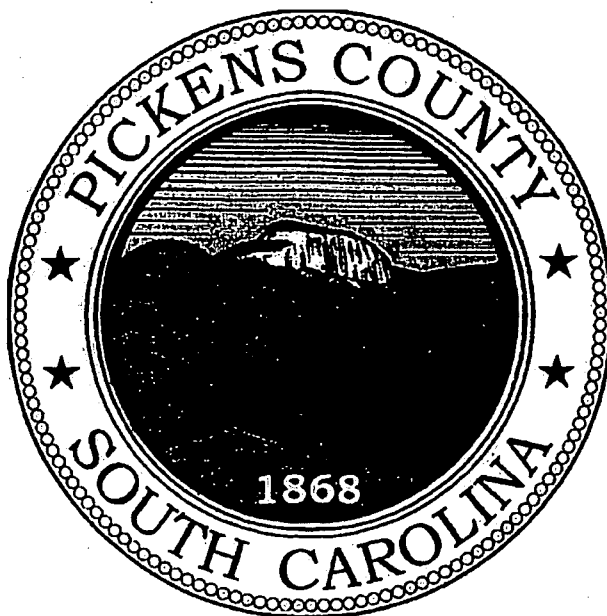
Enclosure – MRR Pickens, LLC/Pickens County Development Agreement

MRR Pickens, LLC - 7413 Six Forks Road, #358- Raleigh, NC 27615 - Phone 919.349.9103

EXHIBIT I

Exhibit I

Application
For
Land Use Review Hearings



Thank you for your interest in Pickens County, South Carolina. This packet includes the necessary documents for Land Use Reviews to be heard by the Pickens County Planning Commission.

Should you need further assistance, please feel free to contact a member of the Planning Staff between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at (864) 898-5953

January 2009



COUNTY OF PICKENS

www.co.pickens.sc.us

Department of Community Development

Building Codes Administration • Parks and Recreation • E-911 Administration • Planning



APPLICATION FOR:

☒ Land Use Review

☐ Subdivision Variance

Case No.: _____ - _____ - _____

Note to Applicant: All applications must be typed or legibly printed and all entries must be completed on all the required application forms. If you are uncertain to the applicability of an item, please contact a member of the Planning Staff. Incomplete applications or applications submitted after the posted deadlines may be delayed.

Name of Applicant MRR Pickens, LLC

Mailing Address 7413 Six Forks Road #358, Raleigh, NC 27615

Telephone 336.253.0091 Cell 336.253.0091

Applicant is the: Owner's Agent _____ Property Owner X

Property Owner(s) of Record Same as above

Mailing Address _____

Telephone _____ Cell _____

Authorized Representative F. Norbert Hector, Jr.

Mailing Address 7413 Six Forks Road #358, Raleigh, NC 27615

Telephone 919.349.9103 Cell 919.349.9103

Address/Location of Property 2180 Greenville Highway, Liberty, SC

Existing Land Use Undeveloped timberland

Proposed Land Use SCDHEC Permitted Class 2 Landfill

Tax Map Number(s) Parcel No. 4098-00-92-1867

Total Size of Project (acres) 149 acres +/-

Number of Lots NA

Utilities:

Proposed Water Source ☐ Wells ☒ Public Water Water District Liberty

Proposed Sewage Disposal ☒ Septic ☐ Public Sewer Sewer District NA

Power Company Duke Energy

Application for Land Use Review

Pickens County, South Carolina

REQUEST FOR VARIANCE (IF APPLICABLE):

Is there a variance request from the subdivision regulations or county road ordinance? ☐ Yes ☒ No
If YES, applicant must include explanation of request and give appropriate justifications.

RESTRICTIVE COVENANT STATEMENT

Pursuant to South Carolina Code of Laws 6-29-1145:

I (we) certify as property owner(s) or as authorized representative for this request that the referenced property:

- ☐ IS subject to recorded restrictive covenants and that the applicable request(s) is permitted, or not otherwise in violation, of the same recorded restrictive covenants.
- ☐ IS subject to recorded restrictive covenants and that the applicable request(s) was not permitted, however a waiver has been granted as provided for in the applicable covenants. (Applicant must provide an original of the applicable issued waiver)
- ☒ IS NOT subject to recorded restrictive covenants

SIGNATURE(S) OF APPLICANT(S):

I (we) certify as property owners or authorized representative that the information shown on and any attachment to this application is accurate to the best of my (our) knowledge, and I (we) understand that any inaccuracies may be considered just cause for postponement of action on the request and/or invalidation of this application or any action taken on this application.

I (we) further authorize staff of Pickens County to inspect the premises of the above-described property at a time which is agreeable to the applicant/property owner.

November 20, 2014

Signature of Applicant
Owner's Representative & Managing Member of MRR Pickens, LLC
PROPERTY OWNER'S CERTIFICATION

The undersigned below, or as attached, is the owner of the property considered in this application and understands that an application affecting the use of the property has been submitted for consideration by the Pickens County Planning Commission.

See Above

Signature of Owner(s)

Date

PICKENS COUNTY STAFF USE ONLY

Application Processing	Date Received _____	Received By _____	Planning Commission Hearing Date _____
	Pre-Application meeting held with _____ on _____		Deadline for Notice to Paper _____ to run _____
	Application Forwarded to (date):		Letter of Hearing Sent to Applicant _____
	DHEC _____ ☐ N/A		Sign Placement Deadline _____
	County Engineer _____ ☐ N/A		Planning Commission Action (date) _____
	SCDOT _____ ☐ N/A		☐ Approval ☐ Approval w/ modifications ☐ Denial
	Local VFD _____ ☐ N/A		Modifications _____
	School Board _____ ☐ N/A		Notice of Action to Applicant _____
Hearing and Action			



Pickens County, South Carolina
LAND USE REVIEW
Application Process and Requirements

This application applies to the following uses when proposed in the unincorporated areas of the county:

- A. Hazardous Waste and Nuclear Waste Disposal Sites
- B. Motorized Vehicle Tracks (commercial)
- C. Mining and Extraction Operations
- D. Gun Clubs, Skeet Ranges, Outdoor Firing Ranges
- E. Stockyards, Slaughterhouses, Feedlots, Kennels and Animal Auction Houses
- F. Golf Courses
- G. Certain Public Service Uses
 - a. Land Fills
 - b. Water and Sewage Treatment facilities
 - c. Electrical Substations
 - d. Prisons
 - e. Recycling Stations
 - f. Transfer Stations
 - g. Schools
 - h. Water and Sewer Lines
- H. Large Scale Projects
 - a. Any project that is capable of generating 1,000 average daily vehicle trips or more.
 - b. A truck or bus terminal, including service facilities designed principally for such uses.
 - c. Outdoor sports or recreational facilities that encompass one (1) or more acres in parking and facilities.
- I. Major Subdivisions
- J. Wireless Communication Towers
- K. Tattoo Facilities
- L. Mobile Home Parks/Manufactured Home Parks
- M. Sexually Oriented Business
- N. Salvage, junk, and scrap yards
- O. Uses within the Airport District

APPLICATION PROCESS

- 1) A Pre-Application meeting with a Planning Staff member is encouraged, however not required. This meeting should take place well in advance of filing an application with the Planning Department so that all questions can be asked of staff prior to the formal submittal of any application.
- 2) An application is submitted, along with any required filing fee, to the Planning Department according to the set deadline schedule (see attached schedule).
- 3) The Planning Department shall review the application for completeness within 5 business days of submission. Incomplete or improper applications will be returned to the applicant.
- 4) If the application is considered complete and proper then the planning staff will further review the application and may make a written recommendation. The written recommendation is available to the applicant approximately five days before the Planning Commission's public hearing. Copies of the report may be obtained from the Planning Department.
- 5) Legal notice is required to be printed in a newspaper of general circulation in Pickens County. This notice currently appears in the Pickens Sentinel and Easley Progress at least 15 days before public hearings in the legal notice section.
- 6) A public hearing sign is erected on the property at least 15 days before the public hearing. This sign will be erected and removed by staff.

- 7) The Planning Commission reviews the proposed land use request and takes action on the request following the public hearing. The Planning Commission meets the second Monday of each month. Meetings are held at 6:30 P.M. at the County Administration Building, Main Conference Room, Pickens, South Carolina
- 8) The Commission shall review and evaluate each application with respect to all applicable standards contained within the Unified Development Standards Ordinance (UDSO). At the conclusion of its review, the Planning Commission may approve the proposal as presented, approve it with specified modifications, or disapprove it.
- 9) In consideration of a land use permit, the Planning Commission shall consider factors relevant in balancing the interest in promoting the public health, safety, or general welfare against the right of the individual to the unrestricted use of property and shall consider specific, objective criteria. Due weight or priority shall be given to those factors that are appropriate to the circumstances of each proposal.
- 10) A decision of the Planning Commission may be appealed as provided for in Title 6, Chapter 29 of the South Carolina Code.
- 14) Within 15 days of the Planning Commission taking action on the request, planning staff will send the applicant a Notice of Action.
- 15) Any applicant wishing to withdraw a proposed land use permit prior to final action by the Planning Commission shall file a written request for withdrawal with the Director of Community Development.
 - a. If the request for withdrawal is received prior to the publication of notice for the public hearing, the Director of Community Development shall withdraw the application administratively without any restriction on the re-filing of a proposed land use permit on the property in the future.
 - b. If notice has been published (or is irretrievably set for publication) and the application has not been heard by the Planning Commission, the application shall remain on the Planning Commission's public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the Planning Commission.
- 16) All associated fees are non-refundable. If a case is withdrawn or postponed at the request of the applicant, after the notice has been placed with the newspaper, the applicant is responsible for all associated cost of processing and advertising the application; the County must be reimbursed for these cost by the applicant.

The items listed below are necessary to process a Land Use Review application. Please see the attached schedule of filing deadlines and meeting dates. A pre-application conference with Planning Staff to discuss the proposal is recommended, but is not required.

Any amendments to an application must be submitted to the Planning Department for staff review at least 10 days prior to the Planning Commission hearing.

REQUIRED ITEMS

1) **APPLICATION FORM:**

One (1) copy of the appropriate Application form with all required attachments and additional information must be submitted.

2) **LETTER OF INTENT:**

- a. One (1) copy of a Letter of Intent (must be typed or legibly printed).
- b. The Letter of Intent must give details of the proposed use of the property and should include at least the following information:

1. A statement as to what the property is to be used for;
2. The acreage or size of the tract;
3. The land use requested;
4. The number of lots and number of dwelling units or number of buildings proposed;
5. Building size(s) proposed;
6. If a variance of the subdivision regulations is also being requested, a brief explanation must also be included.

3) **SKETCH PLAN (major subdivisions):**

- a. An application for a land use permit for a major subdivision shall be accompanied by a sketch plan.
- b. A sketch plan must be prepared by a professional engineer, a registered land surveyor, a landscape architect, or a certified land planner. The applicant may prepare the concept plan if approved by the Community Development Director.
- c. The sketch plan shall be drawn to approximate scale on a boundary survey of the tract or on a property map showing the approximate location of the boundaries and dimensions of the tract.
- d. The sketch plan shall show, at a minimum, the following:
 1. Proposed name of the development
 2. Acreage of the entire development
 3. Location map
 4. Proposed lot layout
 5. Minimum lot size with anticipated overall density (lots/acre)
 6. Setbacks, with front setbacks shown, side and rear may be stated
 7. All proposed rights-of-way with applicable widths
 8. Natural features located on the property
 9. Man-made features both within and adjacent to the property including:
 - a) Existing streets and names (with ROW shown)
 - b) City and County boundary lines
 - c) Existing buildings to remain
 10. Proposed areas of public dedication (conservation areas/open space)
 11. Flood plains and areas prone to flooding
 12. Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

4) **SKETCH PLAN (multi-family and non-residential):**

- a. An application for a land use permit for a multi-family project or a non-residential project shall be accompanied by a sketch plan.
- b. A sketch plan must be prepared by a professional engineer, a registered land surveyor, a landscape architect, or a certified land planner. The applicant may prepare the sketch plan if approved by the Community Development Director.
- c. The sketch plan shall be drawn to approximate scale on a boundary survey of the tract or on a property map showing the approximate location of the boundaries and dimensions of the tract.
- d. The sketch plan shall show, at a minimum, the following:

1. Proposed name of the development
2. Acreage of the entire development
3. Location map
4. Proposed building(s) location(s)
5. Anticipated property density stated as a FAR (Floor to Area Ratio)
6. Setbacks, with front setbacks shown, side and rear may be stated
7. Proposed parking areas
8. Proposed property access locations
9. Natural features located on the property
10. Man-made features both within and adjacent to the property including:
 - a) Existing streets and names (with ROW shown)
 - b) City and County boundary lines
 - c) Existing buildings to remain
11. Required and proposed buffers and landscaping
12. Flood Plains and areas prone to flooding
13. Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

5). **ATTACHEMENTS**

All attachments must be included in order for the application to be considered complete

- Attachment A – "Standards For Land Use Approval Consideration"
- Attachment B – "Application Checklist"



Pickens County, South Carolina
Attachment A
LAND USE REVIEW
Standards of Land Use Approval Consideration

In consideration of a land use permit, the Planning Commission shall consider factors relevant in balancing the interest in promoting the public health, safety, and general welfare against the right of the individual to the unrestricted use of property and shall specifically consider the following objective criteria. Due weight or priority shall be given to those factors that are appropriate to the circumstances of each proposal.

Please respond to the following standards in the space provided or you may use an attachment as necessary:

Please see "Attachment A-Additional Information" for responses to these questions.

- (A) Is the proposed use consistent with other uses in the area or the general development patterns occurring in the area?

- (B) Will the proposed use not adversely affect the existing use or usability of adjacent or nearby property?

- (C) Is the proposed use compatible with the goals, objectives, purpose and intent of the Comprehensive Plan?

- (D) Will the proposed use not cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

- (E) Is the property suitable for the proposed use relative to the requirements set forth in this development ordinance such as off-street parking, setbacks, buffers, and access?

- (F) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?



Pickens County, South Carolina
Attachment B
LAND USE REVIEW
Application Checklist

The following is a checklist of information required for submission of a Land Use Review application. Incomplete applications or applications submitted after the deadline will may be delayed.

<u>Yes</u>	Completed application form
<u>Yes</u>	Letter of intent
<u>No</u>	Sketch Plan (major subdivisions) – 8 copies and one (1) reduction to 8 ½" x 11"
<u>Yes</u>	Sketch Plan (for multi-family and non-residential) – 8 copies and one (1) reduction to 8 ½" x 11"
<u>Yes</u>	Attachment "A"

**ATTACHMENT A
ADDITIONAL INFORMATION**

(A) Is the proposed use consistent with other uses in the area or the general development patterns occurring in the area?

Yes, the proposed use is consistent with other uses in the area. The northern site boundary is directly across the street from the Norfolk-Southern Railway and King Asphalt's heavy industrial operations. The Vulcan Materials quarry and OmniSource scrap metals collection site are also in close vicinity on Greenville Highway. It is also important to note that MRR's operations will be largely offset from the Greenville Highway road frontage by several (currently wooded and undeveloped) industrial lots that were sold to Pickens County by MRR as part of the negotiated Development Agreement executed between the County and MRR.

There is a small residential development consisting of approximately seven homes that borders the western site boundary, on Clover Street. MRR's operations will be well buffered from these residences by a heavily wooded steep ravine and natural drainage-way. MRR's operations are also subject to a state regulation and a permit from the South Carolina Department of Health and Environmental Control (DHEC) that prohibits any waste disposal within 1000 feet of these structures.

The eastern facility boundary currently consists of undeveloped timberland, the larger portion (162 +/- acres) which MRR is in the process of donating to Pickens County for their future use as a public park/recreational area.

The southern border of the facility is largely north of Woodbine Road, separated by heavy woodlands, much of which is wetlands and will present challenges for future development. A small portion of the MRR property, approximately 100 feet, fronts on Woodbine Road; however this is separated from our proposed development by an unnamed creek, precluding its use in the proposed operation. MRR has no plans for development of this acreage.

Moreover, as stated in the MRR/Pickens County Development Agreement, *"The County recognizes that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County."*

(B) Will the proposed use not adversely affect the existing use or usability of adjacent or nearby property?

The proposed use will not adversely affect the existing use or usability of adjacent or nearby properties. In fact, as outlined in the MRR/Pickens County Development Agreement, much of the surrounding land will be converted to a higher use for the betterment of County residents and businesses as outlined above in item (A).

(C) Is the proposed use compatible with the goals, objectives, purpose and intent of the Comprehensive Plan?

The preface to the Pickens County Comprehensive Plan states the following as its "Vision for the Future":

Pickens County is a progressive county providing a mix of urban and rural lifestyles. It endeavors to ensure the quality of its lifestyles through proper planning, which encourages:

Economic growth, which would promote job opportunity,

Protection and preservation of forests and farmland,

Urban development to occur primarily contiguous to the existing cities,

Rural development throughout the county,

A spectrum of development compatible with the lifestyles of Pickens County, and

Protection of the mountains and lakes, including parks, to enhance family recreation, and tourism.

The statements above constitute the goals for Pickens County. They can be accomplished by achieving the objectives stated for each of the elements of this comprehensive plan.

MRR's overall development plan, as negotiated with Pickens County, and outlined in the Development Agreement, addresses – in positive fashion – almost every aspect of the Comprehensive Plan's goals and objectives. The properties sold to the County by MRR as part of this agreement are being earmarked for business/industrial development; the dedication of 162 acres by MRR to the County will protect and preserve a large parcel of land that likely will remain primarily forested; the proposed uses of all associated properties promote both urban and rural objectives; and families opportunities for recreation will be forever enhanced.

(D) Will the proposed use not cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

The proposed project will not cause an excessive or burdensome use of public facilities or services. The entrance to the facility is located on the south side of Greenville Highway (SC Highway 93) on a segment of road that is designed for heavy industrial traffic. The project will have no conceivable impact upon the County's schools and limited impact upon water and sewer utilities. A septic system is planned for the site and thus, no sewer service will be required for the facility. Police and fire protection needs for the facility should be consistent with, and certainly no greater than those of the surrounding industrial activities.

(E) Is the property suitable for the proposed use relative to the requirements set forth in this development ordinance such as off-street parking, setbacks, buffers, and access?

The property is entirely suitable for the proposed use relative to the requirements set forth in the County's development ordinance. As described in Item A above, the facility has excellent natural buffers consisting of mature, natural vegetation. Off-street parking will be provided in accordance with the development ordinance. The use is subject to a DHEC permit that requires large buffers that exceed the requirements in the development ordinance.

As previously agreed upon and documented in the Development Agreement, the proposed development is consistent with the applicable County laws and land use regulations. The Agreement further states that the Land Development regulations and laws in force at the time of execution of the Agreement govern the development of the property.

(F) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

This project reflects a reasonable balance between the promotion of the public health, safety, morality, general welfare, and the right to moderately unrestricted use of property. These balancing issues were addressed when MRR and Pickens County entered into the Development Agreement referenced above. To ensure a reasonable balance, MRR agreed to gift large portions of land contiguous with the property for the beneficial use of the community and industrial development. Furthermore, by issuing a permit to MRR for the proposed use, DHEC, the agency charged with

protecting public health, concluded the proposed use promotes the general welfare in the area.

(End)

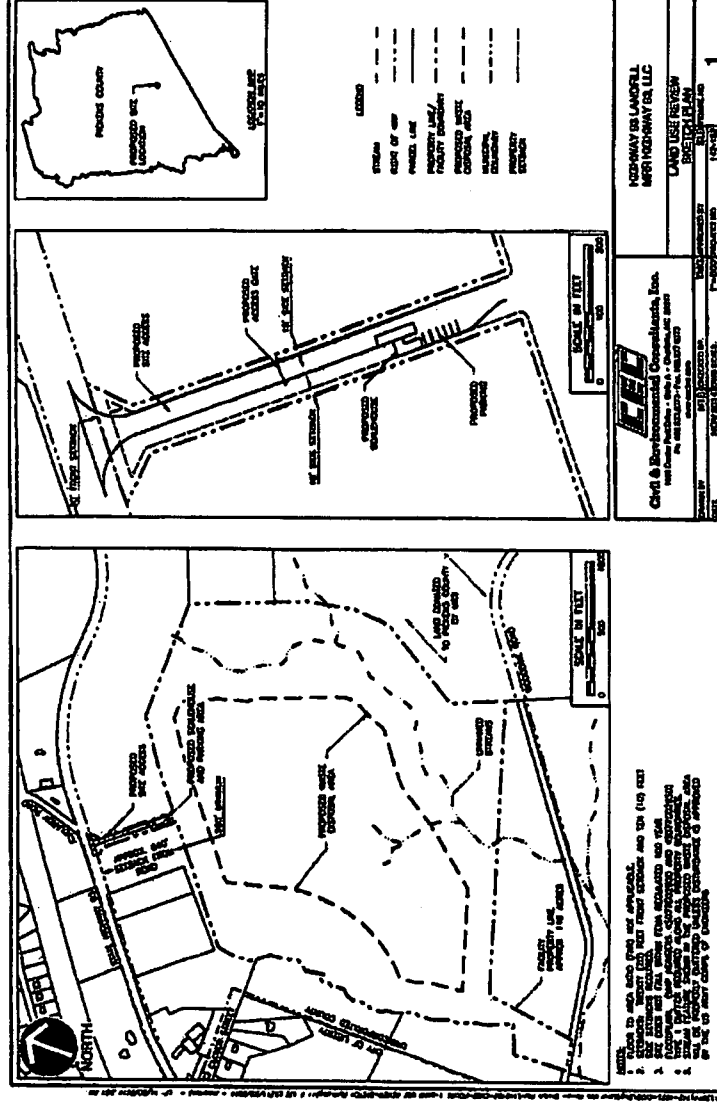


EXHIBIT J

Exhibit J

PICKENS COUNTY PLANNING COMMISSION

MINUTES

of

January 12th, 2016

6:30pm

PICKENS COUNTY ADMINISTRATION BUILDING
Main Conference Room

MEMBERS PRESENT:

Bill Cato, Vice Chair
Weldon Clark
Bob Ballentine
Dennis Reinert
Jo Johnston

STAFF PRESENT:

Ken Roper, County Attorney
Chris Brink, Community Development Director
Marshall Brown, County Planner

Welcome and Call to Order

Mr. Cato, presiding official, called the meeting to order at 6:30 p.m.

Mr. Cato asked those in attendance to join in a moment of silence and recital of the Pledge of Allegiance.

Mr. Cato asked the members of the Commission to introduce themselves and to state which County Council member they represent.

Approval of Minutes

Mr. Cato asked for a motion regarding the minutes of the December 8th, 2014 meeting. Mr. Ballentine motioned to approve the minutes. Ms. Johnston seconded the motion; motion passed unanimously.

Public Comments

No one was present wishing to address the Commission.

Public Hearing

Mr. Cato opened the public hearing portion of the meeting.

1. LU-15-001 SCDHEC Class 2 Landfill land use request for MRR Pickens, LLC.
Proposed site is located at 2810 Greenville Highway, Liberty.
Tax Map# 4098-00-92-1867

Mr. Cato opened the public hearing.

Mr. Dan Moore, Mr. Frank Hector, Mr. Chris Roof, Mr. Scott Brown, and Ms. Jessie McNair, appeared before the Commission as representatives of MRR Pickens, LLC. Mr. Moore explained that this request was exactly the same as MRR Pickens, LLC's request from 2007; that nothing had changed; that a development agreement was executed between the property owner and Pickens County and is still in effect; that approximately 160 acres was donated to Pickens County, per that development agreement, for use as a recreational park.

Mr. Moore continued to give specifics of the project; that SCDHEC issued their approval and permit in November 2008, however, due to economic factors, the project was put on hold. Mr. Moore felt that the economy had rebounded enough that its now makes economic sense.

The applicant's representatives gave a review of the project regarding location, size of the facility, type of facility, road frontage and access, and setbacks from adjacent properties.

Mr. Clark asked the meaning of the company name. Mr. Hector responded that it meant Material Recovery and Recycling (MRR).

Mr. Reinert asked what will happen to the site once the landfill is closed. Mr. Moore stated that according to the development agreement, it would be offered to the county.

Mr. Ballentine asked what the life expectancy of the landfill was. Mr. Moore stated that according to the SCDHEC permit, they have a capacity of 6 million cubic yards; that at the 2008 disposal rate at the County C&D landfill of 20,000 tons yearly, it would take approximately 50 years to fill the facility.

Mr. Cato asked how deep the landfill would be and how odor would be handled. Mr. Roof stated that the depth is limited to the depth of the groundwater level; that SCDHEC requires a depth a minimum of 3 feet above and that no household waste is permitted at the facility so there would be no odor issues.

Mr. Cato also inquired about the acceptance of asbestos. Mr. Brown stated that asbestos is allowed to be disposed of in the facility, however, it would be placed in a dedicated location in the facility and all material would be handled according to all applicable requirements.

Ms. Johnston questioned what materials would be reclaimed/recycled. Mr. Moore stated that all recyclable material would be segregated or separated, like concrete or un-treated un-painted wood, and would be crushed or processed and sold back to the public.

Ms. Johnston also asked how the facility would be operated on a daily basis. Mr. Moore stated that the facility would be staffed daily to separate the material, cover it, work the scale facility, etc.

There were no additional comments from the applicant, nor was any one present that wished to speak in opposition.

Mr. Cato asked if there were any questions from the Commission.

There being no further comments or questions, Mr. Cato closed the public hearing and called for a motion.

Mr. Clark made the motion to approve the request. Motion was seconded by Mr. Reinert. Motion passed unanimously.

Mr. Cato opened the next public hearing.

2. SD-15-001 Addition of 7 additional single-family lots to existing subdivision The Groves on the Ridge. Site is located at Arrowhead Drive, Central.
Tax Map# 4055-05-29-1589 et al

Mr. Alan King appeared before the Commission and gave a brief overview of his request and with the assistance of a projector, provided a visual overview as well; that he wanted to take several existing lots within his development and divide them further, creating anywhere from 7 to 9 new lots, still meeting the minimum county requirements; that some of the parcels would have road frontage and others would be served by newly created easements; that he was seeking Planning Commission approval prior to him hiring a surveyor to draw out the parcels and the expense that would involve. Mr. King stated that the project is served by a private, community sewer system and that adding to the project would keep the overall daily permitted flow below what SCDHEC has permitted.

Mr. Brink went over the staff recommendation with the members of the Commission; that the applicant hadn't presented enough material in a form that was clearly understandable or detailed enough so that a thorough review could be conducted to verify that the proposal would meet minimum county standards; that there are too many questions and concerns at this point for staff to give a recommendation that was fair to the applicant as well as a recommendation that could be fully supported by county standards; that the material that was initially presented with the application and material that was presented later did not match; that there was a discrepancy with what was initially requested and what was requested this evening, regarding the potential number of new lots.

Staff recommended that the request be tabled until such time more detailed plans could be presented that are drafted by a licensed surveyor showing that all applicable county standards would be met and that the public hearing be re-advertised according to what the applicant's new request is regarding number of new lots.

There being no further questions from the members of the Commission or from the applicant, Mr. Cato closed the public hearing.

Mr. Ballentine motioned that the action on the request be tabled until such time the applicant could have prepared and presented more detailed proposed plans drawn up by a licensed surveyor.

Mr. Clark seconded the motion, motion passed unanimously.

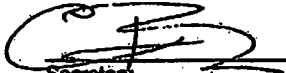
Commissioners and Staff Discussion

Mr. Brink asked that the Special Meeting be postponed until such time all members of the Commission could be present in order that all members receive the same presentation at the same time.

Adjourn

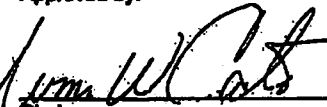
There being no additional matters to be taken up by the Commission, Mr. Clark motioned for the meeting to be adjourned. Motion was seconded by Mr. Ballentine. Meeting was adjourned at 7:22pm

Submitted by:


Secretary

2/9/15
Date

Approved by:


Chairman
Vice

02/09/2015
Date

EXHIBIT K

Exhibit K

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Vice Chair
ROB BALLENTINE, District 1
JO JOHNSTON, District 3
WELDON CLARK, District 4
DENNIS REINERT, District 5
ROB YOUNG, District 6

January 13, 2015

TO: MRR Pickens, LLC
c/o F. Norbert Hector, Jr.
7413 Six Forks Road, #358
Raleigh, North Carolina 27615

RE: Approval of Land Use Request
LU-15-001 SC DHEC Class II Landfill Land Use request, Liberty, SC
Tax Map #4098-00-92-1867

Dear Mr. Hector:

On January 12, 2015, the Pickens County Planning Commission voted unanimously to approve the land use request referenced above.

This letter represents the final decision of the Planning Commission. An appeal from this decision may be taken to the circuit court within thirty days after the date of this letter (per SC Code of Laws 6-29-1150).

In addition to the Land Use approval by the Planning Commission, planning staff is prepared to process and approve the applicable development permit application for the project. A copy of the application has been included for your convenience. Along with the enclosed application, five stamped and signed sets of the final project drawings will be required.

On the cover sheet of the provided plans, please ensure the applicable Planning Commission Case Number, approval date, and all applicable plan certification blocks (properly signed) have been affixed.

The issuance of a development permit is a requirement for the issuance of any other permits which may be required from our Building Codes department. Please contact them (898-5950) for information on items/materials/plans which may be needed by them. Robert Wilbanks is the Building Official.

It has been a pleasure working with you through the Planning Commission process. If you have any questions, please contact me at (864) 898-5989.

Sincerely,

A handwritten signature in black ink, appearing to be "C. Brink", is written over a circular stamp. Below the signature, the text "Christopher J. Brink, AICP" and "Director" are printed.

Christopher J. Brink, AICP
Director

Cc: File - LU-15-001

Encls.

EXHIBIT L

Exhibit L

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Chair
WELDON CLARK, District 4, Vice Chair
BOB BALLENTINE, District 1
JO JOHNSTON, District 3
DENNIS REINEKT, District 5
BOB YOUNG, District 6

AGENDA AMENDED

Pickens County Administration Building
Main Conference Room
222 McDaniel Avenue
Pickens, South Carolina

January 11th, 2015
6:30 pm

REGULAR MEETING

- I. **Welcome and Call to Order**
Moment of Silence
Pledge of Allegiance
- II. **Introduction of Members**
- III. **Approval of Minutes**
December 14, 2015
- IV. **Public Comments**
Members of the public are invited to address the Planning Commission on any relevant topic not listed on this agenda. In order to speak, individuals should sign up prior to the meeting on the provided sign-up sheet.
- V. **Public Hearings**
 1. LU-16-001 Verizon Wireless requesting Land Use approval for a new 170' wireless communication tower at 446 Lenhardt Road, Easley.
TMS# 5120-14-42-8765
 2. SD-16-001 Magnolia Ridge, 40 Lot Residential Development located on Saluda Dam Road, Easley. Project is located on approximately 29.22 acres.
TMS# 5140-13-02-7737/5140-13-02-6097
- VI. **Commissioners and Staff Discussion**
- VII. **Executive Session**
 1. Receipt of legal briefing regarding proposed landfill
- VIII. **Adjourn**

2016 FEB 1 PM 1 41

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2016-CP-39-120

VERIFICATION

PERSONALLY APPEARED BEFORE ME, F. Norbert Hector, Jr., who, upon being duly sworn, deposes and states as follows:

I am the Managing Member of MRR Pickens, LLC with competent authority to make this attestation. I have read the allegations contained in the attached Verified Complaint and Petition for Appeal, and I verify that the factual allegations are true and correct to the best of my information and belief. The exhibits attached to the Verified Complaint and Petition for Appeal are true and accurate copies of documents made and kept in the course of the regularly conducted business of MRR Pickens, LLC or in the public record.

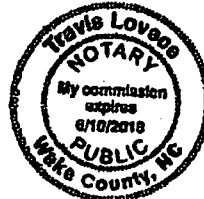
This th 30 day of JANUARY, 2016.


F. Norbert Hector, Jr.
MRR Pickens, LLC

SWORN TO AND SUBSCRIBED BEFORE ME

30th day of JANUARY 2016


NOTARY PUBLIC FOR NORTH CAROLINA
MY COMMISSION
EXPIRES: 6/10/2018



2016-CP-39- 100

2016 FEB 1 PM 1 41

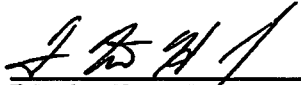
VERIFICATION

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

PERSONALLY APPEARED BEFORE ME, F. Norbert Hector, Jr., who, upon being duly sworn, deposes and states as follows:

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This TH 30 day of JANUARY, 2016.


F. Norbert Hector, Jr.
MRR Pickens, LLC

SWORN TO AND SUBSCRIBED BEFORE ME

30th day of January 2016

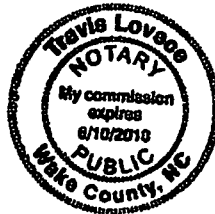


NOTARY PUBLIC FOR NORTH CAROLINA

MY COMMISSION

EXPIRES:

6/10/2018



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
MRR Pickens, LLC,	2016 FEB 1 1 PM 1 42	CIVIL ACTION No.: 2016-CP-39-100
Plaintiff,	CLERK OF COURT	
	PICKENS COUNTY	
	SOUTH CAROLINA	
vs.	)	
	)	
County of Pickens and William Cato, Weldon	)	PLAINTIFF MRR PICKENS, LLC'S
Clark, Robert Ballentine, Jo Johnston, Dennis	)	MOTION FOR AN EMERGENCY
Reinert, and Bob Young, individually and in	)	PRELIMINARY INJUNCTION
their official capacity as appointed members of	)	
the Pickens County Planning Commission,	)	
	)	
Defendants.	)	
	)	

TO: THE ABOVE-NAMED DEFENDANTS

PLEASE TAKE NOTICE the Plaintiff MRR Pickens, LLC ("MRR Pickens"), by and through its undersigned counsel, moves pursuant to Rule 65 of the South Carolina Rules of Civil Procedure for a Preliminary Injunction against the Defendants' termination of MRR Pickens' legal rights to develop and operate a Class Two Landfill on the Subject Property as described in the Complaint. This motion is supported by the *Verified* Complaint and Petition for Appeal and the Affidavits of F. Norbert Hector, Jr., attached as **Exhibit 1** and Scott L. Brown, P.E., attached as **Exhibit 2**. In support of this motion, MMR Pickens will respectfully show the following:

1. MRR Pickens has lawfully obtained a permit from the South Carolina Department of Health and Environmental Control ("DHEC") and entered into a binding Development Agreement with Pickens County to develop and operate a Class Two Landfill. In consideration for these agreements, MRR Pickens has, *inter alia*, (1) conveyed 39 acres to the County for use in its future industrial park; (2) gifted real property to Pickens County appraised for One Million One Hundred Seventy Thousand and 00/100 dollars (\$1,170,000.00); and (3) agreed to accept

waste generated by the County at a greatly reduced gate rate. To date, MRR Pickens has invested over Three Million Nine Hundred Thousand and 00/100 dollars (\$3,900,000.00) into the Subject Property.

2. MRR Pickens received its final land use approval from the Defendants on January 13, 2015. The Land Use Approval did not contain any conditions, including no conditions or limitations on the type of Class Two waste that could be disposed of in the landfill.

3. Section A(2) of MRR Pickens' Class Two Permit specifically allows "disposal of items listed in Appendix I of R. 61-107.19 and any other waste approved by [DHEC] for disposal in a Class Two Landfill pursuant to R. 61-107.19, Part IV, Section C.2."

4. On January 11, 2016, Pickens County unexpectedly terminated the landfill operation and ordered MRR Pickens to immediately cease and desist any and all activities at the Subject Property based on unsubstantiated rumors and "media reports". Pickens County threatened MMR Pickens with criminal prosecution, significant fines and jail time if it conducted any activities on the Subject Property.

5. Pickens County made this unlawful and hasty decision without affording MMR Pickens prior notice, the opportunity for a hearing, or due process rights.

6. This decision by Pickens County on January 11, 2016 to terminate the Land Use Approval is overly broad and completely deprives MMR Pickens of the use and enjoyment of the Subject Property which Pickens County had contractually agreed in the Development Agreement could be operated as a Class Two Landfill.

7. Pickens County's decision to terminate MRR Pickens' landfill business was based upon false accusations that MRR Pickens was constructing a *Class Three* landfill based on a preliminary agreement to accept coal combustion residuals (CCR) waste. Pickens County is not

allowed to usurp the role and responsibilities of DHEC in solid waste regulations, or dictate what types of Class Two waste that MRR Pickens is allowed to accept. DHEC – *NOT* Pickens County – is vested with the sole authority to control and enforce the type of waste proper for disposal in the Class Two Landfill.

8. MRR Pickens is not attempting to construct or operate a Class Three landfill and will not accept waste that is not allowed for a Class Two landfill under solid waste laws and regulations.

9. As a Class Two Landfill, MRR Pickens is capable of accepting certain CCR waste. Based on its Class Two Permit, MRR Pickens has a legal right to accept, subject to DHEC approval, CCR and other wastes that demonstrate similar properties to the wastes listed in Appendix I of R. 61-107-19, or waste that test less than ten (<10) times the maximum contaminant level (MCL) as published in R. 61-58, State Primary Drinking Water Regulation.

10. MRR Pickens has reached a preliminary agreement with a third-party to accept CCR waste for disposal in its Class Two Landfill.

11. The CCR that MRR Pickens would accept does meet the regulatory requirements for its permitted and approved Class Two Landfill.

12. MRR Pickens has been informed by the generator of the CCR that it will be deemed “Non-Responsive” and considered ineligible to receive the CCR Class Two waste as a result of Pickens County’s actions that terminate its land use approval.

13. The deadline for MRR Pickens to submit required documentation to accept CCR that meets its Class Two Landfill Permit requirements is on or before the end of February 2016.

14. Pickens County is not prejudiced by the granting of injunctive relief during the pendency of this litigation because MRR Pickens has not finalized the construction of the

landfill, and the landfill will not be operational and capable of accepting the CCR waste until it receives future building permits and DHEC approvals

15. The harm is irreparable as MRR Pickens is being (a) threatened with criminal prosecution, (b) denied the ability to access or conduct any activities on the Subject Property, (c) prevented for performing a time sensitive agreement that is expected to generate profits of approximately Thirty Million and 00/100 (\$30,000,000.00) dollars [is this the correct number?] to MRR Pickens; and (d) denied the very existence of MMR Pickens' business that will result in a loss of goodwill and other losses that cannot be easily calculated into pecuniary terms.

16. A preliminary injunction is reasonably necessary to protect the legal rights of MRR Pickens pending in this action. MRR Pickens would respectfully show that it: (1) would suffer irreparable harm if the injunction is not granted; (2) will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004). MRR Pickens is not required to prove an absolute legal right when seeking a preliminary injunction, only a "fair question" to raise as to the existence of such a right. *AJG Holdings, LLC v. Dunn*, 674 S.E.2d 505, 382 S.C. 43 (S.C. App. 2009); *Williams v. Jones*, 92 S.C. 342, 347, 75 S.E. 705, 710 (1912).

17. The purpose of an injunction is to preserve the status quo and prevent possible irreparable injury to a party pending litigation. "Irreparable injury does not mean that the injury is beyond the possibility of compensation in damages." Flanagan, J., *South Carolina Civil Procedure*, 3rd Ed. (S.C. Bar. 2010) p. 533. Irreparable harm is found to prevent misappropriate or denial of the use of property, to prevent a regulatory taking of one's property rights, or the loss of business. In *Levine v. Spartanburg Reg'l Services Dist.*, 626 S.E.2d 38, 367 S.C. 458 (S.C. App. 2005), the South Carolina Court of Appeals recognized that appellate courts have upheld

injunctive relief in cases to prevent the loss of a business opportunity, loss of business goodwill, and economic loss threatens the very existence of a plaintiff's business.

WHEREFORE, MRR Pickens requests an Order granting a Preliminary Injunction that enjoins Pickens County from taking any further action to suspend, terminate, fail to permit, or refusing to allow MRR Pickens from developing and operating its permitted and approved Class Two Landfill on the Subject Property and allowing it to accept waste allowed by DHEC and the Solid Waste regulations for a Class Two Landfill. MRR Pickens requests this Order must be entered on or before February 24, 2016. Further, MRR Pickens request such other relief as this Court may deem just and proper.

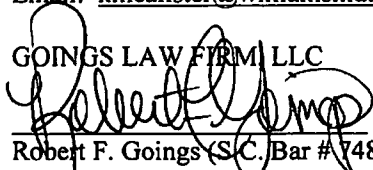
Dated this 1st day of February, 2016.

Respectfully Submitted,

~~WILLIAMS MULLEN~~



Jessica J.O. King (S.C. Bar #11202)
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ATTORNEYS FOR PLAINTIFF

Exhibit 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

AFFIDAVIT OF F. NORBERT HECTOR, JR.

F. Norbert Hector, Jr. being duly sworn deposes and says the following:

1. My name is F. Norbert Hector, Jr. I am of the age of majority and am of sound mind and body. This Affidavit is not being written under stress or promise of anything. I am not under the influence of drugs or alcohol at the time this Affidavit is written.
2. I am the Managing Member of MRR Pickens, LLC ("MRR Pickens"), a South Carolina Limited Liability Company.
3. In my position for MRR Pickens, I am responsible for oversight of all MRR companies and related entities including their landfill development projects.
4. MRR Pickens is the owner of certain real property located at 2180 Greenville Highway, Liberty, County of Pickens, South Carolina (the "Subject Property") and identified by Pickens County Tax Map Number 4098-19-72-2303.
5. On March, 8, 2007, MRR Pickens entered into a Development Agreement with Pickens County relating to a large parcel containing the Subject Property and consisting of approximately 446.70 acres of land, bound on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916 (the "Original Tract").
6. Since March 2007, MRR Pickens has subdivided the Original Tract into several parcels, including the Subject Property.
7. The Development Agreement was amended by mutual consent of the County and MRR Pickens on April 6, 2015.

8. On November 3, 2008, South Carolina Department of Health and Environmental Control (DHEC) issued a Class Two Solid Waste Landfill Permit to MRR Pickens for the Subject Property (the "Class Two Permit").
9. The Class Two Permit became effective on or about March 10, 2009.
10. The Class Two Permit received a minor modification by DHEC on August 10, 2015 to allow MRR Pickens the option to install an alternate liner design.
11. The current Class Two Permit allows MRR Pickens to accept Class Two waste as listed in Appendix I of the Class Two DHEC regulations, and any other waste approved by DHEC which meets regulatory guidelines.
12. To date, MRR Pickens has not transported or disposed of any waste or other materials at the Class Two Landfill.
13. As promised in the Development Agreement, MRR Pickens conveyed 39 acres of platted, undeveloped property for development as the Pickens County Industrial Park expansion.
14. As promised in the Development Agreement, on December 30, 2014, MRR Pickens gifted approximately 162.2 acres adjacent to the Subject Property.
15. At the time of the transfer of title to Pickens County, the 162.2 acre tract was appraised to be worth one million one hundred and seventy thousand dollars (\$1,170,000).
16. On November 24, 2015, MRR Pickens submitted to the County its Letter of Intent and Application for Land Use Review Hearing for a **lined** Class Two Landfill.
17. On January 12, 2015, I attended the Planning Commission public meeting where it heard and approved MRR Pickens' Land Use Approval request.

18. At the Planning Commission public meeting, MRR never stated it was not lining the landfill or that it was planning to restrict its waste to Construction & Demolition/Land-Clearing Debris (C&D/LCD) waste.

19. In its Letter of Intent for the Land Use Approval process, MRR Pickens expressly stated the landfill would be lined.

20. On January 13, 2015, the Planning Commission issued its Land Use Approval to Pickens County to allow MRR Pickens to construct and operate a Class Two Landfill on the Property (the "Land Use Approval").

21. In reliance on the Development Agreement, as amended, and the Land Use Approval, MRR has spent to date approximately 3.9 million dollars for the approved Proposed Use of the Subject Property as a Class Two Landfill.

22. On January 12, 2016, I received an electronic copy of a letter from Pickens County Planning Commission indefinitely suspending MRR Pickens' Land Use Approval (the "Land Use Suspension").

23. To my knowledge, no member of the Pickens County Planning Commission has requested information from MRR Pickens relating to the false allegations in the Land Use Suspension.

24. MRR Pickens was not given prior notice or a right to a hearing before the Planning Commission issued the Land Use Suspension.

25. No Building Official or Code Enforcement Officer employed by the County has notified MRR Pickens that it is in violation of any a provision of the County's Uniform Development Standards Ordinance.

26. MRR Pickens has a tentative agreement to accept CCR from a third-party for disposal in the Class Two Landfill.
27. The agreement is contingent upon DHEC approving the CCR after characterization determines it meets the requirements for disposal at the Class Two Landfill.
28. If the CCR does not meet the regulatory requirements for waste to be disposed in the Class Two Landfill, MRR Pickens will not be allowed by DHEC to dispose of it on the Subject Property.
29. MRR Pickens has not yet submitted a waste characterization plan for approval from DHEC to accept CCR at the Subject Property.
30. The agreement is also contingent upon an award of one or more bids that MRR Pickens plans to make in response to a Request for Proposal (RFP) from the generator of the CCR ("the Project").
31. The deadline to submit bids is in late February 2016.
32. MRR Pickens has been informed that it will be deemed "Non-Responsive" and not considered as eligible to bid on the Project if it does not have the applicable land use approval from Pickens County for the Subject Property.
33. The RFP allows MRR Pickens to bid on multiple projects and be awarded all or some of the projects for which it submits bids.
34. Under its current Class Two Permit without any modification or variance thereto, MRR Pickens could potentially accept 70,500 tons a year of CCR that meet Class Two Landfill regulatory and Federal requirements and are approved by DHEC.

35. The Land Use Suspension issued by Pickens County Planning Commission not only prohibits MRR Pickens from accepting CCR waste at its Class Two Landfill, it also prohibits us from developing our facility and accepting any Class Two waste, including C&D/LCD.

36. If MRR Pickens is awarded one or more bids for the Project, it has the potential to make in excess of \$25,000,000.00 over the life of the landfill.

37. Upon information and belief, MRR Pickens is expected to be one of only a few prospective bidders for the Project because there are a limited number of potential disposal sites in the desired vicinity of the CCR.

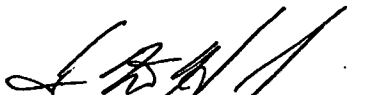
38. During discussions relating to the Development Agreement, the First Amendment to the Development Agreement, and the Land Use Approval, MRR Pickens has never indicated it would limit its waste stream to C&D/LCD Waste or Pickens County's waste.

39. MRR Pickens has never indicated to anyone that it would not take certain types of Class Two Waste allowed by the regulations and its permit.

40. MRR Pickens has met its obligations under the Development Agreement and attached Host Agreement, as amended, and plans to honor its future obligations to accept County Class Two waste in addition to any other DHEC Class Two approved waste.

Further affiant sayeth not.

Dated January 28, 2016.


F. Norbert Hector, Jr.

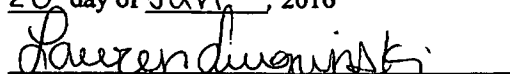
Wake, NC
Signed and sworn to before me this
28 day of Jan, 2016

Notary Public for the State of North Carolina
My commission expires Dec. 10, 2017



Exhibit 2

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

)
)
)

2016 FEB 1 PM 1 42
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
PICKENS COUNTY
SOUTH CAROLINA

AFFIDAVIT OF SCOTT L. BROWN

Scott L. Brown, being duly sworn deposes and says the following:

1. My name is Scott L. Brown. I am of the age of majority and am of sound mind and body. This Affidavit is not being written under stress or promise of anything. I am not under the influence of drugs or alcohol at the time this Affidavit is written.

2. I am a Professional Engineer (P.E.) licensed in South Carolina (License Number 25687).

3. I have been a registered P.E. for over eight years in South Carolina specializing in solid waste permitting, management and disposal issues.

4. From 2011 to the present, I have been a Vice President at Civil & Environmental Consultants, Inc. (CEC), a civil engineering and environmental consulting firm with offices across the United States including South Carolina, North Carolina, Ohio, Missouri, Michigan, Pennsylvania, Tennessee, Massachusetts, Indiana, West Virginia, Texas, Illinois and Arizona.

5. Prior to taking my position at CEC in 2011, I was Supervising Engineer at Brown and Caldwell, Regional Manager/Sr. Project Manager at B.P. Barber, and Manager of Solid Waste Services for Mecklenburg County, North Carolina.

6. In my position at CEC, I am responsible for managing CEC's North Carolina and South Carolina offices, overseeing 29 engineers, scientists, technicians and consultants, and providing engineering and consulting services to CEC's clients, including numerous clients in the solid waste industry.

7. Since August of 2014, I have been an environmental consultant to MRR Pickens, LLC (MRR Pickens). MRR Pickens hired me and CEC to assist in recent permitting and design for their Class Two Landfill in Pickens County, South Carolina (the "Class Two Landfill").
8. On January 12, 2015, I attended a Pickens County Planning Commission public meeting on MRR Pickens' Land Use Approval request.
9. During the public meeting, neither I nor other representatives of MRR Pickens stated the company was not lining the landfill.
10. During the public meeting, neither I nor other representatives of MRR Pickens stated that the company was planning to restrict its waste in the Class Two Landfill to Construction and Demolition/Land Clearing (C&D/LCD) waste or County generated waste.
11. MRR Pickens Class Two Permit currently allows it to dispose of 70,500 tons per year of Class Two waste.
12. According to the 2014 DHEC South Carolina Solid Waste Annual Report, Pickens County Landfill is currently permitted to receive 20,000 tons per year of Class Two waste.
13. According to the FY2014, 2013, and 2012 DHEC South Carolina Solid Waste Annual Reports, Pickens County's Class Two Landfill received 15,512 tons of Class Two waste in FY2014, 14,367 tons in FY2013, and 15,282 tons in FY2012.
14. In assisting MRR Pickens with its permitting needs for the Class Two Landfill in Pickens County, I have studied MRR Pickens' Class Two Permit and the South Carolina DHEC Regulations applicable to this project, DHEC Regulations 61-107.17 and 61-107.19 (the "DHEC Solid Waste Regulations").

15. MRR Pickens current Class Two Permit allows it to accept for disposal Class Two waste listed in Appendix I of the regulations and any other waste approved by DHEC for disposal in a Class Two Landfill pursuant the DHEC Solid Waste Regulations.
16. The DHEC Solid Waste Regulations allow disposal of wastes other than those listed in Appendix I (which includes construction and demolition waste) in a Class Two Landfill, so long as the waste demonstrates similar properties to the Appendix I waste and are approved by DHEC, or any waste that tests less than ten (10) times the maximum contaminant level set by State Primary Drinking Water Regulations.
17. Pursuant to the DHEC Solid Waste Regulations, before MRR Pickens can place any coal combustion residuals (CCR) or other Class Two wastes not currently listed in its permit, it will be required to submit for DHEC for approval a characterization of the waste to determine its suitability for disposal in the Class Two Landfill.
18. To date, I have not submitted (and to my knowledge, no other person on behalf of MRR Pickens has submitted) a waste characterization of CCR to DHEC for approval of its suitability for disposal at the Class 2 Landfill.
19. I assisted MRR Pickens in designing an optional liner system for the Class Two Landfill in 2014. The liner system was designed to meet the requirements of Subtitle D Section 4001 of the Resource Conservation and Recovery Act and is intended to provide added protection to the environment.
20. Pursuant to the DHEC Solid Waste Regulations Regulation 61-107.19, the potential installation of a Subtitle D liner system does not change the MRR Pickens landfill on the Subject Property from a Class Two Landfill to a Class Three Landfill.

21. According to the FY2014 DHEC South Carolina Solid Waste Annual Report, no new commercial Class Three Landfills can currently be permitted in Pickens County as there is no need for any additional commercial Class Three Landfills as required by DHEC Regulation 61-107.17.

Further affiant sayeth not.

Dated 1-29, 2016.

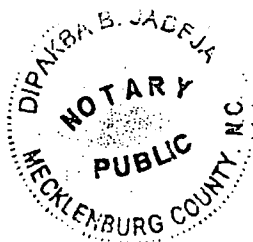
Scott L. Brown
Scott L. Brown

Mecklenburg County

Signed and sworn to before me this
29th day of January, 2016

Dipak B. Jadhav
Notary Public for the State of North Carolina

My commission expires 12-8-2019



STATE OF SOUTH CAROLINA 2016 FEB 24 AM 11:13 IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS

CLERK OF COURTHIRTEENTH JUDICIAL CIRCUIT
PICKENS COUNTY

MRR Pickens, LLC,

SOUTH CAROLINACIVIL ACTION No.: 2016-CP-39-100

Plaintiff,

vs.

County of Pickens and William Cato, Weldon
Clark, Robert Ballentine, Jo Johnston, Dennis
Reinert, and Bob Young, individually and in
their official capacity as appointed members of
the Pickens County Planning Commission,

Defendants.

**PLAINTIFF MRR PICKENS, LLC'S
MEMORANDUM IN SUPPORT OF
MOTION FOR AN EMERGENCY
PRELIMINARY INJUNCTION**

Plaintiff MRR Pickens, LLC ("MRR Pickens") submits this memorandum in support of its Motion for an Emergency Preliminary Injunction ("Motion"). MRR Pickens requests an Order for Preliminary Injunction be entered on or before February 24, 2016, based on a deadline that MRR Pickens is required to comply with for purposes of its permit and business.

On February 1, 2016, MRR Pickens moved the Court to enjoin Defendant Pickens County ("County") from unlawfully terminating its Land Use Approval to construct and operate a Class Two Landfill in Pickens County. For the reasons stated herein, MRR Pickens is being irreparably harmed by the County's termination, is likely to succeed on the merits of the case, and has no other adequate remedy at law.

FACTS

MRR Pickens is a South Carolina company. *Exhibit 1*, Aff. of F. Norbert Hector, Jr., ¶ 1. MRR Pickens owns real property located at 2180 Greenville Highway, Liberty, County of Pickens, South Carolina (the "Property"). *Id.* at ¶ 4. In 2007, MRR Pickens entered discussions with the County relating to a business plan for the Property. MRR Pickens offered a future

service to the County: acceptance of County generated solid waste at a significantly reduced rate. In return, MRR Pickens requested the County provide full and complete cooperation to allow it to operate its commercial business— a for-profit Class Two Landfill to serve the County and other full-paying customers.

In Spring of 2007, MRR Pickens and the County executed a Development Agreement and Host Agreement. *Exhibit 2*, Development Agreement (Mar. 8, 2007); *Exhibit 3*, Host Agreement (Mar. 8, 2007). The Development Agreement sets forth MRR Pickens' vested rights to develop the Class Two Landfill for a period of ten years, while the Host Agreement outlines MRR Pickens' right to operate it for the life of the landfill. Ex. 2, §§ 4 & 12; Ex. 3, ¶ 25.

In the Development and Host Agreements, MRR Pickens contracted to: (1) convey 39 acres to the County for use in its future industrial park; (2) gift to the County approximately 162 acres recently appraised for One Million One Hundred Seventy Thousand and 00/100 dollars (\$1,170,000.00); (3) accept the County's Construction, Demolition (C&D) and Land-Clearing Debris (LCD)/Class Two Waste and other DHEC-approved waste streams at a charge of 57% less than that to be charged to its other customers; and (4) accept free of charge County curbside yard trash, LCD from development of the industrial park, and fill dirt from closure of the County's Class Two Landfill. Ex. 2, § 8; Ex. 3, ¶¶ 11(A)-(F), 21 & 25. In return, the County contractually committed to fully "cooperate" and provide MRR Pickens with all necessary land development and building permits and guaranteed local land use laws would remain consistent with the proposed use. Ex. 2, § 9. MRR Pickens has fulfilled all its commitments to date, including the sale and gifting of the land referenced above. Ex. 1, ¶ 13-15.

At the time of execution of the Development Agreement and MRR Pickens' application for a South Carolina Department of Health and Environmental Control (DHEC) permit, the

South Carolina regulations governing solid waste landfill permits were being revised to change the terminology by which landfills are classified. In fact, the Notice of Drafting and the Proposed Regulation (S.C. Code Ann. Reg. 61-107.19) were published in the South Carolina State Register on June 23, 2006, and January 26, 2007, prior to execution of the Development Agreement. S.C. State Register, Vol. 30, Issue 6 (June 23, 2006); Vol. 31, Issue 1 (Jan. 26, 2007). On May 23, 2008, S.C. Code Ann. Reg. 61-107.19 became effective, repealing and superseding certain solid waste landfill regulations, including S.C. Code Ann. Regulation 61-107.11, which governs C&D and LCD Landfills ("C&D/LCD Landfills").

With the repeal of Reg. 61.107.11 and the adoption of Reg. 61-107.19, persons were no longer able to apply for or receive a permit for a C&D/LCD Landfill in South Carolina. After May 23, 2008, DHEC issued permits for Class Two Landfills, which were able to accept C&D/LCD as well as other approved wastes as set forth in Reg. 61-107.19. Former Reg. 61-107.11, like the current Reg. 61-107.19, also allowed C&D/LCD Landfills to accept waste other than general C&D/LCD wastes specifically listed therein, such as coal combustion residuals (CCR), "upon DHEC approval." S.C. Code Ann. Reg. 61-107.11, Part IV.D.3.

In anticipation of the impending new landfill regulations, MRR Pickens and the County clarified in the Development and Host Agreements "[t]he Landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, specifically S.C. Code Ann. Regs 61-107.11 Part IV or its equivalent under any superseding regulations and S.C. Code Ann. §§ 44-96-10 et seq." Ex. 3, ¶ 4 (emphasis added).

In 2008, MRR Pickens received its current Class Two Landfill Permit for the Property from DHEC pursuant to Reg. 61-107.19. *Exhibit 4*, Class Two Permit. In November of 2014, MRR Pickens filed a Letter of Intent and Land Use Application with the Pickens County

Planning Commission (“the Commission”) to construct and operate a Class Two Landfill. *Exhibit 5*, Letter of Intent (Nov. 20, 2014); *Exhibit 6*, Land Use Application (Nov. 20, 2014). The Letter of Intent stated, “[t]he project will include a commercial entrance, truck scales, scale house/office trailer (approximate dimensions 15 feet X 75 feet), approximately 60 acres of lined landfill disposal area, and various sediment and erosion control structures.” Ex. 5 (emphasis added). The Land Use Application states the proposed land use of the Property is a “SCDHEC Permitted Class 2 Landfill”. Ex. 6, p. 2.

A public hearing on the application was held, and in January, 2015, MRR Pickens received its land use approval from the Commission to operate a Class Two Landfill on the Property (the “Land Use Approval”). *Exhibit 7*, Planning Commission Mtg. Minutes (Jan. 12, 2015); *Exhibit 8*, Land Use Approval – LU-1001 (Jan. 13, 2015). In its Letter of Intent, Land Use Application, and during the public hearing, MRR Pickens represented at all times it was requesting approval for a Class Two Landfill, to be lined, and to be able to accept any waste allowed under its DHEC Permit. Ex. 1, ¶¶ 8-19, 38-39; *Exhibit 9*, Aff. of S. Brown ¶¶ 8-10. MRR Pickens never stated it could only take County-generated C&D/LCD waste. Ex. 1, ¶ 18-Ex. 9, ¶ 9-10.¹

Around the time of the Land Use Approval, MRR Pickens and the County also amended the Development Agreement by mutual consent. *Exhibit 10*, First Amendment to Development Agreement (Apr. 6, 2015). The amendment’s sole purpose was to reflect changes in superseding laws and regulations, to clarify that MRR Pickens’ permit was always a Class Two Landfill and would operate as such under R. 61-107.19, and to confirm MRR Pickens is permitted to take any Class Two waste allowed under its permit and the current regulation, R. 61-107.19. At the time

¹ In fact, such a premise is contrary to MRR Pickens’ willingness to accept a significant rate reduction for the County’s C&D/LCD “and other DHEC-approved waste streams” as compared to “any other Landfill customer”. Ex. 3, ¶ 11(A).

of the amendment, MRR Pickens brought to the County's attention the issue of Class Two waste versus C&D/LCD waste, and the County agreed the Development Agreement should be amended to reflect the applicability of R. 61-107.19 and its requirements. This was consistent with the terms of the Development and Host Agreements, which state: the landfill was to be constructed and operated in accordance with any DHEC regulations governing solid waste landfills that superseded those existing in March of 2007. Ex. 2, § 18; Ex. 3, ¶ 4.

Last month, almost a year after receiving its Land Use Approval², the Commission unlawfully and without notice terminated MRR Pickens' Land Use Approval and right to conduct any and all activities on the Property (the "Termination Notice"). *Exhibit 12*, Termination Notice (Jan. 11, 2016). In the Termination Notice, the Commission instructed the company to "cease and desist any and all activities" on the Property or face criminal prosecution, including fines and imprisonment. The Termination Notice as written does not allow MRR Pickens to continue development of its landfill or dispose of any permitted Class Two waste. Ex. 12; Ex. 1, ¶ 35.

In reliance on the Development and Host Agreements, MRR Pickens' vested rights, and the Land Use Approval, MRR Pickens has spent approximately Three Million Nine Hundred Thousand and 00/100 dollars (\$3,900,000.00) to construct and operate a Class Two Landfill on the Property. Ex. 1, ¶ 21. MRR Pickens has also reached a preliminary agreement with a third-party to accept CCR for disposal in its Class Two Landfill. *Id.* at ¶ 26. The CCR that MRR Pickens may accept meets the regulatory requirements for its permitted and approved Class Two

² Note in 2007, MRR Pickens applied for land use approval from the Commission, prior to finalizing and executing the Development and Host Agreements. The Commission approved the proposed use of the Property for a C&D/LCD Landfill (now referred to as a Class Two Landfill). *Exhibit 11*, 2007 Land Use Approval (Feb. 13, 2007). After 2007, R. 61-107.11 was repealed and Pickens County adopted a Uniform Development Standards Ordinance (UDSO) (Dec. 15, 2008). MRR Pickens reapplied for land use approval for its lined Class Two Landfill in 2015.

Landfill. MRR Pickens has been informed by the generator of the CCR that it will be deemed "Non-Responsive" and considered ineligible to receive the CCR Class Two waste as a result of the County's actions in terminating its Land Use Approval. Ex. 1, ¶ 32. The deadline for MRR Pickens to submit required documentation to accept CCR that meets its Class Two Permit requirements is on or before the end of February, 2016. *Id.* at ¶ 31. MRR Pickens has the potential to earn in excess of \$25,000,000.00 from the project over the life of the landfill. *Id.* at ¶ 36. In addition to monetary damages, MRR Pickens is being deprived of the beneficial use of the Property as a Class Two landfill.

LAW/ANALYSIS

A preliminary injunction is reasonably necessary to protect the legal rights of MRR Pickens pending in this action. MRR Pickens will respectfully show that it: (1) will suffer irreparable harm if the injunction is not granted; (2) will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004). MRR Pickens is not required to prove an absolute legal right when seeking a preliminary injunction, only a "fair question" to raise as to the existence of such a right. *AJG Holdings, LLC v. Dunn*, 674 S.E.2d 505 (S.C. App. 2009); *Williams v. Jones*, 75 S.E. 705, 710 (1912). The purpose of an injunction is to preserve the status quo and prevent possible irreparable injury to a party pending litigation. *Powell v. Immanuel Baptist Church, et al.*, 199 S.E.2d 60 (1973). A moving party is only required to make a "*prima facie*" showing of the elements, not that it will ultimately prevail.

1. POTENTIAL OF IRREPARABLE HARM

MRR Pickens will suffer the potential irreparable harm if the injunction is not granted. "The sole purpose of a temporary injunction is to . . . avoid possible irreparable injury to a party

pending litigation.” *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 600, 553 S.E.2d 110 (2001). “Irreparable injury does not mean that the injury is beyond the possibility of compensation in damages.” Flanagan, J., *South Carolina Civil Procedure*, 3rd Ed. (S.C. Bar. 2010) p. 533.

Irreparable harm exists in circumstances where there is misappropriation or denial of the use of property, regulatory taking of one’s property rights, or the loss of business. In *Levine v. Spartanburg Reg’l Services Dist.*, 626 S.E.2d 38, 367 S.C. 458 (S.C. App. 2005), the South Carolina Court of Appeals held that injunctive relief should be granted in cases to prevent the loss of a business opportunity, loss of business goodwill, and economic loss which threatens the existence of a movant’s business. In footnote 3 of *Levine*, the Court of Appeal cited to other courts that granted injunctive relief to prevent the loss of a business or business goodwill. The *Levine* opinion noted the “the potential loss of a business satisfies the irreparable harm requirement for the issuance of an injunction” and “loss of business goodwill or loss that is not easily calculated in pecuniary terms is sufficient to show irreparable injury for purposes of obtaining a temporary injunction.” *Id.*

The potential of irreparable harm to MMR Pickens is overwhelming. MRR Pickens’ only business is the operation of a Class Two Landfill on the Property. MRR Pickens is properly permitted with DHEC and has entered into agreements with the County to operate its Class Two Landfill without limitation. Because the County now wants to prohibit MRR Pickens from accepting CCR waste, the County has prevented MRR Pickens from conducting any business on the Property. By taking away the right to operate as a Class Two Landfill, the County prevents MRR Pickens from pursuing and procuring business opportunities, including but not limited to disposal of CCR, or risk going to jail. The number and magnitude of missed business

opportunities cannot be identified or precisely quantified given the broad impact of the County's actions. As set forth in the Verified Complaint and the affidavit testimony, the Termination Notice prevents MRR Pickens from contracting with any third parties. Every day that MRR Pickens is ordered to cease and desist from developing and operating its Class Two Landfill, it continues to miss business opportunities, goodwill and will not be conceived as a viable business to any third party. The danger is imminent that MRR Pickens will lose contracts and business opportunities with third parties for waste disposal allowed by its Class Two Permit. Additionally, without an injunction, MRR Pickens is not allowed to accept any waste, regardless of CCR. The potential of irreparable harm is self-evident as MRR Pickens' business has been completely shut down by the County. For these reasons, MRR Pickens will suffer irreparable harm if the injunction is not granted.

2. LIKELIHOOD OF SUCCESS ON THE MERITS

At the preliminary injunction stage, the proof of likelihood of success on the merit for the moving party is a relatively low standard. The ultimate termination of the case on the merits should not be considered. "When a prima facie showing has been made entitling plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." *Compton v. South Carolina Dep't of Corr.*, 392 S.C. 361, 709 S.E.2d 639, n.3 (2011). Thus, in determining whether a preliminary injunction is appropriate, the Court is not to consider the merits of the case, "except in so far as they may enable the court to determine whether a prima facie showing has been made." *Transcontinental Gas Pipe Line Corp. v. Porter*, 252 S.C. 478, 481, 167 S.E.2d 313, 315 (1969). When a prima facie showing has been made entitling movant to injunctive relief, a Court will grant an injunction "without regard to the ultimate termination of the case on the merits." *Id.*

A. MRR Pickens Has a Vested Contractual Right to Operate a Class Two Landfill

MRR Pickens has a vested right to operate a Class Two Landfill on the property. MRR Pickens has been lawfully provided a Class Two Permit issued by the State of South Carolina. MRR Pickens' Class Two Permit specifically allows "disposal of the items listed in Appendix I of R. 61-107.19 and any other waste approved by [DHEC] for disposal in a Class Two Landfill pursuant to R. 61-107.19, Part IV, Section C.2." Ex. 4, p. 2. MRR Pickens has entered into binding Development and Host Agreements, as amended, to allow it to construct and operate this commercial landfill. The County contractually gave MRR Pickens the 10-year vested right to develop a Class Two Landfill on the Property. Ex. 2, ¶¶ 4 & 12. The parties agreed "[t]he Landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, specifically S.C. Code Ann. Regs 61-107.11 Part IV or its equivalent under any superseding regulations and S.C. Code Ann. §§ 44-96-10 et seq.". Ex. 3, ¶ 4. (emphasis added). Both R. 61-107.11 Part IV, D.3 and its superseding regulation which is applicable to the landfill, R. 61-107.19, allow a landfill such as MRR Pickens to accept waste other than C&D/LCD if first approved by DHEC.

These aforementioned written agreements with the County allowed MRR Pickens to operate a Class Two Landfill on the Property, and these property rights are vested. On January 12, 2015, the Planning Commission held a public meeting and unanimously approved MRR Pickens' Land Use Approval request. The Land Use Approval did not place any conditions on the approval, including limiting conditions on the type of Class Two waste that could be disposed of in the landfill.³ As a result, MRR Pickens actively began the development of its

³ Further, only DHEC, and not the County, is vested with the authority to control and enforce the type of waste proper for disposal in the Class Two Landfill.

Class Two Landfill, until it received the Termination Notice. To date, MRR Pickens has spent approximately \$3,900,000.00 for the approved use of the Property.

In negotiating the Development Agreement, Host Agreement and any amendments thereto, the County was a sophisticated party represented by legal counsel. In fact, the County has operated its own Class Two Landfill and been subject to the same DHEC regulations applicable here.⁴ Ex. 4. Furthermore, during negotiations with MRR Pickens, the County hired outside legal counsel with a large South Carolina law firm known to be knowledgeable on State environmental solid waste permitting laws and regulations.

However, in issuing the Termination Notice in January, 2016, the County falsely accused MRR Pickens of exceeding the authority of a Class Two Landfill in South Carolina by attempting to accept CCR waste. The County is simply wrong. The CCR waste that MRR Pickens would accept is permitted in a Class Two Landfill. See Ex. 9. Furthermore, reported interviews with DHEC confirm that CCR waste is permissible under MRR Pickens' solid waste permit:

Greenville News (12/28/15): DHEC spokesman Jim Beasley said public notice will be given prior to the agency making a final decision on MRR's request to increase the volume of waste it can take. But DHEC already approved the company's request to install a synthetic liner, which would allow it to take in coal ash, as long as its level of toxicity doesn't exceed certain parameters, he said.

FoxCarolina (2/11/16): The Department of Health and Environmental Control said coal ash can be dumped in a level 2 landfill and many citizens are concerned about what this could mean for the county.

The State (2/13/16): The Department of Health and Environmental Control says the Pickens County dump will be designed to adequately protect the environment. DHEC required a liner for the landfill proposed by MRR near Liberty. A 2015 federal law also requires new coal ash landfills to be lined. "A

⁴ The County could conceivably accept CCR in its Class Two Landfill, if approved by DHEC.

synthetic liner is more environmentally protective,” agency spokeswoman Cassandra Harris said in an email Friday night. But DHEC acknowledged late Friday that **12 Class 2 landfills already are taking ash, only three of which have liners.**

(*Exhibit 13, Media Reports*) (emphasis added). Despite the County’s incorrect position taken in the Termination Letter, there should be no dispute that MRR Pickens is lawfully acting under its existing Class Two Permit. A Class Two Landfill is allowed to accept forms of CCR waste. The County must know that MRR Pickens is lawfully allowed to accept CCR as the County is now lobbying the General Assembly to *change* the law to prohibit CCR waste in a Class Two landfill. Additionally, in the Termination Notice the County accuses MRR Pickens of failing to represent that the landfill would be lined. This could not be further from the truth. The Letter of Intent clearly states the site would have “approximately 60 acres of **lined landfill** disposal area.” Ex. 5 (emphasis added). Rather, the County’s minutes from the Commission’s meeting simply do not reflect any statement about a liner. Further, any prediction about the lifespan of the landfill is purely speculative and was never a term of the Development or Host Agreement.

DHEC, not the County, determines what waste is allowed in a Class Two Landfill. The County is not allowed to usurp the role and responsibility of DHEC in administering and enforcing solid waste regulations, and the County cannot dictate what types of Class Two waste that MRR Pickens is allowed to accept. DHEC – NOT Pickens County – is vested with the sole authority to control and enforce the type of waste that is appropriate for disposal in the Class Two Landfill. The County, by its actions and subsequent statements, wants to overrule DHEC and State and Federal law to determine what type of waste is acceptable in the Class Two Landfill by taking MRR Pickens’ Property and prohibiting it from running its business. This is in direct violation of the contractual Development and Host Agreements between MRR Pickens and the County and a taking of MRR Pickens’ Property without consideration. The terms of the

contract are clear and MRR Pickens will prevail at trial on the issue of breach of contract by the County as well as its other causes of action.

The County lacks the authority to revoke the Land Use Approval. This constitutes a clear breach of the Development and Host Agreements and a deprivation of its rights to operate a Class Two Landfill. Based on MRR Pickens' vested legal rights and its contractual rights to use the Property for a Class Two Landfill, MRR Pickens has made a prima facie case for success on the merits.

B. The USDO Does Not Provide for Termination/Revocation of the Land Use Approval

In the Termination Notice, the Commission stated it was terminating the Land Use Approval "pursuant to the authority granted under the Unified Development Standards Ordinance ("UDSO") Section 1504(d)", and directed MRR Pickens "to cease and desist any and all activities at the proposed site until such time as you have presented sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your permit from the Commission." Ex. 12.

Section 1504(d) of the USDO *only* allows for written notification to an alleged violator of an actual observed violation of a land use development ordinance or a condition of a land use approval by the Building Official or Code Enforcement Officer inspecting the Property. The written notification may include a "cease and desist order" to demand "discontinuance of illegal use" observed by said official or officer.

As stated above, no Building Official or Code Enforcement Officer employed by the County has notified MRR Pickens that a provision of the USDO is being violated. Ex. 1, ¶ 25. There is no allegation in the Termination Notice that MRR Pickens is violating any provisions of the Development Ordinance. Ex. 12. The 2015 Land Use Approval did not place any conditions

on the type of Class Two waste that could be disposed of in the landfill. Ex. 8. Therefore, the Commission has no legal basis to issue a “cease and desist” order or otherwise threaten MRR Pickens with imprisonment.

3. NO ADEQUATE REMEDY AT LAW EXISTS.

The third element for a preliminary injunction is a showing of “no adequate remedy at law.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 694 S.E.2d 15, 17, 387 S.C. 583, 586 (2010). South Carolina law is well established that no adequate remedy at law exists in cases involving loss of a business opportunity, loss of business goodwill, and economic loss that could threaten the very existence of a plaintiff’s business. *Levine v. Spartanburg Reg’l Services Dist.*, 626 S.E.2d 38, 367 S.C. 458 (S.C. App. 2005). If a company loses its privilege to conduct business, its practice and livelihood may be lost before claims can be finally adjudicated. *Id.* at 43. “When privileges are terminated, damages will be difficult, if not impossible, to ascertain, and . . . therefore [a company] shall have the right to an injunction or other equitable relief.” *Id.* (internal citations omitted).

The lack of an adequate remedy at law is evident. Here, the Termination Notice clearly prevents *any activity at or use of* the Property. The County is threatening MRR Pickens with civil fines and criminal punishment in an attempt to strong-arm MRR Pickens into not accepting Class Two waste allowed by law. While it may recoup damages from the County for its unlawful actions, business opportunity will be permanently lost. There is simply no adequate remedy at law to prevent the loss of a business opportunity, loss of business goodwill, and economic loss which threatens the existence of a MRR Pickens’ business. As the court in *Levine* recognized, it is difficult to quantify a pecuniary losses that relate to goodwill or an action that threatens the very existence of one’s business. Furthermore, South Carolina law holds that the no adequate

remedy at law element is met when the use or enjoyment of one's property rights are restricted. *See Hhhunt Corp. v. Town of Lexington*, 389 S.C. 623, 699 S.E.2d 699 (S.C. App. 2010) (holding that a money damages cannot provide an adequate remedy for the restriction to real property).

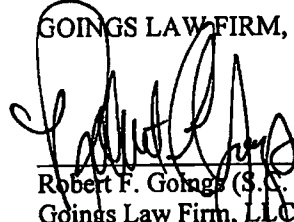
CONCLUSION

For the reasons stated herein, MRR Pickens hereby requests an Order granting a Preliminary Injunction that enjoins the County from taking any further action to suspend, terminate, fail to permit, or refusing to allow MRR Pickens from developing and operating its permitted and approved Class Two Landfill on the Property and allowing it to accept waste allowed by DHEC and the Solid Waste regulations for a Class Two Landfill. MRR Pickens requests this Order be entered on or before February 24, 2016. Further, MRR Pickens requests such other relief as this Court may deem just and proper.

(SIGNATURE PAGE TO FOLLOW)

Respectfully Submitted,

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Email: kmcalister@williamsmullen.com

ATTORNEYS FOR PLAINTIFF
MRR PICKENS, LLC

EXHIBIT LIST

EXHIBIT 1	AFFIDAVIT OF F. NORBERT HECTOR, JR.
EXHIBIT 2	DEVELOPMENT AGREEMENT (MARCH 8, 2007)
EXHIBIT 3	HOST AGREEMENT (MARCH 8, 2007)
EXHIBIT 4	CLASS TWO PERMIT
EXHIBIT 5	LETTER OF INTENT (NOV. 20, 2014)
EXHIBIT 6	LAND USE APPLICATION (NOV. 20, 2014)
EXHIBIT 7	PLANNING COMMISSION MTG. MINUTES (JAN. 12, 2015)
EXHIBIT 8	LAND USE APPROVAL – LU-1001 (JAN. 13, 2015)
EXHIBIT 9	AFFIDAVIT OF S. BROWN
EXHIBIT 10	FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (APR. 6, 2015)
EXHIBIT 11	2007 LAND USE APPROVAL (FEB. 13, 2007)
EXHIBIT 12	TERMINATION NOTICE (JAN. 11, 2016)
EXHIBIT 13	MEDIA REPORTS

2016 FEB 24 AM 11 14

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Exhibit 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

AFFIDAVIT OF F. NORBERT HECTOR, JR.

F. Norbert Hector, Jr. being duly sworn deposes and says the following:

1. My name is F. Norbert Hector, Jr. I am of the age of majority and am of sound mind and body. This Affidavit is not being written under stress or promise of anything. I am not under the influence of drugs or alcohol at the time this Affidavit is written.
2. I am the Managing Member of MRR Pickens, LLC ("MRR Pickens"), a South Carolina Limited Liability Company.
3. In my position for MRR Pickens, I am responsible for oversight of all MRR companies and related entities including their landfill development projects.
4. MRR Pickens is the owner of certain real property located at 2180 Greenville Highway, Liberty, County of Pickens, South Carolina (the "Subject Property") and identified by Pickens County Tax Map Number 4098-19-72-2303.
5. On March, 8, 2007, MRR Pickens entered into a Development Agreement with Pickens County relating to a large parcel containing the Subject Property and consisting of approximately 446.70 acres of land, bound on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916 (the "Original Tract").
6. Since March 2007, MRR Pickens has subdivided the Original Tract into several parcels, including the Subject Property.
7. The Development Agreement was amended by mutual consent of the County and MRR Pickens on April 6, 2015.

8. On November 3, 2008, South Carolina Department of Health and Environmental Control (DHEC) issued a Class Two Solid Waste Landfill Permit to MRR Pickens for the Subject Property (the "Class Two Permit").
9. The Class Two Permit became effective on or about March 10, 2009.
10. The Class Two Permit received a minor modification by DHEC on August 10, 2015 to allow MRR Pickens the option to install an alternate liner design.
11. The current Class Two Permit allows MRR Pickens to accept Class Two waste as listed in Appendix I of the Class Two DHEC regulations, and any other waste approved by DHEC which meets regulatory guidelines.
12. To date, MRR Pickens has not transported or disposed of any waste or other materials at the Class Two Landfill.
13. As promised in the Development Agreement, MRR Pickens conveyed 39 acres of platted, undeveloped property for development as the Pickens County Industrial Park expansion.
14. As promised in the Development Agreement, on December 30, 2014, MRR Pickens gifted approximately 162.2 acres adjacent to the Subject Property.
15. At the time of the transfer of title to Pickens County, the 162.2 acre tract was appraised to be worth one million one hundred and seventy thousand dollars (\$1,170,000).
16. On November 24, 2015, MRR Pickens submitted to the County its Letter of Intent and Application for Land Use Review Hearing for a lined Class Two Landfill.
17. On January 12, 2015, I attended the Planning Commission public meeting where it heard and approved MRR Pickens' Land Use Approval request.

18. At the Planning Commission public meeting, MRR never stated it was not lining the landfill or that it was planning to restrict its waste to Construction & Demolition/Land-Clearing Debris (C&D/LCD) waste.

19. In its Letter of Intent for the Land Use Approval process, MRR Pickens expressly stated the landfill would be lined.

20. On January 13, 2015, the Planning Commission issued its Land Use Approval to Pickens County to allow MRR Pickens to construct and operate a Class Two Landfill on the Property (the "Land Use Approval").

21. In reliance on the Development Agreement, as amended, and the Land Use Approval, MRR has spent to date approximately 3.9 million dollars for the approved Proposed Use of the Subject Property as a Class Two Landfill.

22. On January 12, 2016, I received an electronic copy of a letter from Pickens County Planning Commission indefinitely suspending MRR Pickens' Land Use Approval (the "Land Use Suspension").

23. To my knowledge, no member of the Pickens County Planning Commission has requested information from MRR Pickens relating to the false allegations in the Land Use Suspension.

24. MRR Pickens was not given prior notice or a right to a hearing before the Planning Commission issued the Land Use Suspension.

25. No Building Official or Code Enforcement Officer employed by the County has notified MRR Pickens that it is in violation of any a provision of the County's Uniform Development Standards Ordinance.

26. MRR Pickens has a tentative agreement to accept CCR from a third-party for disposal in the Class Two Landfill.

27. The agreement is contingent upon DHEC approving the CCR after characterization determines it meets the requirements for disposal at the Class Two Landfill.

28. If the CCR does not meet the regulatory requirements for waste to be disposed in the Class Two Landfill, MRR Pickens will not be allowed by DHEC to dispose of it on the Subject Property.

29. MRR Pickens has not yet submitted a waste characterization plan for approval from DHEC to accept CCR at the Subject Property.

30. The agreement is also contingent upon an award of one or more bids that MRR Pickens plans to make in response to a Request for Proposal (RFP) from the generator of the CCR ("the Project").

31. The deadline to submit bids is in late February 2016.

32. MRR Pickens has been informed that it will be deemed "Non-Responsive" and not considered as eligible to bid on the Project if it does not have the applicable land use approval from Pickens County for the Subject Property.

33. The RFP allows MRR Pickens to bid on multiple projects and be awarded all or some of the projects for which it submits bids.

34. Under its current Class Two Permit without any modification or variance thereto, MRR Pickens could potentially accept 70,500 tons a year of CCR that meet Class Two Landfill regulatory and Federal requirements and are approved by DHEC.

35. The Land Use Suspension issued by Pickens County Planning Commission not only prohibits MRR Pickens from accepting CCR waste at its Class Two Landfill, it also prohibits us from developing our facility and accepting any Class Two waste, including C&D/LCD.

36. If MRR Pickens is awarded one or more bids for the Project, it has the potential to make in excess of \$25,000,000.00 over the life of the landfill.

37. Upon information and belief, MRR Pickens is expected to be one of only a few prospective bidders for the Project because there are a limited number of potential disposal sites in the desired vicinity of the CCR.

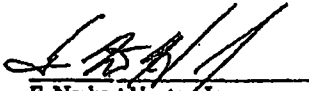
38. During discussions relating to the Development Agreement, the First Amendment to the Development Agreement, and the Land Use Approval, MRR Pickens has never indicated it would limit its waste stream to C&D/LCD Waste or Pickens County's waste.

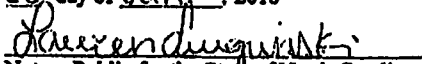
39. MRR Pickens has never indicated to anyone that it would not take certain types of Class Two Waste allowed by the regulations and its permit.

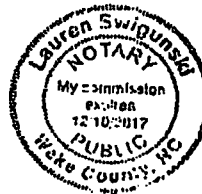
40. MRR Pickens has met its obligations under the Development Agreement and attached Host Agreement, as amended, and plans to honor its future obligations to accept County Class Two waste in addition to any other DHEC Class Two approved waste.

Further affiant sayeth not.

Dated January 28, 2016.


F. Norbert Hector, Jr.

Wake, NC
Signed and sworn to before me this
28 day of Jan., 2016

Notary Public for the State of North Carolina
My commission expires Dec. 10, 2017



Page 6 of 6

Exhibit 2

DEVELOPMENT AGREEMENT

WHEREAS, the Developer desires to develop certain real property owned by Craig Harris McDaniel, William Harris McDaniel, and Mary McDaniel Ridgeway. E. Scott Sanders, LLC has this property under an option to purchase. E. Scott Sanders, LLC has assigned this option to CG Property Holdings, LLC. CG Property Holdings LLC, is a wholly owned subsidiary of MRR Southern, LLC, a North Carolina Limited Liability Company and the owner of Developer. The property consists of approximately 446.70 acres of land, bounded on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916. A copy of the legal description of the 446.70 acre property covered by this Agreement is attached hereto as EXHIBIT A.

WHEREAS, pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160 in the South Carolina Code of Laws, 1976, as amended (the "Act"), the County and the Developer have agreed to enter into this Agreement to set forth the terms and conditions of the development of the Property in order to more fully protect the Developer's development rights;

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Filed At Register of Deeds
Pickens County SC
Fees Paid \$0.00

WHEREAS, the Developer desires to obtain from the County in connection with the development of the Property assurances that: (1) the Property will be appropriately zoned for the duration of the period of development; (2) upon receipt of development and construction permits the Developer may proceed with the development of and construction on the Property; and (3) the Developer's development rights will be vested for the duration of the period of development;

WHEREAS, in connection with the proposed development, the Developer and the County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County.

WHEREAS, the County certifies that there is no applicable zoning designation for the property; and that said fact allows the development of industrial uses, County Park/Recreational uses, operation of a construction and demolition and land clearing debris landfill, and operation of associated recycling equipment.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants of the Parties herein, and pursuant to the Act, the County and Developer, intending to be legally bound hereby, agree as follows:

Section 1. Definitions. Terms not otherwise defined herein have the meaning set forth in the Act, the provisions of which are incorporated herein by reference. As used in this Agreement, the following terms mean:

(A) "Land Development Regulations" and "Laws" means all ordinances, resolutions, regulations, comprehensive plans (if any), policies and rules enacted by the appropriate governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, sign regulations and includes laws

governing permitted uses of the Property, density, design, improvement, and construction standards and specifications, and consistency with the Pickens County Solid Waste Management Plan. All applicable "Land Development Regulations" and "Laws" as such are listed on EXHIBIT B except as provided in Section 6-31-140(A), S. C. Code Ann. (1976).

(B) "Property" means the real property identified by Pickens County Tax Map Number 4098-00-82-5916 and identified on EXHIBIT A.

(C) "Development Uses Permitted" mean the uses identified on EXHIBIT C, and the Site Layout Map identified on EXHIBIT D, specifically the C&D Landfill, Reprocessing Area, Industrial Lots, and Park Area identified therein.

Section 2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the development of the Property in order to protect the Developer's development rights and to accomplish the statutory aims of comprehensive, orderly planning, and development within the County.

Section 3. Property Covered by Agreement. The Property covered by this Agreement, and its legal description and the names of the Property's legal and equitable owners, is the approximately 446.70 acre parcel designated by TMS # 4098-00-82-5916, described in EXHIBIT A, which is attached hereto and incorporated herein by reference.

Section 4. Duration. Except as may be otherwise provided in this Agreement, this Agreement shall terminate ten (10) years from the date of execution.

Section 5. Development Uses. The description of the uses proposed by the Developer and permitted on the property are those as described in EXHIBIT C.

Section 6. Development Plan. The Developer may make modifications in the development plan so long as the development plan remains in accordance with Land Development Regulations and Laws and this Agreement.

Section 7. Public Facilities that will service the development. As part of the Industrial Park Expansion, and the County Park/Recreational Area, County will be responsible for providing water, sewer, and all utilities to these areas. For the Landfill and associated recycling center, Developer will be responsible for all necessary infrastructure.

Section 8. Dedication of Land, Environmentally Sensitive Areas. Within thirty (30) days of the issuance of a final DHEC landfill permit Developer will dedicate and deed to County an area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or other uses deemed appropriate by County as depicted on EXHIBIT D. Developer shall comply with all legal and permit requirements necessary to protect any streams or environmentally sensitive areas on the Property.

Section 9. Local Development Permits. The County agrees to cooperate with the Developer in the permitting process, including any state and federal permits. Local Development Permits that are required for this project are listed in Exhibit G. The development of the site will require review by the Pickens County Planning Commission as per Pickens County Code Chapter 14, Article V. The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions.

Section 10. Finding of Consistency. The County finds that this Agreement and the development, as permitted or proposed, is consistent with the County's Laws and Land

Development Regulations, as applicable. The County further finds that the development is consistent with the County's current Solid Waste Management Plan.

Section 11. Development Schedule, Changes.

(A) The schedule for development of the Property is to immediately commence construction of the landfill within 30 days of receipt of a final permit to construct and operate to be issued by the South Carolina Department of Health and Environmental Control.

(B) The County and Developer acknowledge that the schedule for development is an estimate and that events outside the control of the Parties can affect this schedule.

(C) The County agrees that it will not unreasonably withhold consent to any modification to the schedule of development during the life of this Agreement.

Section 12. Vested Rights.

(A) The County agrees that the Developer, upon receipt of its development permits as required herein, may proceed to develop the Property according to the terms and conditions of this Agreement. As of the date of this Agreement, the right to develop the Property is vested with the Developer for the duration of this Agreement.

(B) The County agrees that the Land Development Regulations and Laws in force at the time of execution of this Agreement govern all aspects of the development of the Property for the duration of this Agreement, unless otherwise provided in this Agreement. The Land Development Regulations and Laws in force at the time of execution of this Agreement are those as contained in EXHIBIT B, attached hereto and incorporated by reference.

(C) The County agrees that it will not modify its current Solid Waste Management Plan to render this development inconsistent with the provisions of said Plan for the duration of this Agreement.

(D) The County may apply Land Development Regulations and Laws adopted after the execution of this Agreement to the development of the Property only if the County Council holds a public hearing and determines:

(1) the subsequently adopted Land Development Regulations and Laws are not in conflict with the Land Development Regulations and Laws governing this Agreement and do not prevent the development set forth in this Agreement;

(2) the Land Development Regulations and Laws are essential to the public health, safety, or welfare and the Land Development Regulations and Laws expressly state that they apply to the development that is subject to this Agreement;

(3) the Land Development Regulations and Laws are specifically anticipated and provided for in the Development Agreement;

(4) that substantial changes have occurred in pertinent conditions existing at the time this Agreement was approved which changes, if not addressed by County, would pose a serious threat to public health, safety, or welfare; or

(5) the Agreement is based on substantially and materially inaccurate information supplied by the Developer.

(E) Notwithstanding the provisions of subsection (B), the Developer agrees to comply with any applicable construction codes subsequently adopted by the County and as authorized by Chapter 9 of Title 6 of the Code.

(F) This section does not abrogate or in any way affect any rights that may vest pursuant to common law or state statute in the absence of this Agreement.

Section 13. Periodic Review.

(A) At least every twelve months, the Pickens County Planning Department shall conduct a review of the Developer's compliance with the terms of this Agreement. At the time of the review, the Developer must demonstrate good faith compliance with the terms of this Agreement.

(B) If, as a result of the periodic review, as conducted pursuant to subsection (A), the County finds and determines that the Developer has committed a material breach of the terms and conditions of this Agreement, then the County may serve notice in writing, within a reasonable time after the periodic review, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(C) If the Developer fails to cure the material breach within the time given, then the County may unilaterally terminate or modify this Agreement. Prior to such termination or modification, the County must first give the Developer the opportunity to:

(1) Rebut the finding and determination;

(2) Consent to amend this Agreement to meet the concerns of the County with respect to the findings and determinations.

Section 14. Amendments, Cancellation, Modifications. This Agreement may be amended or cancelled by mutual consent of the Parties to the Agreement. A major modification of this Agreement may occur only after public notice and a public hearing by the County.

Section 15. Successors in Interest. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to this Agreement.

Section 16. Public Notice and Hearings. The County represents and warrants that in the deliberations and approval of this Agreement, the County has, in accordance with Section 6-31-50 of the South Carolina Code of Laws: (1) conducted at least two public hearings; (2) advertised in a newspaper of general circulation in the County notice of intent to consider a development agreement; and (3) included in any required notices the prescribed information.

Section 17. Recording of Agreement. The Developer agrees to record this Agreement with the Register of Deeds within fourteen days after the Developer and the County enter into this Agreement.

Section 18. Later Enacted Federal or State Laws. In the event state or federal laws or regulations, enacted after this Agreement has been entered into, prevent or preclude compliance with one or more provisions of this Agreement, the provisions of this Agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

Section 19. Severability. If any provision of this Agreement or the application of any provision of this Agreement is held invalid by a court of competent jurisdiction, the invalidity shall apply only to the invalid provision and the remaining provisions of this Agreement, and the application of this Agreement, shall remain in full force and effect.

Section 20. Governing Law. This Agreement is governed by, and shall be construed in accordance with the Act and the laws of the State of South Carolina.

Section 21. Effective Date. This Agreement is effective upon execution by the County and the Developer.

Section 22. Executed Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to constitute an original.

Section 23. Host Agreement. A separate Host Agreement between the Parties governing the rights and duties between and among the Parties including, but not limited to, acceptance of County waste is incorporated into this Development Agreement as Exhibit I and shall survive the expiration of this Development Agreement.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto.

WITNESS:

Russ. T. Baker
Sheila W. Linsley

MRR PICKENS, LLC

By: Ronald C. Gilkerson
RONALD C. GILKERSON, MANAGER, SC OPERATIONS
Date: 3/9/07

PICKENS COUNTY, SOUTH CAROLINA

Madame C. C. Pope
Sheila W. Linsley

By: Neil Smith
Neil Smith, Chairman
Date: 3/10/07

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me Donna F. Dyer who, on oath says that (s)he saw the within MRR PICKENS, LLC by its Manager, S.C. Dyer sign, seal, and as its act and deed deliver the within Development Agreement, and that (s)he with Sheila W. Tinsley witnessed the execution thereof.

Donna F. Dyer
Witness

SWORN to before me this
8th day of March, 2007.

Sheila W. Tinsley (SEAL)
Notary Public for South Carolina
My Commission Expires: 1/27/2012

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) PROBATE

PERSONALLY appeared before me Margaret C. Pope who, on oath says that (s)he saw the within Pickens County, South Carolina by its Council Chairman, Neil Smith, sign, seal, and as its act and deed deliver the within Development Agreement, and that (s)he with Sheila W. Tinsley witnessed the execution thereof.

Margaret C. Pope
Witness

SWORN to before me this
8th day of March, 2007.

Sheila W. Tinsley (SEAL)
Notary Public for South Carolina
My Commission Expires 1/24/2012

EXHIBIT A

REAL PROPERTY

All that certain piece, parcel, or tract of land lying, being and situate in the County of Pickens, State of South Carolina, between Easley and Liberty, being known as the Bogg Mountain Tract, and containing approximately 446.70 acres of land, bounded on the North by Greenville Highway, on the South by Woodbine Road, and on the East by Cartee Road, Pickens County Tax Map Number 4098-00-82-5916. The Property is owned by Craig Harris McDaniel, William Harris McDaniel, and Mary McDaniel Ridgeway. E. Scott Sanders, LLC has this property under an option to purchase. E. Scott Sanders, LLC has assigned this option to CG Property Holdings, LLC. CG Property Holdings LLC, is a wholly owned subsidiary of MRR Southern, LLC, a North Carolina Limited Liability Company and the owner of Developer.

EXHIBIT B

**LAND DEVELOPMENT REGULATIONS AND LAWS IN FORCE AT THE TIME OF
EXECUTION OF THIS AGREEMENT AND APPLICABLE TO THIS DEVELOPMENT**

Pickens County Code of Ordinances: Chapter 14, Article V, Supplemental Development
Standards for Certain Land Uses

Pickens County Code of Ordinances: Chapter 14, Article IV, 4.11, Special Buffer Yard and
Screening Requirements

Pickens County Code of Ordinances: Chapter 14, Article IV, Development Standards

Pickens County Code of Ordinances: Chapter 14, Article VI, Performance Standards for
Industrial, Commercial, and Non-Residential Uses

Pickens County Code of Ordinances: Chapter 14, Article VIII, Signs

Pickens County Code of Ordinances: Chapter 24, Flood Damage Prevention, Division 2, Section
24-62, Establishment of Development Permit

Pickens County Code of Ordinances: Chapter 32, Article IV, Division 3, Requests for Roadside
Access

Pickens County Solid Waste Management Plan, Section X, Creation of New Facilities,
Construction & Demolition Landfills

EXHIBIT C

DEVELOPMENT USES PERMITTED

1. Conveyance to County of approximately 39 acres of platted undeveloped property for development as Pickens County industrial park expansion as depicted on Exhibit D.
2. Conveyance to County of approximately 162.2 acres of undeveloped property for use as a County Park/Recreational Facility or for other purposes deemed appropriate by County as depicted on Exhibit D.
3. Construction and Operation of a Construction and Demolition and Land-Clearing Debris Landfill in area depicted on Exhibit D.
4. Construction and Operation of a Solid Waste Processing and Recycling Facility to process and recycle Construction and Demolition and Land-Clearing Debris in area depicted on Exhibit D.
5. Staging area for grinding/processing Disaster Debris.
6. Development of an additional 93.1 acres by MRR for Industrial Lots as depicted on Exhibit D.

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EXHIBIT D
SITE LAYOUT

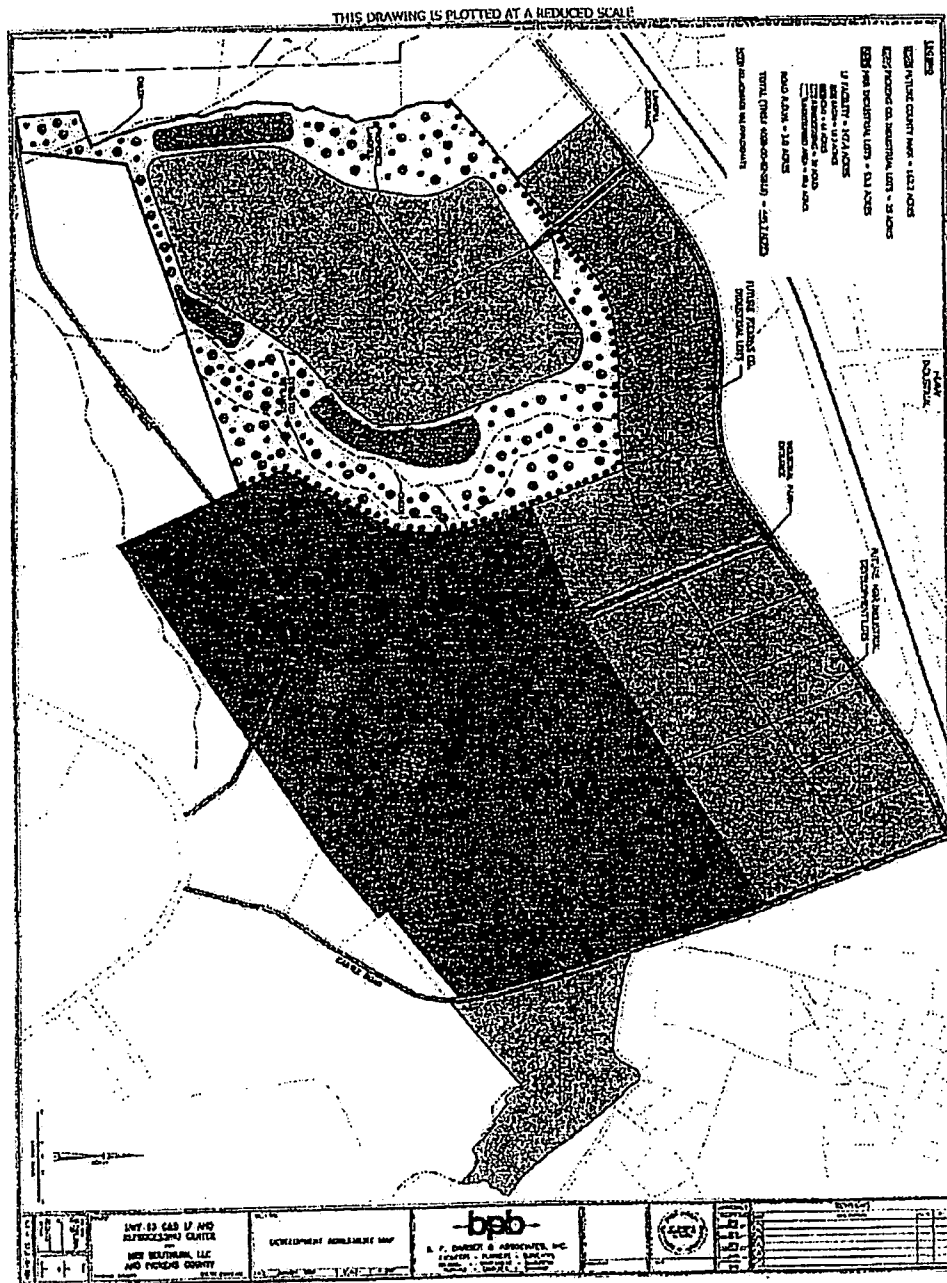


EXHIBIT E

PUBLIC FACILITIES

1. County shall be responsible for construction/provision of all public facilities to service the Industrial Park Expansion and Park/Recreational facility. Developer shall be responsible for provision of all infrastructure, utilities, and roads to service the Landfill, associated processing/recycling/disaster waste staging areas, and the MRR Industrial Lots. No roads built by Developer shall be dedicated to County during the lifetime of this Agreement.

EXHIBIT F

LAND TO BE DEDICATED OR RESERVED

Within thirty (30) days of the issuance of a final DHEC landfill permit Developer will dedicate and deed to County an area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or for other purposes deemed appropriate by County as depicted on Exhibit D. At least 121.6 acres of this property will be reserved for use as a County Park/Recreational facility.

EXHIBIT G

LOCAL DEVELOPMENT PERMITS

1. Prior to construction of a landfill, review of by the Pickens County Planning Commission is required pursuant to Pickens County Code of Ordinances: Chapter 14, Article V, Supplemental Development Standards for Certain Land Uses.
2. Construction of any scale house, office building or similar structure will require a building permit under Pickens County Code of Ordinances: Chapter 14, Article IV, Development Standards.
3. A permit may be required for any permanent free-standing sign that Developer may desire to install, depending on the location, size, and type of sign under Pickens County Code of Ordinances: Chapter 14, Article VIII, Signs.
4. A development permit may be required under Pickens County Code of Ordinances: Chapter 24, Flood Damage Prevention, Division 2, Section 24-62, Establishment of Development Permit.
5. A permit may be required for constructing an access driveway tying in to County maintained roads under Pickens County Code of Ordinances: Chapter 32, Article IV, Division 3, Requests for Roadside Access.

EXHIBIT H

DEVELOPMENT SCHEDULE, CHANGES

1. Immediate construction of Solid Waste Disposal Facility within 30 days after receipt of permit from South Carolina Department of Health and Environmental Control. Such construction shall continue until facility is complete, unless potential administrative challenges to the permit delay construction. Upon completion, operations shall commence immediately.
2. Conveyance to County of approximately 162.2 acre Park Area within 30 days of the issuance of a final permit from the South Carolina Department of Health and Environmental Control.
3. Conveyance to County of approximately 39 acres of platted undeveloped property for use as industrial park expansion within 90 days of Developer's acquisition of fee simple title to the Property.
4. Development of MRR Industrial Lots at any time during the life of this Agreement.

EXHIBIT I

STATE OF SOUTH CAROLINA)	HOST AGREEMENT FOR A LONG TERM
)	CONSTRUCTION, DEMOLITION AND
COUNTY OF PICKENS)	LAND-CLEARING DEBRIS LANDFILL AND
	OTHER ASSOCIATED DEVELOPMENT

WHEREAS, MRR Pickens, LLC is under contract to purchase an approximately 446.70 acre site ("the Site") in Pickens County, South Carolina ("County"); shown on Exhibit 1 to this Agreement ("the Host Agreement"); and;

WHEREAS, County previously conducted a study on the Site, which study found that portions of the Site are well situated to serve as an expansion of the County's present industrial park, which is contiguous to the Site; and;

WHEREAS, County has previously expressed its desire to purchase the Site and develop all or a portion of the Site for expansion of its nearby industrial park; and;

WHEREAS, MRR Pickens, LLC wishes to construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill and associated recycling, composting, and waste processing activities (collectively, the "Landfill") on a portion of the Site; and;

WHEREAS, County's current Construction, Demolition and Land-Clearing Debris Landfill has nearly exhausted its capacity; and;

WHEREAS, County needs additional Construction, Demolition and Land-Clearing Debris disposal capacity; and;

WHEREAS, the South Carolina Department of Health and Environmental Control ("DHEC") has made a preliminary finding that construction of this facility is consistent with the Pickens County Solid Waste Management Plan; and;

WHEREAS, in addition to both of these portions of the Site which (i) MRR Pickens, LLC desires to use as the location of the Landfill and (ii) that which is suitable as an expansion

of the County's industrial park (the "Pickens Co. Industrial Lots"), there is a portion of the Site consisting of approximately 162.2 acres which, due to poor topography, is unsuitable for development; and;

WHEREAS, MRR Pickens, LLC wishes to convey to County this area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or for other uses deemed appropriate by County; and;

WHEREAS, pursuant to negotiations County and MRR Pickens, LLC have reached an agreement which would allow each to meet their respective goals. MRR Pickens, LLC, on the one hand, will own and manage a Landfill that will serve as the replacement Construction, Demolition and Land Clearing Debris Landfill for the County. On the other hand, the County will have the benefit of the Landfill which will serve the County in an environmentally appropriate manner and in accordance with the requirements set forth in this Agreement will acquire additional properties for economic development and a Park to further meet the recreational needs of County residents.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that MRR Pickens, LLC, and Pickens County agree as follows:

LANDFILL OPERATIONS

1. MRR Pickens, LLC shall construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill at the Site.

2. The location of the Site is designated as Pickens County Tax Map Number 4098-00-82-5916 and consists of 446.70 acres, more or less, and has the following coordinates: W 34°47'50", Latitude N 82°40'30". The Landfill, associated reprocessing, stormwater ponds, and buffer areas are depicted on Exhibit 1, which is incorporated into this Agreement and consists of

the approximately 147.4 acre parcel designated on Exhibit 1 as "LF FACILITY."

3. County shall allow MRR Pickens, LLC to construct and operate a Long-Term Construction and Demolition and Land Clearing Debris Landfill as long as it is operated in accordance with the terms and conditions of this Host Agreement.
4. The Landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, specifically S.C. Code Ann. Regs 61-107.11 Part IV or its equivalent under any superseding regulations and S.C. Code Ann. §§44-96-10 *et. seq.*
5. During operating hours and upon 24 hours telephonic notice, representatives authorized by the County shall have the right to enter and inspect the Landfill and the Landfill records of MRR Pickens, LLC.
6. MRR Pickens, LLC must report any notice of violation of regulations or permit requirements from DHEC to the County Administrator within seventy-two (72) hours after notification by DHEC.
7. All reports required to be submitted to DHEC by MRR Pickens, LLC must be simultaneously submitted to the County Administrator. On a fiscal year basis MRR Pickens, LLC shall provide data to the County indicating the amount, in tons per year, of Construction and Demolition Debris ("C&D") and Land Clearing Debris ("LCD") recycled. Data relating to LCD generated through curbside collection programs may be used by the County to demonstrate progress toward achievement of the County's solid waste recycling goals under the South Carolina Solid Waste Policy and Management Act, S.C. Code Ann. § 44-96-50 (G).
8. All complaints received by MRR Pickens, LLC from the public, whether verbal or written must be reported to the County Administrator on a monthly basis, along with any resolution or proposed resolution.

9. MRR Pickens, LLC shall buffer the Landfill using appropriate landscaping techniques and vegetative buffer of appropriate width and height in accordance with specifications approved by the County's Planning Commission.

10. MRR Pickens, LLC shall not conduct any active Landfill operations within five hundred (500) feet of the Highway 93 entrance to the Landfill.

11. Waste Acceptance, Mulch, Compost Material

A. County Generated Waste.

The County will be allowed to dispose of all County Generated Waste (as defined below) at a rate of 57% of the Landfill's published "gate" rate at the time of disposal. Any time MRR Pickens, LLC adjusts its published "gate" rate it shall provide County 90 days written notice of said change before applying this adjustment to the County rate, which shall at all times remain no more than 57% of the published "gate" rate. Notwithstanding any provision to the contrary herein, the actual rate charged to the County shall not be greater than the actual rate charged to any other Landfill customer.

"County Generated Waste" shall be limited to a) C&D, LCD and other DHEC approved waste streams generated from demolition, repairs, renovation, or construction of buildings under the County's ownership or control, or as a result of enforcing nuisance or condemnation ordinances; b) C&D, LCD and other DHEC -approved waste streams found illegally dumped at unpermitted sites that the County undertakes to clean up and transport to the MRR Pickens, LLC Landfill utilizing County-owned resources; c) non-commercial C&D, LCD and other DHEC-approved waste streams deposited at Convenience Centers owned by the County and transported to the Landfill by County vehicles. County Generated Waste must be transported to the Landfill by County vehicles or by pre-designated vehicles owned by contractors employed by the County.

B. Curbside Yard Trash.

The County and municipalities within the County will be allowed to dispose of domestic Yard Trash (excluding tree stumps) generated through publicly administered curb-side pick-up programs at the Landfill free of charge. Curbside Yard Trash must be transported to the Landfill by government owned vehicles or by pre-designated vehicles owned by contractors of the public entity administering the program. This Curbside Yard Trash waste may be composted or mulched for recycling by MRR Pickens, LLC.

C. Disaster Waste.

MRR Pickens, LLC will maintain a storm debris staging area at the Landfill for County or municipally generated storm debris that can be staged onsite for grinding by the County or under the auspices of a Federal Emergency Management Agency ("FEMA") funded project. MRR Pickens, LLC will allow use of this staging area free of charge. County will be responsible for delivery, grinding and disposal of disaster waste, and for defraying the costs of said activities.

D. Onsite Construction LCD.

MRR Pickens, LLC shall accept any LCD generated by the County or its contractors as part of the development of the adjacent Pickens County Commerce Park or lots purchased by the County from MRR Pickens, LLC free of charge.

E. Mulch/Compost Material.

MRR Pickens, LLC shall allow the County available mulch and/or composted soil additive product generated by the Landfill at no charge upon reasonable notice.

F. Fill Dirt for Closure of County Landfill.

MRR Pickens, LLC shall allow County access at no charge to any excess soil not required by the Landfill for its daily operations or closure and to be used by the County for

closure of the existing County C&D landfill. The County shall be responsible for excavating and transporting said materials.

12. In lieu of a host fee, MRR Pickens, LLC agrees to maintain the provisions of paragraph 11 above for the County and any municipality located within the County for the permitted operational lifetime of the Landfill.

13. The maximum yearly disposal rate is set by S.C. Code Ann. Regs 61-107.17. DHEC has currently approved a disposal rate of seventy thousand five hundred (70,500) tons per year for the Landfill. As circumstances change MRR Pickens, LLC shall be entitled to increases in this annual disposal rate, up to the maximum permitted by R. 61-107.17. MRR Pickens, LLC shall not require County approval for increases in the permitted disposal rate that may occur solely as a result of DHEC's review of the current 10 mile planning area as defined by R. 61-107.17. Should subsequent regulatory amendments result in a change in the way DHEC calculates a Landfill's maximum annual disposal rate, or otherwise increases the size of the planning area under R. 61-107.17, such requests for increases in the permitted disposal rate shall require approval from County in writing.

14. The disposal "footprint" of the Landfill shall not exceed approximately 68 acres (including the 10 acre reprocessing area, within which area landfilling may also be conducted) as permitted by DHEC or as allowed in the final permit to operate issued by DHEC.

15. MRR Pickens, LLC shall maintain a recycling center for waste processing and recycling at the Landfill.

16. No lateral expansions to the Landfill will be allowed without written permission of County and only under such terms and conditions as to be prescribed by County.

17. MRR Pickens, LLC shall post such Financial Assurance as may be required by

DHEC providing for DHEC approved closure and post-closure care of the Landfill in the event of insolvency or bankruptcy of MRR Pickens, LLC or the death of its managers/owners. By this agreement MRR Pickens, LLC agrees that the Financial Assurance instrument shall be limited to an irrevocable letter of credit, surety bond, or cash.

18. By this agreement MRR Pickens, LLC hereby covenants that it will retain the permit in its name throughout the closure and post-closure process and shall remain responsible for all costs associated with all monitoring, any required corrective action, and liabilities associated with closure and post-closure for the Landfill.

19. MRR Pickens, LLC shall not convey the Landfill or transfer the permit to any unrelated third party without the express written consent of the County and only upon the execution of a substantially similar agreement binding transferee to performance of all the terms and conditions of this agreement for the life of the landfill.

20. Upon closure of the Landfill, and at County's option, MRR Pickens, LLC shall make the Landfill available to the County for any appropriate public use consistent with a closed C&D landfill site. Should County so request, prior to the change in use, MRR Pickens, LLC agrees to and will assist County in having the site of the Landfill enrolled in DHEC's Brownfields program with MRR Pickens, LLC listed on Brownfields contracts as a "Responsible Party" and with County listed as a "Non-Responsible Party" if this is permitted by DHEC.

INDUSTRIAL PARK EXPANSION PORTION

21. As part of the development of the Site, MRR Pickens, LLC shall sell, and the County shall purchase approximately 39 acres of platted property depicted on Exhibit I attached hereto as "PICKENS CO. INDUSTRIAL LOTS" for industrial development lots within 90 days of the date of MRR Pickens, LLC's acquisition of fee simple title to the Site.

22. The County will be responsible for construction and grading for all lots, roads, and the construction of or otherwise acquisition of all necessary utilities for the Industrial Park Expansion Portion.

23. MRR Pickens, LLC shall sell the Industrial Lots to County at a price of \$10,000.00 per acre.

24. Contemporaneously with the sale of the 39 acre Industrial Lots MRR Pickens, LLC shall grant to the County a sewer easement so that County can provide sewage disposal to the Industrial Lots, provided such easement does not interfere with the planned Landfill operations. This easement shall be granted to County at no cost to the County, and using a routing agreeable to both MRR, Pickens, LLC and County.

COUNTY RECREATIONAL FACILITY

25. Within 30 days of the issuance of a final DHEC landfill permit MRR Pickens, LLC shall deed the approximately 162.2 acre area depicted on Exhibit 1 as "Future County Park" to County for use as a recreational facility or for other uses deemed appropriate by County at no cost to the County. County may, at its option place restrictive covenants or other property use restrictions on this property consistent with said use. County shall be responsible for development of this land.

This Agreement shall be binding on the parties hereto, their successors, personal representative or assigns.

This Agreement shall be executed contemporaneously with a separate Development Agreement between the Parties and survive the expiration of the Development Agreement between the Parties.

The term of this Agreement commences upon execution of this Agreement by the Parties and shall terminate upon fulfillment of MRR Pickens, LLC's closure and post-closure obligations under the permit issued by DHEC for operation of the Landfill ("Term"). The County may terminate this Agreement prior to the expiration of the Term only upon a material breach of this Agreement, which is limited to the occurrence of one of the following:

- a) Revocation by DHEC of the permit issued for the operation of the Landfill;
- b) MRR Pickens, LLC's failure to deed to the County the property described in and pursuant to the provisions of paragraph 25 above; or
- c) MRR Pickens, LLC's refusal to accept waste pursuant to paragraphs 11 and 12 above.

Upon the occurrence of (a), (b), or (c) above, the County shall provide MRR Pickens, LLC with notice in writing of the material breach as defined herein. The County may elect to terminate this Agreement upon MRR Pickens, LLC's failure to cure a material breach of this Agreement within one hundred eighty (180) days of such written notice. Upon termination of this Agreement pursuant to the provisions of this paragraph, MRR Pickens shall initiate and complete closure of the Landfill.

WITNESS, our hands and seals this 8th day of March, 2007.

WITNESSES

MRR Pickens, LLC

Its: _____

PICKENS COUNTY

Its: County Administrator



Exhibit 3

)))	STATE OF SOUTH CAROLINA)) COUNTY OF PICKENS)	)))	HOST AGREEMENT FOR A LONG TERM CONSTRUCTION, DEMOLITION AND LAND-CLEARING DEBRIS LANDFILL AND OTHER ASSOCIATED DEVELOPMENT

WHEREAS, MRR Pickens, LLC is under contract to purchase an approximately 446.70 acre site ("the Site") in Pickens County, South Carolina ("County"); shown on Exhibit 1 to this Agreement ("the Host Agreement"); and;

WHEREAS, County previously conducted a study on the Site, which study found that portions of the Site are well situated to serve as an expansion of the County's present industrial park, which is contiguous to the Site; and;

WHEREAS, County has previously expressed its desire to purchase the Site and develop all or a portion of the Site for expansion of its nearby industrial park; and;

WHEREAS, MRR Pickens, LLC wishes to construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill and associated recycling, composting, and waste processing activities (collectively, the "Landfill") on a portion of the Site; and;

WHEREAS, County's current Construction, Demolition and Land-Clearing Debris Landfill has nearly exhausted its capacity; and;

WHEREAS, County needs additional Construction, Demolition and Land-Clearing Debris disposal capacity; and;

WHEREAS, the South Carolina Department of Health and Environmental Control ("DHEC") has made a preliminary finding that construction of this facility is consistent with the Pickens County Solid Waste Management Plan; and;

WHEREAS, in addition to both of these portions of the Site which (i) MRR Pickens, LLC desires to use as the location of the Landfill and (ii) that which is suitable as an expansion

of the County's industrial park (the "Pickens Co. Industrial Lots"), there is a portion of the Site consisting of approximately 162.2 acres which, due to poor topography, is unsuitable for development; and;

WHEREAS, MRR Pickens, LLC wishes to convey to County this area of approximately 162.2 acres free of charge for use as a County recreational facility ("Park") or for other uses deemed appropriate by County; and;

WHEREAS, pursuant to negotiations County and MRR Pickens, LLC have reached an agreement which would allow each to meet their respective goals. MRR Pickens, LLC, on the one hand, will own and manage a Landfill that will serve as the replacement Construction, Demolition and Land Clearing Debris Landfill for the County. On the other hand, the County will have the benefit of the Landfill which will serve the County in an environmentally appropriate manner and in accordance with the requirements set forth in this Agreement will acquire additional properties for economic development and a Park to further meet the recreational needs of County residents.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that MRR Pickens, LLC, and Pickens County agree as follows:

LANDFILL OPERATIONS

1. MRR Pickens, LLC shall construct and operate a Long-term Construction, Demolition and Land-Clearing Debris Landfill at the Site.

2. The location of the Site is designated as Pickens County Tax Map Number 4098-00-82-5916 and consists of 446.70 acres, more or less, and has the following coordinates: W 34°47'50", Latitude N 82°40'30". The Landfill, associated reprocessing, stormwater ponds, and

) buffer areas are depicted on Exhibit 1, which is incorporated into this Agreement and consists of the approximately 147.4 acre parcel designated on Exhibit 1 as "LF FACILITY."

3. County shall allow MRR Pickens, LLC to construct and operate a Long-Term Construction and Demolition and Land Clearing Debris Landfill as long as it is operated in accordance with the terms and conditions of this Host Agreement.

4. The Landfill shall be constructed and operated in accordance with DHEC's rules, regulations and statutes, specifically S.C. Code Ann. Regs 61-107.11 Part IV or its equivalent under any superseding regulations and S.C. Code Ann. §§44-96-10 *et. seq.*

5. During operating hours and upon 24 hours telephonic notice, representatives authorized by the County shall have the right to enter and inspect the Landfill and the Landfill records of MRR Pickens, LLC.

) 6. MRR Pickens, LLC must report any notice of violation of regulations or permit requirements from DHEC to the County Administrator within seventy-two (72) hours after notification by DHEC.

7. All reports required to be submitted to DHEC by MRR Pickens, LLC must be simultaneously submitted to the County Administrator. On a fiscal year basis MRR Pickens, LLC shall provide data to the County indicating the amount, in tons per year, of Construction and Demolition Debris ("C&D") and Land Clearing Debris ("LCD") recycled. Data relating to LCD generated through curbside collection programs may be used by the County to demonstrate progress toward achievement of the County's solid waste recycling goals under the South Carolina Solid Waste Policy and Management Act, S.C. Code Ann. § 44-96-50 (G).

8. All complaints received by MRR Pickens, LLC from the public, whether verbal or written must be reported to the County Administrator on a monthly basis, along with any resolution or proposed resolution.

9. MRR Pickens, LLC shall buffer the Landfill using appropriate landscaping techniques and vegetative buffer of appropriate width and height in accordance with specifications approved by the County's Planning Commission.

10. MRR Pickens, LLC shall not conduct any active Landfill operations within five hundred (500) feet of the Highway 93 entrance to the Landfill.

11. Waste Acceptance, Mulch, Compost Material

A. County Generated Waste.

The County will be allowed to dispose of all County Generated Waste (as defined below) at a rate of 57% of the Landfill's published "gate" rate at the time of disposal. Any time MRR Pickens, LLC adjusts its published "gate" rate it shall provide County 90 days written notice of said change before applying this adjustment to the County rate, which shall at all times remain no more than 57% of the published "gate" rate. Notwithstanding any provision to the contrary herein, the actual rate charged to the County shall not be greater than the actual rate charged to any other Landfill customer.

"County Generated Waste" shall be limited to a) C&D, LCD and other DHEC -approved waste streams generated from demolition, repairs, renovation, or construction of buildings under the County's ownership or control, or as a result of enforcing nuisance or condemnation ordinances; b) C&D, LCD and other DHEC -approved waste streams found illegally dumped at unpermitted sites that the County undertakes to clean up and transport to the MRR Pickens, LLC Landfill utilizing County-owned resources; c) non-commercial C&D, LCD and other DHEC-

approved waste streams deposited at Convenience Centers owned by the County and transported to the Landfill by County vehicles. County Generated Waste must be transported to the Landfill by County vehicles or by pre-designated vehicles owned by contractors employed by the County.

B. Curbside Yard Trash.

The County and municipalities within the County will be allowed to dispose of domestic Yard Trash (excluding tree stumps) generated through publicly administered curb-side pick-up programs at the Landfill free of charge. Curbside Yard Trash must be transported to the Landfill by government owned vehicles or by pre-designated vehicles owned by contractors of the public entity administering the program. This Curbside Yard Trash waste may be composted or mulched for recycling by MRR Pickens, LLC.

C. Disaster Waste.

MRR Pickens, LLC will maintain a storm debris staging area at the Landfill for County or municipally generated storm debris that can be staged onsite for grinding by the County or under the auspices of a Federal Emergency Management Agency ("FEMA") funded project. MRR Pickens, LLC will allow use of this staging area free of charge. County will be responsible for delivery, grinding and disposal of disaster waste, and for defraying the costs of said activities.

D. Onsite Construction LCD.

MRR Pickens, LLC shall accept any LCD generated by the County or its contractors as part of the development of the adjacent Pickens County Commerce Park or lots purchased by the County from MRR Pickens, LLC free of charge.

B. Mulch/Compost Material.

MRR Pickens, LLC shall allow the County available mulch and/or composted soil additive product generated by the Landfill at no charge upon reasonable notice.

F. Fill Dirt for Closure of County Landfill.

MRR Pickens, LLC shall allow County access at no charge to any excess soil not required by the Landfill for its daily operations or closure and to be used by the County for closure of the existing County C&D landfill. The County shall be responsible for excavating and transporting said materials.

12. In lieu of a host fee, MRR Pickens, LLC agrees to maintain the provisions of paragraph 11 above for the County and any municipality located within the County for the permitted operational lifetime of the Landfill.

13. The maximum yearly disposal rate is set by S.C. Code Ann. Regs 61-107.17. DHEC has currently approved a disposal rate of seventy thousand five hundred (70,500) tons per year for the Landfill. As circumstances change MRR Pickens, LLC shall be entitled to increases in this annual disposal rate, up to the maximum permitted by R. 61-107.17. MRR Pickens, LLC shall not require County approval for increases in the permitted disposal rate that may occur solely as a result of DHEC's review of the current 10 mile planning area as defined by R. 61-107.17. Should subsequent regulatory amendments result in a change in the way DHEC calculates a Landfill's maximum annual disposal rate, or otherwise increases the size of the planning area under R. 61-107.17, such requests for increases in the permitted disposal rate shall require approval from County in writing.

14. The disposal "footprint" of the Landfill shall not exceed approximately 68 acres (including the 10 acre reprocessing area, within which area landfilling may also be conducted) as permitted by DHEC or as allowed in the final permit to operate issued by DHEC.

15. MRR Pickens, LLC shall maintain a recycling center for waste processing and recycling at the Landfill.

16. No lateral expansions to the Landfill will be allowed without written permission of County and only under such terms and conditions as to be prescribed by County.

17. MRR Pickens, LLC shall post such Financial Assurance as may be required by DHEC providing for DHEC approved closure and post-closure care of the Landfill in the event of insolvency or bankruptcy of MRR Pickens, LLC or the death of its managers/owners. By this agreement MRR Pickens, LLC agrees that the Financial Assurance instrument shall be limited to an irrevocable letter of credit, surety bond, or cash.

18. By this agreement MRR Pickens, LLC hereby covenants that it will retain the permit in its name throughout the closure and post-closure process and shall remain responsible for all costs associated with all monitoring, any required corrective action, and liabilities associated with closure and post-closure for the Landfill.

19. MRR Pickens, LLC shall not convey the Landfill or transfer the permit to any unrelated third party without the express written consent of the County and only upon the execution of a substantially similar agreement binding transferee to performance of all the terms and conditions of this agreement for the life of the landfill.

20. Upon closure of the Landfill, and at County's option, MRR Pickens, LLC shall make the Landfill available to the County for any appropriate public use consistent with a closed C&D landfill site. Should County so request, prior to the change in use, MRR Pickens, LLC

agrees to and will assist County in having the site of the Landfill enrolled in DHEC's Brownfields program with MRR Pickens, LLC listed on Brownfields contracts as a "Responsible Party" and with County listed as a "Non-Responsible Party" if this is permitted by DHEC.

INDUSTRIAL PARK EXPANSION PORTION

21. As part of the development of the Site, MRR Pickens, LLC shall sell, and the County shall purchase approximately 39 acres of platted property depicted on Exhibit 1 attached hereto as "PICKENS CO. INDUSTRIAL LOTS" for industrial development lots within 90 days of the date of MRR Pickens, LLC's acquisition of fee simple title to the Site.

22. The County will be responsible for construction and grading for all lots, roads, and the construction of or otherwise acquisition of all necessary utilities for the Industrial Park Expansion Portion.

23. MRR Pickens, LLC shall sell the Industrial Lots to County at a price of \$10,000.00 per acre.

24. Contemporaneously with the sale of the 39 acre Industrial Lots MRR Pickens, LLC shall grant to the County a sewer easement so that County can provide sewage disposal to the Industrial Lots, provided such easement does not interfere with the planned Landfill operations. This easement shall be granted to County at no cost to the County, and using a routing agreeable to both MRR, Pickens, LLC and County.

COUNTY RECREATIONAL FACILITY

25. Within 30 days of the issuance of a final DHEC landfill permit MRR Pickens, LLC shall deed the approximately 162.2 acre area depicted on Exhibit 1 as "Future County Park" to County for use as a recreational facility or for other uses deemed appropriate by County at no cost to the County. County may, at its option place restrictive covenants or other property use

restrictions on this property consistent with said use. County shall be responsible for development of this land.

This Agreement shall be binding on the parties hereto, their successors, personal representative or assigns.

This Agreement shall be executed contemporaneously with a separate Development Agreement between the Parties and survive the expiration of the Development Agreement between the Parties.

The term of this Agreement commences upon execution of this Agreement by the Parties and shall terminate upon fulfillment of MRR Pickens, LLC's closure and post-closure obligations under the permit issued by DHEC for operation of the Landfill ("Term"). The County may terminate this Agreement prior to the expiration of the Term only upon a material breach of this Agreement, which is limited to the occurrence of one of the following:

- a) Revocation by DHEC of the permit issued for the operation of the Landfill;
- b) MRR Pickens, LLC's failure to deed to the County the property described in and pursuant to the provisions of paragraph 25 above; or
- c) MRR Pickens, LLC's refusal to accept waste pursuant to paragraphs 11 and 12 above.

Upon the occurrence of (a), (b), or (c) above, the County shall provide MRR Pickens, LLC with notice in writing of the material breach as defined herein. The County may elect to terminate this Agreement upon MRR Pickens, LLC's failure to cure a material breach of this Agreement within one hundred eighty (180) days of such written notice. Upon termination of this Agreement pursuant to the provisions of this paragraph, MRR Pickens shall initiate and complete closure of the Landfill.

WITNESS, our hands and seals this 8th day of March, 2007.

WITNESSES

MRR Pickens, LLC

Dana D. [Signature]
Shirley W. Jindley

[Signature]
Its: MANAGER, SC OPERATIONS
RONALD C. GILKESON

PICKENS COUNTY

[Signature]
Shirley W. Jindley

[Signature]
Its: County Administrator

Exhibit 4

COPY



Catherine E. Helget, Director

Providing and protecting the health of the public and the environment

August 10, 2015

Mr. Christopher T. Roof
MRR Pickens, LLC
Highway 93 Landfill
5842 Farlington Place, Suite 1
Raleigh, North Carolina 27609

RE: Issuance of Modified Class 2 Landfill Permit
Highway 93 Landfill
Permit No. 1JF2-00003
Pickens County

Dear Mr. Roof:

Enclosed is a modified Class 2 landfill permit for the Highway 93 Landfill located at 2180 Greenville Highway, Liberty, SC in Pickens County. The modification includes an alternate liner design and associated changes resulting from the design change. Enclosed is a copy of the Department approved revised engineering report to be kept at the referenced facility at all times. The guidelines and requirements to operate the site can be found in Regulation 61-107.19, *Solid Waste Management: Solid Waste Landfills and Structural Fill* and the conditions can be found in the attached Permit.

This decision of the S.C. Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) days after notice of the Department decision has been mailed to the applicant or respondent, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with the Department by the applicant, permittee, licensee, or affected person. This decision may be appealed by complying with the requirements described in the attached *Guide to Final Review*, provided as a courtesy by the Department.

If you have any questions regarding the permit, please contact Timothy M. Bheazer, (803) 898-1374. General questions should be referred to Susan Turner with the Upstate Region RQC, HRHS Greenville Office, and (864) 372-3273.

Sincerely,

A handwritten signature in black ink that reads "Kent M. Coleman".

Kent M. Coleman, Director
Division of Mining & Solid Waste Management
Bureau of Land and Waste Management

KMC/TMC/ma

cc: Marty Lindor, Manager - BLWM Solid Waste & HW Compliance Section
Tara Knight, P.G. Manager - BLWM Solid Waste Groundwater Section
Susan Turner, Upstate Region, HRHS Greenville Office
Scott L. Brown, P.E., Civil & Environmental Consultants, Inc.
BLWM File 021212

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
2000 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3432 • www.scdhec.gov

ROA 198

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with the Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

1. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by the Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:
South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
Alternatively, RFR's may be filed with the Clerk by facsimile (803-698-3393) or by electronic mail (boardclerk@dheo.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be publicly noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] **NOTE: The burden of proof is on the Requestor(s)**
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forum stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.



Catharine E. Heigl, Director

Promoting and protecting the health of the public and the environment

OFFICE OF ENVIRONMENTAL QUALITY CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT
CLASS 2 LANDFILL
PERMIT No. LF2-00003

Date of Issuance: November 3, 2008

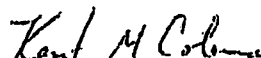
Date of
Modification: August 10, 2015

Permission is hereby granted to:

Name of Facility: Highway 93 Class 2 Landfill
Permittee: MRR Pickens, LLC
Address: 5842 Faringdon Place, Suite 1
Raleigh, NC 27609
Supervisor: Mr. Christopher L. Roof
Phone: (919) 436-3570

for the operation of a Class 2 landfill at 2180 Greenville Highway, in Pickens County located off Highway 93 near the City of Liberty, SC 29657.

This permit is issued pursuant to Sections 44-96-10 et seq., and 25A S.C. Code Regulation 61-107.19. The authority granted hereunder is subject to the requirements of the aforementioned laws and regulations and the attached conditions.


Kent M. Crisman, Director

Division of Mining and Solid Waste Management
Bureau of Land & Waste Management

Permit No. LF2-00003
August 10, 2015
Page 1 of 4

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
2000 Bull Street • Columbia, SC 29201 • Phone: (803) 888-3492 • www.scdhec.gov

ROA 201

MRR PICKENS, LLC
CLASS 2 LANDFILL
PERMIT No. LP2-00003

A. SPECIAL CONDITIONS

1. The Permittee shall adhere to the approved design specifications, and construction plans received November 30, 2007; revised August 26, 2008, and last revised August 5, 2015, unless permit conditions state otherwise.
2. This permit is limited to the disposal of the items listed in Appendix I of R.61-107.19 and any other waste approved by the Department for disposal in a Class Two Landfill pursuant to R.61-107.19, Part IV, Section C.2.
3. The allowable rate of disposal for this facility is seventy thousand five hundred (70,500) tons per fiscal year (July 1 to Jun30). Information concerning the facility's previous Fiscal Year's waste receipts is due on the form of an annual report to the Department no later than September 1st of each year, as required by R.61-107.19 Part IV, Subpart C.16, to the attention of:

Manager, Solid and Hazardous Waste Compliance Section
SC DHEC Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

4. All Appendix-I acceptable wastes must be covered at least once every thirty (30) days with a minimum of six (6) inches of clean soil, except for asbestos-containing material, which must be covered with a minimum of six (6) inches of clean soil immediately upon placement in the landfill.
5. The total surface area within the permitted waste disposal footprint that has not been deemed closed by the Department is limited to five (5) acres. For an area to be considered closed, the following items shall be completed:
 - a. Official certification from a Professional Engineer registered in the State of South Carolina that the area has been closed in accordance with final cover requirements pursuant to Regulation 61-107.19, Part IV, Subpart F.1.
 - b. The area shall be inspected and deemed closed by Department staff.
6. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that the total surface area within the permitted waste disposal footprint that is not deemed officially closed by the Department pursuant to Special Condition No. 5 (above) is equal to or less than five (5) acres (at the time of the certification). The certification shall be completed within sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.

7. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that enough soil is currently available to use for final cover (16,133 yd³ of soil for 5 acres with 2' thickness). The certification shall have been completed within the last sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.
8. Sixty (60) days prior to starting construction of the Class Two landfill, the Permittee shall notify the Department of their selection between Option 1 (traditional Class Two landfill design), or Option 2 (alternate liner design). If the financial assurance mechanism needs to be increased, this shall be done prior to the acceptance of waste into the landfill.

B. GENERAL PERMIT CONDITIONS

1. If the landfill should become inundated with water, all water shall be removed before continuing disposal of waste.

C. ENVIRONMENTAL MONITORING PERMIT CONDITIONS

1. GROUNDWATER DETECTION MONITORING SYSTEM

- a) The Permittee shall maintain a groundwater detection monitoring system consistent with the most recently approved Groundwater Sampling and Analysis Plan and as required in R.61-107.19, Part IV, Section E. The groundwater detection monitoring system shall consist of monitoring wells as designated in the most recently approved Groundwater Sampling and Analysis Plan and any other monitoring wells specified by the Department. Modifications to the current groundwater detection monitoring system shall be in accordance with the requirements of R.61-107.19, Part IV, Section E.
- b) The Permittee shall perform all groundwater sampling activities in accordance with the most recently approved Groundwater Sampling and Analysis Plan and in accordance with the requirements of R.61-107.19, Part IV, Section E, along with any subsequent modifications deemed necessary by the Department to uphold the intent of this permit. The Permittee shall evaluate analytical results in accordance with the most recently approved Groundwater Sampling and Analysis Plan and any subsequent modifications required by the Department.
- c) The Permittee must determine during each sampling event the groundwater elevation in each well relative to mean sea level (MSL) to the nearest one-hundredth of a foot. All elevations should be determined on the same day. The Permittee shall determine the total depth of each well on an annual basis.
- d) Groundwater samples shall be analyzed by a laboratory certified by the State of South Carolina.

2. ASSESSMENT OF GROUNDWATER IMPACT

If the Permittee determines that a groundwater protection standard has potentially been exceeded for one or more constituents for routine at any monitoring well at the relevant point of compliance, then the Permittee shall perform any necessary groundwater assessment actions in accordance with the requirements of R.61-107.19 Subpart E.3.

3. REPORTING

- a) The permittee shall submit to the Department the result of the groundwater monitoring program as specified in the most recently approved Groundwater Sampling and Analysis Plan, in accordance with the following schedule:

Sampling Schedule	Results Due
November/December	January 15 (Semi-Annual)
May/June	July 15 (annual Report)

- b) The Permittee shall submit a properly bound annual report signed by a South Carolina qualified professional summarizing the semi-annual determinations of groundwater flow rate and direction. In addition, the report shall make a determination as to whether the monitoring well network continues to meet requirements of permit condition C.1.a.
- c) The groundwater data collected by the implementation of the groundwater monitoring program as specified by this Permit shall be submitted to the SCDHEC Bureau of Land and Waste Management, Division of Mining and Solid Waste Management, Solid Waste Ground water Section, and to the Solid Waste Consultant in Upstate Region BEHS Greenville.

4. METHANE MONITORING

In accordance with R.61-107.19, Part IV, Subpart C, methane monitoring is not required at the time of issuance of this permit. However, should the Department determine that methane is of concern at this Facility; the Facility may be required to comply with R.61-107.19, Part IV, Section C.21.

Exhibit 5



November 20, 2014

Mr. J. Marshall Brown, AICP
County Planner
Pickens County Planning Department
Pickens County Administration Building
222 McDaniel Avenue, B-10
Pickens, SC 29671

RE: Letter of Intent
Application for Land Use Review
Parcel ID # 4098-00-92-1867

Dear Mr. Brown,

The purpose of this letter is to notify your department of our intent to file an Application for Land Use Review. The subject property is a 149-acre (+/-) undeveloped parcel located at 2180 Greenville Highway, Liberty, SC.

In March 2007, MRR Pickens, LLC (MRR) entered into a Development Agreement (Enclosure 1) with Pickens County for a construction and demolition debris landfill. Section 9 of the Agreement states that the project requires review by the Pickens County Planning Commission.

The project will include a commercial entrance, truck scales, scale house/office trailer (approximate dimensions 15 feet X 75 feet), approximately 60 acres of lined landfill disposal area, and various sediment and erosion control structures.

A SCDHEC landfill permit for the project (Enclosure 2) was issued in November 2008, during a flagging economy and construction of the facility was delayed accordingly. We are now considering construction of the facility, and in doing so, look forward to working with the Planning Department staff and those in any additional departments that may be involved.

Sincerely,
MRR Southern, LLC

A handwritten signature in dark ink, appearing to read "F. Norbert Hector, Jr.", written in a cursive style.

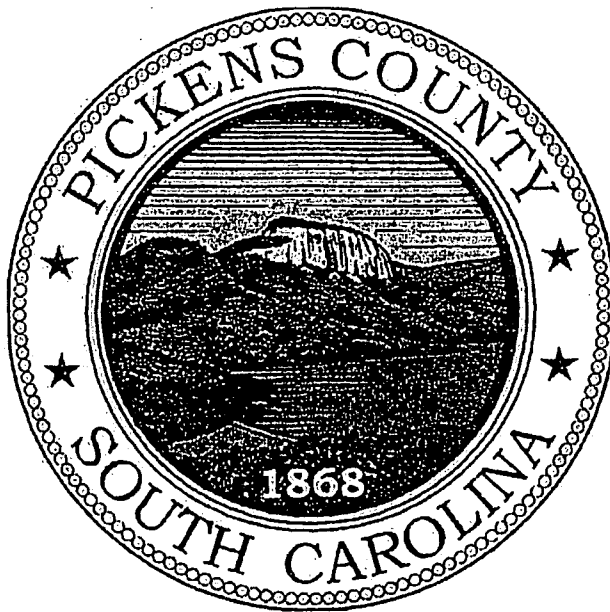
F. Norbert Hector, Jr.
Managing Member

Enclosure – MRR Pickens, LLC/Pickens County Development Agreement

MRR Pickens, LLC - 7413 Six Forks Road, #358- Raleigh, NC 27615 - Phone 919.349.9103

Exhibit 6

Application
For
Land Use Review Hearings



Thank you for your interest in Pickens County, South Carolina. This packet includes the necessary documents for Land Use Reviews to be heard by the Pickens County Planning Commission.

Should you need further assistance, please feel free to contact a member of the Planning Staff between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at (864) 898-5953

January 2009



COUNTY OF PICKENS

www.co.pickens.sc.us



Department of Community Development

Building Codes Administration • Parks and Recreation • E-911 Administration • Planning

APPLICATION FOR:

☒ Land Use Review

☐ Subdivision Variance

Case No.: _____ - _____ - _____

Note to Applicant: All applications must be typed or legibly printed and all entries must be completed on all the required application forms. If you are uncertain to the applicability of an item, please contact a member of the Planning Staff. Incomplete applications or applications submitted after the posted deadlines may be delayed.

Name of Applicant MRR Pickens, LLC

Mailing Address 7413 Six Forks Road #358, Raleigh, NC 27615

Telephone 336.253.0091 Cell 336.253.0091

Applicant is the: Owner's Agent _____ Property Owner X

Property Owner(s) of Record Same as above

Mailing Address _____

Telephone _____ Cell _____

Authorized Representative F. Norbert Hector, Jr.

Mailing Address 7413 Six Forks Road #358, Raleigh, NC 27615

Telephone 919.349.9103 Cell 919.349.9103

Address/Location of Property 2180 Greenville Highway, Liberty, SC

Existing Land Use Undeveloped timberland

Proposed Land Use SCDHEC Permitted Class 2 Landfill

Tax Map Number(s) Parcel No. 4098-00-92-1867

Total Size of Project (acres) 149 acres +/-

Number of Lots NA

Utilities:

Proposed Water Source ☐ Wells ☒ Public Water Water District Liberty

Proposed Sewage Disposal ☒ Septic ☐ Public Sewer Sewer District NA

Power Company Duke Energy

January 2009

Page 2 of 8

222 McDaniel Avenue, B-10 • Pickens, South Carolina 29671 • Telephone (864) 898-5950. Fax (864) 898-5580

ROA 209

Application for Land Use Review

Pickens County, South Carolina

REQUEST FOR VARIANCE (IF APPLICABLE):

Is there a variance request from the subdivision regulations or county road ordinance? ☐ Yes ☒ No
If YES, applicant must include explanation of request and give appropriate justifications.

RESTRICTIVE COVENANT STATEMENT

Pursuant to South Carolina Code of Laws 6-29-1146:

I (we) certify as property owner(s) or as authorized representative for this request that the referenced property:

- ☐ IS subject to recorded restrictive covenants and that the applicable request(s) is permitted, or not otherwise in violation, of the same recorded restrictive covenants.
- ☐ IS subject to recorded restrictive covenants and that the applicable request(s) was not permitted, however a waiver has been granted as provided for in the applicable covenants. (Applicant must provide an original of the applicable issued waiver)
- ☒ IS NOT subject to recorded restrictive covenants

SIGNATURE(S) OF APPLICANT(S):

I (we) certify as property owners or authorized representative that the information shown on and any attachment to this application is accurate to the best of my (our) knowledge, and I (we) understand that any inaccuracies may be considered just cause for postponement of action on the request and/or invalidation of this application or any action taken on this application.

I (we) further authorize staff of Pickens County to inspect the premises of the above-described property at a time which is agreeable to the applicant/property owner.

November 20, 2014

Date

Signature of Applicant
Owner's Representative & Managing Member of MRR Pickens, LLC

PROPERTY OWNER'S CERTIFICATION

The undersigned below, or as attached, is the owner of the property considered in this application and understands that an application affecting the use of the property has been submitted for consideration by the Pickens County Planning Commission.

See Above

Signature of Owner(s)

Date

PICKENS COUNTY STAFF USE ONLY

Application Processing	Date Received _____	Received By _____	Hearing and Action	Planning Commission Hearing Date _____
	Pre-Application meeting held with _____ on _____			Deadline for Notice to Paper _____ to run _____
	Application Forwarded to (date):			Letter of Hearing Sent to Applicant _____
	DHEC _____ ☐ N/A			Sign Placement Deadline _____
	County Engineer _____ ☐ N/A			Planning Commission Action (date) _____
	SCDOT _____ ☐ N/A			☐ Approval ☐ Approval w/ modifications ☐ Denial
	Local VFD _____ ☐ N/A		Modifications _____	
	School Board _____ ☐ N/A		Notice of Action to Applicant _____	



Pickens County, South Carolina
LAND USE REVIEW
Application Process and Requirements

This application applies to the following uses when proposed in the unincorporated areas of the county:

- A. Hazardous Waste and Nuclear Waste Disposal Sites
- B. Motorized Vehicle Tracks (commercial)
- C. Mining and Extraction Operations
- D. Gun Clubs, Skeet Ranges, Outdoor Firing Ranges
- E. Stockyards, Slaughterhouses, Feedlots, Kennels and Animal Auction Houses
- F. Golf Courses
- G. Certain Public Service Uses
 - a. Land Fills
 - b. Water and Sewage Treatment facilities
 - c. Electrical Substations
 - d. Prisons
 - e. Recycling Stations
 - f. Transfer Stations
 - g. Schools
 - h. Water and Sewer Lines
- H. Large Scale Projects
 - a. Any project that is capable of generating 1,000 average daily vehicle trips or more.
 - b. A truck or bus terminal, including service facilities designed principally for such uses.
 - c. Outdoor sports or recreational facilities that encompass one (1) or more acres in parking and facilities.
- I. Major Subdivisions
- J. Wireless Communication Towers
- K. Tattoo Facilities
- L. Mobile Home Parks/Manufactured Home Parks
- M. Sexually Oriented Business
- N. Salvage, junk, and scrap yards
- O. Uses within the Airport District

APPLICATION PROCESS

- 1) A Pre-Application meeting with a Planning Staff member is encouraged, however not required. This meeting should take place well in advance of filing an application with the Planning Department so that all questions can be asked of staff prior to the formal submittal of any application.
- 2) An application is submitted, along with any required filing fee, to the Planning Department according to the set deadline schedule (see attached schedule).
- 3) The Planning Department shall review the application for completeness within 5 business days of submission. Incomplete or improper applications will be returned to the applicant.
- 4) If the application is considered complete and proper then the planning staff will further review the application and may make a written recommendation. The written recommendation is available to the applicant approximately five days before the Planning Commission's public hearing. Copies of the report may be obtained from the Planning Department.
- 5) Legal notice is required to be printed in a newspaper of general circulation in Pickens County. This notice currently appears in the Pickens Sentinel and Easley Progress at least 15 days before public hearings in the legal notice section.
- 6) A public hearing sign is erected on the property at least 15 days before the public hearing. This sign will be erected and removed by staff.

- 7) The Planning Commission reviews the proposed land use request and takes action on the request following the public hearing. The Planning Commission meets the second Monday of each month. Meetings are held at 6:30 P.M. at the County Administration Building, Main Conference Room, Pickens, South Carolina
- 8) The Commission shall review and evaluate each application with respect to all applicable standards contained within the Unified Development Standards Ordinance (UDSO). At the conclusion of its review, the Planning Commission may approve the proposal as presented, approve it with specified modifications, or disapprove it.
- 9) In consideration of a land use permit, the Planning Commission shall consider factors relevant in balancing the interest in promoting the public health, safety, or general welfare against the right of the individual to the unrestricted use of property and shall consider specific, objective criteria. Due weight or priority shall be given to those factors that are appropriate to the circumstances of each proposal.
- 10) A decision of the Planning Commission may be appealed as provided for in Title 6, Chapter 29 of the South Carolina Code.
- 14) Within 15 days of the Planning Commission taking action on the request, planning staff will send the applicant a Notice of Action.
- 15) Any applicant wishing to withdraw a proposed land use permit prior to final action by the Planning Commission shall file a written request for withdrawal with the Director of Community Development.
 - a. If the request for withdrawal is received prior to the publication of notice for the public hearing, the Director of Community Development shall withdraw the application administratively without any restriction on the re-filing of a proposed land use permit on the property in the future.
 - b. If notice has been published (or is irretrievably set for publication) and the application has not been heard by the Planning Commission, the application shall remain on the Planning Commission's public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the Planning Commission.
- 16) All associated fees are non-refundable. If a case is withdrawn or postponed at the request of the applicant, after the notice has been placed with the newspaper, the applicant is responsible for all associated cost of processing and advertising the application; the County must be reimbursed for these cost by the applicant.

The items listed below are necessary to process a Land Use Review application. Please see the attached schedule of filing deadlines and meeting dates. A pre-application conference with Planning Staff to discuss the proposal is recommended, but is not required.

Any amendments to an application must be submitted to the Planning Department for staff review at least 10 days prior to the Planning Commission hearing.

REQUIRED ITEMS

1) APPLICATION FORM:

One (1) copy of the appropriate Application form with all required attachments and additional information must be submitted.

2) LETTER OF INTENT:

- a. One (1) copy of a Letter of Intent (must be typed or legibly printed).
- b. The Letter of Intent must give details of the proposed use of the property and should include at least the following information:

1. A statement as to what the property is to be used for;
2. The acreage or size of the tract;
3. The land use requested;
4. The number of lots and number of dwelling units or number of buildings proposed;
5. Building size(s) proposed;
6. If a variance of the subdivision regulations is also being requested, a brief explanation must also be included.

3) **SKETCH PLAN (major subdivisions):**

- a. An application for a land use permit for a major subdivision shall be accompanied by a sketch plan.
- b. A sketch plan must be prepared by a professional engineer, a registered land surveyor, a landscape architect, or a certified land planner. The applicant may prepare the concept plan if approved by the Community Development Director.
- c. The sketch plan shall be drawn to approximate scale on a boundary survey of the tract or on a property map showing the approximate location of the boundaries and dimensions of the tract.
- d. The sketch plan shall show, at a minimum, the following:
 1. Proposed name of the development
 2. Acreage of the entire development
 3. Location map
 4. Proposed lot layout
 5. Minimum lot size with anticipated overall density (lots/acre)
 6. Setbacks, with front setbacks shown, side and rear may be stated
 7. All proposed rights-of-way with applicable widths
 8. Natural features located on the property
 9. Man-made features both within and adjacent to the property including:
 - a) Existing streets and names (with ROW shown)
 - b) City and County boundary lines
 - c) Existing buildings to remain
 10. Proposed areas of public dedication (conservation areas/open space)
 11. Flood plains and areas prone to flooding
 12. Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

4) **SKETCH PLAN (multi-family and non-residential):**

- a. An application for a land use permit for a multi-family project or a non-residential project shall be accompanied by a sketch plan.
- b. A sketch plan must be prepared by a professional engineer, a registered land surveyor, a landscape architect, or a certified land planner. The applicant may prepare the sketch plan if approved by the Community Development Director.
- c. The sketch plan shall be drawn to approximate scale on a boundary survey of the tract or on a property map showing the approximate location of the boundaries and dimensions of the tract.
- d. The sketch plan shall show, at a minimum, the following:

1. Proposed name of the development
2. Acreage of the entire development
3. Location map
4. Proposed building(s) location(s)
5. Anticipated property density stated as a FAR (Floor to Area Ratio)
6. Setbacks, with front setbacks shown, side and rear may be stated
7. Proposed parking areas
8. Proposed property access locations
9. Natural features located on the property
10. Man-made features both within and adjacent to the property including:
 - a) Existing streets and names (with ROW shown)
 - b) City and County boundary lines
 - c) Existing buildings to remain
11. Required and proposed buffers and landscaping
12. Flood Plains and areas prone to flooding
13. Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

5). **ATTACHEMENTS**

All attachments must be included in order for the application to be considered complete

- Attachment A – "Standards For Land Use Approval Consideration"
- Attachment B – "Application Checklist"



Pickens County, South Carolina
Attachment A
LAND USE REVIEW
Standards of Land Use Approval Consideration

In consideration of a land use permit, the Planning Commission shall consider factors relevant in balancing the interest in promoting the public health, safety, and general welfare against the right of the individual to the unrestricted use of property and shall specifically consider the following objective criteria. Due weight or priority shall be given to those factors that are appropriate to the circumstances of each proposal.

Please respond to the following standards in the space provided or you may use an attachment as necessary:
Please see "Attachment A-Additional Information" for responses to these questions.

- (A) Is the proposed use consistent with other uses in the area or the general development patterns occurring in the area?

- (B) Will the proposed use not adversely affect the existing use or usability of adjacent or nearby property?

- (C) Is the proposed use compatible with the goals, objectives, purpose and intent of the Comprehensive Plan?

- (D) Will the proposed use not cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

- (E) Is the property suitable for the proposed use relative to the requirements set forth in this development ordinance such as off-street parking, setbacks, buffers, and access?

- (F) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?



Pickens County, South Carolina
Attachment B
LAND USE REVIEW
Application Checklist

The following is a checklist of information required for submission of a Land Use Review application. Incomplete applications or applications submitted after the deadline will may be delayed.

<u>Yes</u>	Completed application form
<u>Yes</u>	Letter of Intent
<u>No</u>	Sketch Plan (major subdivisions) – 8 copies and one (1) reduction to 8 ½" x 11"
<u>Yes</u>	Sketch Plan (for multi-family and non-residential) – 8 copies and one (1) reduction to 8 ½" x 11"
<u>Yes</u>	Attachment "A"

**ATTACHMENT A
ADDITIONAL INFORMATION**

(A) Is the proposed use consistent with other uses in the area or the general development patterns occurring in the area?

Yes, the proposed use is consistent with other uses in the area. The northern site boundary is directly across the street from the Norfolk-Southern Railway and King Asphalt's heavy industrial operations. The Vulcan Materials quarry and OmniSource scrap metals collection site are also in close vicinity on Greenville Highway. It is also important to note that MRR's operations will be largely offset from the Greenville Highway road frontage by several (currently wooded and undeveloped) industrial lots that were sold to Pickens County by MRR as part of the negotiated Development Agreement executed between the County and MRR.

There is a small residential development consisting of approximately seven homes that borders the western site boundary, on Clover Street. MRR's operations will be well buffered from these residences by a heavily wooded steep ravine and natural drainage-way. MRR's operations are also subject to a state regulation and a permit from the South Carolina Department of Health and Environmental Control (DHEC) that prohibits any waste disposal within 1000 feet of these structures.

The eastern facility boundary currently consists of undeveloped timberland, the larger portion (162 +/- acres) which MRR is in the process of donating to Pickens County for their future use as a public park/recreational area.

The southern border of the facility is largely north of Woodbine Road, separated by heavy woodlands, much of which is wetlands and will present challenges for future development. A small portion of the MRR property, approximately 100 feet, fronts on Woodbine Road; however this is separated from our proposed development by an unnamed creek, precluding its use in the proposed operation. MRR has no plans for development of this acreage.

Moreover, as stated in the MRR/Pickens County Development Agreement, *"The County recognizes that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County."*

(B) Will the proposed use not adversely affect the existing use or usability of adjacent or nearby property?

The proposed use will not adversely affect the existing use or usability of adjacent or nearby properties. In fact, as outlined in the MRR/Pickens County Development Agreement, much of the surrounding land will be converted to a higher use for the betterment of County residents and businesses as outlined above in Item (A).

(C) Is the proposed use compatible with the goals, objectives, purpose and intent of the Comprehensive Plan?

The preface to the Pickens County Comprehensive Plan states the following as its "Vision for the Future":

Pickens County is a progressive county providing a mix of urban and rural lifestyles. It endeavors to ensure the quality of its lifestyles through proper planning, which encourages:

- Economic growth, which would promote job opportunity.*
- Protection and preservation of forests and farmland,*
- Urban development to occur primarily contiguous to the existing cities.*
- Rural development throughout the county,*
- A spectrum of development compatible with the lifestyles of Pickens County,*
and
- Protection of the mountains and lakes, including parks, to enhance family recreation, and tourism.*

The statements above constitute the goals for Pickens County. They can be accomplished by achieving the objectives stated for each of the elements of this comprehensive plan.

MRR's overall development plan, as negotiated with Pickens County, and outlined in the Development Agreement, addresses – in positive fashion – almost every aspect of the Comprehensive Plan's goals and objectives. The properties sold to the County by MRR as part of this agreement are being earmarked for business/industrial development; the dedication of 162 acres by MRR to the County will protect and preserve a large parcel of land that likely will remain primarily forested; the proposed uses of all associated properties promote both urban and rural objectives; and families opportunities for recreation will be forever enhanced.

(D) Will the proposed use not cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

The proposed project will not cause an excessive or burdensome use of public facilities or services. The entrance to the facility is located on the south side of Greenville Highway (SC Highway 93) on a segment of road that is designed for heavy industrial traffic. The project will have no conceivable impact upon the County's schools and limited impact upon water and sewer utilities. A septic system is planned for the site and thus, no sewer service will be required for the facility. Police and fire protection needs for the facility should be consistent with, and certainly no greater than those of the surrounding industrial activities.

(E) Is the property suitable for the proposed use relative to the requirements set forth in this development ordinance such as off-street parking, setbacks, buffers, and access?

The property is entirely suitable for the proposed use relative to the requirements set forth in the County's development ordinance. As described in Item A above, the facility has excellent natural buffers consisting of mature, natural vegetation. Off-street parking will be provided in accordance with the development ordinance. The use is subject to a DHEC permit that requires large buffers that exceed the requirements in the development ordinance.

As previously agreed upon and documented in the Development Agreement, the proposed development is consistent with the applicable County laws and land use regulations. The Agreement further states that the Land Development regulations and laws in force at the time of execution of the Agreement govern the development of the property.

(F) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

This project reflects a reasonable balance between the promotion of the public health, safety, morality, general welfare, and the right to moderately unrestricted use of property. These balancing issues were addressed when MRR and Pickens County entered into the Development Agreement referenced above. To ensure a reasonable balance, MRR agreed to gift large portions of land contiguous with the property for the beneficial use of the community and industrial development. Furthermore, by issuing a permit to MRR for the proposed use, DHEC, the agency charged with

protecting public health, concluded the proposed use promotes the general welfare in the area.

(End)

Exhibit 7

PICKENS COUNTY PLANNING COMMISSION

MINUTES

of

January 12th, 2015

6:30pm

**PICKENS COUNTY ADMINISTRATION BUILDING
Main Conference Room**

MEMBERS PRESENT:

Bill Cato, Vice Chair
Weldon Clark
Bob Ballentine
Dennis Reinert
Jo Johnston

STAFF PRESENT:

Ken Roper, County Attorney
Chris Brink, Community Development Director
Marshall Brown, County Planner

Welcome and Call to Order

Mr. Cato, presiding official, called the meeting to order at 6:30 p.m.

Mr. Cato asked those in attendance to join in a moment of silence and recital of the Pledge of Allegiance.

Mr. Cato asked the members of the Commission to introduce themselves and to state which County Council member they represent.

Approval of Minutes

Mr. Cato asked for a motion regarding the minutes of the December 8th, 2014 meeting. Mr. Ballentine motioned to approve the minutes. Ms. Johnston seconded the motion; motion passed unanimously.

Public Comments

No one was present wishing to address the Commission.

Public Hearing

Mr. Cato opened the public hearing portion of the meeting.

1. LU-16-001 SCDHEC Class 2 Landfill land use request for MRR Pickens, LLC.
Proposed site is located at 2810 Greenville Highway, Liberty.
Tax Map# 4088-00-92-1867

Mr. Cato opened the public hearing.

Mr. Dan Moore, Mr. Frank Hector, Mr. Chris Roof, Mr. Scott Brown, and Ms. Jessie McNair, appeared before the Commission as representatives of MRR Pickens, LLC. Mr. Moore explained that this request was exactly the same as MRR Pickens, LLC's request from 2007; that nothing had changed; that a development agreement was executed between the property owner and Pickens County and is still in effect; that approximately 160 acres was donated to Pickens County, per that development agreement, for use as a recreational park.

Mr. Moore continued to give specifics of the project; that SCDHEC issued their approval and permit in November 2008, however, due to economic factors, the project was put on hold. Mr. Moore felt that the economy had rebounded enough that it now makes economic sense.

The applicant's representatives gave a review of the project regarding location, size of the facility, type of facility, road frontage and access, and setbacks from adjacent properties.

Mr. Clark asked the meaning of the company name. Mr. Hector responded that it meant Material Recovery and Recycling (MRR).

Mr. Reinert asked what will happen to the site once the landfill is closed. Mr. Moore stated that according to the development agreement, it would be offered to the county.

Mr. Ballentine asked what the life expectancy of the landfill was. Mr. Moore stated that according to the SCDHEC permit, they have a capacity of 8 million cubic yards; that at the 2008 disposal rate at the County C&D landfill of 20,000 tons yearly, it would take approximately 60 years to fill the facility.

Mr. Cato asked how deep the landfill would be and how odor would be handled. Mr. Roof stated that the depth is limited to the depth of the groundwater level; that SCDHEC requires a depth a minimum of 3 feet above and that no household waste is permitted at the facility so there would be no odor issues.

Mr. Cato also inquired about the acceptance of asbestos. Mr. Brown stated that asbestos is allowed to be disposed of in the facility, however, it would be placed in a dedicated location in the facility and all material would be handled according to all applicable requirements.

Ms. Johnston questioned what materials would be reclaimed/recycled. Mr. Moore stated that all recyclable material would be segregated or separated, like concrete or un-treated un-painted wood, and would be crushed or processed and sold back to the public.

Ms. Johnston also asked how the facility would be operated on a daily basis. Mr. Moore stated that the facility would be staffed daily to separate the material, cover it, work the scale facility, etc.

There were no additional comments from the applicant, nor was any one present that wished to speak in opposition.

Mr. Cato asked if there were any questions from the Commission.

There being no further comments or questions, Mr. Cato closed the public hearing and called for a motion.

Mr. Clark made the motion to approve the request. Motion was seconded by Mr. Reinert. Motion passed unanimously.

Mr. Cato opened the next public hearing.

2. SD-16-001 Addition of 7 additional single-family lots to existing subdivision The Groves on the Ridge. Site is located at Arrowhead Drive, Central.
Tax Map# 4055-05-29-1589 et al

Mr. Alan King appeared before the Commission and gave a brief overview of his request and with the assistance of a projector, provided a visual overview as well; that he wanted to take several existing lots within his development and divide them further, creating anywhere from 7 to 9 new lots, still meeting the minimum county requirements; that some of the parcels would have road frontage and others would be served by newly created easements; that he was seeking Planning Commission approval prior to him hiring a surveyor to draw out the parcels and the expense that would involve. Mr. King stated that the project is served by a private, community sewer system and that adding to the project would keep the overall daily permitted flow below what SCDHEC has permitted.

Mr. Brink went over the staff recommendation with the members of the Commission; that the applicant hadn't presented enough material in a form that was clearly understandable or detailed enough so that a thorough review could be conducted to verify that the proposal would meet minimum county standards; that there are too many questions and concerns at this point for staff to give a recommendation that was fair to the applicant as well as a recommendation that could be fully supported by county standards; that the material that was initially presented with the application and material that was presented later did not match; that there was a discrepancy with what was initially requested and what was requested this evening, regarding the potential number of new lots.

Staff recommended that the request be tabled until such time more detailed plans could be presented that are drafted by a licensed surveyor showing that all applicable county standards would be met and that the public hearing be re-advertised according to what the applicant's new request is regarding number of new lots.

There being no further questions from the members of the Commission or from the applicant, Mr. Cato closed the public hearing.

Mr. Ballentine motioned that the action on the request be tabled until such time the applicant could have prepared and presented more detailed proposed plans drawn up by a licensed surveyor.

Mr. Clark seconded the motion, motion passed unanimously.

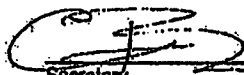
Commissioners and Staff Discussion

Mr. Brink asked that the Special Meeting be postponed until such time all members of the Commission could be present in order that all members receive the same presentation at the same time.

Adjourn

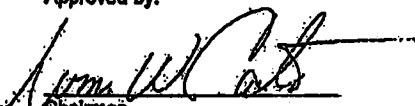
There being no additional matters to be taken up by the Commission, Mr. Clark motioned for the meeting to be adjourned. Motion was seconded by Mr. Ballentine. Meeting was adjourned at 7:22pm

Submitted by:


Secretary

2/9/15
Date

Approved by:


Chairman
Vice

02/09/2015
Date

Exhibit 8

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Vice Chair
BOB BALLENTINE, District 1
JO JOHNSTON, District 3
WELDON CLARK, District 4
DENNIS REINEBT, District 5
BOB YOUNG, District 6

January 13, 2015

TO: MRR Pickens, LLC
c/o F. Norbert Hector, Jr.
7413 Six Forks Road, #358
Raleigh, North Carolina 27615

RE: Approval of Land Use Request
LU-15-001 SC DHEC Class II Landfill Land Use request, Liberty, SC
Tax Map #4098-00-92-1867

Dear Mr. Hector:

On January 12, 2015, the Pickens County Planning Commission voted unanimously to *approve* the land use request referenced above.

This letter represents the final decision of the Planning Commission. An appeal from this decision may be taken to the circuit court within thirty days after the date of this letter (*per SC Code of Laws 6-29-1150*).

In addition to the Land Use approval by the Planning Commission, planning staff is prepared to process and approve the applicable development permit application for the project. A copy of the application has been included for your convenience. Along with the enclosed application, five stamped and signed sets of the final project drawings will be required.

On the cover sheet of the provided plans, please ensure the applicable Planning Commission Case Number, approval date, and all applicable plan certification blocks (properly signed) have been affixed.

The issuance of a development permit is a requirement for the issuance of any other permits which may be required from our Building Codes department. Please contact them (898-5950) for information on items/materials/plans which may be needed by them. Robert Wilbanks is the Building Official.

It has been a pleasure working with you through the Planning Commission process. If you have any questions, please contact me at (864) 898-5989.

Sincerely,

Christopher J. Brink, AICP
Director

Cc: File - LU-15-001

Encls.

Exhibit 9

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

)
)
)
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

AFFIDAVIT OF SCOTT L. BROWN

Scott L. Brown, being duly sworn deposes and says the following:

1. My name is Scott L. Brown. I am of the age of majority and am of sound mind and body. This Affidavit is not being written under stress or promise of anything. I am not under the influence of drugs or alcohol at the time this Affidavit is written.
2. I am a Professional Engineer (P.E.) licensed in South Carolina (License Number 25687).
3. I have been a registered P.E. for over eight years in South Carolina specializing in solid waste permitting, management and disposal issues.
4. From 2011 to the present, I have been a Vice President at Civil & Environmental Consultants, Inc. (CEC), a civil engineering and environmental consulting firm with offices across the United States including South Carolina, North Carolina, Ohio, Missouri, Michigan, Pennsylvania, Tennessee, Massachusetts, Indiana, West Virginia, Texas, Illinois and Arizona.
5. Prior to taking my position at CEC in 2011, I was Supervising Engineer at Brown and Caldwell, Regional Manager/Sr. Project Manager at B.P. Barber, and Manager of Solid Waste Services for Mecklenburg County, North Carolina.
6. In my position at CEC, I am responsible for managing CEC's North Carolina and South Carolina offices, overseeing 29 engineers, scientists, technicians and consultants, and providing engineering and consulting services to CEC's clients, including numerous clients in the solid waste industry.

7. Since August of 2014, I have been an environmental consultant to MRR Pickens, LLC (MRR Pickens). MRR Pickens hired me and CEC to assist in recent permitting and design for their Class Two Landfill in Pickens County, South Carolina (the "Class Two Landfill").

8. On January 12, 2015, I attended a Pickens County Planning Commission public meeting on MRR Pickens' Land Use Approval request.

9. During the public meeting, neither I nor other representatives of MRR Pickens stated the company was not lining the landfill.

10. During the public meeting, neither I nor other representatives of MRR Pickens stated that the company was planning to restrict its waste in the Class Two Landfill to Construction and Demolition/Land Clearing (C&D/LCD) waste or County generated waste.

11. MRR Pickens Class Two Permit currently allows it to dispose of 70,500 tons per year of Class Two waste.

12. According to the 2014 DHEC South Carolina Solid Waste Annual Report, Pickens County Landfill is currently permitted to receive 20,000 tons per year of Class Two waste.

13. According to the FY2014, 2013, and 2012 DHEC South Carolina Solid Waste Annual Reports, Pickens County's Class Two Landfill received 15,512 tons of Class Two waste in FY2014, 14,367 tons in FY2013, and 15,282 tons in FY2012.

14. In assisting MRR Pickens with its permitting needs for the Class Two Landfill in Pickens County, I have studied MRR Pickens' Class Two Permit and the South Carolina DHEC Regulations applicable to this project, DHEC Regulations 61-107.17 and 61-107.19 (the "DHEC Solid Waste Regulations").

15. MRR Pickens current Class Two Permit allows it to accept for disposal Class Two waste listed in Appendix I of the regulations and any other waste approved by DHEC for disposal in a Class Two Landfill pursuant the DHEC Solid Waste Regulations.

16. The DHEC Solid Waste Regulations allow disposal of wastes other than those listed in Appendix I (which includes construction and demolition waste) in a Class Two Landfill, so long as the waste demonstrates similar properties to the Appendix I waste and are approved by DHEC, or any waste that tests less than ten (10) times the maximum contaminant level set by State Primary Drinking Water Regulations.

17. Pursuant to the DHEC Solid Waste Regulations, before MRR Pickens can place any coal combustion residuals (CCR) or other Class Two wastes not currently listed in its permit, it will be required to submit for DHEC for approval a characterization of the waste to determine its suitability for disposal in the Class Two Landfill.

18. To date, I have not submitted (and to my knowledge, no other person on behalf of MRR Pickens has submitted) a waste characterization of CCR to DHEC for approval of its suitability for disposal at the Class 2 Landfill.

19. I assisted MRR Pickens in designing an optional liner system for the Class Two Landfill in 2014. The liner system was designed to meet the requirements of Subtitle D Section 4001 of the Resource Conservation and Recovery Act and is intended to provide added protection to the environment.

20. Pursuant to the DHEC Solid Waste Regulations Regulation 61-107.19, the potential installation of a Subtitle D liner system does not change the MRR Pickens landfill on the Subject Property from a Class Two Landfill to a Class Three Landfill.

21. According to the FY2014 DHEC South Carolina Solid Waste Annual Report, no new commercial Class Three Landfills can currently be permitted in Pickens County as there is no need for any additional commercial Class Three Landfills as required by DHEC Regulation 61-107.17.

Further affiant sayeth not.

Dated 1-29, 2016.

Scott L. Brown
Scott L. Brown

Pickens County

Signed and sworn to before me this
29 day of January, 2016

Dipa B. Jadeja
Notary Public for the State of North Carolina

My commission expires 12-8-2019



Exhibit 10

STATE OF SOUTH CAROLINA)
) FIRST AMENDMENT
) TO DEVELOPMENT AGREEMENT
COUNTY OF PICKENS)

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into as of the 4 day of April, 2015, by and between MRR PICKENS, LLC, a South Carolina Limited Liability Company having its principal place of business in Pickens County, South Carolina ("Developer"); and the **COUNTY OF PICKENS**, a political subdivision of the State of South Carolina ("County") (collectively, the Developer and County are referred to herein as the "Parties");

RECITALS:

WHEREAS, the Developer and the County entered into a Development Agreement (the "Agreement") dated and recorded March 8, 2007, (Book 1082, Page 60), to allow Developer to develop and use certain real property located in Pickens County and as more particularly set forth in Exhibit A to the Agreement ("the Property") for constructing and operating a solid waste landfill;

WHEREAS, Section 1(C) and Exhibit C of the Agreement specifically defines and sets forth "Development Uses Permitted" for the Property to include, but not be limited to, a "C&D Landfill", "Reprocessing Area", "Industrial Lots", "Park Area," "Construction and Operation of a Construction and Demolition and Land-Clearing Debris Landfill," a "Solid Waste Processing and Recycling Facility," and a "Staging area for grinding/processing Disaster Debris";

WHEREAS, Exhibit I of the Agreement, "Host Agreement For a Long Term Construction, Demolition and Land-Clearing Debris Landfill and Other Associated Development" in its title and text references "Construction, Demolition and Land-Clearing Debris," and "Construction, Demolition and Land-Clearing Debris Landfill" relating to the Developer's permitted use of the Property;

WHEREAS, SC Regulation 61-107.11, the applicable regulations that governed permitting, construction and operation of "Construction, Demolition, and Land-Clearing Debris Landfills," at the time the Agreement was executed, was repealed on May 23, 2008, and immediately replaced with SC Regulation 61-107.19 ("the Current Solid Waste Management Regulations");

WHEREAS, the Current Solid Waste Management Regulations no longer use the defined terms "Construction and Demolition and Land-Clearing Debris Landfill" or "C&D/LCI Landfill" for the purpose of permitting, constructing or operating a solid waste landfill that is permitted to handle construction, demolition and land-clearing debris and other authorized solid wastes listed in Appendix I to the regulations;

WHEREAS, the Current Solid Waste Management Regulations refer to solid waste landfills permitted to handle Construction & Demolition (C&D) Debris and Land-Clearing Debris ("LCD") as "Class Two Landfills";

WHEREAS, Section 14 of the Agreement states that it may be amended by mutual consent of the Parties; and

WHEREAS, this First Amendment will not alter the Developer's commitment, as set forth in the Agreement, to handle Class Two solid waste from the County and the applicable planning area.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following amendments to the Agreement:

1. All capitalized terms appearing in this First Amendment and not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.
2. Section 1(C) of the Agreement is amended to delete the terms "C&D Landfill" and replace it with the term "Class Two Solid Waste Landfill";
3. Exhibit C, "Development Uses Permitted," is amended as follows: In Paragraphs 3 and 4 of Exhibit C, the term "Construction and Demolition and Land-Clearing Debris Landfill" is replaced with the term "Class Two Solid Waste Landfill" and the term "Construction and Demolition and Land-Clearing Debris" is replaced with "Class Two Solid Waste";
4. Exhibit I, "Host Agreement For a Long Term Construction, Demolition and Land-Clearing Debris Landfill and Other Associated Development" is amended as follows:
 - a. All references to "Construction, Demolition and Land-Clearing Debris", and "Construction, Demolition and Land-Clearing Debris Landfill" in the title and within the document are replaced with "Class Two Solid Waste" and "Class Two Solid Waste Landfill"; and,
 - b. All references to "C&D" and "LCD" waste or debris are replaced with "Class Two Solid Waste."
5. All other references in the Agreement or any Exhibits thereto referencing "Construction, Demolition and Land-Clearing Debris" or "C&D" and "LCD" Debris and not specifically listed herein are hereby replaced with the terms "Class Two Solid Waste."
6. Except as otherwise modified herein, the terms and conditions of the Agreement remain in full force and effect.
7. The First Amendment may be executed in multiple counterparts and by facsimile or electronic mail, each of which shall be deemed an original, but all of which shall constitute one in the same instrument.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

WITNESS, our hands and seals this 10 day of March, 2015

WITNESSES

MRR Pickens, LLC

Christopher T. Roof
Printed Name: CHRISTOPHER T. ROOF

Joshua R. Kelley
Its: MEMBER MANAGER

SRIKANTH GADDAM
Printed Name: SRIKANTH GADDAM

Pickens County

Ken Roper
Printed Name: Ken Roper

Chairman
Its: Chairman

Donna Owen
Printed Name: Donna Owen

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

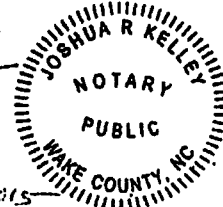
PROBATE

CHRISTOPHER T. ROOF dh 5.11.2015

PERSONALLY appeared before me Joshua R. Kelley, who, on oath says that (s)he saw the within MRR PICKENS, LLC by its Managing Member, sign, seal, and as its act deed deliver the within First Amendment to Development Agreement, and that (s)he with Christopher T. Roof witnessed the execution thereof.



Joshua R. Kelley
Witness: Christopher T. Roof



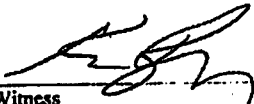
SWORN to before me this dh 10 day of March, 2015
Denise Battaglia (SEAL)
Notary Public for North Carolina
My Commission Expires 02-19-2017

dh 5.11.2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me Ken Rogers, who, on oath says that
(s)he saw the within PICKENS COUNTY, SOUTH CAROLINA by its Chairman, Frank Williams
sign, seal, and as its act and deed deliver the within First Amendment to Development
Agreement, and that (s)he with Ken Rogers witnessed the execution thereof.


Witness

SWORN to before me this
6 day of April, 2015.

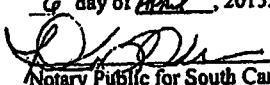
 (SEAL)
Notary Public for South Carolina
My Commission Expires 1-14-2019

Exhibit 11

Planning Commission
DeWitt Stone, Jr., Chairman
J. Phillip Bowers, Vice Chairman
Sheree Chapman
William T. Clayton
Charles "Hub" Smith
Kevin Smith

COUNTY OF PICKENS

www.co.pickens.sc.us
Planning Commission



February 13, 2007

Mr. Ronald G. Gilkerson
MRR Southern
11925 Sam Roper Drive
Suite C, Office 2
Charlotte, North Carolina 28269

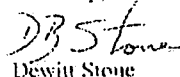
Re: Proposed C & D Landfill and Reprocessing Center located South of Highway 93
between Cartee Road and Woodbine Road, Liberty
Tax Map No. 4098-00-82-5916

Dear Mr. Ronald Gilkerson:

The Pickens County Planning Commission voted unanimously to approve your land use request for the above referenced project.

Please contact the Planning staff at 864-898-5953 for further site plans approval and or permitting requirements.

Sincerely,


DeWitt Stone

Chairman
Pickens County Planning Commission

Cc: Chap Hurst, Administration

Exhibit 12

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Chairman
WELDON CLARK, District 4, Vice Chairman
BOB BALLENTINE, District 1
JO JOHNSON, District 3
DENNIS REINERT, District 5
BOB YOUNG, District 6

January 11, 2016

MRR Pickens, LLC
7413 Six Fork Road #358
Raleigh, NC 27615

Delivery USPS Certified Mail
91 7108 2133 2934 1312 8892

Re: Land Use Approval on Case No: LU-15-001
SCDHEC Class II Landfill

To MRR Pickens LLC,

We, the Pickens County Planning Commission (the "Commission"), are writing in regard to the above-referenced land use permit dated January 12, 2015. The approval of this permit was granted after your company appeared for a public hearing on your application for a renewal of your February 12, 2007 land use permit for a proposed C&D (now Class II) landfill off Highway 93 near Liberty, South Carolina.

In your 2007 appearance before the Commission, Mr. Ronald Gilbertson of your company characterized the type of waste for this project as "lumber, vinyl siding, concrete and brick," "grass clippings, leaves, limbs," and "storm debris." He also indicated that the life span of the project would be for "20-25 years." No mention was made of the disposal of coal combustion residuals ("CCR"), the need for a landfill liner, or plans to fill up the landfill quickly. Based in part on these representations by your company, the Planning Commission granted your land use request.

In your 2015 appearance before the Commission, Mr. Dan Moore of your company indicated that there were "no changes" from the 2007 request, and estimated that the proposed landfill would serve the citizens of the county for "50 years or more." No mention was made of the disposal of CCR. When you were specifically asked by a Commissioner about the need for a liner, Mr. Moore stated that no liner would be required. Based on these representations by your company, the Planning Commission granted your renewed use request.

We now understand from media reports that your company plans to dispose of CCR in the proposed landfill. We have also learned that your filings with SCDHEC include plans for a significantly shorter life span of the facility (5 years) and that a liner would be installed in order to comply with Class III requirements despite the fact that you repeatedly characterized this landfill as a Class II facility in all of your communications with the Commission.

These are significant deviations from the information you provided to us in 2007 and 2015. We consider these changes to be material alterations to the land use approved by the Commission, and constitute violations of your land use permit. Accordingly, pursuant to the authority granted under the Unified Development Standards Ordinance ("UDSO") Section 1504(d) and elsewhere, the Commission hereby suspends your land use permit for this project. You are directed to cease and desist any and all activities at the proposed site until such time as you have presented sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your permit from the Commission.

Please be advised that Section 1505 of the UDSO provides that any violation of a land use approval is a misdemeanor with a punishment of a fine and/or jail time for each act or omission thereof. Also note that each and every day of a continuing violation constitutes a separate offense.

222 McDaniel Avenue, B-10 • Pickens, South Carolina 29671 • Telephone (864) 898-5956 • Fax (864) 898-5795

ROA 242

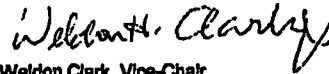
MRR Pickens, LLC
January 11, 2016
Page 2 of 2

If you have any questions about this stop work notification, or about the land use permitting process, please contact Chris Brink, Director of Community Development at 864 898 5956, or Ken Roper, County Attorney at 864 878 1577.

Sincerely,



William Cato, Chair
Pickens County Planning Commission
District 2



Weldon Clark, Vice-Chair
Pickens County Planning Commission
District 4



Robert Ballentine
Pickens County Planning Commission
District 1



Jo Johnston
Pickens County Planning Commission
District 3



Dennis Rehnert
Pickens County Planning Commission
District 5



Bob Young
Pickens County Planning Commission
District 6

Co: Pickens County Council
Senator Larry Martin
Representative Davey Hiett
SCDHEC

Exhibit 13

Pickens County officials distressed about plan for coal ash landfill

By Ron Burnett, rburnett@greenvillenews.com 12:57 p.m. EST December 24, 2013



(Photo: Paul Brown)

A private company has entered into a preliminary agreement to undertake "a large disposal project" that could dump hundreds of thousands of tons of coal ash in Pickens County, according to the state Department of Health and Environmental Control, which has approved landfill construction plans.

The magnitude of the project would require "a significant increase" in the 70,500 tons per year the company was permitted to handle when it received approval for an unlined landfill eight years ago, a DHEC spokesman said.

DHEC has asked for more information from the company and doesn't know where the coal ash would be coming from or how much would be coming.

An attorney for the landfill property owner, MRR Pickens, LLC, declined to comment.

But county officials who have fielded calls from concerned people who live and work nearby, are distressed about the possibility of contamination from toxic heavy metals found in coal ash, a byproduct of coal-fired power plants.

Coal ash contains contaminants such as arsenic, lead, mercury, selenium, cadmium, and chromium, and has been linked to increased risk of cancer, according to the Environmental Protection Agency.

"The acceptance of coal ash in our county is just not acceptable," said County Councilman Nell Smith, who represents the area where the landfill is to be located. "And potential health problems can't be offset by the influence and the money of that industry.

"I'm upset about the state even allowing it."

The 4.61-million cubic yard landfill is under construction at the intersection of State 93 and Carlee Road between Liberty and Easley and borders the Pickens County Commerce Park.

County officials said they had no idea that the company, which had entered into a development agreement with the county in 2007 to build a landfill for construction and demolition waste, was planning to accept coal ash until they started hearing complaints from residents.

"The question I have is why wasn't there a public comment period on that that we had to go through," Smith said.

DHEC spokesman Jim Boasley said public notice will be given prior to the agency making a final decision on MRR's request to increase the volume of waste it can take.

But DHEC already approved the company's request to install a synthetic liner, which would allow it to take in coal ash, as long as its level of toxicity doesn't exceed certain parameters, he said.

At the time of the 2007 agreement, the county's landfill was nearing capacity, and the idea was for the private landfill to take over handling nontoxic waste such as wood and concrete scrap. The company was to begin construction within 30 days of receiving approval from DHEC.

But in a meeting with the Pickens County Planning Commission in January of this year, representatives of the company said they had held off developing the landfill because of the recession and now felt the time was right to move ahead with it.

They said "nothing had changed" about their plans since the 2007 agreement and that the company had donated 160 acres of the 443-acre tract to the county for use as a recreational area, under the terms of the agreement, according to minutes of the meeting.

There was no mention of coal ash in the minutes, although one commission member asked if asbestos would be allowed in the landfill and was told it could be placed in a part of the facility dedicated for that purpose.

Weldon Clark, vice chairman of the Planning Commission, said the commission gave the OK for the landfill project to proceed because it was within the county's guidelines for development.

"Basically the only thing we're charged with is enforcing the development standard ordinance," he said. "So we didn't find anything they were doing that was opposed to the development standard ordinance."

"As far as coal ash goes, depending on what goes in it, it can be a very benign substance," he added. "If you have some heavy metals in it, it can be a problem."

Last December, the EPA issued a ruling on coal ash that stopped short of labeling it as a hazardous material and left it up to states to enforce the new regulations.

Coal ash could be disposed of in an unlined, or Class 2, landfill under DHEC regulations that went into effect in 1986, according to agency documents, but the state now requires linings, Beasley said.

Some coal ash can meet the less toxic Class 2 requirements "but must be demonstrated to do so prior to disposal in this or any Class 2 landfill," he said.

The state environmental agency received a request from MRR on March 31 to modify its 2007 permit which had never been used, by adding a synthetic liner system "so the facility could potentially receive (less toxic) Class 2 coal ash from power generating utilities," Beasley said.

"Any waste received by the facility must meet Class 2 specifications even with the liner installed," he said. "Installation of the liner does not allow the facility to take (more toxic) Class 3 solid waste."

He didn't know how it would be determined whether the coal ash that would go into this landfill meets the Class 2 standard.

Frank Hollman, a senior attorney for the Southern Environmental Law Center who has been active in battling the power industry over coal ash in the Carolinas, said the toxicity of coal ash can be determined in a lab, but it's questionable how the public could be assured that what goes into the landfill meets that lower toxicity standard.

"Even though it's scientifically possible to do it, the question is are they doing it adequately," he said. "It's almost always done by paid consultant rather than independent scientists."

Hollman said he didn't know anything about the Pickens landfill, but experience with others around the Southeast gives evidence that the public has reason to be concerned.

"These facilities can be done well and they can be done badly," he said.

SCE&G, for example, has a coal ash landfill outside Columbia and there have been no complaints or problems.

But a TVA landfill in Alabama "has been a source of constant problems."

And in some cases the state and local governments "get left holding the bag," he said.

"Water contaminated with coal ash pollutants has been known to move more than a mile from coal ash dump sites," according to the Southern Alliance for Clean Energy's Southeast Coal Ash website. "Dry landfills also pose dangers to drinking water and aquatic life, and damage air quality when the fine dust from these containment facilities is blown into surrounding neighborhoods."

Amy Armstrong, an attorney for the South Carolina Environmental Law Project, said MRR, which stands for Materials Recovery and Recycling, tried to open landfills in Laurens and Marlboro counties but couldn't get permits approved. MRR Pickens is a division of MRR Southern, LLC, based in Raleigh.

The one in Marlboro County would have had capacity to take in a quarter million tons of waste annually.

In that county, residents waged a public campaign against the plan and MRR sued them for defamation. A federal judge threw out the lawsuit, saying the company hadn't given evidence that the citizens group knowingly made false statements and did so out of malice.

Armstrong cited a DHEC report that showed that South Carolina has more than enough capacity to handle all its own waste.

No coal ash from Duke Energy is destined for any landfill in Pickens County, according to company spokeswoman Danielle Peoples.

Duke, which has two retired coal-fired plants in the state, sends some ash to a site in Homer, Ga., and announced plans last week to store 2.2 million tons of coal ash in a lined landfill that would be on site at the W.S. Lee Station in Anderson County.

2/16/2016

Bill passes House to change coal ash dump requirement in Pickens - FOX Carolina 21



Bill passes House to change coal ash dump requirement in Pickens Co.

Posted: Feb. 11, 2016 8:14 PM EST
Updated: Feb. 11, 2016 8:54 PM EST

By Amanda Shaw | [CONNECT](#)

LIBERTY, SC (FOX Carolina) - Community members gathered Thursday night to voice their opposition to the disposal of coal ash in a Pickens County landfill.

The site in question is a property near EC-93 in Liberty where a private company, MRR Pickens, LLC, was approved for a level 2 permit to build a landfill.

The Department of Health and Environmental Control said coal ash can be dumped in a level 2 landfill and many citizens are concerned about what this could mean for the county.

Pickens County has since revoked the permit for MRR and is now facing a lawsuit. The county is countersuing MRR for fraud, misrepresentation and unfair trade practices.

On Thursday, a bill passed in the House which would require a level 3 permit for the disposal of coal ash. The bill is sponsored by Rep. Dawy Hitt.

At 6 p.m., dozens of residents gathered at the Liberty Civic Auditorium to discuss the bill and the landfill.

Many residents spoke up with concerns about what a coal ash site could mean for property values and health concerns.

Pickens County council members spoke at the meeting, saying they are doing everything they can to stop a coal ash site from coming to Pickens County.

No one from MRR or DEEC spoke at the meeting.

PREVIOUSLY: [Pickens County Council opposes disposal of coal ash in landfill](#)

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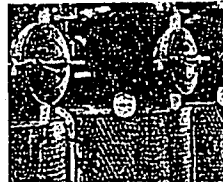
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2/14/2016

Out-of-state coal ash dumping a concern in South Carolina | The State

LOCAL FEBRUARY 13, 2016 8:21 PM

Out-of-state coal ash dumping a concern in South Carolina

HIGHLIGHTS

Toxic coal ash destined for Upstate construction dump

Out-of-state ash dumping a worry statewide

Senators introduce bills to tighten law



BY SAMMY FRETWELL
sfretwell@thestate.com

COLUMBIA, SC — Few things have unified the people of Liberty like the prospect of seeing coal ash community by an out-of-state waste company.

The company wants to haul potentially tons of ash to a new landfill in the hilly area of northwest South Carolina. The proposal was discussed at a crowded public meeting Thursday in Pickens County, resident after resident ripped the proposal.

"It was clear to me that nobody, from all walks of life, wants that coal ash," state Sen. Larry Martin said after the meeting.

<http://www.thestate.com/news/local/article00205531.html>

1/5

The plan by MRR Pickens is the latest chapter in an emerging national dilemma: what to do with coal ash that's being excavated from contaminated power plant sites.

Utilities are trying to clean out toxin-leaking waste ponds and are looking for places to dispose of the coal ash - but that sometimes means trucking ash across state lines and into communities that don't want it.

Communities in a number of states, including Alabama, Georgia and South Carolina, have balked at the prospect of allowing coal ash to be dumped in local landfills. In South Carolina, some lawmakers and environmentalists said existing or new landfill sites could be targeted for coal ash disposal by out-of-state power companies.

"Nobody wants this stuff," said Amelia Shenstone, campaigns director for the Southern Alliance for Clean Energy in Atlanta.

Shenstone, whose group has been critical of using coal to make power, said the issue is a difficult one because power companies legitimately need to dig coal ash from waste basins and put the material in lined landfills.

Ash in the basins, used for decades as disposal sites for coal-fired power plants, has polluted groundwater and rivers across the country with toxins, such as arsenic and mercury. But not every utility has the space for modern, lined landfills on its property to accept coal ash that is excavated from the basins, said environmentalists and Duke Energy officials.

"In an ideal situation, you would have a way to store it safely on the utilities' property," Shenstone said. "That's happened in some places, but it depends on the area and how much property they have."

Lisa Evans, senior administrative counsel for Earthjustice, a national environmental group, said power companies' interest in sending coal ash to off-site landfills wasn't envisioned when the federal government tightened ash rules last year. The thrust of the new regulations was to force the closure of ash ponds.

"At many of our sites, an on-site landfill is just not an option," Duke Energy spokesman Jeff Brooks said. "You might have a flood plain, or it might be they don't have enough footprint to do that. But at the sites where we do have an on-site landfill potential, we are exploring those options."

Brooks said Duke has sent some coal ash from power plants in North Carolina to landfills in Georgia and Virginia. Some of the waste going from a coal plant site on North Carolina's Dan River is being sent to a Virginia landfill, he said. The Dan River pond spilled coal ash into the river about two years ago.

He wasn't aware of any opposition at the Georgia or Virginia landfill sites, but Brooks said citizens in one area of North Carolina have questioned plans to put some company waste ash in an old clay mine.

Unlike their counterparts in some states, South Carolina power companies SCE&G and Santee Cooper have agreed to dig up all of the ash from waste ponds and either use their own landfills or recycle the material. Duke has similar plans in South Carolina, although one site owned by Duke in Anderson County is sending ash to Georgia for disposal.

That, however, doesn't prevent power companies from outside South Carolina from attempting to bring coal ash here for disposal in landfills, conservationists say.

Pickens rhubarb

The issue in Pickens County erupted late last year after it was revealed that MRR Pickens, a division of Raleigh waste company MRR Southern, wanted to haul potentially thousands of tons of coal ash to a new landfill. The landfill was first proposed about 10 years ago to handle relatively harmless construction waste, county and state officials say.

Residents said they were led to believe the dump would only be used for disposal of construction waste, such as bricks and concrete. Pickens County, which at first welcomed MRR, later revoked authorizations to develop the coal ash landfill.

People say they are concerned about the toxic effects of coal ash on groundwater and creeks.

MRR hasn't said where the coal ash would come from. Martin said he's been told it will be from another state. But the company has said it was being treated unfairly by Pickens County. Last month, MRR Pickens sued the county and individual members of the Pickens planning commission, seeking compensation for damages.

Company officials were not available for comment Friday.

Brooks said Duke had examined the Pickens County site, but because the landfill hasn't been developed, it is not an option.

Some in South Carolina oppose importing coal ash because the state has a legacy of accepting waste from across the country, ranging from nuclear garbage to hazardous industrial refuse and medical trash.

"I'm worried that the MRR landfill is the tip of the iceberg," said Shelley Robbins, who tracks waste disposal issues for Upstate Forever. "I want to do whatever we can do legally to make it difficult for the Northeast to say, 'Ooh, let's just truck it down there to South Carolina,'"

Martin, R-Pickens, said that if coal ash does come here from other states, it should be dumped in safer spots than the landfill proposed for Pickens County. Environmentalists say construction and demolition landfills, such as the one near Liberty, are not sophisticated enough to contain pollutants in coal ash, even though state regulators say they are.

Under federal commerce laws, the state can't ban out-of-state waste. But bills introduced by Martin and Rep. Davy Hiott, R-Pickens, would prevent most coal ash from being dumped in landfills designated for construction waste. South Carolina has more than 60 of those disposal areas, officially referred to as commercial Class 2 landfills but commonly known as construction and demolition landfills.

"It's a no-brainer for any county that, if it's going to be done, it's done right," said Martin, who chairs the Senate Judiciary Committee. The House has passed Hiott's coal ash bill and the Senate is considering the one Martin introduced. He predicted the bill will pass.

The Department of Health and Environmental Control says the Pickens County dump will be designed to adequately protect the environment. DHEC required a liner for the landfill proposed by MRR near Liberty. A 2015 federal law also requires new coal ash landfills to be lined.

"A synthetic liner is more environmentally protective," agency spokeswoman Cassandra Harris said in an email Friday night.

But DHEC acknowledged late Friday that 12 Class 2 landfills already are taking ash, only three of which have liners. All 12 are noncommercial, on-site landfills, Harris said in an email. The email did not provide further details or explain whether DHEC expects more landfills like the one in Pickens County to be proposed.

"We cannot speculate on what may happen in the future," the email from Harris said.

Robbins said the federal law isn't set up for strict enforcement to ensure that liners always go into landfills. At the same time, there is no guarantee DHEC will impose tight restrictions on ash landfills in the future without a change in state law, said Robbins and Frank Holleman, an attorney with the Southern Environmental Law Center.

Alabama coal dump

2/14/2016

Out-of-state coal ash dumping a concern in South Carolina | The State

Folks like Ben Eaton, who lives in Uniontown, Ala., say they wish they had better protections when local officials touted the benefits of a regional trash landfill. As it turned out, the site became a big coal ash dump.

About 4 million tons of coal ash now fills the dump in central Alabama, he said. Much of it came from Kingston, Tenn., site of a massive coal ash spill in 2008. The spill fouled rivers near Kingston, which is near Chattanooga, prompting an environmental cleanup.

"We were sort of pushed under the bus," Eaton said. He said his group has shared its experience with people in Texas who also have opposed a coal ash landfill there.

People in Wayne County, Ga., are in an uproar this year over plans to send rail cars of coal ash to a municipal landfill in the area. Republic Services, one of the nation's leading waste disposal companies, wants to ship tons of coal ash to the area near Jesup in south Georgia, according to media reports.

"I don't want to become the dump site of the whole East Coast," Wayne County Commissioner Ralph Hickox said in a story last month by the Florida Times-Union.

For now, the Pickens County landfill dispute remains unresolved. But local officials hope the MRR plan can be stopped. Rep. Hiott told The Greenville News last week that MRR might drop the project if the county would buy the land where the landfill is proposed.

Martin said he can't imagine anyone favoring a coal ash landfill, particularly one at a construction dump that wasn't originally targeted for ash disposal.

"This has unified people on the left, on the right and everywhere in between," Martin said. "We don't want it."

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- Fight heating up over a proposed coal ash landfill in Upstate



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4/5

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
MRR Pickens, LLC,	)	Civil Action No.: 2016-CP-39-100
	)	
Plaintiff,	)	
	)	
vs.	)	RESPONSE OF PICKENS COUNTY
	)	TO PLAINTIFF MRR PICKENS, LLC'S
	)	MOTION FOR AN EMERGENCY
	)	PRELIMINARY INJUNCTION
County of Pickens and William Cato,	)	
Weldon Clark, Robert Ballentine, Jo	)	
Johnston, Dennis Reinert, and Bob Young,	)	
individually and in their official capacity as	)	
appointed members of the Pickens County	)	
Planning Commission,	)	
	)	
<u>Defendants.</u>	)	

TO: PLAINTIFF AND ITS ATTORNEYS:

Pickens County hereby responds to Plaintiff's Motion for an Emergency Preliminary Injunction:

MRR Pickens, LLC (hereinafter "MRR") is not entitled to any Injunction, neither Emergency nor Preliminary nor any kind, for the following reasons:

(A) MRR has made serious material misrepresentations to Pickens County, including willful, intentional false statements, to obtain agreements and a Permit for this landfill.

(B) MRR has made serious material misrepresentations to this Court in the pursuit of this Motion, including willful, intentional and false statements, in an effort to obtain an unwarranted Injunction. In particular, the two Affidavits appended to MRR's Motion (F. Norbert Hector, Jr. And Scott L. Brown) contain intentional material misrepresentations to this Court.

(C) MRR has not exhausted its Administrative Remedies with Pickens County Planning Commission. MRR has the right to appeal the decision in question of the Planning Commission,

which it has not exercised. Nor can such an appeal process be deemed as futile. The Commission has questions that MRR thus far has failed to answer, and Pickens County and the Planning Commission believe that an appeal process has legitimate potential to be productive.

(D) No irreparable harm can be shown. Plaintiff complains primarily that it may lose income from operation of its landfill. It has sued Pickens County and the individually named members of the Planning Commission. Pickens County has assets and income and is not leaving the state or going out of business. In the extremely unlikely event that MRR should prevail in this litigation, its damages can be recovered.

(E) MRR has an adequate remedy at law. It has sued Pickens County, and in the extremely unlikely event that it should prevail in this litigation, its damages can be recovered.

(F) MRR is unlikely to succeed on the merits of this litigation. Pickens County agreed with MRR, through a Host Agreement, a Development Agreement, and revision of its Solid Waste Management Plan, for MRR to operate a landfill limited to Construction and Demolition (C&D) and Land Clearing Debris (LCD), as reflected in the Permit issued by DHEC on November 3, 2008. Pickens County is willing to honor all agreements which reflect the above, and per the limitations on waste explicitly stated in the November 3, 2008 Permit. Unfortunately, MRR has made material misrepresentations to Pickens County, which constitute fraud, misrepresentation and violations of the Unfair Trade Practices Act, for which Pickens County intends to counterclaim. Further, MRR has obtained an unlawful Permit from DHEC, dated August 10, 2015, which was obtained without any Notice to Pickens County or its affected citizens, and which has never, to date, been formally submitted to Pickens County.

(G) Pickens County is appealing the issuance of the Permit issued August 10, 2015, by DHEC, as it was obtained and in violation of Statutes and Regulations, and without any Notice to Pickens County, nor any opportunity for public comment and review. Pickens County believes that it will be successful in the appeal of said Permit.

(H) That if MRR is allowed to bring Coal Combustion Residue (CCR) into Pickens County, the irreparable harm would be to Pickens County and its citizens who reside in areas near the landfill. It is a violation of Federal and S.C. law to place CCR into a Class Two Landfill. (See Affidavits of Avner Vengosh, Ph.D., Shelley Robbins and C. Wesley Hulsey, P.G., attached). Further, a Class Three Landfill cannot legally be permitted at this time in Pickens County (admitted by MRR), due to inability to comply with Demonstration of Need requirements.

Pickens County responds to MRR's numbered paragraphs as follows:

1. That all allegations of MRR's Motion not hereafter specifically admitted or qualified are hereby denied.
2. Admits so much of paragraph 1 as would indicate that MRR obtained a valid Permit dated November 3, 2008, which limited types of wastes, and prohibited other wastes, in accord with MRR's representations at that time. Denies that MRR lawfully obtained any subsequent Permit for this landfill, and would show that the Permit apparently issued August 10, 2015 was obtained unlawfully and in violation of Statutes and Regulations, and was obtained by fraud and misrepresentation. Admits that MRR has transferred some property. Denies remainder of said paragraph.

3. Admits that Planning Commission issued a land use approval, but would show that MRR obtained the approval through material misrepresentations, fraud and unfair and deceitful trade practices. Denies the remainder of said paragraph.

4. Denies paragraph 3 in that the Permit apparently issued on August 10, 2015 was unlawfully obtained, is illegal, and must be rendered null and void. The Permit issued November 3, 2008 specifically prohibits wastes other than those specifically listed in Appendix 1 to R. 61-107.19.

5. Admits so much of paragraph 4 as would indicate that Pickens County issued a letter to MRR dated January 11, 2016, which referenced MRR's serious deviations from its prior representations, and MRR's "material alterations of the land use approved by the Planning Commission." The letter states that "You are directed to cease and desist any and all activities at the proposed site until such time as you have presented sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your Permit from the Commission." The remainder of paragraph 4 is denied, and Pickens County craves reference to the letter of January 11, 2016 (see attached, Ex. 13).

6. Denies paragraphs 5, 6 and 7 of MRR's Motion.

7. Denies paragraph 8, and would show that MRR's non engineering firm has repeatedly reported to DHEC that it intends to change the design of this C&D Landfill to meet the requirements of a Class Three Landfill, which is prohibited in Pickens County, per DHEC and per the Pickens County Solid Waste Management Plan. As stated by MRR's consulting firm CEC to DHEC:

"During recent meetings between MRR and DHEC, it was confirmed that the modification of the Class Two Permit to meet the requirements of Regulation R. 61-107.19 Part V Class Three Landfills would require a minor Permit modification."

(See CEC's Work Plan for Site-Specific Hydrogeological Investigation, Aug./Sept. 2014; attached, Ex. 8).

8. Denies paragraph 9. Acceptance of CCR into a Class Two Landfill violates Federal Law and S.C. Law, and a Class Three Landfill is prohibited in Pickens County.

9. Has insufficient information on which to base a decision regarding paragraph 10 and therefore denies same and demands strict proof thereof. However, Pickens County would show that CCR waste is prohibited in Pickens County.

10. Denies paragraph 11 entirely.

11. Has insufficient information on which to base a decision regarding paragraph 12 and 13 and therefore denies same and demands strict proof thereof. However, Pickens County would show that CCR waste is prohibited in Pickens County.

12. Denies paragraph 14 in its entirety. Any further development of MRR's unlawful efforts to bring CCR into Pickens County would cause irreparable harm to Pickens County.

13. Denies paragraph 15 and would show that MRR's attempts to bring CCR into Pickens County are contrary to the material representations it has made to Pickens County for years, and deposit of CCR into a Class Two Landfill would violate Federal and State Law.

14. Denies paragraph 16 and would show that MRR is not entitled to any Injunction. Any furtherance of MRR's efforts to deposit CCR into this landfill in Pickens County would cause irreparable harm to Pickens County and its affected citizens.

15. Regarding paragraph 17, would show that MRR is not entitled to any Injunction.

**FURTHER GROUNDS OF PICKENS COUNTY'S OPPOSITION
TO MRR'S REQUEST FOR INJUNCTION**

16. Pickens County reaffirms all of its earlier allegations as fully as if repeated herein.

17. Coal Combustion Residuals (CCR) are extremely toxic and pose serious health risks to people and to the environment, and adversely affect water quality and air quality. Also, due to the serious risks of handling CCR, disposal into a Class Two Landfill, even with a liner, would be highly inappropriate. (Ex. 1, Report of Avner Vergosh, Ph.D.)

18. Deposit of CCR into a Class Two Landfill in South Carolina, even with a liner, would violate Federal Law and S.C. Law. (Ex. 2, Report of Shelley H. Robbins; Ex. 3, Affidavit of C. Wesley Hulsey; Ex. 4, Affidavit of Christopher Brink).

19. In South Carolina CCR meets the definition of "Special Waste." Per Federal Law, S.C. Law, "Special Waste" must be deposited into a Class Three, NOT a Class Two Landfill in Pickens County, as no Class Three Landfill can meet the Demonstration of Need Requirements in Pickens County (MRR concurs). Further, "Special Waste" is not allowed in any landfill in Pickens County, per the Pickens County Solid Waste Management Plan. (Ex. 7). (Also see Ex. 2, Report of Shelley H. Robbins; Ex. 3, Affidavit of C. Wesley Hulsey, P.G.; Ex. 4, Affidavit of Christopher Brink; and Ex. 5, Affidavit of Gerald G. Wilson.

20. Per Regulation 61-107.19, Part I, A. 48.:

- a. "Minor modification" means a change that keeps the permit current with routine changes to the facility or its operations, or an administrative change; and
- b. "Major modification" means a change that substantially alters the facility or its operations, e.g., tonnage increase above 25%, any volumetric capacity increase, alternate designs that vary from the design prescribed in this regulation.

When MRR met with DHEC and arranged for concurrence that MRR's changes would be "minor modifications," this purported characterization was for the purpose of avoiding the requirement for public review and public comment, which are necessary for "major modifications," per R. 61-107.19, Part IV. I. 2 (Ex. 16). However, the changes which MRR proposed from the original 2008 Permit are the addition of "alternate liner design" (no liner was referenced in the 2008 Permit); also changes from Class Two to Class Three (see CEC Reports, Exhibits 8, 9, 10); eliminating the limiting language of "all other wastes . . . are prohibited;" replacing the limiting language by adding "... and any other waste approved by the Department for disposal in a Class Two Landfill . . .;" changing provisions for final cover, and other changes. (See 2008 Permit, Ex. 11, and 2015 Permit, Ex. 12). Per any reasonable interpretation of these Regulations, these changes constitute a "major modification," requiring public comment and public review and Notice to the County. No such Notice or public involvement occurred. The purported Permit issued August 10, 2015 is invalid, and must be rendered null and void. (See Ex. 2, Report of Shelley H. Robbins; Ex. 3, Affidavit of C. Wesley Hulsey; Ex. 4, Affidavit of Christopher Brink; and Ex. 5, Affidavit of Gerald G. Wilson).

21. That at no time was Pickens County notified that MRR was seeking these major changes and major modifications. To this date, neither DHEC nor MRR has provided formal Notice of the purported August 10, 2015 Permit. To the contrary, MRR always represented to Pickens County that this landfill would accept only C&D and LCD waste. (See Ex. 3, Affidavit of C. Wesley Hulsey; Ex. 4, Affidavit of Christopher Brink; and Ex. 5, Affidavit of Gerald G. Wilson).

22. That Pickens County relied on the representations of MRR, in proceeding with agreements and plans for this landfill, particularly MRR's repeated representations that only C&D and LCD would be accepted into this landfill. (See Exhibits 3, 4 and 5).

23. That in particular, the action of the County Planning Commission approving the land use immediately following the January 12, 2015 Planning Commission was based on, and in reliance upon, the representation of MRR at said meeting. (See Exhibits 3, 4 and 5).

24. That it has now come to light that at the January 12, 2015 Planning Commission meeting, MRR made serious and material misrepresentations. These misrepresentations included the following:

- (A) No Liner - MRR claimed that it needed no liner for this landfill. (See Ex. 6, Transcript of Planning Commission meeting of January 12, 2015, p. 14). (But see Exhibits 8, 9, and 10, wherein CEC, MRR's consulting firm, was negotiating with DHEC for changes to include a liner, throughout 2014 and much of 2015).
- (B) No change in land use details or development details from 2007 - MRR claimed that land use details and development details "are just the same as they were when we got the initial approval on the site back in 2007." (See Ex. 6, Transcript, p. 6). (But see Exhibits 8, 9, and 10, wherein CEC, MRR's consulting firm, was negotiating with DHEC throughout 2014 and much of 2015, to add a liner, and to eliminate the limiting language of the 2008 Permit, "All other wastes . . . are prohibited," and to add expansive language to allow other wastes DHEC might approve, and other changes).
- (C) Still a C&D Landfill, "exactly the same type of facility that the county is operating" - MRR stated this at the meeting. (Ex. 6, Transcript, p. 8).

(D) Also note that the existing County Landfill, soon to reach capacity and close, accepts only C&D and LCD waste. (But see Exhibits 8, 9, and 10, wherein CEC and MRR were negotiating with DHEC throughout 2014 and much of 2015, for major and serious changes and additions to this landfill. Also see Exhibit 11, the 2008 Permit; and Exhibit 12, the purported 2015 Permit).

25. Also, at the January 12, 2015 Planning Commission meeting, MRR stated that the Development Agreement between MRR and Pickens County requires MRR to provide Pickens County with all documentation with DHEC:

“... anything we submit to DHEC has to be submitted to you at the very same time we submit it to DHEC. Anything we get from DHEC has to be submitted to you all ... in a matter of a day or so. (Ex. 6, Transcript, p. 11).

(But see Exhibits 8, 9 and 10, which are complex engineering reports by CEC for MRR, all done for the purpose of changing the design of the landfill, changing the wastes that could be accepted, and other material changes. Also see Exhibits 3, 4, and 5, where in County officials report that none of these ongoing efforts by MRR to make changes were shared with the County, and further, that neither MRR nor DHEC provided the new purported Permit of August 10, 2015 to the county.

26. That the Affidavits attached to MRR's Motion for Injunction contain material and serious misrepresentations to this Court.

In particular:

(A) Affidavit of F. Norbert Hector, Jr., Managing Member of MRR:

Para. 18: “At the Planning Commission meeting, MRR never stated that it was not lining the landfill or that it was planning to restrict its

waste to Construction and Demolition/Land Clearing Debris (C&D/LCD) waste.”

(B) Affidavit of Scott L. Brown, engineering consultant for MRR:

Para. 9: “During the public meeting, neither I nor other representatives of MRR Pickens stated the company was not lining the landfill.”

Para. 10: “During the public meeting, neither I nor other representatives of MRR Pickens stated that the company was planning to restrict its waste in the Class Two Landfill to Construction and Demolition/Land Clearing (C&D/LCD) waste or County generated waste.”

But see Ex. 6, Transcript of Planning Commission meeting of January 12, 2015: Page 14: MRR confirms no liner.

Page 6: MRR confirms no changes from 2007 (which limited the waste to C&D/LCD).

Page 8: MRR confirms that this remains a C&D Landfill, “the same type of facility that the County is operating.” (The County’s landfill only accepts C&D/LCD).

The above misrepresentations of MRR officials to this Court are blatant, willful and material, as were the misrepresentations to Pickens county.

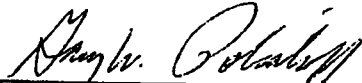
CONCLUSION

Pickens County craves reference particularly to Exhibits 1, 2, 3, 4, and 5, being the Reports of Experts and knowledgeable persons, and Affidavits of County officials involved in this matter. Pickens County also craves reference to Ex. 6, the Transcript of the County Planning Commission meeting, which shows material misrepresentations made to this Court.

MRR is entitled to no Injunction. It has acted with deceit and with material misrepresentations. It has conspired with DHEC to issue reports and obtain a new purported Permit, through violation of Regulations. It has hidden its activity from Pickens County, the local government with whom it has a Host Agreement and Development Agreement, in violation of said Agreements and in violation of the Pickens County Solid Waste Management Plan.

MRR's Motion must be denied.

Respectfully submitted,



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ATTORNEY FOR PICKENS COUNTY

February 17, 2016

Spartanburg, SC

EXHIBITS

1. Affidavit of Avner Vengosh, Ph.D., with Report and C.V.
2. Affidavit of Shelley H. Robbins, with Report
3. Affidavit of C. Wesley Hulsey, with C.V.
4. Affidavit of Christopher Brink
5. Affidavit of Gerald G. Wilson
6. Transcript of Planning Commission Meeting of January 12, 2015
7. Solid Waste Management Plan, January 2013, excerpts
8. "Work Plan for Site-Specific Hydrogeologic Investigation," by CEC for MRR, to DHEC - Aug./Sept. 2014, excerpts
9. "Site-Specific Hydrogeologic Investigation Report," by CEC for MRR, to DHEC - Dec. 15, 2014, excerpts
10. "Minor Permit Modification," by CEC for MRR, to DHEC, March/Aug. 2015, excerpts
11. Permit - November 3, 2008
12. Permit - August 10, 2015 (invalid)
13. Letter of County Planning Commission of January 11, 2016
14. Letter from CEC to DHEC, August 5, 2015
15. Appendix I to R. 61-107.19
16. R. 61-107.19 Part I, 48. and I. (major/minor modifications)

Assessment of the Environmental Effects Associated with Coal Ash Residuals disposal in Class Two Landfill in Pickens County, South Carolina

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1. Personal information

I was asked by Gary W. Poliakoff, Attorney at Law from Spartanburg, South Carolina to review the possible environmental effects and water contamination associated with the disposal of coal combustion residuals (CCR) in Class Two Landfill in Pickens County, SC. I am a professor of Geochemistry and Water Quality at the Nicholas School of the Environment at Duke University, and for over 30 years I have been engaged in research related to water quality and contamination. I have been working extensively on water quality issues in different parts of the world, including the Middle East (Israel, Jordan), Australia, Southeastern Asia (Vietnam, China), Northern Africa (Morocco), Europe (Italy, Cyprus, Greece, Turkey), and the U.S. My research aims to delineate the sources and pathways of contaminants in the environment and their possible impacts on human health through integrated research of environmental geochemistry, advanced isotope geochemistry (boron, strontium, carbon, lithium, and radium isotopes), and environmental health research (arsenic, fluoride, boron, chromium, radium).

After joining Duke University in 2005, my research group has investigated the energy-water nexus with extensive research on the environmental risks of unconventional energy exploration and hydraulic fracturing, coal mining, CCRs and their disposal. In particular, my team has investigated the composition of CCRs, their potential effects on the environment, and developed methods to delineate their distribution and impact on the environment. Since our early investigation of the 2008 Tennessee Valley Authority (TVA) coal ash spill, which was the largest coal ash spill in the U.S. history, we have published 10 papers specifically addressing the

contaminants occurrence in coals and CCR, their mobilization from coals to water, their fate in the environment, and contamination of water resources. Currently we are engaged in a study that investigates possible leaking of coal ash ponds from 22 sites in five states (NC, TN, KY, GA, VA) through the Southeastern U.S. and the impact on associated surface water and underlying groundwater. Overall, I have published 104 papers in peer-reviewed top journals (5 currently under review) at the top peer-reviewed journals in the U.S. In 2015, the Geological Society of America elected me as a Fellow.

2. What's in coal combustion residuals (CCR)

During coal combustion process, most of the toxic elements in the parent coals are retained to the coal combustion residuals (CCR, or coal ash). CCR encompasses fly ash, bottom ash, and flue gas desulfurization (FGD) materials, and represent one the largest industrial waste streams in the U.S. CCR typically contains five- to ten-fold (depending on coal properties) higher concentrations of toxic elements relative to the original coals. Numerous studies have characterized the occurrence and distribution of a wide range of elements in coals and CCRs (see examples in references 1-6). These studies have shown that CCRs are enriched in trace metals and metalloids such as arsenic, selenium, vanadium, chromium, lead, mercury, molybdenum, thallium, boron, manganese, iron, boron, strontium, and others, with concentrations up to several orders of magnitude higher than in typical soil. Some of these elements are highly toxic and carcinogenic and can affect human health and ecological system upon their release to the environment. In addition to trace metals, CCRs are characterized by relatively high concentrations of Naturally Occurring Radioactive Materials (NORM) that include uranium, radium, radon, lead, and polonium radionuclides. During the combustion of coal, most of the NORM are retained on CCRs, leading to their enrichment in CCR. Volatilization of lead and recapture by tiny particles results in further enrichment of lead and lead radioactive element (lead-210) in CCR by two-fold, relative to the other NORMs. A recent survey of NORM occurrence and distribution in CCR has shown that NORM levels in CCR are higher by five-fold higher relative to typical soil in the U.S. (7).

CCR was recognized as a Group I human carcinogen (based on occupational exposure studies) associated with increased risks of skin, lung, and bladder cancers (8). Specifically, arsenic and radium exposures in humans are associated with increased risks of skin, lung, liver, leukemia, breast, bladder, and bone cancers (8, 9) for exposure predominantly due to chronic ingestion or chronic inhalation, with the dose-response curve dependent on location, sources, and population susceptibility and/or tolerance.

3. Environmental risks of coal combustion residuals (CCR)

Many studies have shown that metals and metalloids are easily mobilized (removed) from CCR to water in aquatic environment (1-6). The high mobilization of CCR is due to the fact that metals and metalloids are entrapped to the surface of CCR following coal combustion, and consequently are readily leached out upon interaction with water. The mobilization of metals and metalloids specifically increases with increasing the acidity of the aquatic system, with high leaching rates at low pH. The leaching of metalloids like arsenic and selenium increases also with higher pH (10).

The possible leaching of metals and metalloids from CCR and the impact on the environment has been examined by three ways (1) leaching experiments and simulation at the laboratory (1-3; 10); (2) studying of effluents discharge from coal ash ponds, such as those in NC (11); and (3) studying the impact of CCR spills (10, 12-15). The fate of the different elements that are mobilized from CCRs depend on their chemical properties. Some elements are highly soluble in water and thus the interaction of water and CCR would lead to direct contamination of the water. Clear evidence for water contamination has been shown for toxic and carcinogenic elements such as arsenic, selenium, boron, and strontium (10-15). Other elements are less soluble in water such as lead, manganese, chromium, but changes in the water conditions such as low pH, which is common in landfills, could enhance their mobilization and transport in water.

The storage of CCR in surface impoundments has resulted in direct contamination of waterways. A detailed study from NC (11) investigated the effluents that are discharged from coal ash ponds through the National Pollution Discharge Elimination System (NPDES) Program. The NPDES Program was established by the Clean Water Act and requires the control and

permitting of point source discharges of wastewater. Data from all of the coal ash ponds in NC has shown that the discharge effluents were enriched in several toxic and carcinogenic elements (arsenic, selenium, molybdenum, thallium, boron) that has caused direct contamination of lakes and rivers in NC. The level of contaminants' enrichment was up to 100-fold relative to reference water, and exceeded in many cases the drinking water regulations (11). Furthermore, it was shown that contamination of lake water causes arsenic to be accumulated to lake sediments that are sinking to the lake bottom, followed by the release of arsenic back to the environment under changes in the reducing conditions (11). The accumulation and release of arsenic in the TVA spill in Kingston, TN resulted in extremely high levels of arsenic in water from the bottom of the river with concentrations of up to 2,000 ppb (relative to 10 ppb in drinking water regulations) (12). A current research by our team on coal ash impoundments from 22 sites across the southeastern U.S. has reveal that all of the ponds are leaking and CCR effluents have migrated and contaminated associated surface water and underlying groundwater.

Overall, these studies have collectively demonstrated that disposal of CCR without adequate protection causes direct contamination of associated water resources.

4. Specific risks of coal combustion residuals (CCR) to Class Two Landfill

Numerous studies have shown that landfills containing domestic materials (based on the definition of Class Two Landfill in SC) such as construction and demolition debris and land-clearing activities do not contain specific toxic elements. Yet the disposal of organic materials and accelerated biological degradation of the organic matter in landfills can induce acidic condition (low pH) and reduced condition (low dissolved oxygen). Mixing the domestic landfill materials with CCR would inevitably generate leaching process of CCR and mobilization of toxic contaminants to landfill effluents that could be leaked to the environment. Enhancement of the leaching process is expected under reducing and low pH conditions, which are typical to domestic landfills. Lining a Class Two landfill may reduce the direct infiltration of the landfill effluents, but this would not prevent contamination of nearby waterways and groundwater. Without comprehensive management of the landfill effluents that would include specific lining material, collecting and treating the landfill effluents, and establishing a monitoring network to monitor possible migration and leaks of the landfill effluents to the nearby surface water and

underlying groundwater – disposal of CCR to a Class Two Landfill could contaminate associated water resources.

The second risk for human health from CCR disposal in a landfill is the wind-blown resuspension of tiny CCR particles to the atmosphere and transport to nearby population. Fly ash-airborne particles with diameters less than $10\text{ }\mu\text{m}$ (PM10) are regarded as respirable and may affect the human lung and bronchus. The particles that are of most importance for human health are in the fine particulate (PM2.5) mode, which readily deposit deep in the lung. Previous research has shown that CCP ash has particulate sizes ranging from less than $1\text{ }\mu\text{m}$ to 100s of micrometers in size. Several studies have shown measured ambient fine particulate matter associated with elevated concentrations of toxic metals in the vicinity of coal-fired power plants (16,17). Overall, the literature clearly shows that CCR contains inhalable particulate matter, and that resuspension of fly ash from dry surface disposal can be transported to the atmosphere and therefore poses risks to the nearby and downwind population.

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MRR Pickens, LLC,

Plaintiff,

vs.

County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
individually and in their official capacity as
appointed members of the Pickens County
Planning Commission,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-39-100

**AFFIDAVIT OF
AVNER VENGOSH, PH.D.**

Personally appeared before me Avner Vengosh, who having been duly sworn, deposes and states:

1. That I am over the age of 18 years and am competent to issue this Affidavit.
2. That I hold a Ph.D. in Environmental Geochemistry and currently serve as Professor of Geochemistry and Water Quality at Duke University. My current Curriculum Vitae is attached hereto (33 pages, plus a 2-page summary).
3. That I was asked by Attorney Gary W. Poliakoff to review various materials and regulations related to proposed disposal of Coal Combustion Residuals (CCR) into a Class Two Landfill in Pickens county. A true and genuine copy of my Report, consisting of six pages, is attached hereto.
4. That, as stated in greater detail in my Report, deposit of Coal Combustion Residuals (CCR) into a South Carolina Class Two Landfill, even with a liner, would be most inappropriate and

would present serious risks of toxic exposure to the nearby population and to the environment
(including toxic effects to air quality and water quality).

SWORN and subscribed to before me this
16 day of FEB 2016.

Maury D. Klein

Notary Public for South Carolina

Print Name: MAURY D. KLEIN

My Commission Expires: 9/27/2016

Avner Vengosh



Avner Vengosh

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Publications and Grants Summary

• Publications: total - 104 in peer-reviewed journals; Google Scholar Stats: h-index=43; 5,801 total citations; 15 papers with >100 citations each. Web of Science: h-index=30, 3,082 total citations. Grants: PI or co-PI on Federal and Foundation Awards totaling ~\$7.9 million since 2005.

EDUCATION

AUSTRALIAN NATIONAL UNIVERSITY, RESEARCH SCHOOL OF EARTH SCIENCE
Canberra, Australia

• Ph.D., 1990, Environmental Geochemistry (Thesis title: *Boron isotope geochemistry in the sedimentary environment*).

Advisor: Professor Allan Chivas and Professor Malcolm McCulloch.

HEBREW UNIVERSITY OF JERUSALEM, Jerusalem, Israel

• M.Sc., 1986, Isotope Geology (Thesis title: *Stable isotopes in coexisting phases of phosphatic, carbonate and siliceous rocks of the Mishash Formation, Israel*).

Advisor: Professor Yehushua Kolodny.

HEBREW UNIVERSITY OF JERUSALEM, Jerusalem, Israel

• B.Sc., 1984.

ACADEMIC APPOINTMENTS

DUKE UNIVERSITY, Durham, NC, USA

NICHOLAS SCHOOL OF ENVIRONMENT, DIVISION OF EARTH AND OCEAN SCIENCES,

2010- *Professor (tenured)*

DUKE UNIVERSITY, Durham, NC, USA

NICHOLAS SCHOOL OF ENVIRONMENT, DIVISION OF EARTH AND OCEAN SCIENCES,

2005 -2010 *Associate Professor (tenured)*

DUKE UNIVERSITY, Durham, NC, USA

PRATT SCHOOL OF ENGINEERING, DEPARTMENT OF CIVIL AND ENVIRONMENTAL ENGINEERING,

2009 - *Secondary Appointment*

STANFORD UNIVERSITY, Stanford, California, USA,

DEPARTMENT OF GEOLOGICAL AND ENVIRONMENTAL SCIENCES

August 2003 – March 2004, *Visiting Professor (sabbatical leave)*

BEN GURION UNIVERSITY, Beer Sheva, Israel,
DEPARTMENT OF GEOLOGICAL AND ENVIRONMENTAL SCIENCES
1999 -2005 (since 2002 tenured position), *Associate Professor*

UNIVERSITY OF CALIFORNIA SANTA CRUZ, Santa Cruz, California, USA,
INSTITUTE OF EARTH AND MARINE SCIENCES
1996-1997, *Visiting Scientist (sabbatical leave)*

HYDROLOGICAL SERVICE, Jerusalem, Israel
RESEARCH DEPARTMENT
1991-1999, *Senior Lecturer*

HONORS

2011 – International Association of Geochemistry (IAGC) Fellow.
2013 – Best Science Paper Award, *Environmental Science & Technology*.
2014 - Second Runner-Up Best Environmental Policy Paper, *Environmental Science & Technology*.
2015 – Geological Society of America Fellow.

AFFILIATIONS & MEMBERSHIPS

Geochemical Society, American Geophysical Union (AGU), Geological Society of America (GSA), International Association of Geochemistry (IAGC).

PROFESSIONAL SERVICE

Reviewer for dozens articles per month in *Environmental Science and Technology*, *Geochimica Cosmochimica Acta*, *Chemical Geology*, *Applied Geochemistry*, *Journal of Hydrology*, *Water Research*, *Water Quality Research of Canada*, *Aquatic Geochemistry*, *Hydrogeology Journal*, *The Science of Total Environment*, *Journal Environmental Quality*.

Reviewer for numerous NSF grants.

2015-present **Editorial board** of the international journal *Environmental Science and Technology*.

2007-present **Associate Editor** of the international journal *Applied Geochemistry*.

2015 Invited speaker to the Joint US-UK workshop on Improving Understanding of Potential Environmental Impact Associated with Unconventional Hydrocarbons, National Environment Research Council (NERC) and National Science Foundation (NSF) joint workshop, Washington DC, November 5-6, 2015.

- 2015 Invited speaker in the Pardee keynote Symposia P4: Similar Information ,
different results: fracking from state to state, Geological Society of America,
Baltimore, November 3, 2015.
- 2015 Chair of The Second Workshop on the Water-Energy Nexus in China", Kunshan,
China, October 14-15, 2015.
- 2015 Invited keynote speaker to the ICCE 2015, Leipzig, Germany, September 20,
2015.
- 2015 Theme chair "Energy Resources", Goldshmidt Conference, Prague, Czech
Republic, August 16-21, 2015.
- 2015 Chair of a session "Geochemical Characterizations of Unconventional Petroleum
Reservoirs and Environmental Impacts Associated with their Production",
Goldshmidt Conference, Prague, Czech Republic, August 16-21, 2015.
- 2015 Invited speaker at the National Academy of Science workshop "Chemistry and
Engineering of Shale Gas and Tight Oil Resource Development", May 18-19,
2015 , Washington DC.
- 2014 Chair of workshop "Water-energy Nexus in China", Kunshan, China, November
7, 2014.
- 2014 Theme chair "Hydrogeochemistry", Goldshmidt Conference, Sacramento
California, June 8-13, 2014.
- 2014 Keynote speaker in a session on shale gas development, 2014 European Union of
Geoscience (EGU) meeting , Vienna, Austria, April 28-May 2, 2014.
- 2013 Keynote speaker to a session entitled "Environmental and Social Implications of
Hydraulic-Fracturing-Driven Oil and Gas Development: Toward a More Holistic
Assessment", 2013 GSA Annual Meeting & Exposition, Denver, October 27-30,
2013.
- 2013 Keynote speaker to a special session (Pardee Keynote Symposia) of the
Geological Society of America, entitled "Energy and Health: The Emergence of
Medical Geology in Response to the Shale Gas Boom", 2013 GSA Annual
Meeting & Exposition, Denver, October 27-30, 2013.
- 2013 Testimony to the Office of Management and Budget (OMB) on new EPA's
proposed effluent limitation guidelines (ELGs) for the steam electric sector,
Washington, DC, April 12, 2013.
- 2012 Chair, Pardee Symposium, Geological Society America Meeting, Charlotte, NC,
USA, 4-7 Nov 2012.
- 2012 A Congretional briefing on "*Environmental Consequences of Past and Future
Energy Production in the United States*," Rayburn House Office Building.,
Washington DC, October 16, 2012.

- 2012 Keynote speaker to the Association of Ecosystem Research Centers (AERC) annual meeting, Washington Dc, October 16, 2012.
- 2009 A testimony to the Subcommittee on Water Resources and Environment, U.S. House of Representatives; *"The Tennessee Valley Authority's Kingston Ash Slide: Potential Water Quality Impacts of Coal Combustion Waste Storage"*. Washington, DC, March 31, 2009.
- 2008 Keynote speaker at University Council on Water Resources/ National Insititue for Water Research annual conference " International water resources: Challenges for the 21st century" , Durham, NC, July 2008.
- 2007 Chair of a special session (Pardee Keynote Symposia) of the Geological Society of America, entitled *"Middle Eastern Water Resources in Times of Crisis"*, 2007 GSA Annual Meeting & Exposition, Denver, October 28-31, 2007.
- 2007 Chair of a session entitled *"Natural Contaminants in Groundwater Resources: Occurrence, Geochemistry, Health, and Remediation"*, American Geophysical Union (AGU), Joint Assembly Meeting, Acapulco, Mexico, May 22-25, 2007.
- 2007- present Member of the Environmental Surveillance Committee of the N.C. Radiation Protection Commission.
- 2006-2009 Principle Investigator of a USDA reseach project entitled *"An integrative investigation of the sources and effects of groundwater contamination for local communities and homeowners in North Carolina"*.
- 2006-2009 Investigator of a USAID (MERC) research project entiled *"The salinity curse of the Middle East fossil groundwater: The Radioactivity factor"*.
- 2006 Chair of a Workshop on *"Radon Occurrence, Health Risks and Policy, with an Emphasis on Radon in Ground Water Drinking Supplies"*, Duke Garnens, Duke University, Durham, NC, (<http://www.nicholas.duke.edu/radon/>), October 4, 2006.
- 2003 Advisor to International Atomic Energy Agencythe for designing Cooperation Research Project on application of isotopes in studying agricultural return flow.
- 2003 - 2004 Vice-President, International Commission on Water Quality, International Association of Hydrological Sciences.
- 2001-2005 **Associate Editor** for the international journal *Water Resources Research*.
- 2001-2004 Coordinator of the geochemistry research group of European Union Firth Framework research BOREMED entitled *"Boron contamination of Water resources in the Mediterranean region: Distribution, Sources, Social impact and Remediation"*.

- June 2001 Invited Speaker at *Water-Rock Interaction –10* International conference, Sardinia, Italy.
- 1999-2004 Coordinator of US-AID - Middle East Regional Cooperation Research (MERC) project entitled "*Water Quality along the Jordan River and evaluation of the sources of salts*".
- 2000 Organizer of a special workshop with the International Atomic Energy Agency, entitled "*Regional workshop on isotopes and geochemical methods in the study of water and salinization in arid region.*"
- 1999 Advisor for the design of Cooperation Research Project on application of isotopes in studying salinization, International Atomic Energy Agency, Vienna, Austria.

Duke University service

- 2007- 2011 Chair of *Water and Air Resources Program* at the Nicholas School of Environment and Earth Sciences, Duke University.

Member of Duke University Radioactivity Safety Committee, Duke University Misconduct committee, University Calendar Committee, Academic Council (2006-2008), Nicholas School of Environment Water Initiative Committee, and head of Search Committee for a Global Hydrology position.

PUBLICATIONS

(in bold, research done while Vengosh's graduate students or post-docs)

Refereed articles in scientific journals

Articles published after appointment at Duke

2016

104) Schlesinger, W.H. and Vengosh, A. (2016), Global Boron Cycle in the Anthropocene. *Global Biogeochemical Cycles*, doi:10.1002/2015GB005266.

2015

103) King, K.E., Darrah, T.H., Money, E., Meentemeyer, R., Maguire, R.L., Michener, L., Murtha, A.P., Jirtle, R., Murphy, S.K., Mendez, M.A., Robarge, W., Vengosh, A., Hoyo, C. (2015) Geographic clustering of elevated blood heavy metal levels in pregnant women. *BMC Public Health*, 15, 1035-1035.

102) Drollette, B.D., Hoelzer, K., Warner, N.R., Darrah, T.H., Karatum, O., O'Connor, M.P., Nelson, R.K., Fernandez, L.A., Reddy, C.M., Vengosh, A., Jackson, R.B., Elsner, M., Plata, D.L.

- (2015) Elevated levels of diesel range organic compounds in groundwater near Marcellus gas operations are derived from surface activities. *PNAS* (doi: 10.1073/pnas.1511474112).
- 101) Darrah, T.H., Jackson, R.B., Vengosh, A., Warner, N.R., Whyte, C.J., Walsh, T.B., Poreda, R.J. (2015) The evolution of Devonian hydrocarbon gases in shallow aquifers of the northern Appalachian Basin: insights from integrating noble gas and hydrocarbon geochemistry. *Geochimica Cosmochimica Acta*, 170, 321-355.
- 100) Kondash, A. and Vengosh, A. (2015) Water footprint of hydraulic fracturing. *Environmental Science & Technology Letters*, 2, 276-280.
- 99) Lauer, N.E., Hower, J.C., Hsu-Kim, H., Taggart, R.K., Vengosh, A. (2015) Naturally occurring radioactive materials in coals and coal combustion residues in the United States. *Environmental Science & Technology*, 49, 11227–11233.
- 98) Vidal, A.C., Semenova, V., Darrah, T., Vengosh, A., Huang, Z., King, K., Nye, M.D., Fry, R., Skaar, D., Maguire, R., Murtha, A., Schildkraut, J., Murphy, S., Hoyo, C. (2015). Maternal cadmium, iron and zinc levels, DNA methylation and birth weight. *BMC Pharmacology and Toxicology*, 16:20. (DOI 10.1186/s40360-015-0020-2).
- 97) Elsner, M., Schreglmann, K., Calmano, W., Bergmann, A., Vieth-Hillebrand, A., Wilke, F.D.H., Klaus-Michael Wollin, K-M., Georgi, A., Schmidt, W., Hofmann, T., Micić, V., Vengosh, A., and Mayer, B. (2015) Comment on the German draft legislation on hydraulic fracturing: The need for an accurate state of knowledge and for independent scientific research. *Environmental Science & Technology*, 49, 6367–6369.
- 96) Down, A., Schreglmann, K., Plata, D., Elsner, M., Warner, N., Vengosh, A., Moore, K., Coleman, D., Jackson, R.B. (2015) Pre-drilling background groundwater quality in the Deep River Triassic Basin of central North Carolina, USA. *Applied Geochemistry*, 60, 3-13.
- 95) Darrah, T.H., Jackson, R.B., Vengosh, A., Warner, N.R., Poreda, R.J. (2015) Noble Gases: A new technique for fugitive gas investigation in groundwater. *GroundWater*, 53, 23-28.
- 94) Nir, O., Vengosh, A., Harkness, J., Dwyer, G.S., Lahav, O. (2015). Direct measurement of the boron isotope fractionation factor: reducing the uncertainty in reconstructing ocean paleo-pH. *Earth and Planetary Science Letters*, 414, 1-5.
- 93) Harkness, J., Dwyer, G., Warner, N.R., Parker, K. Mitch, W.; Vengosh, A. (2015) Iodide, Bromide, and Ammonium in Hydraulic Fracturing and Oil and Gas Wastewaters: Environmental Implications. *Environmental Science & Technology*, 49, 1955–1963. (DOI:10.1021/es504654n).
- 92) Merola, R.B., Hien, T. T. , Quyen, D.T.T. , Vengosh, A. (2015) Arsenic Exposure to drinking water in the Mekong Delta. *Science of the Total Environment*, 511, 544–552.

2014

- 91) Ruhl, R.L., Dwyer, G., Hsu-Kim, H., Vengosh, A. (2014) Boron and Strontium Isotopic Characterization of Coal Combustion Residuals: Validation of New Environmental Tracers. *Environmental Science & Technology*, 48 (24), 14790–14798.
- 90) Warner, N.R., Darrah, T.H., Jackson, R.B., Millot, R., Kloppmann, W., Vengosh, A. (2014) New tracers identify hydraulic fracturing fluids and accidental releases from oil and gas operations. *Environmental Science & Technology*, 48 (21), 12552–12560.
- 89) Parker, K.M., Zeng, T., Harkness, J., Vengosh, A. Mitch, W.A. (2014) Enhanced formation of disinfection by-products in shale gas wastewater-impacted Drinking Water Supplies. *Environmental Science & Technology*, 48, 11161-11169 (DOI: 10.1021/es5028184).
- 88) Darrah, T.H., Vengosh, A., Jackson, R.B., Warner, N.R., Poreda, R.J. (2014) Noble gases identify the mechanisms of fugitive gas contamination in drinking-water wells overlying the Marcellus and Barnett Shales. *Proceedings of the National Academy of Sciences of United States of America*, 111 no. 39, 14076–14081.
- 87) Leslie, D., Lyons, W.B., Warner, N., Vengosh, A. Olesik, J., Welch, K., Deuerling, K., (2014). Boron isotopic geochemistry of the McMurdo Dry Valley lakes, Antarctica. *Chemical Geology*, 386, 152–164.
- 86) Vengosh, A., Hirschfeld, D., Vinson, D., Dwyer, G., Raanan, H., Marie, A., Zaarur, S., Ganor Y. (2014) Response to Comment on “High Naturally Occurring Radioactivity in Fossil Groundwater from the Middle East”. *Environmental Science & Technology*, 48 (16), 9943–9945.
- 85) Rango, T., Vengosh, A. Jeuland, M., Tekle-Haimanot, Weinthal, E., Kravchenko, Paul, C., McCornick, P. (2014) Fluoride exposure from groundwater as reflected by urinary fluoride and children’s dental fluorosis in the Main Ethiopian Rift Valley. *Science of the Total Environment*, 496, 188-197.
- 84) Lgourma, Z., Warner, N.R., Bouchaou, L., Boutaleb, S., Hssaisoune, M., Tagma, T., Ettayfi, N. and Vengosh, A. (2015) Elucidating the sources and mechanisms of groundwater salinization in the Ziz Basin of southeastern Morocco. *Environmental Earth Sciences*, 73, 77-93.
- 83) Jackson, R.B., Vengosh, A., Carey, J.W., R.J., Darrah, T.H., O’Sullivan, F., Pétron, G. (2014). The Environmental Costs and Benefits of Fracking. *Annual Review of Environment and Resources*, 39 (1), (DOI: 10.1146/annurev-environ-031113-144051)
- 82) Kravchenko, J., Darrah, T.H., Miller, R.K., Lyerly, H.K., Vengosh, A. (2014) A review of the health impacts of barium from natural and anthropogenic exposures. *Environmental Geochemistry and Health*, 36, 797-814 (DOI:the 10.1007/s10653-014-9622-7).
- 81) Vengosh, A., Jackson, R.B., Warner, N., Darrah, T. H., Knodash, A.J. (2014) A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States. *Environmental Science & Technology*, 48, 8334-8348. (dx.doi.org/10.1021/es405118y).

80) Kravchenko, Y., Rango, T., Akushevich, I., Behailu, A., McCornick, P., Merola, R.B., Paul, C., Weinthal, E., Harrison, C., Vengosh, A., Jeuland, M. (2014). The effect of non-fluoride factors on risk of dental fluorosis: Evidence from rural populations of the Main Ethiopian Rift. *Science of the Total Environment*, 488-489, 595-606 (<http://dx.doi.org/10.1016/j>).

79) Knodash, A.J., Warner, N.R., Lahav, O., Vengosh, A. (2014) Radium and Barium Removal through Blending Hydraulic Fracturing Fluids with Acid Mine Drainage. *Environmental Science & Technology*, 48, 1334-1342.

78) Merola, R.B., Kravchenko, J., Rango, T., Vengosh, A. (2014) Arsenic exposure of rural populations from the Rift Valley of Ethiopia as monitored by keratin in toenails. *Journal Of Exposure Science And Environmental Epidemiology*, 24, 121-126 (doi: 10.1038/jes.2013.77).

2013

77) Liu, Y-B., Chen, T-Y., Mackeebee, W.G., Ruhl, L., Vengosh, A., and Hsu-Kim, H. (2013) Selenium Speciation in Coal Ash Spilled at the Tennessee Valley Authority Kingston Site. *Environmental Science & Technology*, 47, 14001-14009.

76) Warner, N.R., Christie, C.A., Jackson, R.B., Vengosh, A. (2013) Impacts of shale gas wastewater disposal on water quality in western Pennsylvania. *Environmental Science & Technology*, 47, 11849-11857 (DOI: 10.1021/es402165b).

75) Vinson, D.S., Tagma, T., Bouchaou, L., Dwyer, G.S., Nathaniel R. Warner, N.R., and Vengosh, A. (2013) Occurrence and mobilization of radium in brackish to saline groundwater in coastal aquifers as inferred from geochemical and isotopic tracers (Ra, Rn, Sr, S, O, H). *Applied Geochemistry*, 38, 161-175.

74) Foster, G.L., Hönisch, B., Paris, G., Gary S. Dwyer, G.S., Rae, J.W.B., Elliott, T., Gaillardet, J., Hemming, N.G., Louvat, P., Vengosh, A. (2013) Interlaboratory comparison of boron isotope analyses of boric acid, seawater and marine CaCO₃ by MC-ICPMS and NTIMS. *Chemical Geology*, 358, 1-14.

73) Vengosh, A. Linberg, T.T., Merola, B., Ruhl, L., Warner, N.R., White, Al., Dwyer, G.S., and Di Giulio, R.T. (2013). Isotopic imprints of mountaintop mining contaminants. *Environmental Science & Technology*, 47, 10041-10048 (DOI: 10.1021/es4012959).

72) Jackson, R.B., Vengosh, A., Darrah, T.H., Warner, N.R., Down, A., Poreda, R.J., Osborn, S.G., Zhao, K., and Karr, J.D. (2013) Increased stray gas abundance in a subset of drinking water wells near Marcellus shale gas extraction. *Proceedings of the National Academy of Sciences of United States of America*, 110(28): 11250-11255 (doi: 10.1073/pnas.1221635110).

- 71) Godebo, T.R., Vengosh, A., Dwyer, G., Bianchini, G. (2013) Mobilization of arsenic and other naturally occurring contaminants in groundwater of the Main Ethiopian Rift aquifers. *Water Research*, 47, 5801–5818.
 - 70) Vengosh, A., Warner N.R., Jackson, R.B., Darrah, T.H., (2013). The Effects of Shale Gas Exploration and Hydraulic Fracturing on the Quality of Water Resources in the United States. *Procedia Earth and Planetary Science*, 7, 863–866.
 - 69) Warner N.R., Kresse, T.M., Hays, P.D., Down, A., Karr, J.D., Jackson, R.B., Vengosh, A. (2013) Geochemical and isotopic variations in shallow groundwater in areas of Fayetteville Shale development, north central Arkansas. *Applied Geochemistry*, 35, 207-220. (<http://dx.doi.org/10.1016/j.apgeochem.2013.04.013>).
 - 68) Warner, N.R., Lgourna, Z, Bouchaou, L, Boutaleb, S, Tagma, T, Hsaissoune, M, Vengosh, A. (2013). Integration of geochemical and isotopic tracers for elucidating water sources and salinization of shallow aquifers in the sub-Saharan Drâa Basin, Morocco. *Applied Geochemistry*, 34, 140-151.
 - 67) Deonaraine, A., Bartov, G., Johnson, T.M, Ruhl, L., Vengosh, A., and Hsu-Kim, H. (2013). Environmental impacts of the Tennessee Valley Authority Kingston coal ash spill. 2. Effect of coal ash on methylmercury in historically contaminated river sediments. *Environmental Science & Technology*, 47(6), 2100-2108. (DOI: 10.1021/es303639d).
 - 66) Bartov, G., Deonaraine, A., Johnson, T.M., Ruhl, L. Vengosh, A. and Hsu-Kim, H. (2013) Environmental impacts of the Tennessee Valley Authority Kingston coal ash spill. 1. Source apportionment using mercury stable isotopes. *Environmental Science & Technology*, 47(6), 2092-2099 (DOI: 10.1021/es303111p).
- 2012
- 65) Warner, N.R., Jackson, R.B., Darrah, T.H., Osborn, S.G., Down, A., Zhao, K., White, A. Vengosh, A. (2012). Reply to Engelder: Potential for fluid migration from the Marcellus Formation remains possible. *Proceedings of the National Academy of Sciences of United States of America*, 109 no. 52 E3625, DOI: doi: 10.1073/pnas.1216133110
 - 64) Vinson, D.S., Lundy, J.R. Dwyer, G.S., and Vengosh, A. (2012). Implications of carbonate-like geochemical signatures in a sandstone aquifer: Radium and strontium isotopes in the Cambrian Jordan aquifer (Minnesota, USA). *Chemical Geology*, 334, 280-294.
 - 63) Ruhl, L., Vengosh, A., Dwyer, G.S., Hsu Kim H., Schwartz, G., Romanski, A., and Smith, S.D. (2012). The impact of coal combustion residue effluent on water resources: A North Carolina example. *Environmental Science & Technology*, 46, 12226–12233.
 - 62) Warner, N.R., Jackson, R.B., Darrah, T.H., Osborn, S.G., Down, A., Zhao, K., White, A. Vengosh, A. (2012). Geochemical evidence for possible natural migration of Marcellus formation brine to shallow aquifers in Pennsylvania. *Proceedings of the National Academy of Sciences of United States of America*, 109, 11961–11966 (doi: 10.1073/pnas.1121181109).

- 61) Rango, T., Kravchenko, J., Atlaw, B., McCormick, P.G., Jeuland, M., Merola, M. Vengosh, A. (2012). Groundwater quality and its health impact: an assessment of dental fluorosis in rural inhabitants of the Main Ethiopian Rift. *Environment International*, 43, 37-47.
- 60) Ettayfi, N., Bouchaou, L., Michelot, J.L., Tagama, T., Warner, N., Boutaleb, S., Massault, M., Lgourna, Z., Vengosh, A. (2012) Geochemical and isotopic (oxygen, hydrogen, carbon, strontium) constraints for the origin, salinity, and residence time of groundwater from a carbonate aquifer in the Western Anti-Atlas Mountains, Morocco. *Journal of Hydrology*, 438, 97-111.
- 59) Adair, S., Pearson, B.R., J Monast, J., Vengosh, A. Jackson, R.B. (2012). Considering shale gas extraction in North Carolina: lessons from other states. *Duke Environmental Law and Policy Forum*, XXII, 257-301.
- 58) Lindberg, T.T., Bernhardt, E.S., Bier, R., Helton, A., Merola, R.B., Vengosh, A. and Di Giulio, T.D. (2011) Cumulative impacts of mountaintop mining on an Appalachian watershed. *Proceedings of the National Academy of Sciences of United States of America*, 108, 20929-20934.
- 57) Jackson R.B., Osborn S.G., Vengosh, A., Warner, N.R. (2011). Reply to Davis: Hydraulic fracturing remains a possible mechanism for observed methane contamination of Drinking water. *Proceedings of the National Academy of Sciences of United States of America*, 108, E872.
- 56) Osborn, S., Vengosh, A. Warner, N. Jackson, R. (2011). Reply to Saba and Orzechowski and Schon: Methane contamination of drinking water accompanying gas- well drilling and hydraulic fracturing. *Proceedings of the National Academy of Sciences of United States of America*, 108, 8172-8176.
- 55) Osborn, S., Vengosh, A. Warner, N. Jackson, R. (2011). Methane contamination of drinking water accompanying gas drilling and hydro-fracking. *Proceedings of the National Academy of Sciences of United States of America*, 108, 8172-8176.
- 54) Vinson, D.S., McIntosh, J.C., Dwyer, G.S., Vengosh, A. (2011). Arsenic and other oxyanion-forming natural contaminants in an alluvial basin aquifer: Evaluating sources and mobilization by isotopic tracers (Sr, B, S, C, O, H, Ra). *Applied Geochemistry*, 26, 1364-1376.
- 53) Vinson, D., Schwartz, H., Dwyer, G., Vengosh, A. (2011). Evaluating salinity sources of groundwater and implications for sustainable reverse osmosis desalination in coastal North Carolina, USA. *Hydrogeology Journal*, 19, 981-994.
- 52) Sowers, J. Vengosh, A., Weinthal, E.S. (2011) Climate change, water resources, and the politics of adaptation in the Middle East and North Africa. *Climatic Change*, 104, 599-627 (DOI 10.1007/s10584-010-9835-4).
- 51) Ruhl, L., Vengosh, A., Dwyer, G.S., Hsu-Kim, H., Deonaraine, (2010). The Environmental Impacts of the Coal Ash Spill in Kingston, Tennessee: An Eighteen-Month Survey. *Environmental Science and Technology*, 44, 9272-9278.
- 50) Pratson, E., Vengosh, A., Dwyer, G., Pratson, L. and Klein, E. (2010). The Effectiveness of Arsenic Remediation from Groundwater in a Private Home. *Ground Water Monitoring and*

- Remediation*, 30, 87-93.
- 49) Bouchaou, L. , Qurtobi, M., Michelot, J.L., Zine, N., Gaye, C.B., Aggarwal, P.K., Mara, H., Zerouall, A., Taleb, H. and Vengosh, A. (2009). Origin and residence time of groundwater in the Tadla basin (Morocco) using multiple isotopic and geochemical tools. *Journal of Hydrology*, 379, 323-338.
- 48) Ruhl, L., Vengosh, A., Dwyer, G.S., Hsu-Kim, H., Deonarine, A., Bergin, M., Kravchenko, J. (2009). Survey of the potential environmental and health impacts in the immediate aftermath of the coal ash spill in Kingston, Tennessee. *Environmental Science and Technology*, 43, 6326-6333.
- 47) Vengosh, A., Hirschfeld, D., Vinson, D.S., Dwyer, G.S. Raanan, H., Rimawi, O., Al-Zoubi, A., Akkawi, E., Marie, A., Haquin, G., Zaarur, S., and Ganor, J. (2009) High Naturally Occurring Radioactivity in Fossil Groundwater in the Middle East. *Environmental Science and Technology*, 43 (6), 1769-1775. DOI: 10.1021/es802969r.
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- Merola, R.B. & Vengosh A., 2010.** Low-Level Arsenic Contamination of Groundwater with Biomarker Monitoring in Union County, NC. 20th Annual V.M. Goldschmidt Conference Knoxville, TN. June 21-25, 2010.
- Vinson, D., McIntosh, J. and Vengosh A., 2010.** Sr Isotope Constraints on Natural Oxy-Anionic Contaminants in a Basin-Fill Aquifer (Arizona, USA). 20th Annual V.M. Goldschmidt Conference Knoxville, TN. June 21-25, 2010.

- Ruhl, L., Vengosh, A. & Dwyer G, 2010.** Isotopic and Geochemical Tracers for Evaluating the Environmental Impact of the Tennessee Valley Authority Coal Ash Spill in Kingston, TN. 20th Annual V.M. Goldschmidt Conference Knoxville, TN. June 21-25, 2010.
- Deonarine, A., Hsu-Kim, H., Ruhl, L., Vengosh, A., 2010.** Riverine mercury contamination after the 2008 coal ash spill at the Kingston Fossil Plant, TN. 20th Annual V.M. Goldschmidt Conference Knoxville, TN. June 21-25, 2010.
- Deonarine, A., Hsu-Kim, H., Ruhl, L., Vengosh, A. 2010.** Assessment of mercury and methylmercury in the Emory, Clinch and Tennessee River system after the December 2008 coal ash spill at the Kingston Fossil Plant, TN. TVA-Kingston Fly Ash Release Environmental Research Symposium, March 11-12, 2010. Harriman, TN.
- Ruhl, L., Vengosh, A. & Dwyer G, 2010.** Differential leaching of trace metals and their isotopes from coal combustion products. TVA-Kingston Fly Ash Release Environmental Research Symposium, March 11-12, 2010. Harriman, TN.
- Ruhl, L., Vengosh, A. & Dwyer G, 2010.** The impact of the Tennessee Valley Authority (TVA) coal ash spill of the quality of the Emory and Clinch Rivers: the first year evaluation TVA-Kingston Fly Ash Release Environmental Research Symposium, March 11-12, 2010. Harriman, TN.
- Ruhl, L., Vengosh, A., Dwyer G, A. Deonarine; H. Hsu-Kim, 2009.** Water quality monitoring of the Emory and Clinch River: the impact of the Tennessee Valley Authority coal ash spill, Kingston, TN. SETAC North America 30th Annual Meeting; Human-Environment Interactions: Understanding Change in Dynamic Systems; Hilton Riverside, New Orleans, Louisiana, USA, 19 - 23 November 2009.
- Raanan, H. and Vengosh, A., 2009.** Radium isotopes as natural tracers of groundwater seepage in low salinity systems. Geological Society of America, Portland, Oregon ; 18-21 October 2009; *GSA Abstracts with Programs*. Vol. 41, No. 7, p. 348.
- Nunnery, A., Warner, N., Baker, P., Dwyer, G.S., Vengosh, A. Fritz, S.C., Lowenstein, T.K., Godfrey, L. and Rigsby, C.A., 2009.** Climate significance of large lakes on the Bolivian Altiplano of South America. Geological Society of America, Portland, Oregon ; 18-21 October 2009; *GSA Abstracts with Programs*. Vol. 41, No. 7, p. 274.
- Warner, N., Tagma, T., Bouchaou, L., Boutaleb, S., Lgourna, Z., Pankratove, I., Ettayfi, N., Hsissou, Y., Belkacim, S. and Vengosh, A. 2009.** Investigation of groundwater chemistry of the western Atals and Ant-Atlas mountains in Morocco using boron, strontium, and radium isotopes. Geological Society of America, Portland, Oregon ; 18-21 October 2009; *GSA Abstracts with Programs*. Vol. 41, No. 7, p. 579.
- Vinson, D.S. Lundt D.S., Vengosh, A., and Dywer, G.S., 2009.** Radium in the Jordan sandstone, Minnesota: Distribution and geochemical controls in an aquifer recharged by meltwater. Geological Society of America, Portland, Oregon ; 18-21 October 2009; *GSA Abstracts with Programs*, Vol. 41, No. 7, p. 700.

- Ruhl, L., Vengosh, A., and Dwyer, G.S., 2009. Boron and strontium isotope proxies for tracing the environmental impact of the TVA coal ash spill. Geological Society of America, Portland, Oregon; 18-21 October 2009; *GSA Abstracts with Programs*, Vol. 41, No. 7, p. 334.
- Vengosh, A., Ruhl, L., Dwyer, G.S., 2009. The isotopic imprint of coal ash impact on the environment. 8th International Symposium on Applied Isotope Geochemistry. La Malbaie, Quebec, Canada, August 30-September 4, 2009.
- Vengosh, A., Dwyer, G.S., Rimawi, O., Al-Zoubi, A., Ganor, J., 2009. The origin of fossil groundwater from the Nubian sandstone aquifers in the Middle East: A multi-isotope (Ra, B, Sr, S, O, H) investigation. Goldschmidt Conference, Davos, Switzerland, June 21-26, 2009.
- Vinson, D.S., Lundy, J.R., Dwyer, G.S., Vengosh, A., 2009. Coupled use of Sr and Ra isotopes to assess Ra mobility and water-rock interaction in sandstone aquifers. Goldschmidt Conference, Davos, Switzerland, June 21-26, 2009.
- Vengosh, A., Ruhl, L., Dwyer, G., Hsu-Kim, H., Deonarine, A., Bergin, M., Kravchenko, J. (2009) The environmental and health effects of the coal ash spill at Kingston, Tennessee: Preliminary assessment. World of Coal ash 2009 (WOCA), Lexington, Kentucky, May 4-7, 2009.
- Vengosh, A., Vinson, S., Eagel, S., Merola, B.R., Pratson, E., Dwyer, G., Benneer, L.S., Klein, E., Tootoo, J., Weinthal, W.S., Wiesner, M. (2009) An integrative study of the sources and effects of naturally occurring contaminants in private wells in North Carolina: A water quality perspective. USDA-CSREES 2009 National Water Quality Conference. St. Louis, MO. February 8-12, 2009.
- Dwyer, G. S. and Vengosh, A. (2008) Alternative filament loading solution for accurate analysis of boron isotopes by negative thermal ionization mass spectrometry. American Geophysical Union, Fall Meeting 2008, abstract #H51C-0824.
- Vengosh, A., Hirschfeld, D., Vinson, D.S., Rimawi, O., Al Zoubi, A., Marie, A., Ganor, J. Dwyer, G. S. (2008) Isotopic Tracers (Ra, Sr, O, H) for Elucidating the Sources of High Naturally Occurring Radioactive Groundwater from the Disi Aquifer, Jordan. *GSA Abstracts with Programs*, GSA, Vol. 40, No. 6, p. 120.
- Raanan, H., Vengosh, A., Paytan, A., Nishri, A., and Kabala, Z. (2008) Ra Isotopes as a Tool for Quantifying Saline Groundwater Flow into a Fresh Water Lake. A Case Study from the Sea of Galilee (Lake Kinneret), Israel. *GSA Abstracts with Programs*, GSA, Vol. 40, No. 6, p. 346.
- Vinson, D.S., Lundy, J.R., Dwyer, G.S. and Vengosh, A. (2008) Isotopic Indicators (^{223}Ra , ^{224}Ra , ^{226}Ra , ^{228}Ra , ^{222}Rn , $^{87}\text{Sr}/^{86}\text{Sr}$) of Radium Mobilization and Retardation In the Mt. Simon Aquifer, Minnesota. *GSA Abstracts with Programs*, GSA, Vol. 40, No. 6, p. 339.
- Vengosh, A. (2007) Isotopic Reconnaissance of water quality degradation in the Middle East. Geological Society of America (GSA) Annual Meeting, Denver (28-31 October 2007); *GSA Abstracts with Programs*, GSA Vol. 39, No. 6, p. 342.
- Vengosh, A. Kloppmann, W., Guerrot, C., Millot, R., Pankratov, I. (2007). The isotopic composition of man-made fresh water: Seawater and brackish groundwater reverse osmosis desalination. Geological Society of America (GSA) Annual Meeting, Denver (28-31 October 2007);

GSA Abstracts with Programs, Vol. 39, No. 6, p. 114.

Vinson, D.H., Hirsschfeld, D., Dwyer, G. and Vengosh, A. (2007) Radium and radon in fresh groundwater: Insights along solute and redox gradients in the North Carolina Piedmont. Geological Society of America (GSA) Annual Meeting, Denver (28-31 October 2007); *GSA Abstracts with Programs*, Vol. 39, No. 6, p. 178.

Raanan, H., Vengosh, A., Nishri, A., Paytan, A. (2007) radium isotopes as a proxy for groundwater-fresh water lake interaction: A case study from the Sea of Galilee, Israel. Geological Society of America (GSA) Annual Meeting, Denver (28-31 October 2007); *GSA Abstracts with Programs*, Vol. 39, No. 6, p. 479.

Vengosh, A., Peri, N., Haquin, G., Paytan, A., Pankratov, I., Elhanani, S., Karpas, Z. (2007) Mechanisms of Radium Mobilization for Radium-Rich Groundwater from the Nubian Sandstone and Carbonate Aquifers in the Negev, Israel: Implications for Fossil Groundwater Resources in the Middle East. American Geophysical Union, Joint Assembly, Acapulco, Mexico, May 22-35, 2007.

Vengosh, A. Campbell, T., Vinson, D., Klein, E., Dwyer, G., Benneer, L., Weinthal, E., Wiesner, M., Pratson, E. and Miranda, M.L. (2006) Natural contaminants in private wells in North Carolina. USDA-CSREES 2007 National Water Quality Conference. January 28-February 1, 2007 Savannah, Georgia.

Vinson, D.H., Campbell, T.R., Field, R.W., and Vengosh, A. (2006) Transfer of radon from groundwater into homes and the contribution of showering to indoor radon: Policy implications for unregulated private well owners at the intersection of geology and health in the North Carolina Blue Ridge. Geological Society of America *Abstracts with Programs*, Vol. 38, No. 7, p. 122. 2006 Philadelphia Annual Meeting (22-25 October 2006).

Vengosh, A., Pery, N., Paytan, A. Haquin, G., Elhanany, S. and Pankratov I. (2005). Sources, mechanisms, and implications for natural radionuclide contamination in groundwater basins in the Middle East. Geological Society of America, Salt lake City, Utah, October 2005.

Vengosh, A., Pery, N., Paytan, A. Haquin, G., Elhanany, S. and Pankratov I. (2004). Tracing the Origin of Radioactivity in Groundwater from the Negev, Israel. American Geophysical Union, San Francisco, December 2004.

Vengosh, A., Hening, S., Ganor, J., Bullen, T.D., Weyhenmeyer, C.E., Sturchio, N.C., and Paytan, A. (2004). The origin and age of groundwater in the Nubian Sandstone aquifer in the Negev, Israel, in Wanty, R.B., and Seal, R.R., II, eds., *Water Rock Interaction*, v. 1, Proceedings of the Eleventh International Symposium on Water-Rock Interaction, Saratoga Springs, New York, July 2004: New York, A.A. Balkema, p. 509-512.

Vengosh, A. Weinthal, E., Marei, A., Gutierrez, A., Kloppmann, W. (2003). Addressing the Water Crisis in the Gaza Strip: Integration of Geochemistry, Numerical modeling, and Policy. American Geological Society, Seattle, Washington, USA. November 2-5, 2003.

Vengosh, A., Marei, A., Guerrot, C., Pankratov, I. (2002). An enigmatic salinity source in the Mediterranean coastal aquifer and Gaza Strip: Utilization of isotopic (B, Sr, O) constraints for

searching the sources of groundwater contamination. Goldschmidt Conference, Davos, Switzerland, August 18-23, 2002. *Geochim. Cosmochim. Acta*, **66**, A804.

Farber, E., Vengosh, A., Shavit, U., Holtzman, R., Segal, M., Gavrieli, I., and Bullen, T. (2002). Exploring the Sources of the salinity in the Lower Jordan River. International symposium on the Geochemistry of the Earth's Surface (GES-6). Honolulu, Hawaii, May 2002, Abstracts Volume Sixth, 135-155 pp.

Vengosh, A., Farber, E., Shavit, U., Holtzman, R., Segal, M., Gavrieli, I., Bullen, T.M., and Mayer, B. (2001). What Science can contribute for future cooperation in the Middle East: The Jordan River. American Water Resources Association, International Specialty Conference on Globalization and Water management: the Changing Value of Water. August 6-8 2001, Dandee, Scotland, UK.

Vengosh, A., Farber, E., Shavit, U., Holtzman, R., Segal, M., Gavrieli, I., Bullen, T.M., (2001). *Exploring the sources of salinity in the Middle East: A hydrologic, geochemical and isotopic study of the Jordan River*. In: Cidu, R., Proceeding of the Tenth International Symposium on Water-Rock Interaction, WRI-10, Villasimuis, Sardinia, Italy, June 2001, (keynote lecture), Vol. 1, 71-79, A.A. Balkema Publishers.

Vengosh, A., Farber, E., Shavit, U., Holtzman, R., Segal, M., Gavrieli, I., Bullen, T.M., and Mayer, B. (2001). *Tracing the origin of salinity of the Jordan River*. 4th International Symposium on Applied Isotope Geochemistry, June 25-29, 2001, Pacific Grove, California, USA, pp. 162-164.

Vengosh, A., Kolodny Y. and A.J. Spivack (1998) *Ground-water pollution determined by boron isotope systematics*. In: 'Application of isotopic techniques to investigate groundwater pollution', Cooperation Research Program, The International Atomic Energy Agency (IAEA), IAEA-TECDOC-1046, pp. 17-37, October 1998, Vienna.

Vengosh A. (1992). *Boron isotope variations during brine evolution and water-rock interaction*. Kharaka Y.K. and Maest A.S. (eds.), Proceedings of the 7th International Symposium on Water-Rock Interaction, Park City, Utah, 1992. A.A. Balkema, Rotterdam, p. 693-696.

TEACHING

Courses at Duke University: Introduction to Hydrogeology (EOS123), International Water Resources (EOS227), Stable and Radioactive Isotopes in Environmental Sciences (EOS271), Water Seminar (EOS226).

Graduate students:

Duke University:

- Jennie Harkness (PhD, 2013 -)
- Nancy Lauer (PhD, 2013 -)
- Andrew Kondash (PhD, 2014 -)

- Hadas Raanan (PhD, 2005-2011). Research topic: *Radium isotope geochemistry as a tracer for groundwater-surface water interaction.*
- David Vinson (PhD, 2005-2011). Research topic: *The impact of salinity and water chemistry on radium mobilization in groundwater systems.*
- Nathanel Warner: (PhD, 2008-2013). Research topic: *Tracing the origin of salinization and radium contamination in water resources of Morocco.*
- Laura Ruhl (PgD, 2008-2012). Research topic: *The geochemistry and isotopic characterization of coal ash and its impact on the environment.*
- Brittany R. Merola (PhD-2010 -). Research topic: *Biomarkers of arsenic and fluoride from contaminated water resources.*
- Daniella Hirschfeld (Master of Environmental management, 2006-2008). Research topic: *Radium isotopes in groundwater in Jordan.*
- Kristen Tull (Master of Environmental management, 2006-2008). Research topic: *Mini-Superfund" Site in Kawerau, New Zealand: A Closer Look at Water Quality.*
- Britany R. Merola (Master of Environmental management, 2007-2009). Research topic: *Arsenic Exposure from Groundwater in Union County, North Carolina.*
- Heidi Hausman (Master of Environmental management, 2007-2009). Research topic: *Responsible Development in Tulum, Mexico: Considering Water Quality and Subaqueous Cave Locations.*

Ben Gurion University:

- Efrat Farber (PhD, 2000-2005). Research topic: *The lower Jordan River: river salinization, relationship with adjacent groundwater and future management.*
- Yohanan Artzi (M.Sc., 1999-2003) Research topic: *The origin of salinity in the coastal aquifer of Israel.*
- Osnat Velder (M.Sc., 2000-2003) Research topic: *Mapping of oxygen isotopes and salinity in groundwater from the coastal aquifer of Israel.*
- Sharona Henig (M.Sc., 2002-2004) Research topic: *Geochemical and isotopic (oxygen, hydrogen, boron, and strontium) characterization of groundwater from the Kurnub Group aquifer in the Negev and the Arava Valley, Israel.*
- Dana Roded (M.Sc., 2003-2005) Research topic: *Identification of the origin of nitrate pollution in the coastal aquifer by isotopic traces.*
- Nitzan Pery (M.Sc., 2003-2005) Research topic: *Radioactivity in groundwater from the Negev, Israel.*

AWARDS AND GRANTS

Duke University

- 2016-2017 North Carolina Water Research Institute, Vengosh (PI). *Tracing Groundwater Contamination Near And Away From Coal Ash Ponds in North Carolina* (\$100,000).
- 2016-2017 National Insitution of Health (NIH), National Institute of Environmental Health Sciences, Nagel, S. University of Missouri (PI), Vengosh, A. (co-PI). *Endocrine disrupting activity associated with hydraulic fracturing* (\$239,743).

- 2015- Southern Environmental Law Center. Vengosh, A. (PI). *Applying geochemical tracers for elucidating the leaking of coal ash ponds*. (\$60,000).
- 2015-2016 Park Foundation. Vengosh, A. (PI), *Radioactivity and Isotopic Markers of Oil and Gas Liquid and solid Wastes in New York and Pennsylvania* (\$60,000).
- 2014-2017 National Science Foundation. Vengosh (PI), Jackson R.B., Darrah, T. *SusChEM: Geochemical Characterization and Evaluation of the Environmental Impacts of Hydraulic Fracturing Fluids* (\$258,436). (EAR-1441497).
- 2014-2015 Park Foundation. Vengosh, A. (PI), Jackson R.B., Plata, D. *The environmental and health risks of oil and gas wastewater in New York and Pennsylvania* (\$70,000).
- 2014-2015 Duke Energy Initiative. Vengosh, A., Weinthal, E., Dalia Patino-Echeverri, Marc Deshusses. *A global perspective of water scarcity and unconventional shale gas development* (\$40,000).
- 2013-2014 National Science Foundation Exploratory Research (EAGER). Darrah, T. (PI), Vengosh, A., Jackson J. *A novel geochemical approach for environmental risk assessment of stray gas contamination in shallow aquifers within active and prospective shale gas development zones* (\$100,000). (EAR-1249255)
- 2013-2014 Park Foundation. Vengosh, A. (PI), Jackson R.B., Plata, D. *The environmental effects of oil and gas wastewater disposal in New York and Pennsylvania* (\$70,000).
- 2013-2017 National Science Foundation. Ferguson, L. (PI), Wiesner, M., Tarabara, V., Bang, J. Plata, D., Hsu-Kim, H., Gunsch, C., Seshusses, M., Vengosh, A., Golden, J. *PIRE: Water and Commerce: Technologies to enable environmental sustainability in global markets* (\$4,750,443).
- 2012-2015 National Science Foundation. Hsu-Kim, H. (PI), Vengosh, A., Hower, J. *Characterization of contaminants and isotopic tracers associated with coal combustion products* (\$301,000).
- 2011-2012 Park Foundation. Jackson, R.B. (PI), Vengosh, A. *Impact of Gas Drilling and Hydraulic Fracturing on Water Quality* (\$50,000)
- 2012-2013 North Carolina Water Resources Research Insitute. Jackson, R.B. (PI), Vengosh, A. *Baseline groundwater quality sampling in parts of Lee and Chatham Counties, North Carolina*. (\$50,000).
- 2011-2012 Duke University - Problem-Focused Interdisciplinary Research-Scholarship Teams (PFIRST). Jeuland, M., Vengosh, A., Weinthal, E., McCornick, O. Crump, J. and Krauchanka, J. *Understanding linkages between climate change, water resources, and health in Ethiopia* (\$30,000)

- 2011-2012 National Science Foundation. Vengosh, A. (PI), Jackson, R. Weinthal, E. *Environmental and social implications of hydraulic fracturing and gas drilling in the United States: An integrative science and policy workshop* (\$45,000)
- 2011-2012 Duke Cancer Institute. Vengosh, A. (PI), Krauchanka, Y. *Environmental contaminants in drinking water from rural communities of Union county, North Carolina: an integrated approach for evaluation of biomarkers of human exposure to arsenic and trace metals.* (\$50,000)
- 2011-2012 North Carolina Water Resources Research Institute. Vengosh, A. (PI), Hsu-Kim, H. *The impact of coal combustion products on the quality of water resources in North Carolina.* (\$50,000)
- 2010-2013 Oak Ridge Associated Universities. Vengosh, A. (PI), Hsu-Kim, H., Hower, J., Johnson, T. *Geochemical and isotope characterization of TVA coal combustion products: Identification of contaminants and modeling their fate in the environment.* (\$357,115).
- 2010-2011 Duke Global Health Institute. McCornick, P. and Vengosh, A. *Processes controlling groundwater quality and impacts on human health in the Main Ethiopian Rift.* (\$50,000).
- 2010-2013 DOE. Rob Jackson (PI), Avner Vengosh, Mark Little. *The Potential Risks of Freshwater Aquifer Contamination with Geosequestration Simulation and Risk Assessment of Carbon Capture and Storage (CCS).* (\$298,304).
- 2009-2010 National Science Foundation. Vengosh, A. (PI), Backer, P., Dywer, G.S. and Hsu-Kim, H. Title: *Environmental effects of the coal ash spill and remediation at Kingston, Tennessee* (\$105,000).
- 2009 Fred and Alice Stanback gift to the Nicholas School of Environment. Vengosh, A. (PI). Seed funding *The Environmental and Health Effects of the coal ash spill at Kingston, Tennessee* (\$50,000).
- 2008-2012 NATO Science for Peace and Security Program. Vengosh A. (PI) and Bouchaou, L. *Investigating salinity and radioactivity in water resources in Morocco.* (EUR 234,000).
- 2008-2009 Center of Global Change, Duke University. Vengosh, A. (PI) Jackson, R. Hsu-Kim, H. Emily S. Bernhardt, E.S. *The drought effect on water availability and quality of North Carolina water resources: Groundwater-surface water interaction and contributions of recycled wastewater* (\$50,000)
- 2007-2009 Kuwait Institute for Scientific Research (KISR). Vengosh, A. (PI). *Radium isotopes in the Persian Gulf and associated groundwater.* (\$30,000).

- 2007-2008 Health Research Council of New Zealand, Hikuroa, D. and Vengosh, A. (PI's);
"Preliminary investigation of the link between naturally occurring contaminants and health in Tarawera Valley, New Zealand"; (\$5,000).
- 2006-2009 United States Department of Agriculture (USDA). Vengosh, A. (PI), Klein, E. Bennear, L., Weinthal, E. Wiesner, M., Mirenda M.
An integrative investigation of the sources and effects of groundwater contamination for local communities and homeowners in North Carolina (\$570,000).
- 2006-2009 United States Agency for International Development (US-AID), Middle East Research Program (MERC). Ganor, J. (PI), Vengosh, A. , Marie, A. Rimawi, O. (PIs). *The salinity curse of the Middle East fossil groundwater: The Radioactivity factor* (\$500,000).
- 2005-2006 Cancer and the Environment: Seed Funding Award of Duke Comprehensive Cancer Center and Nicholas School of the Environment, Duke University. Avner Vengosh (PI), James J. Vredenburg, Jennifer Garst, Richard Di Giulio, Lincoln Pratson, and Emily M. Klein.
"The Link Between Environmental Radon and Cancer: A Pilot Study For a New Biogeochemical Tracer and Geographical Relationships" (\$25,000).

Ben Gurion University, Beer Sheva, Israel

- 2003-2004 Blaustein Visiting Scholar award, School of Earth Sciences, Stanford University, California, USA.
- 2002-2005 United States States Agency for International Development (US-AID), Middle East Research Program (MERC). Vengosh, A. (PI), U. Shavit, I. Gavrieli, E. Salameh, R. Daud, A. Marie. *"Water Quality along the Jordan River and evaluation of the sources of salts: Phase Two"* (\$499,000)
- 2001-2004 Water Commission, Israel. Vengosh, A.
"Using isotopic tracers for elucidating the sources and mechanism of nitrate pollution of groundwater from the coastal aquifer of Israel" (300,000 NIS).
- 2001-2004 European Community: FP5 program" Energy, Environment and Sustainable Development", "Sustainable Management and Quality of Water". Kloppmann, W., Vengosh, A. et al., *"Boron contamination of Water resources in the Mediterranean region: Distribution, Sources, Social impact and Remediation"* (Euro 1,200,000 for the total project, Euro 120,000 for BGU).
- 2000-2003 International Atomic Energy Agency, Research Co-operation Projects, Y. Ganor and A. Vengosh, *"Boron and strontium isotopic compositions of ground water from the Lower Cretaceous Kurnob sandstone: Geochemical characterization of inland saline ground water"* (\$15,000)

- 1999-2003 United States Agency for International Development (US-AID), Middle East Research Program (MERC). Vengosh, A. (PI), U. Shavit, I. Gavrieli, E. Salameh, R. Daud, A. Marie. *"Water Quality along the Jordan River and evaluation of the sources of salts: A geochemical prospective"* (\$499,000)
- 1999-2002 International Atomic Energy Agency, Research Co-operation Projects, Vengosh, A. *"Environmental Isotopes, Boron, and Bromide Variations in the Coastal Aquifer of Israel: The Impact of Long-term Exploitation"* (\$18,000).
- 1999-2000 Department of Energy, Lawrence Livermore National Laboratory. Vengosh, A., Marie, A., *"The Mediterranean Coastal aquifer and the Shallow Aquifer System in Jericho area"* (\$12,000).
- 1998-2001 Ministry of Science, Israel. I. Gavrieli (PI), Y. Yechieli, A. Vengosh, A. Starinsky, *"Dating and geochemical characterization of shallow ground water from the coastal aquifer of Israel"*. (\$190,000)

Hydrological Service, Jerusalem, Israel

- 1997-1998 University of California Water Resources. J. Gill and A. Vengosh. *"Multi-isotope investigation of ground water contamination in Salinas Valley, California"*. (\$25,000).
- 1995 –1998 Israel Academy of Science. I. Gavrieli (PI), A. Starinsky (PI), A. Vengosh, A. Ayalon. *"Boron, sulfur, strontium, oxygen, and hydrogen isotopes in freshwater of a carbonate aquifer: Judea Mountain, Israel"*. (\$140,000).
- 1996 - 1998 Water Commission Research grants. A. Starinsky and A. Vengosh. *"Relationships between contaminants and salinity in the coastal aquifer of Israel"* (210,000 NIS)
- 1995 -1997 International Atomic Energy Agency (IAEA). Y. Kolodny and A. Vengosh. *"Boron isotope investigations of polluted groundwater and contamination sources: Establishing the rules of the game"* (\$12,000).
- 1992 - 1995 The German-Israeli Cooperative Grant (BMFT and MOST). A. Vengosh, R. Keren, K.G. Heumann (PI's). *"The influence of the coastal aquifer rocks on groundwater composition and contamination"*. (148,000 DM).
- 1993 - 1995 The Ashdod-Yavneh Regional Association for Environmental Protection. A. Vengosh. *"Sources of Salinization of Groundwater from Gan Yavne-Gedera-Ashdod Area, the Coastal Plain Aquifer, Israel"* (100,000 NIS).

- 1993 - 1996 Water Commission Research grants. Y. Yechieli, (PI), D. Ronen, and A. Vengosh. *"Isotopic measurements and dating of intrusion of saline groundwater at the interface zone, the Coastal Plain Aquifer of Israel"*. (160,000 NIS).
- 1993 - 1996 Water Commission Research grants. A. Starinsky and A. Vengosh. *"A survey of natural isotopic and chemical tracers in groundwater from Yarqon-Taninim aquifer as indicators for salinization"* (210,000 NIS).
- 1991 - 1994 Water Commission Research grants. E. Mazor and A. Vengosh. *"A conceptual model for aquifer systems in the coastal plain of Israel: A pilot study along Tel Aviv-Judea Mountain"* (240,000 NIS).
- 1986 - 1990 Research School of earth Sciences, The Australian National University, Canberra, Australia. Ph.D. Scholarship for Avner Vengosh.

Media:

Research on water resources in the Gaza Strip

- November 3, 2003 - Geological Society of America: *Water On The Gaza Strip: Time Bomb Or Ray Of Hope* (<http://www.geosociety.org/news/pr/03-34.htm>)
- November 13, 2003 - Nature 426, 110 (13 November 2003) | doi:10.1038/426110b
Geologists call for desalination of Gaza Strip's water
(<http://www.nature.com/nature/journal/v426/n6963/full/426110b.html>)
- March 4, 2003 - Environmental Change and Security Program: *The State of the Water Crisis in Israel and The Palestinian Authority: Integrating Science and Policy*
(http://www.wilsoncenter.org/index.cfm?topic_id=1413&categoryid=A82CCAEE-65BF-E7DC-46B3B37D0A3A575F&fuseaction=topics.events_item_topics&event_id=23109)

Research on Radioactivity and fossil groundwater in the Middle East

- May 6, 2010, National Geographic News: *"Underground "Fossil Water" Running Out "*
(<http://news.nationalgeographic.com/news/2010/05/100505-fossil-water-radioactive-science-environment/>)
- February 25, 2009 - Reuters, London: Ancient Jordanian wells radioactive, study finds
(<http://www.reuters.com/article/latestCrisis/idUSLN96135>)
- February 26, 2009 - The Jerusalem Post: Radioactive materials found in Jordanian wells
(www.jpost.com/servlet/Satellite?cid=1235410729639&pagename=JPost%2FJPArticle%2FPrinter)
- February 27, 2009 - The Jordan Times : Government: water is safe
(<http://www.jordantimes.com/?news=14653>)
- March 9, 2009 - The Jordan Times: Clear waters
(<http://www.jordantimes.com/?news=14872>)
- March 4, 2009 - Green Prophet: Study on Jordanian Groundwater Sparks Controversy
(<http://greenprophet.com/2009/03/04/7321/jordan-groundwater-controversy/>)

- March 3, 2009 - KISR will check; Aquifer 'radiation' in Kuwait unlikely (<http://www.arabtimesonline.com/kuwaitnews/pagesdetails.asp?nid=29378&ccid=9>)
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RESEARCH INTERESTS

Dr. Vengosh research aims to delineate the sources and pathways of contaminants in the environment and their possible impacts on human health through integrated research of environmental geochemistry, advanced isotope geochemistry (boron, strontium, carbon, lithium, radium isotopes), and environmental health research (arsenic, fluoride, boron, chromium, radium). Dr. Vengosh research is focused on the energy-water nexus with extensive research on the environmental risks of shale gas exploration and hydraulic fracturing, coal mining, coal combustion residues and their disposal. Dr. Vengosh's team is currently engaged in research of unconventional energy development in different parts in the U.S. and China, the environmental and human health effects of coal ash in the U.S. and China, and the relations between the occurrence and distribution of inorganic contaminants on human health in the U.S., Morocco, Vietnam, Ethiopia, and China.

EMPLOYMENT

DUKE UNIVERSITY

Professor, Division of Earth and Ocean Sciences, Duke University	2010-Present
Associate Professor, Division of Earth and Ocean Sciences, Duke University	2005-2010

BEN GURION UNIVERSITY OF THE NEGEV, ISRAEL

Associate Professor, Dept. of Geological and Environmental Sciences	1999-2005

HYDROLOGICAL SERVICE, ISRAEL

Senior Lecture, Research Department	1991-1999

EDUCATION

Australian National University, Canberra, Australia (PhD)	1986-1990
Hebrew University of Jerusalem, Israel (M.Sc.)	1984-1986
Hebrew University of Jerusalem, Israel (B.Sc.)	1981-1984

SELECTED AWARDS, RECOGNITIONS, AND SERVICES

2015 – Geological Society of America Fellow.

2014 - Second Runner-Up Best Environmental Policy Paper, *Environmental Science & Technology*.

2013 – Best Science Paper Award, *Environmental Science & Technology*.

2011 – International Association of Geochemistry (IAGC) Fellow.

2015-present	Editorial board of the international journal <i>Environmental Science and Technology</i> .

2007-present	Associate Editor of the international journal <i>Applied Geochemistry</i> .

2001-2005	Associate Editor for the international journal <i>Water Resources Research</i> .

SELECTED PUBLICATIONS (out of 104 peer-reviewed journal articles; Google Scholar Stats: h-index=43; Web of Science: h-index=30; for full list of publications see: <http://sites.nicholas.duke.edu/avnergosh/publications/>)

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**Proper Classification of Coal Combustion Residuals:
An Examination of Federal and South Carolina Regulations**
(Sections in italics are my analytical remarks)

Federal:

From RCRA Subtitle D

CRITERIA FOR SANITARY LANDFILLS; SANITARY LANDFILLS REQUIRED FOR ALL DISPOSAL SEC. 4004. (a) CRITERIA FOR SANITARY LANDFILLS.—Not later than one year after the date of enactment of this section, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this Act. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility. Such regulations may provide for the classification of the types of sanitary landfills. (b) DISPOSAL REQUIRED TO BE IN SANITARY LANDFILLS, ETC.—For purposes of complying with section 4003(2) 1 each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all solid waste within the State shall be in compliance with such section 4003(2). 1 (c) EFFECTIVE DATE.—The prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a).

In South Carolina, Class III landfills are routinely referred to professionally as Subtitle D landfills. Class II landfills are not referred to as Subtitle D landfills. Class II landfills are referred to federally as Construction and Demolition landfills and federal definitions specifically exclude the waste from electric power generation from C&D landfills (see below).

RCRA Authority (source: Federal Register Vol. 80 No. 74)

RCRA section 4005(a), entitled "Closing or upgrading of existing open dumps" generally establishes the key implementation and enforcement provisions applicable to EPA regulations issued under sections 1008(a) and 4004(a). Specifically, this section prohibits any solid waste management practices or disposal of solid waste that does not comply with EPA regulations issued under RCRA section 1008(a) and 4004(a). 42 U.S.C. 6944(a). See also 42 U.S.C. 6903(14) (definition of "open dump"). (underline added)

And (same source)

A. Regulation of Solid Wastes Under RCRA Subtitle D

Solid wastes that are neither a listed nor characteristic hazardous waste are subject to the requirements of RCRA subtitle D. Subtitle D of RCRA establishes a framework for federal, state, and local government cooperation in controlling the management of nonhazardous solid waste. The federal role is to establish the overall regulatory direction, by providing minimum nationwide standards that will protect human health and the environment, and to provide technical assistance to states for planning and developing their own environmentally sound waste management practices. The actual planning and any direct implementation of solid waste programs under RCRA subtitle D, however, remains a state and local function, and the Act envisions that states will devise programs to deal with state-specific conditions and needs. EPA has no role in the planning and direct implementation of the minimum national criteria or solid waste programs under RCRA subtitle D, and has no authority to enforce the criteria. However, states are not required to adopt solid waste management programs, and thus, Congress developed a statutory structure that creates incentives for states to implement and enforce the federal criteria, but that does not necessarily rely on or require a regulatory entity to oversee or implement them. While Congress developed the statutory structure to create incentives for states to implement and enforce the federal criteria, it does not require them to do

so. As a result, subtitle D is also structured to be self-implementing. RCRA sections 1008(a)(3) and 4004(a) delegate broad authority to EPA to establish regulations governing the management of solid waste. Under section 4004(a) EPA is charged with establishing requirements to ensure that facilities will be classified as sanitary landfills "only if there is no reasonable probability of adverse effects on health or the environment from the disposal of solid waste" at the facility. Or in other words, under section 4004(a) EPA is charged with issuing regulations to address all "reasonable probabilities of adverse effects" (i.e., all reasonably anticipated risks) to health and the environment from the disposal of solid waste. Section 1008(a)(3) expands EPA's authority to address the risks from any of the listed activities. Specifically, EPA is authorized to establish requirements applicable to "storage, transportation, transfer, processing, treatment, and disposal of solid waste." (42 U.S.C. 6907(a), 6903(28)).

This citation is from the publication of the Coal Combustion Residuals Rule in the Federal Register. The authority for managing CCR is RCRA Subtitle D – better known in South Carolina as a Class III landfill – not a Class II C&D.

40 CFR Part 257 – Criteria for Classification of Solid Waste Disposal Facilities and Practices

§ 257.2 Definitions

The definitions set forth in section 1004 of the Act apply to this part. Special definitions of general concern to this part are provided below, and definitions especially pertinent to particular sections of this part are provided in those sections. Construction and demolition (C&D) landfill means a solid waste disposal facility subject to the requirements of subparts A or B of this part that receives construction and demolition waste and does not receive hazardous waste (defined in § 261.3 of this chapter) or industrial solid waste (defined in § 258.2 of this chapter). (underline added)

40 CFR Part 258 – Criteria for Municipal Solid Waste Landfills

§ 258.2 Definitions

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/ foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste. (underline added)

Thus, disposing of the waste from electric power generation – or coal combustion residuals – in a Class II landfill violates federal law. See RCRA Authority, above.

State:

State Statute: Title 44-96 Solid Waste Management

Section 44-96-20 Findings; purposes

(9) Insufficient and improper methods of managing solid waste can create hazards to public health, cause pollution or air and water resources, constitute a waste of natural resources, and create public nuisances.

Section 44-96-240 Findings; purposes.

(B) It is the purpose of this article to:

(2) ensure that all solid waste management facilities in this State are sited, designed, constructed, operated, and closed in a manner that protects human health and safety and the environment.

44-96-40 Definitions

(6) "Construction and demolition debris" means discarded solid wastes resulting from construction, remodeling, repair and demolition of structures, road building, and land clearing. The wastes include, but are not limited to, bricks, concrete, and other masonry materials, soil, rock, lumber, road spoils, paving material, and tree and brush stumps, but does not include solid waste from agricultural or silvicultural operations.

(19) "Industrial waste" means solid waste that results from industrial processes including, but not limited to, factories and treatment plants

(28) "Municipal solid waste landfill" means any sanitary landfill or landfill unit, publicly or privately owned, that receives household waste. The landfill may also receive other types of solid waste, such as commercial waste, nonhazardous sludge, and industrial solid waste.

(46) "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment. For the purposes of this chapter, this term excludes steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal. (underline added)

It is clear in the statutory definitions that industrial wastes are meant for Class III landfills, not Class II landfills.

Section 44-96-390 - Approval procedures for special wastes

(A) For the purposes of this section, "special wastes" is defined as nonresidential or commercial solid wastes, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at municipal solid waste landfills, including, but not limited to:

(1) pesticide wastes;

(2) liquid wastes and bulk liquid wastes;

(3) sludges;

(4) industrial process wastes, defined as wastes generated as a direct or indirect result of the manufacture of a product or the performance of a service, including, but not limited to, spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, point

sludges, core sands, metallic dust sweepings, asbestos dust, and off-specification, contaminated, or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, landscape waste, and construction or demolition debris;

(5) wastes from a pollution control process;

(6) residue or debris from the cleanup of a spill or release of chemical substances, commercial products, or wastes listed in Items (1) through (5);

(7) soil, water, residue, debris, or articles that are contaminated from the cleanup of a facility or site formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in Items (1) through (6); and

(8) containers and drums.

(B) A special waste must not be disposed of nor accepted for disposal at a municipal solid waste landfill without prior written approval by the disposal facility in accordance with department requirements.

(C) A facility may apply to the department at any time for modifications or additions to the types of special waste disposed of or methods for disposal.

(D) Not later than six months after this article is effective or the initial receipt of wastes, whichever is later, the owner or operator of a municipal solid waste landfill shall prepare and submit to the department a waste analysis plan that addresses, at a minimum, the:

(1) parameters for which each waste will be analyzed and the rationale for the selection of those parameters;

(2) test methods which will be used to test for those parameters;

(3) sampling methods which will be used to obtain a representative sampling of the special waste to be analyzed;

(4) frequency with which the initial analysis of the special waste will be reviewed or repeated to ensure that the analysis is accurate and up to date; and

(5) procedures which will be used to inspect and, if necessary, analyze each special waste received at the facility to ensure that it matches the identity of the special waste designated on the accompanying transportation record. At a minimum, the plan must describe the:

(a) procedures which will be used to determine the identity of each special waste managed at the facility; and

(b) the sampling methods which will be used to obtain a representative sample of the special waste to be identified, if the identification method includes sampling. (underline added)

CCR is difficult and dangerous to handle and requires unusual management. In addition, fly ash and flue gas emission control waste are wastes from a pollution control process. CCR is a "special waste" and thus must be disposed of at a Class III landfill that holds a "Special Waste Permit" approved by DHEC. A "municipal solid waste landfill" is a Class III landfill. See definitions above.

State Regulation 61-107.19 SWM: Solid Waste Landfills and Structural Fill

61-107.19 Part I

Part I. General Requirements.

A. Applicability.

1. This regulation establishes minimum standards for the site selection, design, operation, and closure of all solid waste landfills and structural fill areas. Disposal of waste under the purview of this regulation is based on the waste's chemical/physical properties and is not dependent upon the source of generation with the exception of municipal solid waste that shall be disposed in Class Three landfills. This regulation is divided into the following parts:

a. Part I outlines the general criteria that applies to one or more Parts of the regulation, e.g., the applicability for the regulation, waste characterization requirements for determining the type of landfill needed, definitions for the purposes of this regulation;

b. Part II outlines the Permit-by-rule requirements for structural fill activity using a limited waste stream;

c. Part III outlines the General Permitting requirements for Class One Landfills - using landclearing debris, and yard trash to fill low areas, including permitted mining sites, for an aesthetic benefit or property enhancement;

d. Part IV outlines the requirements for Class Two Landfills - all landfills for the disposal of waste as outlined in Appendix I of this regulation, and similar waste, and wastes that test, pursuant to Section C of this Part, less than ten (<10) times the maximum contaminant level (MCL) as published in R 61-58, State Primary Drinking Water Regulation current at the time of the permit application. When a waste not listed in Appendix I is approved by the Department for disposal, the landfill's permit will be modified to include the acceptability of the approved waste; and,

e. Part V outlines the requirements for Class Three Landfills that accept municipal solid waste, industrial solid waste, sewage sludge, nonhazardous municipal solid waste incinerator ash and other non-hazardous wastes.

Section (d) is does not apply to coal combustion residuals because CCR's are mentioned specifically in Part V Class Three Landfills but they are not mentioned specifically at all in Part IV Class Two Landfills:

Subpart D. Design Criteria for Class Three Landfills.

258.40. Design Criteria.

a. Class Three landfills shall be constructed:

(1) in accordance with a design approved by the Department. The design shall ensure that the maximum contaminant level (MCL) as specified in the South Carolina State Primary Drinking Water Standards, R.61-68 will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by the Department in Section 258.40.i. below; or,

(2) With a composite liner, as defined in Item b. below of this section and a leachate collection system that is designed and constructed to maintain less than a one (1) foot depth of leachate over the liner, except in sumps.

(3) Monofills that accept coal combustion byproducts that test greater than ten (>10) times the

maximum contaminant level (MCL), may be constructed with a clay liner system consisting of a minimum of a two (2) foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec, and an appropriate leachate collection system. These facilities shall comply with all other requirements for a Class III landfill.

Part IV Class Two Landfills does not include any reference at all to coal combustion byproducts (residuals).

61-107.19 Part I

B. Definitions for the purposes of this regulation

77. "Special Wastes" means nonresidential or commercial solid wastes, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at Class Three landfills, including, but not limited to, those wastes contained in S.C. Code Section 44-96-390.(A). (underline added)

See Statutory discussion of Special Wastes. The regulation reflects the statute with the addition of the specific reference to the Class III requirement. CCR is a Special Waste and therefore must be disposed of in a Class III landfill.

Respectfully submitted,
Shelley Hudson Robbins
Project Manager, Upstate Forever
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Qualifications:

BA Duke University (major: economics, *cum laude*) 1989
MBA Southwestern Oklahoma State University 1997

Project Manager, Upstate Forever 2007-current
Programs Planner II, Oklahoma Department of Commerce 1997-1998
Policy analyst, Executive Office of the Governor of Florida 1994-1995
Regulatory analyst, Florida Public Service Commission 1990-1994

-SC Solid Waste Advisory Council (2010-today), current Vice-Chair, appointed by Governor Sanford
-Member of the SC DHEC MSW Incinerator and Pyrolysis (61-107.14) Regulatory Revision workgroup (2015-present, awaiting legislative approval)
-Member of the SC DHEC Commercial Composting (61-107.4) Regulatory Development workgroup (2009- 2014, adopted by the legislature June 2014)
-Member of the SC DHEC Landfill Determination of Need (61-107.17) Regulatory Revision workgroup (2007-2009, adopted by the legislature 2009)

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MRR Pickens, LLC,

Plaintiff,

vs.

County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
individually and in their official capacity as
appointed members of the Pickens County
Planning Commission,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-39-100

**AFFIDAVIT OF
SHELLEY HUDSON ROBBINS**

Personally appeared before me Shelley Hudson Robbins, who having been duly sworn,
deposes and states:

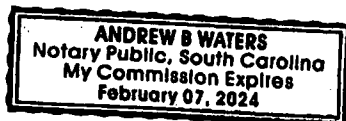
1. That I am over the age of 18 years and am competent to issue this Affidavit.
2. That I hold a B.A. degree from Duke University and a Masters in Business Administration from S.W. Oklahoma State University. I currently serve as Project Manager for Upstate Forever and also as Vice-Chair of the S.C. Solid Waste Advisory Council (member since 2010; appointed by Governor Sanford). I have also served in regulatory positions in the Oklahoma Department of Commerce, and as Policy Analyst for the Executive Office of the Governor of Florida and as Regulatory Analyst for the Florida Public Service Commission. Further, I have served on a number of work groups for the S.C. Department of Health and Environmental Control (DHEC) relating to environmental regulations and specifically including Solid Waste Regulations. I am familiar with South Carolina Solid Waste Regulations and requirements and am sufficiently knowledgeable and experienced to issue this Affidavit and my attached Report.

3. That I was asked by Attorney Gary W. Poliakoff to review various materials pertaining to the Class Two Landfill being developed by MRR Pickens in Pickens County, S.C., and the proposal to deposit Coal Combustion Residuals (CCR) into it. Also, I reviewed various relevant Federal and State Regulations. My Report, consisting of seven pages, is attached hereto.

4. As indicated in more detail in my attached Report, it is my analysis that deposit of CCR into a Class Two Landfill in South Carolina would violate federal law. Further, under S.C. Law and Regulations, CCR qualifies as a "Special Waste" per South Carolina Code Section 44-96-390, and must be deposited into a Class Three Landfill that holds a "Special Waste Permit" from DHEC, and its deposit into a Class II Landfill would violate S.C. Statutes and Regulations. Further, the changes to the original Permit, including the addition of a liner, the inclusion of other wastes such as CCR, and the dramatic increase in annual tonnage intake, all constitute a "major modification," which requires public review and public comment (which was not done), as opposed to MRR's attempted characterization as a "minor modification." Please see my attached Report for further details and explanation.

SWORN and subscribed to before me this
17 day of February 2016.

Andrew B. Waters
Notary Public for South Carolina
Print Name: Andrew B. Waters
My Commission Expires: 02/07/2024



Shelley Hudson Robbins
Shelley Hudson Robbins

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
MRR Pickens, LLC,	)	Civil Action No.: 2016-CP-39-100
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF
	)	C. WESLEY HULSEY, P.G.
County of Pickens and William Cato,	)	
Weldon Clark, Robert Ballentine, Jo	)	
Johnston, Dennis Reinert, and Bob Young,	)	
individually and in their official capacity as	)	
appointed members of the Pickens County	)	
Planning Commission,	)	
	)	
<u>Defendants.</u>	)	

Personally appeared before me C. Wesley Hulsey, P.G., who having been duly sworn,
deposes and states:

1. That I am over the age of 18 years and am competent to issue this Affidavit.
2. That I am President and CEO of Hulsey McCormick & Wallace, an engineering,
environmental and science firm and am a licensed Professional Geologist with a B.S. in Health
Science and a M.S. in Hydrology. My C.V. is attached hereto. I am qualified to render the opinions
provided herein. Further, my work for Pickens County includes the following:

- (A) Groundwater Assessment and Corrective Action Plan development and
implementation for the closed Easley Class Three Landfill.
- (B) Groundwater Assessment and Corrective Action Plan development and
implementation for the closed Clemson-Central Class Three Landfill.
- (C) Landfill Gas Control System design for the closed Easley Class Three
Landfill.

- (D) Landfill Gas Control System design for the closed Clemson-Central Class Three Landfill.
- (E) Groundwater Corrective Action Monitoring for the closed Easley Class Three Landfill.
- (F) Groundwater Corrective Action Monitoring for the closed Clemson-Central Class Three Landfill.
- (G) Plans and Specifications for expansion of the Easley Class Two (i.e.; Construction and Demolition Waste) Landfill in 2006.
- (H) Plans and Specifications for expansion of the Easley Class Two (i.e.; Construction and Demolition Waste) Landfill in 2013.
- (I) Preparation of the Groundwater Sampling and Analysis Plan for the Easley Class Two Landfill.
- (J) Preparation of the County Solid Waste Management Plan 2013.
- (K) Title V (Air Permit) Compliance.

3. That I am familiar with S.C. Statutes and Regulations pertaining to solid waste, and I deal with these regularly in my professional work.

4. That I have reviewed the 7-page Report issued by Shelley Hudson Robbins, and I concur entirely with her findings and conclusions. In particular, I concur that deposit of Coal Combustion Residuals (CCR) into a Class Two Landfill in South Carolina would violate federal law; and further, that under S.C. Statutes and Regulations, CCR qualifies as a "Special Waste" per S.C. Code Section 44-96-390, and must be deposited into a Class Three Landfill that holds a "Special Waste Permit" from DHEC, and its deposit into a Class Two Landfill would violate S.C. Statutes and Regulations. Further, the changes to the original Permit, including the addition of a liner, the inclusion of other wastes such as CCR, and the dramatic increase in annual tonnage intake, all

constitute a "major modification," which requires public review and public comment (which was not done), as opposed to MRR's attempted characterization as a "minor modification."

5. That in addition to my concurrence with the Report of Shelley Hudson Robbins, I conclude the following:

- (A) That CCR meets the definition of "Special Waste," per S.C. Code Section 44-96-390. Further, CCR meets the definition of "Special Waste" in the Pickens County Solid Waste Management Plan (SWMP), January 2013, (attached), which my firm and I prepared for Pickens County. The definition of "Special Wastes" in the Pickens County SWMP is as follows:

P. Special Wastes

Special Waste is defined as commercial or nonresidential solid waste, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at MSW Landfills, including but not limited to pesticide wastes, liquid wastes, sludge, industrial process wastes, wastes from pollution control processes, residue or debris from chemical cleanups, contaminated soil from chemical cleanup, containers and drums, and animal carcasses. **Special Waste is not accepted at any of the county facilities.**
(emphasis added).

First: CCR is an "industrial process waste" and is a "waste from pollution control processes," and qualifies as Special Waste, per the S.C. Statute and per the Pickens County SWMP.

Second: **Special Waste is prohibited in any landfill in Pickens County, per the Pickens County SWMP.**

- (B) That any Permit issued by S.C. DHEC must be consistent with the Pickens County SWMP, as Pickens County is the host local government for the landfill in question. Further, the Solid Waste Regulatory Program requires DHEC to seek input and approval from the local host government (here, Pickens County) regarding issuance of any new Permit, as to issues including consistency with the SWMP. This was done in regard to the Permit issued in 2008. The failure to consult with Pickens County regarding the new Permit apparently issued in 2015 as to matters including consistency violates the S.C. Regulatory Program and violates the SWMP, and renders the 2015 Permit invalid.
- (C) That both the modification request (from the 2008 Permit) and the 2015 Permit are invalid, as they were not obtained in accordance with S.C. Statutes and Regulations.
- (D) That in order to deposit CCR into the Highway 93 Landfill, per the S.C. Regulatory Program, MRR would be required to submit an entirely new Permit Application for a Class Three Landfill and to obtain a Special Waste Permit, including CCR, subject to the S.C. Demonstration of Need (DON) Regulations (which it cannot meet), and subject to Consistency Determination required in R.61-107.17 (which it cannot meet, as the Pickens County SWMP disallows Special Waste and disallows Class Three Landfills).

- (E) That the attempts by MRR to obtain a new Permit without public review or public comment, and unbeknownst to Pickens County, are in violation of the S.C. Solid Waste Regulatory Program, and in violation of the Pickens County SWMP, and constitute an attempt by MRR to circumvent the Demonstration of Need requirements and Consistency requirements, and have eliminated the "point of entry" to stakeholders through the public comment process, all in violation of S.C. Statutes and Regulations.

SWORN and subscribed to before me this
17th day of February 2016.

Rita D. Laxton
Notary Public for South Carolina
Print Name: Rita D. Laxton
My Commission Expires: 8/26/2024

C. Wesley Hulsey
C. Wesley Hulsey, P.G.

C. Wesley Hulsey, P.G.

President/Chief Executive Officer

Wes Hulsey is the President and Chief Executive Officer of Hulsey McCormick & Wallace, Inc. As the catalyst of client development, Mr. Hulsey is successful in delivering on customer commitments. Mr. Hulsey manages a multi-state team of experienced civil and environmental engineers, environmental scientists and technical staff to serve over 100 municipal, county and industrial clients, as well as academic institutions and state departments. Under his leadership, HMW has developed over \$25 Million in consulting work and performed engineering design and project management on capital projects totaling over \$100 Million. Mr. Hulsey serves as a Principal Consulting Scientist for environmental regulatory program compliance and has over 23 years of technical consulting experience in strategic regulatory planning, environmental site restoration, water resource planning, wastewater planning, and NPDES compliance. Mr. Hulsey is a registered Professional Geologist in Georgia, North Carolina and South Carolina with a focus on the hydrologic sciences. Mr. Hulsey resides in Easley, South Carolina.



President/CEO

106 Clair Drive
Piedmont, SC 29673

864.269.0890 phone
whulsey@hmwengineers.com

EDUCATION

M.S. Hydrology, 1994, University of Georgia, Athens, Georgia
B.A. Health Science, 1987, Furman University, Greenville, South Carolina

PROFESSIONAL MEMBERSHIPS

Water Environment Association of South Carolina
Georgia Association of Water Professionals
American Planning Association
SC Economic Developers Association

BOARD, COMMISSIONS, & COMMITTEES

Governor's Savannah River Committee - SC Representative | 2014 - Present
Anderson County Airport Advisory Committee (Vice-Chairman) | 2013 - Present
First Citizens Bank Advisory Board | 2006 - Present
Upstate Forever Board of Directors | 2006 - 2011
Anderson County Planning Commission | 2006 - 2010
Anderson Chamber - Public Policy Committee | 2005 - Present
WEASC Industrial Committee Chairman /Executive Committee | 2008

PROFESSIONAL BACKGROUND

Hulsey McCormick & Wallace, Greenville, SC - Founder and President | 1998 - Present
HMW Properties, LLC, Greenville, SC - Developer | 2001 - 2006
Rust Environment & Infrastructure, Greenville, SC - Project Manager | 1994 - 1998
Georgia Environmental Protection Division/University of Georgia Wellhead Protection Project | 1991 - 1994
Financial Designs, Gainesville, GA - Principal | 1998 - 1991
United States Navy Reserve, Pensacola, FL | 1987


hmwengineers.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
MRR Pickens, LLC,	)	Civil Action No.: 2016-CP-39-100
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	AFFIDAVIT OF
	)	CHRISTOPHER BRINK
County of Pickens and William Cato,	)	
Weldon Clark, Robert Ballentine, Jo	)	
Johnston, Dennis Reinert, and Bob Young,	)	
individually and in their official capacity as	)	
appointed members of the Pickens County	)	
Planning Commission,	)	
	)	
Defendants,	)	

Personally appeared before me Christopher Brink, who having been duly sworn, deposes and states:

1. That I am over the age of 18 years and am competent to issue this Affidavit.
2. That I am the Director of the Pickens County Department of Community Development, also known as "Planning Director" for Pickens County. I have been with Pickens County since September of 2006 (9 years, 5 months). I have been a practicing planner for 20 years and a Certified Planner for 16 years.
3. That my department works very closely with the Pickens County Planning Commission, and in my capacity as "Planning Director" I regularly attend meetings of the Pickens County Planning Commission.
4. That I attended the January 12, 2015 meeting of the County Planning Commission, at which representatives of MRR appeared and provided information which was extremely important information for the Planning Commission, for my department, and for Pickens County. In

attendance on behalf of MRR, per the Minutes of the meeting and per the Transcript of the audio recording of the meeting, were the following:

Dan Moore - MRR Project Manager for the landfill project.
Norbert Hector - MRR's Managing Member
Chris Roof - MRR's General Manager
Scott Brown - MRR's lead engineer, with Civil and Environmental Consultants (CEC).
Jessie King - MRR's attorney.
(See transcript of January 12, 2015 County Planning Commission Meeting, p. 6, attached).

Mr. Moore was MRR's primary spokesperson at this meeting.

5. That Dan Moore, MRR's Project Manager, made important statements and provided material information to the County Planning Commission, which included the following:

- (A) "It's probably also important to note right up front that the land use details and development details for the project are just the same as they were when we got the initial approval on the site back in 2007." (Tr., p. 6).
- (B) "And as y'all know, our proposed activity is a DHEC Class Two Landfill. This was previously called and referred to as a construction and demolition debris landfill. This is the same type of facility that the county is operating." "This is exactly the same type of landfill that the county is operating over on Old Liberty Road just, I guess, west of Liberty." (Tr., p. 8).
- (C) "Earlier I mentioned the development agreement which is in effect between ourselves and the county. The agreement was reached after very thoughtful consideration of the disposal needs for the county. This agreement provides MRR to provide the county with all of our regulatory reports, things such as semiannual groundwater monitoring results, any compliance issues, notices of violation. We have to -- anything we submit to DHEC has to be

submitted to you all at the very same time we submit it to DHEC. Anything we get from DHEC has to be submitted to you all, I think -- I forget in the agreement, but in a matter of a day or so." (Tr., p. 11).

(D) No Liners Needed:

By a Commission Member:

Do you have to provide the same kind of liners and so forth for your landfill that --

By Mr. Moore:

We do not.

By a Commission Member:

Do not have to for demolition, that kind of --

By Mr. Moore:

That's right.

(Tr., p. 14).

6. That the representations made by MRR at the January 12, 2015 County Planning Commission, particularly including the representations noted hereinabove, were of utmost importance to the County Planning Commission, to the County Department of Community Development and to me as its Director, and to Pickens County. Further, MRR's representations were material to all ongoing decisions and subsequent decisions, and we relied upon MRR's representations.

7. That at all prior meetings with MRR, including the January 12, 2015 Planning Commission Meeting, MRR always told Pickens County officials what wastes it would and would not accept at this new landfill. We were always informed that the only wastes would be Construction and Demolition (C&D) and Land Clearing Debris (LCD), and no other wastes. At no time did MRR ever inform us of any intent to accept Coal Combustion Residuals (CCR); to the contrary, MRR

always informed us that the only wastes that would be deposited into this new landfill were C&D and LCD.

8. That the Pickens County Solid Waste Management Plan (SWMP), January 2013, with which MRR must comply, makes it clear that "Special Wastes" are not accepted at any of the landfill facilities for Pickens County. Any Permit, and any activity by MRR, by law must be consistent with our Solid Waste Management Plan.

9. That the Permit for this new landfill, "Highway 93 C&D Landfill," was issued by DHEC on November 3, 2008. Paragraph 2 states:

This permit is limited solely to the disposal of items listed in Appendix I of R. 61-107.19. All other wastes, including animal carcasses, are prohibited from disposal in this landfill.

(Note: Appendix I includes four categories of waste: C&D, LCD, Brown Goods (furniture, etc.) and animal carcasses only).

The above limiting statement was developed with County approval, and in accord with the Development Agreement and the Solid Waste Management Plan.

10. We have only recently learned that, without any notice to my department or to the County Planning Commission, that MRR submitted a variety of documents to DHEC in 2014 and in 2015, and has apparently obtained a new Permit, dated August 10, 2015, which has major changes and major modifications to the original 2008 Permit, including the following:

(A) Changes in Paragraph 2:

(i) Eliminating the limiting language of "all other wastes . . . are prohibited."

(ii) Adding: "... and any other waste approved by the Department for disposal in a Class Two Landfill pursuant to R. 61-107.19, Part IV, Section C.2."

(B) Adding provisions for a liner.

(C) Changing provisions for final cover.

(D) Other changes.

11. That the major changes and major modifications to our 2008 Permit, as reflected in the new Permit apparently issued in 2015, were never approved by Pickens County. Further, such changes (particularly regarding the elimination of the limitations on types of wastes and the addition of "other wastes") are in contravention of Pickens County's intentions and are in direct contradiction to the representations MRR made to Pickens County.

12. That neither MRR nor DHEC provided my department or the County Planning Commission with engineering reports, documents and correspondence apparently provided by MRR to DHEC in 2014 and throughout most of 2015, regarding these major changes and major modifications. Submission of such documents and information to Pickens County is required by our Development Agreement and our Solid Waste Management Plan. Further, Mr. Dan Moore of MRR stated at the January 12, 2015 Planning Commission Meeting, as noted above, that such documents must be submitted to Pickens County immediately.

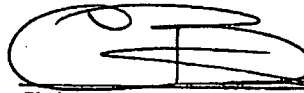
13. As of the time of the signing of this Affidavit, MRR has never submitted such documents relating to its requested major changes and modifications, nor the 2015 Permit, to my department or to the County Planning Commission. Nor has DHEC formally provided such documents to us; rather, after the current recent disagreements between MRR and Pickens County

commenced, a Pickens County staff person made a Freedom of Information Act (FOIA) request to DHEC, and obtained copies. No formal Notice of such has been provided.

14. That the audio recording of the January 12, 2015 Planning Commission meeting was made at the time of said meeting, and the audio recording is a true and genuine recording of said meeting. Further, said audio recording was submitted to a court reporter who has transcribed it. To the best of my knowledge, the court reporter's transcript correctly reflects the statements made at said meeting.

SWORN and subscribed to before me this
17th day of February 2016.


Notary Public for South Carolina
Print Name: Irena Gambrell
My Commission Expires: 1-24-23


Christopher Brink

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MRR Pickens, LLC,

Plaintiff,

vs.

County of Pickens and William Cato,
Weldon Clark, Robert Ballentine, Jo
Johnston, Dennis Reinert, and Bob Young,
individually and in their official capacity as
appointed members of the Pickens County
Planning Commission,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-39-100

**AFFIDAVIT OF
GERALD G. WILSON**

Personally appeared before me Gerald G. Wilson, who having been duly sworn, deposes and states:

1. That I am over the age of 18 years and am competent to issue this Affidavit.
2. That I am the Public Works Director for Pickens County and have served in that capacity since 2009. Prior to that I was the Solid Waste Director/Recycling Coordinator from 2002 to 2009 and prior to that I was the foreman for the Solid Waste/Recycling Department. I came to work for Pickens County in February of 1992.
3. That the Pickens County Department of Public Works includes solid waste issues, with which I am most familiar. I have been actively involved with the proposed Highway 93 C&D Landfill since early discussions between MRR and Pickens County in approximately 2007. I am qualified to issue the statements and opinions contained herein.

4. That the only valid Permit for the Highway 93 C&D Landfill is the Permit issued November 3, 2008, Permit No. LF2-00003. The Special Conditions of this Permit provide the following:

2. This permit is limited solely to the disposal of items listed in Appendix I of R. 61-107.19. **All other wastes, including animal carcasses, are prohibited from disposal in this landfill.** (emphasis added).

5. That Appendix I of said Regulation provides for four categories of waste: Construction and Demolition (C&D); Land Clearing Debris (LCD); Brown Goods (furniture, etc.); and Animal Carcasses. The limiting language stated above – “all other wastes . . . are prohibited from disposal in this landfill” – was crucial to Pickens County, and was developed after negotiations between MRR and Pickens County. Further, this limiting language is in accord with the Development Agreement between MRR and Pickens County and the Solid Waste Management Plan of Pickens County.

6. That in December of 2015, after hearing from sources other than MRR, that MRR had intentions of depositing Coal Combustion Residuals (CCR) into this C&D Landfill, I traveled to DHEC and asked questions. DHEC officials informed me that “minor modifications” had been made to the Permit, and since they were “minor,” neither DHEC nor MRR had notified Pickens County of any changes or modifications to the Permit.

7. That I made a Freedom of Information Act (FOIA) request to DHEC for documents pertaining to these changes and modifications. We have only recently learned that, without any notice to my department or to Pickens County, that MRR submitted a variety of documents to DHEC in 2014 and in 2015, regarding proposed changes and modifications, and has apparently obtained a new Permit, dated August 10, 2015, which has major changes and major modifications to the original 2008 Permit, including the following:

(A) Changes in Paragraph 2:

- (i) Eliminating the limiting language of "all other wastes . . . are prohibited."
- (ii) Adding: ". . . and any other waste approved by the Department for disposal in a Class Two Landfill pursuant to R. 61-107.19, Part IV, Section C.2."

(B) Adding provisions for a liner.

(C) Changing provisions for final cover.

(D) Other changes.

8. That the major changes and major modifications to our 2008 Permit, as reflected in the new Permit apparently issued in 2015, were never approved by Pickens County. Further, such changes (particularly regarding the elimination of the limitations on types of wastes and the addition of "other wastes") are in contravention of Pickens County's intentions and are in direct contradiction to the representations MRR made to Pickens County.

9. That neither MRR nor DHEC provided my department or Pickens County with engineering reports, documents and correspondence apparently provided by MRR to DHEC in 2014 and throughout most of 2015, regarding these major changes and major modifications. Submission of such documents and information to Pickens County is required by our Development Agreement and our Solid Waste Management Plan. Further, Mr. Dan Moore of MRR stated at the January 12, 2015 Planning Commission Meeting that such documents must be submitted to Pickens County immediately.

10. As of the time of the signing of this Affidavit, MRR has never submitted such documents relating to its requested major changes and modifications, nor the 2015 Permit, to my department or to Pickens County. Nor has DHEC formally provided such documents to us; rather, after the current recent disagreements between MRR and Pickens County commenced, I made the FOIA request to DHEC, and obtained documents. No formal Notice of these changes or modifications, nor the 2015 Permit, has been provided by MRR or DHEC or anyone.

SWORN and subscribed to before me this
17th day of February 2016.

Sheila W. Linsley
Notary Public for South Carolina
Print Name: Sheila W. Linsley
My Commission Expires: 11/6/2023



Gerald G. Wilson

1 In the State of South Carolina
2 Pickens County Planning Commission

3
4
5 **Transcript of Portion of Commission Meeting**
6 **January 12, 2015**
7

8 The within transcript of a requested portion of a
9 meeting of the Pickens County Planning Commission on the
10 12th day of January, 2015 was produced using an audio CD
11 provided by the Roper Law Firm, LLC, 105 West Cedar Rock
12 Street, Pickens, South Carolina. The requested portion has
13 been typed verbatim based on the media supplied, with any
14 inaudible portions so noted.
15
16
17
18
19
20
21

22 Transcribed By: Vickie J. Stewart, CVR
23 Certified Verbatim Reporter
24 312 N. Main St.
25 Travelers Rest, South Carolina 29690
pmsvickie@bellsouth.net

1 By a Commission Member:

2 January 12th, 2015, by the way, on the agenda, not
3 '14, meeting of the Pickens County Planning
4 Commission is now in session. Thank you all for
5 coming. We appreciate it. And I'm assuming you're
6 representing our second item on the agenda tonight,
7 but I hope you're representing the first one, the
8 landfill.

9 (Inaudible)

10 By a Commission Member:

11 Oh, you're the landfill?

12 By an Unidentified Speaker:

13 Yeah.

14 (Inaudible)

15 By a Commission Member:

16 Oh, I thought that was the housing development.
17 We'll get to all of that. We'll get to all of that.
18 Anyhow, we'd like to welcome y'all here and call the
19 meeting to order. What we do normally now with our
20 meetings is, we have what we call a moment of
21 silence. We don't get to pray anymore out here, so
22 we take a moment of silence (inaudible) a moment or
23 two just to give our buddy to chance to say, "Okay,
24 we're here." So if we may just take a moment of
25 silence.

1 Thank you very much, and we'll do the Pledge of
2 Allegiance to the Flag, if we may.

3 (Pledge recited)

4 By a Commission Member:

5 Thank you very much. At this time now, what I'd like
6 to do is have -- each one of us will introduce
7 ourselves and tell you which district we represent and
8 who our county councilman is.

9 By a Commission Member:

10 Weldon Clark. I represent District 4. That's
11 Councilman Neal Smith's district.

12 By a Commission Member:

13 Now you're going to cause me to forget. I'm Bill
14 Cato. I represent District 2, and that's Trey
15 Whitehurst, county councilman.

16 By a Commission Member:

17 I'm Dennis Reinert. I represent District 5. That's
18 Easley. Jennifer Willis is the councilperson.

19 By a Commission Member:

20 I'm Bobby Ballentine. I represent District 1, which
21 is Clemson, and Ensley Feemster is the new council
22 member.

23 By a Commission Member:

24 I'm Jo Johnston, and I represent District 3. Randy
25 Crenshaw is my county councilman.

1 By a Commission Member:

2 Very good. Now we'll talk about the minutes this
3 morning of the previous meeting, the December the
4 8th, 2014 meeting. Are there any additions, any
5 amendments? Everybody read the minutes? Have any
6 problems?

7 By a Commission Member:

8 I move that we approve ---

9 By a Commission Member:

10 Is there a motion?

11 By a Commission Member:

12 --- them as printed.

13 By a Commission Member:

14 Second?

15 By a Commission Member:

16 Second.

17 By a Commission Member:

18 Motion seconded. All in favor?

19 (Vote verbalized by commission members)

20 By a Commission Member:

21 Thank you. Next thing on the agenda is, we have
22 public comments. I don't think anybody here is here
23 to make public comments -- any public comments other
24 than what we're here to discuss tonight. So if
25 anybody has something they'd like to talk about that

1 does not happen to be on the agenda, we can do that
2 now. Anybody have anything you want to say, you're
3 not happy about anything? This is not a county
4 council meeting. You go to county council if you
5 want to fuss about stuff; don't come to us. We're
6 just here; that's all. Okay. Very good.

7 Well, we'll get on to the business at hand,
8 then. The first item of business on the public
9 hearings that are on the agenda is the item
10 LU-15-001, South Carolina DHEC Class Two landfill,
11 land use request for MPR -- MRR Pickens -- I didn't
12 bring my glasses in; I'm -- MRR Pickens, LLC;
13 proposed site is located at 2810 Greenville Highway,
14 Liberty.

15 You all get to get up and tell us what you
16 think.

17 By Mr. Dan Moore:

18 (Inaudible) do that.

19 By a Commission Member:

20 All right.

21 By Mr. Moore:

22 We'll refer to that in a minute. Mr. Cato and ---

23 By a Commission Member:

24 Yes, sir.

25 By Mr. Moore:

1 --- board members, we really appreciate the
2 opportunity to come in this evening and speak about
3 our land use application. With me tonight are
4 Norbert Hector -- I'm -- my name is Dan Moore. I'm
5 the project manager for our landfill project.
6 Norbert Hector is MRR's managing member. Chris Roof
7 is our general manager. And we also have Scott Brown
8 with us. Scott is our lead engineer. He's with
9 Civil and Environmental Consultants out of Charlotte.
10 And I think -- well, and I'll introduce -- that's
11 Jessie King. She's with the McNair Law Group in --
12 Law Firm in Columbia.

13
14 A bit of history is probably in order before we
15 get into the details of the project. I know some of
16 you or maybe most of you weren't with the planning
17 commission at the time this project was conceived
18 back in 2006 and 2007 and when it was initially
19 approved by the planning commission in February of
20 2007. It's probably also important to note right up
21 front that the land use details and development
22 details for the project are just the same as they
23 were when we got the initial approval on the site
24 back in 2007.

25 About a month after the land use approval in
2007 and after being voted on by county council, a

1 development agreement outlining the rights and
2 responsibilities of both MRR and the county was
3 executed by ourselves and the county administrator at
4 the time. This document is still in effect, having a
5 term of ten years. Pursuant to that development
6 agreement, in the fall of 2007, we conveyed
7 approximately 39 acres of our property to the county
8 for future use in commercial work, industrial
9 development.

10 We have also just recently donated or gifted 161
11 acres of additional property that we had for ---

12 By a Commission Member:

13 (Inaudible)

14 By Mr. Moore:

15 --- use as a county park or a recreational area.

16 In November of 2008, we received a final
17 approved DHEC permit that allowed us to begin
18 construction of our -- construction and demolition
19 for the landfill. As you all are probably aware, the
20 economy began to flounder in late 2008. And along
21 with it, so did the construction and demolition
22 activities in the region. Disposal tonnages at many
23 of the Upstate's similar facilities fell by 30 to 40
24 percent over the following few years, and it's just
25 been during the last couple of years that we've seen

1 some of those tonnages starting to go back up. And
2 it's for that reason that we had postponed the
3 construction of our landfill.

4 Our DHEC permit is still active and it's in
5 effect today. We've also been in contact over the
6 years with your county administration to discuss our
7 plans to construct and to understand the county's
8 yearly disposal means.

9 We believe that the economy is finally improving
10 enough for us to begin to plan for construction, and
11 that's why we're here this evening. And as y'all
12 know, our proposed activity is a DHEC Class Two
13 landfill. This was previously called and referred to
14 as a construction and demolition debris landfill.
15 This is the same type of facility that the county is
16 operating.

17 By a Commission Member:

18 Close the door. That's it.

19 By Mr. Moore:

20 This is exactly the same type of landfill that the
21 county is operating over on Old Liberty Road just, I
22 guess, west of Easley.

23 And with that being said, I don't know -- can
24 you all see this okay if I refer to ---

25 By a Commission Member:

1 Yes, sir.

2 By Mr. Moore:

3 Just to kind of orient everyone, the Easley landfill
4 would be off here to the northeast. And this is
5 Greenville Highway running down through here, also
6 known as Highway 93. The county's industrial park is
7 down here to the south. Cartee Road goes up and
8 intersects Greenville Highway right up here. To the
9 south of our site is Woodbine Road, that goes down
10 through here.

11 Our permitted facility, our DHEC permit, is for
12 the acreage outlined in red around through there, and
13 our disposal acreage -- the maximum disposal acreage,
14 what we call the disposal footprint, is outlined in
15 orange in that area. That doesn't mean we will build
16 all of that area, but that's what we're allowed under
17 our permit to construct.

18 The 40 acres -- or the 38 -- 39 acres that we
19 originally conveyed to the county are these yellow
20 lots right along Greenville Highway.

21 The 162 acres of park or recreational use
22 property that we just donated is in this area right
23 in here, also, I guess, locally referred to as Bald
24 Mountain.

25 I think a couple of things -- I'll step over

1 here to the other side -- a couple of things that I
2 think are important. Down on Woodbine, we've only
3 got about a hundred, hundred and fifty feet of
4 property abutting Woodbine Road, and this -- the
5 landfill footprint will be several hundred feet off
6 of that acreage. A lot of this is wetlands down
7 through this area. I think it's going to pose --
8 it'll be challenging for any development to take
9 place in there. So I just -- that's a lot of mature
10 timber. It'll make for a good buffer.

11 Same thing up here to the north. We've only got
12 one entrance to the site, and that will be off
13 Greenville Highway right here. And in our
14 development agreement, we have said that we will stay
15 -- our landfill portion of the property will be at
16 least 500 feet away from Greenville Highway. We will
17 be probably well in excess of that.

18 Over here to the west, this is Clover Street.
19 There is a small residential development in there
20 with about six or seven houses. And per the DHEC
21 state regulations, we have to stay at least a
22 thousand feet away from any residential development.
23 So that's what that arc is right in there; that's
24 coming off those houses.

25 There's also a lot of mature timber right in

1 this area. A steep ravine runs down through there.
2 I think it'll serve as an excellent buffer from that
3 neighborhood.

4 The -- these are King Asphalt's operations right
5 in here, up here. Vulcan Quarry, I think I
6 mentioned, is up there.

7 Anyway, that's the area we're talking about.

8 Earlier, I mentioned the development agreement
9 which is in effect between ourselves and the county.
10 This agreement was reached after very thoughtful
11 consideration of the disposal needs for the county.
12 This agreement requires MRR to provide the county
13 with all of our regulatory reports, things such as
14 semiannual groundwater monitoring results, any
15 compliance issues, notices of violation. We have to
16 -- anything we submit to DHEC has to be submitted to
17 you all at the very same time we submit it to DHEC.
18 Anything we get from DHEC has to be submitted to you
19 all, I think -- I forget in the agreement, but in a
20 matter of a day or so.

21 We also in that development agreement have a
22 responsibility that -- to report to you all once a
23 month on any citizen complaints that we get, and we
24 also have to provide a resolution for anything -- to
25 take care of any problems that citizens or others may

1 have with our facility. We have to propose that to
2 the county.

3 Additional benefits to the county include a
4 disposal waiver for county government-generated waste
5 of 57 -- that will be at least 57 percent less than
6 our posted commercial gate rates at the site.

7 And that concludes my summary. But we are here
8 to answer any and all questions that you all have.

9 Yes, sir?

10 By a Commission Member:

11 What does MRR stand for?

12 By Mr. Moore:

13 That's a good question.

14 By an Unidentified Speaker:

15 Material Recovery and Reclamation. And we started
16 off back with building a facility -- our first major
17 facility that we ever built was a state-of-the-art
18 C&D recycling center about two and a half miles south
19 of downtown Raleigh. That's where that name -- and
20 we just kept the name throughout.

21 By Mr. Moore:

22 Yes, sir?

23 By a Commission Member:

24 I remember when this was discussed by county council
25 back in 2006, when you went through all this. And if

1 I remember right, the whole site, all of it, becomes
2 -- when you're done with the landfill, it's capped,
3 and it's also given to the county ---

4 By Mr. Moore:

5 That's right.

6 By a Commission Member:

7 --- to use as a park. So this whole thing is going
8 to become a huge park area almost right behind the
9 industrial park?

10 By Mr. Moore:

11 That's right. That option is in there. If you all
12 want the property when we finish, it is there.

13 By a Commission Member:

14 Yeah, the whole total thing. So they were pretty
15 enthused about it at the time ---

16 By Mr. Moore:

17 Yeah.

18 By a Commission Member:

19 --- I remember. So I don't see any problem.

20 By a Commission Member:

21 Based on the projections, what do you expect to be
22 the life of that landfill?

23 By Mr. Moore:

24 That's a -- that's a good question. I think the
25 county's landfill right now is taking about twenty

1 thousand tons a year, fifteen -- I -- at one point in
2 time, they were taking twenty thousand tons a year.
3 And that has -- that was like the 2008 number. I
4 think it's back up to about fifteen thousand tons a
5 year -- fifteen thousand, fifteen and a half.

6 If we never get any more tonnage than that,
7 we'll be there a long time, probably 50 years or
8 more. You know, we hope to get more tonnage, but
9 there's a lot of capacity out there. There's about
10 five to six million cubic yards of what we call air
11 space, disposal capacity.

12 By a Commission Member:

13 Do you have to provide the same kind of liners and so
14 forth for your landfill that ---

15 By Mr. Moore:

16 We do not.

17 By a Commission Member:

18 Do not have to for demolition, that kind of ---

19 By Mr. Moore:

20 That's right.

21 By a Commission Member:

22 Okay.

23 By a Commission Member:

24 I have a couple of questions, if I may. One is just
25 a curiosity question. How deep will this landfill

1 be? Not that it matters, but how deep do these
2 things go?

3 By Mr. Moore:

4 Scott, do you want to address that?

5 By a Commission Member:

6 How far down can you go?

7 By an Unidentified Speaker:

8 Well, you have to have an offset of three feet from
9 the seasonal high groundwater, so it's controlled by
10 groundwater.

11 By a Commission Member:

12 Oh, okay. So whatever the ---

13 By an Unidentified Speaker:

14 Right.

15 By a Commission Member:

16 --- groundwater tends to be ---

17 By an Unidentified Speaker:

18 Yes, sir.

19 By a Commission Member:

20 --- you have to be three feet above the groundwater?

21 By an Unidentified Speaker:

22 Yes, sir.

23 By a Commission Member:

24 And the second question is, there will be no
25 household garbage and that sort of thing, so ---

1 By an Unidentified Speaker:

2 That's correct.

3 By a Commission Member:

4 --- the people in the little community next to you,
5 there's probably not going to be much in the way of
6 odor? You may get some sheetrock or something come
7 in that, you know, might have a little odor, but it's
8 not something that they're going to complain about, I
9 wouldn't think? I mean ---

10 By an Unidentified Speaker:

11 That's correct.

12 By a Commission Member:

13 --- it doesn't seem like it. And the final question
14 would be, how do you control the dumping of asphalt
15 -- of -- not asphalt ---

16 By a Commission Member:

17 Asbestos?

18 By a Commission Member:

19 --- asbestos and ---

20 By a Commission Member:

21 That's what I was thinking.

22 By an Unidentified Speaker:

23 Well ---

24 By a Commission Member:

25 --- I mean -- or does it matter?

1 By Mr. Moore:

2 Chris, would you like to address that?

3 By an Unidentified Speaker:

4 Asbestos, you know, is allowed in a ---

5 By a Commission Member:

6 Okay.

7 By an Unidentified Speaker:

8 --- Class Two landfill.

9 By a Commission Member:

10 Yeah. I wasn't sure.

11 By an Unidentified Speaker:

12 And, you know, there are friable and unfriable
13 asbestos. And, you know, if asbestos comes, it'll be
14 manifested.

15 By a Commission Member:

16 What do you mean manifested?

17 By an Unidentified Speaker:

18 Well, typically when a demolition contractor goes to
19 take down a building, he'll apply for a demolition
20 permit. And then they have to do a survey. They go
21 through the building and they look for asbestos and
22 lead-based paint. And if -- and they sample. And if
23 there's some positive samplings in there, then they
24 have to abate that before the structure is
25 demolished.

1 And so that waste, whether it's ceiling tile or
2 whether it's mastic or old paint or something, will
3 have to be removed, bagged, and then there's a
4 manifest -- there's a piece of paper, and he goes and
5 says, "Hey, this is asbestos." And then that has to
6 travel along with the load and come to the landfill,
7 so when it arrives at the landfill, we know that it
8 has asbestos.

9 By a Commission Member:

10 But you just put it in with everything else, or what?

11 By an Unidentified Speaker:

12 Well, ultimately, yes. You designate an area. But,
13 you know, at the end of the day, if you're looking at
14 a large footprint, a large acreage, yes, it
15 ultimately goes in everywhere else.

16 By an Unidentified Speaker:

17 But the one difference is that our normal waste only
18 has to be covered with six inches of soil a minimum
19 of once a month. When asbestos comes in, it has to
20 be covered that day with six inches.

21 By an Unidentified Speaker:

22 Right.

23 By an Unidentified Speaker:

24 We do it immediately following the dumping. It's
25 covered with six inches of soil. So if there is any

1 friable asbestos, it's, you know, covered and not
2 subject to being windblown.

3 By an Unidentified Speaker:

4 And this asbestos is bagged. There's a certain
5 thickness bags; they tape them. There are strict --
6 in layman's terms, there are strict regulations for
7 handling the stuff.

8 By a Commission Member:

9 Well, I mean, asbestos is going somewhere now. Our
10 church is getting ready to redo some buildings, and
11 there's asbestos. So the contractor has to take it
12 somewhere, right?

13 By an Unidentified Speaker:

14 Yes, sir.

15 By a Commission Member:

16 (inaudible) going to take it, but they take it
17 somewhere.

18 By an Unidentified Speaker:

19 I suspect your current landfill is probably taking it
20 as well.

21 By a Commission Member:

22 Only certified ---

23 By an Unidentified Speaker:

24 They're allowed to, anyway.

25 By a Commission Member:

1 Only certified contractors can actually ---

2 By an Unidentified Speaker:

3 Oh, absolutely.

4 By a Commission Member:

5 --- take it down, so they know exactly ---

6 By an Unidentified Speaker:

7 Sure.

8 By a Commission Member:

9 --- how to bag it to make sure it's not being ---

10 By an Unidentified Speaker:

11 Yes. We're paying a lot of money for that.

12 By a Commission Member:

13 Yes, you do. Exactly.

14 By a Commission Member:

15 Why don't you just leave it alone, leave it where it
16 is?

17 By a Commission Member:

18 Well, we can't, because we're redoing the ceilings
19 and they're putting the buildings (inaudible). And
20 then this is where all our youth are. And you know,
21 we run a day school and everything else in it. So it
22 has to be very carefully done. So ---

23 By a Commission Member:

24 Will there be any reclamation?

25 By Mr. Moore:

1 Yes. In terms of recycling and ---

2 By a Commission Member:

3 Yes.

4 By Mr. Moore:

5 Yes. What -- initially what we'll start out with is
6 probably segregating all of the -- when you get a
7 load of concrete or a load that doesn't have other
8 waste mixed in with it, you can set that aside. And
9 then we will use that for bringing a crusher like
10 periodically, maybe once a quarter, once -- it
11 depends on how much we have. We can't stockpile much
12 on site. But we will crush that and we'll use it for
13 on-site roads, and if we have excess, then we can
14 sell that to the public.

15 And wood waste, when we have segregated loads
16 that aren't mixed with other waste, that's unpainted,
17 untreated wood, we'll set that aside, grind that.
18 And a lot of times, that can be sold for boiler fuel
19 and ---

20 By an Unidentified Speaker:

21 Scrap metal is almost always pulled out because
22 there's a value. And, you know, the markets
23 fluctuate up and down, you know, depending on what's
24 happening with the world economy.

25 By a Commission Member:

1 Do you recycle brick?

2 By an Unidentified Speaker:

3 Yeah.

4 By an Unidentified Speaker:

5 Along with concrete, especially if the loads are such
6 that it allows for it.

7 By a Commission Member:

8 So actually, on a day-to-day basis, besides trucks
9 coming and going and putting stuff off the truck,
10 what activities are going on during the day? I mean,
11 do you have people there working to separate things
12 out?

13 By an Unidentified Speaker:

14 Yeah.

15 By a Commission Member:

16 Run machinery and that sort of thing?

17 By an Unidentified Speaker:

18 Yes, ma'am, we do. We -- and, you know, initially --
19 you know, we won't be a huge employer initially, but
20 hopefully, as we get going, we'll need more people.
21 But, you know, we'll have a scale house operator and
22 probably a part-time scale house operator.

23 And then we'll have one or two equipment
24 operators on site that will run a compactor when the
25 waste comes in. They compact it, and that kind of

1 breaks up the waste and compacts it.

2 We'll have a disposal manager. We'll have labor
3 -- you know, one or two laborers out there. And
4 we'll see how it goes. You can't handle -- you need
5 a lot more people than that if the waste starts
6 coming in.

7 By a Commission Member:

8 Thank you.

9 By a Commission Member:

10 Any other questions, thoughts? We want to hear
11 people who are opposed to it, also.

12 By a Commission Member:

13 I don't think anybody here is opposed to it, unless
14 this young man here is opposed to it. This gentleman
15 is not here for this purpose, so I don't think
16 (inaudible).

17 By a Commission Member:

18 I will make a motion to approve.

19 By a Commission Member:

20 I'll second that.

21 By a Commission Member:

22 Motion made and seconded. All in favor?

23 (Vote verbalized by commission members)

24 By an Unidentified Speaker:

25 Thank you all very much.

1 By a Commission Member:

2 Motion (inaudible).

3 [End of relevant portion of recording]
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1 State of South Carolina

2 County of Greenville

3 Certificate

4 This is to certify that the foregoing transcription
5 of a portion of a Pickens County Planning Commission meeting
6 on January 12, 2015 was completed by the within court
7 reporter, a notary public for the State of South Carolina,
8 duly commissioned and qualified as such, using an audio CD
9 provided by the Roper Law Firm, LLC, 105 West Cedar Rock
10 Street, Pickens, South Carolina.

11 That said court reporter is not a relative or
12 employee of any of the parties or the attorneys in any
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16 That the foregoing 24 pages is a true, complete,
17 accurate and correct transcript of the materials supplied,
18 and that any inaudible portions were so noted in the body of
19 the transcript.

20 In witness whereof, I have set my hand and official
21 seal.

22 DATE: February 11, 2016

23

24 Vickie J. Stewart, CVR
25 Court Reporter and Notary Public for
South Carolina
My Commission Expires: 01/15/25

26

27

28

29

30

31

SOLID WASTE MANAGEMENT PLAN

Prepared for

Pickens County, South Carolina



January 2013

Plan Update by



Hulsey McCormick & Wallace
ENGINEERING • ENVIRONMENT • SCIENCE

Piedmont, South Carolina
HMW Project No. PIC 035 0804-07

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
A. Plan Development	1
B. Plan Update	2
C. Annual Progress Reports	2
I. LEGISLATIVE AUTHORITY	3
A. Federal and State Authority	3
B. Existing Ordinances	3
C. Policies	3
D. Organization Structure	4
II. DEMOGRAPHICS	5
A. Population Trends	5
B. Economic Trends	7
C. Land Description	8
D. Tourism	8
III. EXISTING SOLID WASTE MANAGEMENT	9
A. Generation and Characterization	9
B. Collection, Temporary Storage, and Transportation of Solid Waste	9
C. Solid Waste Transfer Stations	10
D. Solid Waste Processing Facilities	12
E. Class Three Landfills (Municipal, Industrial, Sludge, Incinerator Ash)	12
F. Class Two Landfill (Construction, Demolition, and Land-Clearing Debris Landfills & Certain Industrial Landfills)	14
G. Class One Landfills (Land-Clearing Debris and Yard Waste)	16
H. Short Term Structural Fill	16
I. Solid Waste Incinerators	16
J. Composting and Wood Chipping/Shredding Facilities	17
K. Used Oil Collection and Processing Facilities	17
L. Waste Tire Haulers, Collection Facilities, Processing Facilities, and Disposal Facilities	17
M. Research, Development, and Demonstration (RD&D) Permits	17
N. Land Application of Solid Waste Permits	18
O. Recycling Programs	18



P.	Special Wastes	18
Q.	Household Hazardous Material (HHM)	18
R.	Import and Export of Waste	18
S.	Solid Waste Management Funding	18
IV.	FUTURE SOLID WASTE MANAGEMENT	21
A.	Waste Stream Projections	21
1.	Class Three Waste (Municipal, Industrial, Sludge, Incinerator Ash)	21
2.	Class Two Waste (Construction, Demolition, and Land Clearing and Industrial)	22
3.	Class One Waste (Land Clearing Debris and Yard Trash)	22
B.	Collection, Temporary Storage, and Transportation of Solid Waste	22
C.	Solid Waste Transfer Stations	22
D.	Solid Waste Processing Facilities	22
E.	Class Three Landfills (Municipal, Industrial, Sludge, Incinerator Ash)	23
F.	Class Two Landfills (Construction, Demolition, and Land-Clearing Debris and Industrial Waste)	23
G.	Class One Landfills (Land-Clearing Debris and Yard Trash)	23
H.	Solid Waste Incinerators	24
I.	Composting and Wood Chipping/Shredding Facilities	24
J.	Used Oil Collection and Processing Facilities	24
K.	Waste Tire Haulers, Collectors, Processing Facilities ¹ and Disposal Facilities	24
L.	Research, Development, and Demonstration (RD & D) Permits	24
M.	Land Application of Solid Waste Permits	24
N.	Recycling Programs	25
O.	Special Wastes	25
P.	Household Hazardous Materials (HHM)	25
Q.	Import and Export of Waste	25
R.	Treatment of Contaminated Soils	26
S.	Storm Debris Management	26
V.	GOALS, POLICIES, STRATEGIES, AND BARRIERS	26
A.	Reduction	26
B.	Recycling	27
C.	Educational Programs	27
D.	Technical Assistance	27



VI.	REVISION AND CONSISTENCY WITH WASTE MANAGEMENT PLANS	28
A.	Annual Progress Reports.....	28
B.	Revisions to the Pickens County Solid Waste Management Plan	28
C.	Determining Consistency with County Solid Waste Management Plan	29
VII.	FULL COST DISCLOSURE	30

LIST OF TABLES

TABLE 1-PICKENS COUNTY POPULATION TREND (1995-2010).....	5
TABLE 2-PICKENS COUNTY POPULATION PROJECTIONS (2011-2030).....	7
TABLE: 3 -PICKENS COUNTY SOLID WASTE DISPOSAL (FISCAL YEAR 2011).....	9
TABLE 4-PICKENS COUNTY DROP-OFF / CONVENIENCE CENTERS	10
TABLE 5 PICKENS COUNTY GENERATION PROJECTIONS (2012-2032).....	21
TABLE 6-PICKENS COUNTY SOLID WASTE FULL COST DISCLOSURE (FISCAL YEAR.2007).....	30

LIST OF EXHIBITS

EXHIBIT A- PICKENS COUNTY LOCATION MAP	6
EXHIBIT B-PICKENS COUNTY RECYCLING CENTERS	11
EXHIBIT C PICKENS COUNTY CLASS TWO LANDFILL.....	13
EXHIBIT D-PICKENS COUNTY CLASS ONE LANDFILLS.....	15
EXHIBIT E PICKENS COUNTY SOLID WASTE FACILITIES	20

LIST OF APPENDICES

APPENDIX A - CODE OF (SOLID WASTE) ORDINANCES OF PICKENS COUNTY, SOUTH CAROLINA
APPENDIX B - LIST OF INDUSTRIES IN PICKENS COUNTY

*This Solid Waste Management Plan (Plan) was originally developed by BP Barber and Associates as approved by County Council on December 1, 2008. Any changes or modifications of the Plan were performed by Hulsey McCormick & Wallace at the requested of the Pickens County Solid Waste Department and serve as revisions to the original plan.



D. SOLID WASTE PROCESSING FACILITIES

A solid waste processing facility is any combination of structures, machinery, or devices utilized to reduce or alter the volume, chemical, or physical characteristics of solid waste through processes such as baling or shredding, prior to delivery of such waste to a recycling or resource recovery facility, or to a solid waste treatment, storage, or disposal facility, and excludes collection vehicles. A County-owned and operated bailing facility is located at 2043 Old Liberty Road, in Liberty, South Carolina for recycled goods.

E. CLASS THREE LANDFILLS (MUNICIPAL, INDUSTRIAL, SLUDGE, INCINERATOR ASH)

A Class Three Landfill is one designed to receive wastes such as household waste, sludge, incinerator ash and certain industrial waste, but is not a land application unit, surface impoundment, injection well, or waste pile. There are no operating Class Three Landfills in Pickens County.

F. CLASS TWO LANDFILL (CONSTRUCTION, DEMOLITION, AND LAND-CLEARING DEBRIS LANDFILLS & CERTAIN INDUSTRIAL LANDFILLS)

Class Two Landfills are designed to accept various inert wastes such as Construction, Demolition, and Land-Clearing Debris (C&D) and similar industrial wastes. Currently one (1) active Class Two Landfill is located in Pickens County. One additional Class Two Landfill is permitted but is not constructed and received no waste in FY11.

The Easley Class Two Landfill (Facility ID No. 391001-1201), is a county owned facility located within Pickens County (Exhibit C). The Easley Class Two Landfill is an active landfill but is estimated for completion in 2016 without further expansion. The facility is permitted to take 20,000 tons of waste each year, but currently receives approximately 15,000 tons per year. For more information regarding the Easley Class Two Landfill contact:

Easley Class Two Landfill

Mr. Gerald Wilson, Public Works Director
Pickens County Public Works Department
186 Camp Bridge Road
Pickens, SC 29671
Phone: (864) 898-5933

The Highway 93 Landfill is currently permitted by SC DHEC for 70,500 tons of waste per year. The privately-owned landfill has not been constructed (as of January 2013) and did not receive any waste in FY11.



N. LAND APPLICATION OF SOLID WASTE PERMITS

Permits for the land application of solid waste establishes appropriate application rates, frequency of application, and monitoring requirements for the uniform surface spreading or mechanical incorporation of nonhazardous solid waste on or into soil that is being used for agricultural, silvicultural, and horticultural production. Land application of solid waste is a way to recycle South Carolina's resources and is not a means of waste disposal. No land application permits have been issued for any facility within Pickens County.

O. RECYCLING PROGRAMS

Pickens currently operates eight (8) recycling drop off convenience centers, listed in Table 4, on page 10. Pickens County relies primarily on curbside collection and these drop off/convenience centers for collection of recyclables within the County.

P. SPECIAL WASTES

Special Waste is defined as commercial or nonresidential solid waste, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at MSW landfills, including but not limited to pesticide wastes, liquid wastes, sludge, industrial process wastes, wastes from pollution control processes, residue or debris from chemical cleanups, contaminated soil from a chemical cleanup, containers and drums, and animal carcasses. Special Waste is not accepted at any of the county facilities.

Q. HOUSEHOLD HAZARDOUS MATERIAL (HHM)

Household Hazardous Material (HHM) is defined as material found around the home, usually in small amounts, which can harm people or the environment. Examples of household hazardous materials include paint, pesticides, cleaning supplies and batteries. Household hazardous materials are not regulated as hazardous materials by South Carolina law but are considered part of the MSW stream. Pickens County does not currently collect HHM separately from the MSW stream. Therefore, these materials will be collected and transported to a receiving MSW Landfill for disposal.

R. IMPORT AND EXPORT OF WASTE

The County has no specific policy on the movement of waste, thus does allow the import of waste into the County. There are no controls over the export of waste to areas outside of the County.

S. SOLID WASTE MANAGEMENT FUNDING

Pickens currently receives solid waste management funding through tax revenues from the County's General Fund. Revenues from tipping fees, recycled materials sales and other receipts are

PICKENS COUNTY SOLID WASTE MANAGEMENT PLAN UPDATE
PICKENS COUNTY, SOUTH CAROLINA
JANUARY 2013

**WORK PLAN
FOR
SITE-SPECIFIC HYDROGEOLOGIC INVESTIGATION**

**HIGHWAY 93 LANDFILL
2180 GREENVILLE HIGHWAY
LIBERTY, SC 29657
PICKENS COUNTY**

Prepared For:

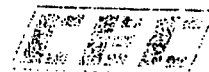
**MRR PICKENS, LLC
421 RALEIGH VIEW ROAD
RALEIGH, NC 27610**

Prepared By:

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1900 CENTER PARK DRIVE, SUITE A
CHARLOTTE, NC 28217**

CEC Project 142-152

**August 2014
Revised September 19, 2014**



Civil & Environmental Consultants, Inc.



1900 Center Park Drive, Suite A | Charlotte, NC 28217 | p: 980-237-0373 f: 980-237-0372 | www.cecinc.com

ROA 362

TABLE OF CONTENTS

	<u>Page</u>
1.0 INTRODUCTION.....	1
1.1 Site Location	1
1.2 Physical Setting.....	1
1.3 Regional Geology	2
1.4 Local Geology And Hydrogeology.....	2
2.0 PROPOSED WORK PLAN FOR SITE-SPECIFIC HYDROGEOLOGICAL INVESTIGATION.....	5
2.1 Minor Permit Modification For Change In Landfill Classification.....	5
2.2 Reliance On Previous Data	5
2.3 Purpose Of Work Plan	6
2.4 Scope Of Work	6

FIGURES

- Figure 1 – Site Location Map
- Figure 2 – Site Topographic Map
- Figure 3 – Aerial Site Vicinity Map
- Figure 4 – Regional Geologic Map
- Figure 5 – Proposed Boring Location Map

APPENDICES

- Appendix A - Enviro-Pro, P.C. - Lithologic Logs and Water Well Records

2.0 PROPOSED WORK PLAN FOR SITE-SPECIFIC HYDROGEOLOGICAL INVESTIGATION

2.1 CLASS TWO PERMIT MODIFICATION

MRR previously received a Class Two Landfill Permit for the subject landfill facility to be constructed at 2180 Greenville Highway, Liberty, South Carolina. The permit, issued in November 2008, is for a Construction, Demolition, and Land-Clearing Landfill with 7.3 million cubic yards of capacity. The permitted facility has not been constructed, and is currently a heavily wooded area with limited access consisting of overgrown, unimproved dirt roads installed for drilling activities that took place in March 2007.

During recent meetings between MRR and DHEC, it was confirmed that the modification of the Class Two permit to meet the requirements of Regulation R61-107.19. Part V. Class Three Landfills would require a minor permit modification.

2.2 RELIANCE ON PREVIOUS DATA

As previously described in Section 1.4, soil classification and depth-to-bedrock data have been obtained from 15 borings advanced at the proposed landfill site in March 2007. In addition, seven borings were converted to piezometers during the 2007 investigation, and these piezometers still exist, allowing for further data collection (i.e. water levels, slug tests, and gradient data). Previous data indicate that soil and bedrock conditions across the landfill footprint are uniform. This Work Plan has been designed to utilize the existing data in combination with newly acquired data to provide an appropriate site-specific hydrogeological characterization of the site. Both existing and proposed soil boring/well locations are shown in Figure 5.

SITE-SPECIFIC HYDROGEOLOGIC INVESTIGATION REPORT

**HIGHWAY 93 LANDFILL
2180 GREENVILLE HIGHWAY
LIBERTY, SC 29657
PICKENS COUNTY**

Prepared For:

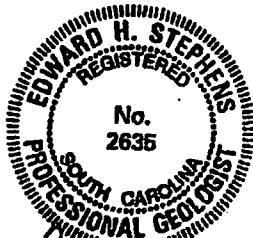
**MRR PICKENS, LLC
7413 SIX FORKS ROAD, SUITE 358
RALEIGH, NC 27615**

Prepared By:

**CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
1900 CENTER PARK DRIVE, SUITE A
CHARLOTTE, NC 28217**

CEC Project 142-152

December 2014



Edward H. Stephens
12.15.14

Civil & Environmental Consultants, Inc.



1900 Center Park Drive, Suite A | Charlotte, NC 28217 | p: 980-237-0373 f: 980-237-0372 | www.cecinc.com

ROA 365

TABLE OF CONTENTS

1.0	INTRODUCTION	1
1.1	Background and Purpose.....	1
1.2	Site Location.....	1
1.3	Physical Setting	2
1.4	Regional Geology	2
1.5	Generalized Local Geology and Hydrogeology	3
2.0	SCOPE OF LANDFILL INVESTIGATION ACTIVITIES.....	4
2.1	Purpose and Intent of Additional Site Investigation	4
2.2	Reliance on Previous Data	5
2.3	New Data Collection.....	6
3.0	HYDROGEOLOGIC DATA EVALUATION	10
3.1	Soil and Rock Description and Analysis.....	10
3.2	Site Hydrogeologic Characterization	12
4.0	HYDROGEOLOGIC DATA EVALUATION	16
5.0	SUMMARY	17
6.0	REFERENCES.....	19

TABLES

- Table 1 – Depth-to-Bedrock and Water Level Data (Data from BP Barber Report – June 2007)
 Table 2 – Depth-to-Bedrock and Rock Quality Data – October 2014
 Table 3 – Piezometer Construction and Water Level Data – October 2014
 Table 4 – Summary of Groundwater Parameters

FIGURES

- Figure 1 – Site Location Map
 Figure 2 – Site Topographic Map
 Figure 3 – Aerial Site Vicinity Map
 Figure 4 – Regional Geologic Map
 Figure 5 – Boring/Piezometer Location Map
 Figure 6 – Top-of-Bedrock Contour Map
 Figure 7 – Site Potentiometric Map

APPENDICES

- Appendix A – Enviro-Pro, P.C. - Lithologic Logs and Water Well Records
 Appendix B – CEC Boring Logs and Cascade Water Well Records
 Appendix C – Slug Test Data and Test Method Calculations

1.0 INTRODUCTION

1.1 BACKGROUND AND PURPOSE

↙ MRR Pickens, LLC (MRR) previously received a Class Two Landfill Permit for the subject landfill facility at 2180 Greenville Highway in Liberty, South Carolina in Pickens County. The permit, issued in November 2008, is for a Construction, Demolition, and Land-Clearing Landfill with 7.3 million cubic yards of capacity. The permitted facility has not been constructed, and is currently a heavily wooded area with limited access consisting of overgrown, unimproved dirt roads installed for site evaluation activities that initially took place in March 2007 and also recently in September-October 2014.

During recent meetings between MRR and DHEC, it was confirmed that a modification of the Class Two Landfill Permit to meet the requirements of Regulation R61-107.19, Part V, Class Three Landfills would require a minor permit modification. To satisfy the Class Three Landfill requirements, MRR engaged Civil & Environmental Consultants, Inc. (CEC) to conduct further hydrogeologic evaluation of the proposed landfill to provide additional data for a permit modification. The recent data collection effort was performed in September and October 2014. A previous site hydrogeologic investigation of the proposed landfill was reported by BP Barber in June 2007. This subject report provides an interpretation of the newly acquired site data in concert with the older June 2007 data collected by BP Barber to provide an appropriate site hydrogeologic characterization.

1.2 SITE LOCATION

The proposed MRR landfill site is situated off Highway 93 at Clardy Road approximately 2,000 feet northeast of the city limits of Liberty, SC. Access to the site is from Highway 93. The general geographic coordinates of the land parcel are 34° 47' 57" N and 82° 40' 37" W. A site location map is provided as Figure 1.

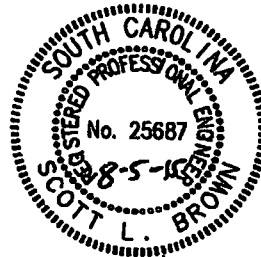
MINOR PERMIT MODIFICATION
HIGHWAY 93 LANDFILL
PICKENS COUNTY, SOUTH CAROLINA

Prepared For:
MRR SOUTHERN, LLC

Prepared By:
CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
CHARLOTTE, NC

CEC Project 142-152

MARCH 2015
UPDATED: AUGUST 2015



Scott L. Brown

Civil & Environmental Consultants, Inc.



1900 Center Park Drive, Suite A | Charlotte, NC 28217 | p: 980-224-8104 f: 980-224-8172 | www.cecinc.com

ROA 368

TABLE OF CONTENTS

	<u>Page</u>
1.0 GENERAL INFORMATION	1
1.1 Introduction	1
1.2 Compliance with State and County Solid Waste Management Plans	4
1.3 Landfill Siting Requirements	4
1.3.1 Introduction	4
1.3.2 Highway 93 Landfill Site Hydrogeology	5
1.3.2.1 Preliminary Site Hydrogeologic Characterization Report	5
1.3.2.2 Site Hydrogeologic Investigation Work Plan	5
1.3.2.3 Site Hydrogeologic Characterization Report	6
1.3.3 Compliance with Location Restrictions	6
1.3.3.1 Airport Safety	7
1.3.3.2 Floodplains	7
1.3.3.3 Wetlands	7
1.3.3.4 Hydrogeologic Considerations	10
1.3.3.5 Buffer Zones	12
1.4 Engineering Drawings	13
2.0 ENGINEERING REPORT	15
2.1 Highway 93 Landfill Facility Information	15
2.2 Waste Quantities	16
2.3 Site Analysis	16
2.3.1 Population Centers	16
2.3.2 Transportation System	16
2.3.3 Topography and Surface Drainage	16
2.3.4 Subsurface Geological Conditions	19
2.4 Construction of the Highway 93 Landfill	21
2.4.1 Foundation	21
2.4.2 Subgrade Separation	22
2.4.3 Base Liner System	22
2.4.3.1 Liner System	22
2.4.3.2 Leachate Collection System	23
2.4.4 Slope Stability Analyses	23
2.4.5 Final Cover System	25
2.4.6 Quality Assurance/Quality Control Plan	26
2.5 Construction Methods	27
2.6 Leachate Management System Design	27
2.6.1 Leachate Collection System Design	29
2.6.2 Leachate Pump Station Design	29
2.6.3 Leachate Storage Facility	30
2.7 Stormwater Management System Design	30
2.8 Final Use	31

Table of Contents (continued)

Page ii

3.0	OPERATION AND MAINTENANCE PLAN	32
3.1	Introduction	32
3.2	Site Information	32
3.2.1	Responsible Individual	32
3.2.2	Site Location	33
3.2.3	Site Description	33
3.3	Disposal Methods and Sequence of Operation	33
3.3.1	Placement of Initial Lift	34
3.3.2	General Procedures	35
3.3.3	Equipment Operations within the Landfill Cell	36
3.4	Waste Screening Programs	36
3.4.1	Waste Receiving and Inspection	37
3.4.2	Prohibited Waste Types	38
3.4.3	Special Waste	38
3.5	Covering Program	38
3.5.1	Daily Cover	38
3.5.2	Intermediate Cover	39
3.5.3	Final Cover System	39
3.6	Fire Protection	40
3.7	Site Supervision	40
3.8	Continuity of Operation	40
3.9	Siltation and Erosion Control	41
3.10	Vegetative Cover	41
3.11	Survey Control	42
3.12	Water Monitoring	42
3.13	Site Equipment	42
3.14	Vector Control	42
3.15	Directional and Informational Signs	43
3.16	Litter Control	43
3.17	Dust Control	43
3.18	On-Site Solid Waste Processing	44
3.19	Operational Records – Daily Logs	44
3.20	Surface Water Management System	46
3.20.1	Prevention of Surface Water Flow onto Waste Filled Areas	46
3.20.2	Stormwater Run-Off Controls	46
3.21	Leachate Control and Management System	47
4.0	CONTINGENCY PLAN	48
4.1	Safety Precautions	48
4.1.1	Access Control	48
4.1.2	Fire Protection	48
4.2	Personnel Facilities	48
4.3	On-Site Personal Injury	49

Table of Contents (continued)
Page iii

4.4	Dust and Litter Control	49
4.5	Odor Control	49
4.6	Noise	49
4.7	Equipment Breakdown.....	50
4.8	Unusual Traffic Conditions.....	50
4.9	Vectors	50
4.10	Disposition and Receipt of Unapproved or Unauthorized Wastes	50
4.11	Releases of Hazardous or Toxic Materials	51
4.12	Groundwater and Surface Water Contamination, which may include Public Water Supply Contamination as a Result of an Accidental Spill	51
4.13	Leachate Storage Facility being at or above Capacity.....	51
4.14	Contingencies during Landfill Construction.....	52
4.15	Protective Cover Integrity Assurance	52
4.16	Inoperable Landfill Periods.....	53
5.0	GROUNDWATER DETECTION MONITORING PLAN	54
5.1	Introduction.....	54
5.2	Groundwater Detection Monitoring Plan Summary	54
6.0	CLOSURE PLAN	56
6.1	Introduction.....	56
6.2	Notification of Closure	56
6.3	Closure Supervision.....	57
6.4	Final Cover.....	57
6.5	Siltation and Erosion Control.....	57
6.6	Vegetative Plan	58
6.7	Survey Control.....	58
6.8	Water Monitoring.....	58
6.9	Site Equipment.....	58
6.10	Directional and Informational Signs	59
6.11	Removal of Wastes	59
6.12	Environmental Monitoring.....	59
6.13	Closure Cost.....	59
7.0	POST-CLOSURE PLAN.....	62
7.1	Introduction.....	62
7.2	Post-Closure Contact	62
7.3	Final Cover.....	63
7.4	Siltation and Erosion Control.....	63
7.5	Vegetative Plan	63
7.6	Water Monitoring.....	63
7.7	Site Equipment.....	64
7.8	Directional and Informational Signs.....	64

Table of Contents (continued)
Page iv

7.9	Post-Closure Use.....	64
7.10	Removal of Wastes	64
7.11	Limited Access.....	65
7.12	Leachate Collection	65
7.13	Monitoring Activities.....	65
7.14	Post-Closure Attestation	65
7.15	Post-Closure Inspections.....	66
7.16	Post-Closure Cost Estimate	68

FIGURES

Figure 1-1 – Floodplains Figure
Figure 1-2 – Wetlands Figure
Figure 2-1 – USGS Topography Map
Figure 2-2 – Standard Composite Bottom Liner System Details
Figure 2-3 – Class 3 Landfill Cover Cap Details

TABLES

Table 1-1 – Regulatory Requirements
Table 1-2 – List of Regulatory Required Drawings and its Corresponding Permit Drawing Numbers*
Table 2-2 – Leachate Generation
Table 2-3 – Highway 93 Landfill Sediment Pond Calculations
Table 3-2 – Sample Daily Log
Table 6-1 – Highway 93 Landfill Closure Cost Estimate Summary
Table 6-2 – Highway 93 Landfill Closure Cost Estimate Details
Table 7-1 – Post-Closure Inspection Checklist
Table 7-2 – Highway 93 Landfill Estimated Post-Closure Summary
Table 7-3 – Highway 93 Landfill Estimated Post-Closure Details

APPENDICES

Appendix A – Related Correspondence
Appendix B – Referenced Reports
Appendix C – Engineering Calculations
Appendix D – QA/QC Plan and Specifications
Appendix E – Groundwater Detection Monitoring Plan

PERMIT DRAWINGS

- C001 – Title Sheet
- C100 – Existing Site Plan
- C200 – Overall Site Plan
- C201 – Top of Subgrade Plan
- C202 – Top of Clay Liner Plan
- C203 – Top of Protective Cover Plan
- C204 – Fill Progression Plan
- C205 – Final Cover Plan
- C206 – Surface Water Drainage Plan
- C207 – Landfill Cross Sections
- C300 – Details
- C302 – Details
- C303 – Details
- C304 – Details
- G100 – Boring and Monitoring Well Location Map
- G201 – Groundwater Contour Map
- G202 – Bedrock Contour Map
- G203 – Hydrogeologic Cross Section Map
- G204 – Proposed Monitoring Plan

1.0 GENERAL INFORMATION

1.1 INTRODUCTION

MRR Pickens, LLC owns the Highway 93 Landfill (Facility) located off Greenville Highway (SC Highway 93) in the southern portion of Pickens County, SC. This facility was originally permitted in November, 2008 as a Class 2 Landfill under Permit Number LF2-00003.

This document consists of a Minor Permit Modification Application to obtain the option to develop cells of the Facility with an Alternate Liner system as opposed to the currently permitted Class 2 system. These cells will be developed in accordance with *South Carolina Department of Health and Environmental Control (SCDHEC) R.61-107.19, SWM: Solid Waste Landfills and Structural Fill*.

A completed Permit Application Form for the Highway 93 Landfill is provided in the first tabbed section of this document. SCDHEC regulatory requirements for a permit application are summarized in Table 1-1, which also indicates where the sections that correspond to these requirements can be found in this document.

TABLE 1-1 - REGULATORY REQUIREMENTS SCDHEC R.61-107.19, PART IV			
Section	Sub Section	Requirement	Location in This Permit Modification
Subpart B		Location Restrictions	1.3.3
	2	Airport Safety	1.3.3.1
	1.b	Floodplains	1.3.3.2
	1.c	Wetlands	1.3.3.3
	1.a, e - h	Buffer Zones	1.3.3.8
	1.d	Access Requirements	3.2.2

- Training of facility personnel to recognize unapproved or unauthorized waste, hazardous wastes as defined in the South Carolina Hazardous Waste Management Regulations R.61-79.261, and polychlorinated biphenyls (PCB) wastes as defined in Toxic Substances Control Act (TSCA), Part 761;
- All inspections shall take place in an area adjacent to the working face but not on the working face. Mechanical tools shall be used to separate and inspect for unapproved or unauthorized waste items; and
- Should unapproved or unauthorized materials be detected, the area shall be cordoned off while the site supervisor and SCDHEC are contacted.

SCDHEC will be notified within 72 hours if a hazardous waste or PCB waste is discovered.

4.11 RELEASES OF HAZARDOUS OR TOXIC MATERIALS

The landfill will accept Class 2 and certain special wastes as may be specified in the permit or otherwise specifically approved in writing by SCDHEC. No hazardous or toxic wastes will be accepted; therefore, releases of hazardous or toxic materials should not occur.

4.12 GROUNDWATER AND SURFACE WATER CONTAMINATION, WHICH MAY INCLUDE PUBLIC WATER SUPPLY CONTAMINATION AS A RESULT OF AN ACCIDENTAL SPILL

The facility is monitored by a comprehensive groundwater and surface-water monitoring system. Should statistical analysis of testing results indicate possible contamination, subsequent testing will follow with enhanced groundwater parameters. An assessment plan will be provided to SCDHEC and upon approval will be implemented. No hazardous or toxic wastes will be accepted; therefore, accidental spills should not occur.

4.13 LEACHATE STORAGE FACILITY BEING AT OR ABOVE CAPACITY

In the event that leachate levels reach or exceed storage capacity through equipment breakdown or facility outages, excess leachate will be pumped and transported via privately owned or



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

OFFICE OF ENVIRONMENTAL QUALITY CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT
CLASS 2 LANDFILL
PERMIT No. LF2-00003

Permit Issued Date: November 3, 2008 Permit Effective Date: November 18, 2008

Permission is hereby granted to:

Name of Facility: Highway 93 C & D Landfill
Permittee: MRR Pickens, LLC
Address: 11743 Trails End Lane
Charlotte, NC 28078
Contact: Mr. Ronald C. Gilkerson
Phone: (704) 947-6652

for the operation of a Class 2 landfill at 2180 Greenville Highway, Liberty, South Carolina, 29657 in Pickens County located off Highway 93 at Clardy Road approximately 2,000 feet NE of the City of Liberty, SC.

This permit is issued pursuant to Sections 44-96-10 *et seq.* (Supp. 2007) and 25A S.C. Code of Regulations Section 61-107.19. The authority granted hereunder is subject to the requirements of the aforementioned laws and regulations and the attached conditions.


Kent M. Coleman, P.G., Director

Division of Mining and Solid Waste Management
Bureau of Land & Waste Management

Permit No. LF2-00003
November 3, 2008
Page 1 of 4

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
2600 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3432 • www.scdhec.gov

ROA 376

**MRR PICKENS, LLC
CLASS 2 LANDFILL
PERMIT No. LF2-00003**

A. SPECIAL CONDITIONS

1. The Permittee shall adhere to the design specifications and construction plans received November 30, 2007; and last revised August 26, 2008, unless permit conditions state otherwise.
2. This permit is limited solely to the disposal of items listed in Appendix I of R.61-107.19. All other wastes, including animal carcasses, are prohibited from disposal in this landfill.
3. The allowable rate of disposal for this facility is seventy thousand five hundred (70,500) tons per fiscal year (July 1 to June 30). Information concerning the facility's previous Fiscal Year's waste receipts is due in the form of an annual report to the Department no later than September 1st of each year, as required by R.61-107.19 Part IV. Subpart C.16, to the attention of:

**Manager, Solid and Hazardous Waste Compliance Section
SC DHEC Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201**

4. All Appendix-I acceptable wastes must be covered at least every thirty (30) days with a minimum of six (6) inches of clean soil, except for asbestos-containing material, which must be covered with a minimum of six (6) inches of clean soil immediately upon placement in the landfill.
5. The total surface area within the permitted waste disposal footprint that has not been deemed closed by the Department is limited to twelve (12) acres. For an area to be considered closed, the following items shall be completed:
 - a. Official certification from a Professional Engineer registered in the State of South Carolina that the area has been closed in accordance with final cover requirements pursuant to Regulation 61-107.19, Part IV, Subpart F.1.
 - b. The area shall be inspected and deemed closed by Department staff.
6. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that the total surface area within the permitted waste disposal footprint that is not deemed officially closed by the Department pursuant to Special Condition No. 5 (above) is equal to or less than twelve (12) acres (at the time of the certification). The certification shall have been completed within the last sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.

7. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that enough soil is currently available to use for final cover (38,720 yd³ of soil for 12 acres with 2' thickness). The certification shall have been completed within the last 60 days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.

B. GENERAL PERMIT CONDITIONS

1. If the landfill should become inundated with water, all water shall be removed before continuing disposal of waste.
2. Within ninety (90) days of the effective date of this permit, the Permittee shall submit a detailed Compliance Plan that describes steps to be taken in order to fully comply with all regulatory requirements of R.61-107.19 that relate to Class 2 Landfills. This Compliance Plan shall include, but not limited to, the following: a groundwater monitoring design workplan, a landfill post-closure care plan, and a landfill post-closure care cost estimate. Upon the Department's approval of said Compliance Plan, the Permittee will have six (6) months to implement the plan and will have a deadline for full compliance with R.61-107.19 of November 19, 2009.

C. ENVIRONMENTAL MONITORING PERMIT CONDITIONS

1. SPECIAL ENVIRONMENTAL PERMIT CONDITIONS

Within ninety (90) days of the effective date of this permit, the Permittee shall submit to the Department for review, a Groundwater Monitoring Design Workplan in accordance with R.61-107.19, Part IV, Section E (Groundwater Monitoring and Corrective Action). In addition, an approved groundwater monitoring system must be installed and operating prior to November 19, 2009, pursuant to R.61-107.19, Part I, Section A.6.c. Upon the Department's approval of the Groundwater Monitoring Design Workplan, permit conditions C.2, C.3 and C.4 will become effective.

2. GROUNDWATER DETECTION MONITORING SYSTEM

- a) The Permittee shall maintain a groundwater detection monitoring system consistent with the most recently approved Groundwater Sampling and Analysis Plan and as required in R.61-107.19, Part IV, Section E. The groundwater detection monitoring system shall consist of monitoring wells as designated in the most recently approved Groundwater Sampling and Analysis Plan and any other monitoring wells specified by the Department. Modifications to the current groundwater detection monitoring system shall be in accordance with the requirements of R.61-107.19, Part IV, Section E.
- b) The Permittee shall perform all groundwater sampling activities in accordance with the most recently approved Groundwater Sampling and Analysis Plan and in accordance with the requirements of R.61-107.19, Part IV, Section E, along with any subsequent modifications deemed necessary by the Department to uphold the intent of this permit.

The Permittee shall evaluate analytical results in accordance with the most recently approved Groundwater Sampling and Analysis Plan and any subsequent modifications required by the Department.

- c) The Permittee must determine during each sampling event the groundwater elevation in each well relative to mean sea level (MSL) to the nearest one-hundredth of a foot. All elevations should be determined on the same day. The Permittee shall determine the total depth of each well on an annual basis.
- e) Groundwater samples shall be analyzed by a laboratory certified by the State of South Carolina.

3. ASSESSMENT OF GROUNDWATER IMPACT

If the Permittee determines that a groundwater protection standard has potentially been exceeded for one or more constituents for routine monitoring at any monitoring well at the relevant point of compliance, then the Permittee shall perform any necessary groundwater assessment actions in accordance with the requirements of R.61-107.19 Part IV Subpart E.3.

4. REPORTING

- a) The Permittee shall submit to the Department the results of the groundwater monitoring program as specified in the most recently approved Groundwater Sampling and Analysis Plan, in accordance with the following sampling schedule:

<u>Sampling Schedule</u>	<u>Results Due</u>
November/December	January 15 (Semi-Annual)
May/June	July 15 (Annual Report)

- b) The Permittee shall submit a properly bound annual report signed by a South Carolina qualified professional summarizing the semi-annual determinations of groundwater flow rate and direction. In addition, the report shall make a determination as to whether the monitoring well network continues to meet requirements of permit condition C.2.A.
- c) The groundwater data collected by the implementation of the groundwater monitoring program as specified by this Permit shall be submitted to the SCDHEC Bureau of Land and Waste Management, Division of Mining and Solid Waste Management, Solid Waste Groundwater Section, and to the Solid Waste Consultant in Region 2 EQC (Greenville).

5. METHANE MONITORING

In accordance with R.61-107.19, Part IV, Subpart C, methane monitoring is not required at the time of issuance of this permit. However, should the Department determine that methane is of concern at this Facility, the Facility may be required comply with R.61-107.19, Part IV, Section C.21.

EXHIBIT D



Catherine E. Hogg, Director

Promoting and protecting the health of the public and the environment

OFFICE OF ENVIRONMENTAL QUALITY CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT
CLASS 2 LANDFILL
PERMIT No. LF2-00003

Date of Issuance: November 3, 2008

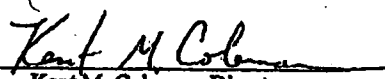
Date of
Modification: August 10, 2015

Permission is hereby granted to:

Name of Facility: Highway 93 Class 2 Landfill
Permittee: MRR Pickens, LLC
Address: 5842 Faringdon Place, Suite 1
Raleigh, NC 27609
Supervisor: Mr. Christopher T. Roof
Phone: (919) 436-3570

for the operation of a Class 2 landfill at 2180 Greenville Highway, in Pickens County located off Highway 93 near the City of Liberty, SC 29657.

This permit is issued pursuant to Sections 44-96-10 et seq., and 25A S.C. Code Regulation 61-107.19. The authority granted hereunder is subject to the requirements of the aforementioned laws and regulations and the attached conditions.


Kent M. Coleman, Director

Division of Mining and Solid Waste Management
Bureau of Land & Waste Management

Permit No. LF2-00003
August 10, 2015
Page 1 of 4

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ROA 380

**MRR PICKENS, LLC
CLASS 2 LANDFILL
PERMIT No. LP2-00003**

A. SPECIAL CONDITIONS

1. The Permittee shall adhere to the approved design specifications, and construction plans received November 30, 2007; revised August 26, 2008, and last revised August 5, 2015, unless permit conditions state otherwise.
2. This permit is limited to the disposal of the items listed in Appendix I of R.61-107.19 and any other waste approved by the Department for disposal in a Class Two Landfill pursuant to R.61-107.19, Part IV, Section C.2.
3. The allowable rate of disposal for this facility is seventy thousand five hundred (70,500) tons per fiscal year (July 1 to Jun30). Information concerning the facility's previous Fiscal Year's waste receipts is due on the form of an annual report to the Department no later than September 1st of each year, as required by R.61-107.19 Part IV. Subpart C.16, to the attention of:

**Manager, Solid and Hazardous Waste Compliance Section
SC DHEC Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201**

4. All Appendix-I acceptable wastes must be covered at least once every thirty (30) days with a minimum of six (6) inches of clean soil, except for asbestos-containing material, which must be covered with a minimum of six (6) inches of clean soil immediately upon placement in the landfill.
5. The total surface area within the permitted waste disposal footprint that has not been deemed closed by the Department is limited to five (5) acres. For an area to be considered closed, the following items shall be completed:
 - a. Official certification from a Professional Engineer registered in the State of South Carolina that the area has been closed in accordance with final cover requirements pursuant to Regulation 61-107.19, Part IV, Subpart F.1.
 - b. The area shall be inspected and deemed closed by Department staff.
6. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that the total surface area within the permitted waste disposal footprint that is not deemed officially closed by the Department pursuant to Special Condition No. 5 (above) is equal to or less than five (5) acres (at the time of the certification). The certification shall be completed within sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.

7. On or before July 1 of each year, the Permittee shall submit to the Department's Solid and Hazardous Waste Compliance Section certification from a Professional Engineer registered in the State of South Carolina that enough soil is currently available to use for final cover (16,133 yd³ of soil for 5 acres with 2' thickness). The certification shall have been completed within the last sixty (60) days of submittal to the Department. The Department may, where circumstances warrant, require that any documentation deemed necessary to make such certification be submitted to the Department for review.
8. Sixty (60) days prior to starting construction of the Class Two landfill, the Permittee shall notify the Department of their selection between Option 1 (traditional Class Two landfill design), or Option 2 (alternate liner design). If the financial assurance mechanism needs to be increased, this shall be done prior to the acceptance of waste into the landfill.

B. GENERAL PERMIT CONDITIONS

1. If the landfill should become inundated with water, all water shall be removed before continuing disposal of waste.

C. ENVIRONMENTAL MONITORING PERMIT CONDITIONS

1. GROUNDWATER DETECTION MONITORING SYSTEM

- a) The Permittee shall maintain a groundwater detection monitoring system consistent with the most recently approved Groundwater Sampling and Analysis Plan and as required in R.61-107.19, Part IV, Section E. The groundwater detection monitoring system shall consist of monitoring wells as designated in the most recently approved Groundwater Sampling and Analysis Plan and any other monitoring wells specified by the Department. Modifications to the current groundwater detection monitoring system shall be in accordance with the requirements of R.61-107.19, Part IV, Section E.
- b) The Permittee shall perform all groundwater sampling activities in accordance with the most recently approved Groundwater Sampling and Analysis Plan and in accordance with the requirements of R.61-107.19, Part IV, Section E, along with any subsequent modifications deemed necessary by the Department to uphold the intent of this permit. The Permittee shall evaluate analytical results in accordance with the most recently approved Groundwater Sampling and Analysis Plan and any subsequent modifications required by the Department.
- c) The Permittee must determine during each sampling event the groundwater elevation in each well relative to mean sea level (MSL) to the nearest one-hundredth of a foot. All elevations should be determined on the same day. The Permittee shall determine the total depth of each well on an annual basis.
- d) Groundwater samples shall be analyzed by a laboratory certified by the State of South Carolina.

2. ASSESSMENT OF GROUNDWATER IMPACT

If the Permittee determines that a groundwater protection standard has potentially been exceeded for one or more constituents for routine at any monitoring well at the relevant point of compliance, then the Permittee shall perform any necessary groundwater assessment actions in accordance with the requirements of R.61-107.19 Subpart B.3.

3. REPORTING

- a) The permittee shall submit to the Department the result of the groundwater monitoring program as specified in the most recently approved Groundwater Sampling and Analysis Plan, in accordance with the following schedule:

Sampling Schedule	Results Due
November/December	January 15 (Semi-Annual)
May/June	July 15 (annual Report)

- b) The Permittee shall submit a properly bound annual report signed by a South Carolina qualified professional summarizing the semi-annual determinations of groundwater flow rate and direction. In addition, the report shall make a determination as to whether the monitoring well network continues to meet requirements of permit condition C.1.a.
- c) The groundwater data collected by the implementation of the groundwater monitoring program as specified by this Permit shall be submitted to the SCDHEC Bureau of Land and Waste Management, Division of Mining and Solid Waste Management, Solid Waste Ground water Section, and to the Solid Waste Consultant in Upstate Region BEHS Greenville.

4. METHANE MONITORING

In accordance with R.61-107.19, Part IV, Subpart C, methane monitoring is not required at the time of issuance of this permit. However, should the Department determine that methane is of concern at this Facility, the Facility may be required to comply with R.61-107.19, Part IV, Section C.21.

August 5, 2015

Mr. Tim Eleazer
Division of Mining and Solid Waste Permitting
Bureau of Land and Waste Management
SC Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

RECEIVED

AUG 06 2015

DIVISION OF MINING &
SOLID WASTE MANAGEMENT
BLWM

Dear Mr. Eleazer:

Subject: Highway 93 Landfill
Minor Permit Modification
CEC Project 142-152

Civil & Environmental Consultants, Inc. (CEC), on behalf of MRR Highway 93, LLC (MRR), requests a Minor Permit Modification for the abovementioned facility. Please find attached one hard copy and an electronic copy of the application for the minor modification of the Permit Number LF2-00003 for the Highway 93 Landfill in Pickens County, SC.

The modification includes an alternate liner design and associated changes resulting from the alternate liner design. Changes include modified subgrade elevations that are appropriate for the alternate liner design, modified limits of waste, final cover elevations, perimeter grading, and other associated details. The proposed revisions associated with this minor permit modification will not increase the disposal capacity for the landfill, increase the size or limits of the waste footprint, or increase the final cover elevation of the landfill.

Should you have any questions or require any additional information in support of this application, please do not hesitate to contact me at 980-237-0373.

Sincerely,

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.



Nathan Bivins
Project Manager



Scott L. Brown, PE
Vice President

Attachments

COUNTY OF PICKENS

www.co.pickens.sc.us

Planning Commission



COMMISSION MEMBERS

BILL CATO, District 2, Chairman
WELDON CLARK, District 4, Vice Chairman
BOB BALLENTINE, District 1
JO JOHNSTON, District 3
DENNIS REINERT, District 5
BOB YOUNG, District 6

COPY

January 11, 2016

MRR Pickens, LLC
7413 Six Fork Road #358
Raleigh, NC 27615

Delivery USPS Certified Mail
91 7108 2133 2934 1312 8892

Re: Land Use Approval on Case No: LU-15-001
SCDHEC Class II Landfill

To MRR Pickens LLC,

We, the Pickens County Planning Commission (the "Commission"), are writing in regard to the above-referenced land use permit dated January 12, 2015. The approval of this permit was granted after your company appeared for a public hearing on your application for a renewal of your February 12, 2007 land use permit for a proposed C&D (now Class II) landfill off Highway 93 near Liberty, South Carolina.

In your 2007 appearance before the Commission, Mr. Ronald Gilbertson of your company characterized the type of waste for this project as "lumber, vinyl siding, concrete and brick," "grass clippings, leaves, limbs," and "storm debris." He also indicated that the life span of the project would be for "20-25 years." No mention was made of the disposal of coal combustion residuals ("CCR"), the need for a landfill liner, or plans to fill up the landfill quickly. Based in part on these representations by your company, the Planning Commission granted your land use request.

In your 2015 appearance before the Commission, Mr. Dan Moore of your company indicated that there were "no changes" from the 2007 request, and estimated that the proposed landfill would serve the citizens of the county for "50 years or more." No mention was made of the disposal of CCR. When you were specifically asked by a Commissioner about the need for a liner, Mr. Moore stated that no liner would be required. Based on these representations by your company, the Planning Commission granted your renewed use request.

We now understand from media reports that your company plans to dispose of CCR in the proposed landfill. We have also learned that your filings with SCDHEC include plans for a significantly shorter life span of the facility (5 years) and that a liner would be installed in order to comply with Class III requirements despite the fact that you repeatedly characterized this landfill as a Class II facility in all of your communications with the Commission.

These are significant deviations from the information you provided to us in 2007 and 2015. We consider these changes to be material alterations to the land use approved by the Commission, and constitute violations of your land use permit. Accordingly, pursuant to the authority granted under the Unified Development Standards Ordinance ("UDSO") Section 1504(d) and elsewhere, the Commission hereby suspends your land use permit for this project. You are directed to cease and desist any and all activities at the proposed site until such time as you have presented sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your permit from the Commission.

Please be advised that Section 1505 of the UDSO provides that any violation of a land use approval is a misdemeanor with a punishment of a fine and/or jail time for each act or omission thereof. Also note that each and every day of a continuing violation constitutes a separate offense.

MRR Pickens, LLC
January 11, 2016
Page 2 of 2

If you have any questions about this stop work notification, or about the land use permitting process, please contact Chris Brink, Director of Community Development at 864 898 5956, or Ken Roper, County Attorney at 864 878 1577.

Sincerely,

Pickens County Planning Commission

Cc: Pickens County Council
Senator Larry Martin
Representative Davey Hiott
SCDHEC

Appendix I ACCEPTABLE WASTE FOR CLASS TWO LANDFILLS

The following types of waste have been determined by the Department to be environmentally safe and may be accepted at Class Two Landfills unless specifically prohibited by the Department. Acceptable wastes may be generated by construction, demolition, land-clearing, industrial, and/or manufacturing activities, and/or obtained from segregated commercial waste. However, any of the materials listed in this appendix that have been contaminated by any hazardous constituent listed in the S.C. Hazardous Waste Management Regulations 61-79.261, or petroleum products, are prohibited from disposal at a Class Two Landfill.

Acceptable Land-Clearing Debris Such As:

• brush & limbs • earthen material, e.g., clays, sands, gravels, & silts • logs • rock	• root mats • top soil • tree stumps • vegetation

Acceptable Debris Such As:

• asbestos-containing material² • bricks & masonry blocks • cardboard • dry paint cans • dry caulking tubes • fiberglass matting • floor covering • glass • glass wire (optical fiber) • hardened asphaltic concrete³ • hardened cement • hardened concrete (may include rebar) • insulation material • lumber (includes treated lumber) • mirrors	• other items physically attached to structure, e.g., signs, mailboxes, awning, vinyl siding • other structural fabrics • packaging material • painted waste (includes lead-based paint) • pallets & crates • pipes • plaster & plasterboard • polyfiberglass (highly polished, cured material used for shower stalls, roofing, etc.) • shingles & roofing materials • structural steel • tile (floor, wall & ceiling) • tires⁴ • tubing • wall coverings

² Friable and nonfriable asbestos-containing material shall be disposed in a designated area and covered immediately upon receipt with at least six inches (6") of acceptable material. Prior to disposal of asbestos-containing material, the generator of the asbestos waste shall obtain a "permission for disposal" letter from the Department's Bureau of Air Quality (BAQ) and submit this letter to the landfill. All landfills accepting asbestos-containing material for disposal are subject to the BAQ regulation 61-86.1 Standards of Performance for Asbestos Abatement Operations, and the National Emissions Standards for Hazardous Air Pollutants [40CFR61, Subpart M;]

³ Tar sealant material is not acceptable.

⁴ Tires shall be reduced in size by a minimum of one-eighth the size of the original tire prior to landfill disposal.

Acceptable Brown Goods:

- . box springs
- . mattresses
- . wooden swing sets
- . nonmotorized bulky outdoor children's toys
- . furniture including lawn furniture:
 - laminated
 - metal⁵
 - plastic
 - PVC
 - vinyl
 - wooden

Animal Carcasses Acceptable Under Following Conditions:

- . Animal carcasses shall be buried in a separate designated area. The facility shall submit to the Department a written request to dispose of animal carcasses including a plan that shows the portion of the landfill to be used for this type of disposal. The permit will be modified to reflect the designated disposal area, and;
- . Animal carcasses shall be buried and covered with at least twelve inches (12") of dirt immediately upon receipt.
- . Hydrated lime shall be added to the carcass and surrounding area before cover is applied to control bacterial growth and odor.
- . Mass kill burial shall not be acceptable at Class Two Landfills unless approved by the Department prior to disposal.

⁵The Department recommends that all metal furniture be recycled if feasible.

contingency plan shall also contain procedures for the proper removal and disposal of unauthorized waste; and,

(7) A list of items that are not listed in Appendix I but are similar in nature to Appendix I of this regulation that the permittee wishes to place in the landfill, the anticipated quantity and source of the waste. Upon Department review, items other than those listed in Appendix I, that are approved for landfilling, shall be listed on the permit for that facility. A permit, other than the permit, shall be approved for disposal at the landfill by modification of the permit by the Department. Only items that will cause no environmental harm determined by the Department shall be approved for disposal;

(8) A groundwater monitoring and corrective action plan pursuant to Sections D. and E. of this Part;

(9) Detailed closure plan in accordance with Section I. of this Part, to include a description of the final cover and the methods and procedures to be used to install the cover. This plan shall also include the following: an estimate of the sum of all active areas of the landfill requiring final cover at any time during the operating life of the facility; an estimate of the maximum inventory of wastes ever on site over the active life of the facility; a schedule for completion of activities; and, a site plan of the landfill showing the proposed final elevations. The plan shall be amended at any time during the active life of the facility with Department approval. The plan shall be amended whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure;

(10) Detailed post-closure plan in accordance with Section J. of this Part. This plan shall address, but not be limited to, groundwater monitoring, landfill gas monitoring and maintenance of the integrity and effectiveness of the final cover including future use of the

c. South Carolina Coastal Zone Management Plan. The proposed landfill project shall be consistent with the South Carolina Coastal Zone Management Plan, if the landfill is located in the coastal zone as defined in accordance with the Coastal Zone Management Act.

I. Permit Conditions and Review.

1. Application forms for permits shall be provided by the Department and shall be submitted with sufficient detail to support a judgment that operation of the disposal system will not violate laws and regulations of the State of South Carolina. The application shall be signed by the permittee of the landfill. The approved application and associated plans and drawings shall be an enforceable part of the permit. Permits shall be effective for the design and operational life of the facility.

2. Prior to issuance of permits for major modifications, as determined by the Department, for new construction, the Department will make the draft permit available for public review and comment pursuant to Part I, Section D of this regulation.

3. The Department shall review the permit at least once every five years. Upon notification to the Department, the landfill shall submit to the Department a topographic survey map of the site that shows the contours at the beginning and the end of the period since the last permit review.

4. If, upon review, the Department finds that material or substantial violations of the permit demonstrate the permittee's disregard for, or inability to comply with, applicable laws, regulations or requirements, and would make continuation of the permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit as appropriate and necessary. When a permit is reviewed, the Department shall impose additional limitations, standards, or conditions when the technical limitations, standards, or conditions on which the original permit was based have been changed by statute or amendment or regulation.

5. The Department may amend or attach conditions to a permit when:

a. There is a significant change, as determined by the Department, in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;

b. The investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of human health and safety and the environment;

35. "Household waste" means any solid waste (including garbage, trash, and sanitary waste tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

36. "Industrial waste" means solid waste that results from industrial processes including, but not limited to, factories and treatment plants.

37. "Karst terranes" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

38. "Landfill" means a disposal facility or part of a facility where solid waste is placed in, on, or under land, and which is not a land treatment facility, a surface impoundment, or an injection well.

39. "Land-clearing debris" means solid waste which is generated solely from land-clearing activities, but does not include solid waste from agricultural or silvicultural operations.

40. "Lateral expansion" means a horizontal expansion of the footprint of an existing landfill.

41. "Leachate" means the liquid that has percolated through or drained from solid waste, other than man-made materials and that contains soluble, partially soluble, or miscible components removed from such waste.

42. "Lead-based paint" means paint containing greater than 600 parts per million (ppm) lead by weight, calculated as lead metal in the total nonvolatile content, i.e., >0.06%; or, measured in situ with an X-ray Fluorescence Spectrum Analyzer (XRF), paint containing >6 mg/cm².

43. "Liquid waste" means any waste material that is determined to contain "free liquid" as defined by Method 9095B (Paint Filter Liquids Test), and as described in "Test Method for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846, as amended by final updates).

44. "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith at or near the earth's surface.

45. "Local government" means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when the political subdivision provides solid waste management services.

46. "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gas in air that will propagate a flame at 25° C and atmospheric pressure.

47. "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

48. "Modification" means changes to a solid waste landfill as follows:

a. "Minor modification" means a change that keeps the permit current with routine changes to the facility or its operations, or an administrative change; and,

b. "Major modification" means a change that substantially alters the facility or its operations, e.g., tonnage increase above 25%, any volumetric capacity increase, alternate designs that differ from the design prescribed in this regulation.

49. "Municipal solid waste" includes, but is not limited to, wastes that are durable goods, nondurable goods, containers and packaging, food scraps, and miscellaneous inorganic wastes from residential, commercial, institutional, and industrial sources including, but not limited to, appliances, automobile tires, newspapers, clothing, disposable tableware, office and classroom paper, pallets, and cafeteria wastes.

2016 FEB 24 AM 11 13
 STATE OF SOUTH CAROLINA
 CLERK OF COURT
 COUNTY OF PICKENS
 PICKENS COUNTY
 SOUTH CAROLINA

MRR Pickens, LLC,
 Plaintiff,
 vs.
 County of Pickens and William Cato, Weldon
 Clark, Robert Ballentine, Jo Johnston, Dennis
 Reinert, and Bob Young, individually and in
 their official capacity as appointed members of
 the Pickens County Planning Commission,
 Defendants.

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION No.: 2016-CP-39-100

**REPLY TO RESPONSE OF PICKENS
 COUNTY TO PLAINTIFF MRR
 PICKENS, LLC'S MOTION FOR AN
 EMERGENCY PRELIMINARY
 INJUNCTION**

Plaintiff MRR Pickens, LLC ("MRR Pickens") submits this reply to the Response of Pickens County ("County") to Plaintiff's Motion for an Emergency Preliminary Injunction ("Response") dated February 17, 2016. On February 1, 2016, MRR Pickens moved the Court to enjoin the County from unlawfully terminating its Land Use Approval to construct and operate a Class Two Landfill in Pickens County. On February 3, 2016, MRR Pickens provided notice of the hearing by letter to the County and other defendants. A hearing was held before the Honorable Robin B. Stilwell in the Circuit Court of the Thirteenth Judicial Circuit on February 18, 2016.

During the hearing and in its Response, the County contested the Motion based on allegations of fraud, misrepresentation, and unfair trade practices.¹ Those claims are irrelevant and MRR Pickens denies all allegations; however, for clarification of the record, MRR Pickens responds as follows:

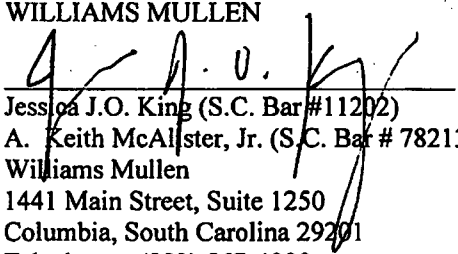
¹ The County failed to timely serve affidavits in opposition prior to the hearing. S.C. R. Civ. P. 6(d).

1. MRR Pickens Properly Appealed: Section 1205(e) of the Pickens County Unified Development Standard Ordinance (UDSO) states: “[a] decision of the Planning Commission may be appealed as provided for in [S.C. Code Ann.] § 6-29-1150.” The Complaint is an appeal pursuant to S.C. Code Ann. § 6-29-1150, and MRR Pickens’ request for injunctive relief seeks *status quo* until the appeal can be adjudicated.
2. Affidavits Submitted to the Court by MRR Pickens Were Not Misrepresentations: Mr. Moore’s answers to the County on January 12, 2015 are consistent with the Affidavits:
 - a. A liner is not required for demolition waste pursuant to South Carolina solid waste regulations. MRR Pickens represented in its Letter of Intent and Land Use Application its Class Two Landfill would be lined. It is apparent the County understood MRR Pickens’ intent to install a liner because the Commission Member inquired about a distinction in the “kind of liners” applicable to certain waste.
 - b. MRR Pickens only has contractual reporting requirements after the landfill opens. It has no reporting obligation in the construction phase pursuant to the Development Agreement. Rather, the “LANDFILL OPERATIONS” Section of the **Host Agreement** requires MRR Pickens to “report any notice of violation” and provide “[a]ll reports required to be submitted to DHEC”. Host Agreement, pp. 2-3. Once operational, MRR Pickens will report violations, groundwater monitoring results, tonnage and recycling data, and citizen complaints as contemplated by the Host Agreement. To date, MRR Pickens has provided the County all required notices.
3. MRR Pickens’ 2008 Permit Allowed Coal Combustion Residuals (CCRs): CCR is a Class Two waste acceptable by the South Carolina Department of Health and Environmental Control (DHEC). According to Appendix I to S.C. Code Ann. Reg. 61-107.19: “[a]cceptable wastes may be generated by... industrial...and/or manufacturing activities...” By way of example in the attached 2016 report, “[t]he Class 2 Landfill contains approximately 7,780,000 cubic yards of CCRs”. *Exhibit 1, Santee Cooper, Coal Combustion Residual Class 2 and Class 3 Landfill Inspection Report* at 5 (Jan. 2016). Moreover, DHEC “has the sole authority to issue, deny, revoke, or modify permits” and “is charged with ensuring solid waste [permittees] meet the requirements for permitting.” *Greeneagle, Inc. v. S. Carolina Dep’t of Health & Env’tl. Control*, 399 S.C. 91, 96, 730 S.E.2d 869, 871-72 (Ct. App. 2012); S.C. Code Ann. § 44-96-260(2) (2002). It is DHEC’s determination whether MRR Pickens is compliant with solid waste regulations, *not* the County.

As argued by counsel, MRR Pickens is being irreparably harmed by the County's termination, is likely to succeed on the merits of the case, and has no other adequate remedy at law; therefore, MRR Pickens requests an Order for Preliminary Injunction be entered on or before February 24, 2016.

Respectfully Submitted,

WILLIAMS MULLEN



Jessica J.O. King (S.C. Bar #11202)
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ATTORNEYS FOR PLAINTIFF
MRR PICKENS, LLC

February 19, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MRR Pickens, LLC,

Plaintiff,

vs.

County of Pickens and William Cato, Weldon
Clark, Robert Ballentine, Jo Johnston, Dennis
Reinert, and Bob Young, individually and in
their official capacity as appointed members of
the Pickens County Planning Commission,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

CIVIL ACTION No.: 2016-CP-39-100

CERTIFICATE OF SERVICE

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2016 FEB 24 AM 11 13

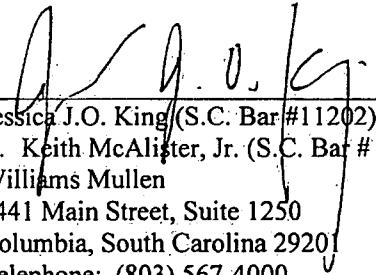
The undersigned hereby certifies that on this the 19th day of February, 2016, she has caused a copy of the foregoing **Reply to Response of Pickens County to Plaintiff MRR Pickens, LLC's Motion for an Emergency Preliminary Injunction** to be served upon counsel to this action by electronic mail and/or mailing a copy thereof to the below addresses, U.S. Mail, which are the last addresses known:

Gary W. Poliakoff
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atty@gpoliakoff.com

Kenneth S. Roper
Roper Law Firm, LLC
105 West Cedar Rock Street
Pickens, South Carolina 29671
ken@roperlawfirm.com

(SIGNATURE PAGE TO FOLLOW)

WILLIAMS MULLEN


Jessica J.O. King (S.C. Bar #11202)
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2016 FEB 24 AM 11 13
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

January
2016



2016 FEB 24 AM 11 13
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

COAL COMBUSTION RESIDUAL CLASS 2 AND CLASS 3 LANDFILL INSPECTION – CROSS GENERATING STATION

Pineville, South Carolina



Table of Contents

EXECUTIVE SUMMARY	3
SUMMARY OF RECOMMENDATIONS.....	3
Class 2 Landfill.....	3
Class 3 Landfill.....	4
1.0 GENERAL INFORMATION AND INTRODUCTION	5
1.1 PURPOSE AND SCOPE.....	5
2.0 DESCRIPTION OF COAL COMBUSTION RESIDUAL MANAGEMENT UNITS.....	7
2.1 LOCATION AND GENERAL DESCRIPTION.....	7
2.2 TYPE OF CCRs CURRENTLY STORED IN LANDFILL.....	7
2.3 PRINCIPAL PROJECT STRUCTURES	8
2.3.1 Class 2 Landfill	8
2.3.2 Class 3 Landfill	8
3.0 SUMMARY OF RELEVANT REPORTS AND INCIDENTS	10
3.1 SUMMARY OF REPORTS ON THE SAFETY OF CCR UNITS	10
4.0 FIELD OBSERVATIONS	11
4.1 PROJECT OVERVIEW AND SIGNIFICANT FINDINGS.....	11
4.2 CLASS 2 LANDFILL.....	11
4.2.1 Crest/Operating Area.....	11
4.2.2 Outside Slopes – Northern and Southern Side Slopes	12
4.2.3 Outside Slopes – Eastern and Western Sides	12
4.2.4 Stormwater Conveyance Structures.....	12
4.2.5 Roads/Ramps/Other Infrastructure.....	12
4.3 CLASS 3 LANDFILL.....	13
4.3.1 Operating Area, Liner, and Leachate Collection System	13
4.3.2 Outside Slopes.....	13
4.2.4 Stormwater Conveyance Structures.....	13
4.3 ADEQUACY OF MAINTENANCE, OPERATING, AND SURVEILLANCE PROCEDURES	14
4.3.1 Adequacy of Maintenance Procedures	14
4.3.2 Adequacy of Operating Procedures	14
4.3.3 Adequacy of Surveillance Procedures.....	14
5.0 CONCLUSIONS AND RECOMMENDATIONS.....	15
5.1 CONCLUSIONS REGARDING THE STRUCTURAL SOUNDNESS OF THE MANAGEMENT UNIT(S).....	15
5.2 CONCLUSIONS REGARDING FIELD OBSERVATIONS	15
5.3 RECOMMENDATIONS	16
5.3.1 Class 2 Landfill	16
5.3.2 Class 3 Landfill	17

**Cross Generating Station
Santee Cooper
Pineville, SC**

**Page 2
Coal Combustion Residual Class 2
and Class 3 Landfill Inspection
Report**

Executive Summary

This assessment of the stability and functionality of the Cross Generating Station (CGS) coal combustion residual (CCR) Class 2 and Class 3 Landfill is based on a review of available documents and on-site assessment conducted by Santee Cooper engineering staff on November 16, 2015. We found the supporting technical information to be generally adequate. As detailed in Section 1.3, there are several recommendations based on field observations that may help CGS to maintain the landfill in safe condition.

In summary, the CGS CCR Class 2 Landfill is generally satisfactory for continued safe and reliable operation. No recognized existing or potential management unit safety deficiencies were noted at the time of inspection within the parameters of design and operation. The CGS CCR Class 3 Landfill is also in generally satisfactory condition for future safe and reliable operation. No recognized existing or potential management unit safety deficiencies were noted at the time of inspection within the parameters of design and operation.

Summary of Recommendations

Class 2 Landfill

1. Minor erosion noted in several locations on the active face of the Class 2 Landfill and on the northern and southern slopes of the structure should be repaired within ninety (90) days of completion of this report. (NOTE: repairs to northern and southern slopes were completed within two (2) weeks of the date of inspection. The active face will be repaired as part of closure during the 1st and 2nd quarter of 2016).
2. Clogged downrain inlets located on the 1st and 2nd benches on the northern and southern ends of the Class 2 Landfill should be cleaned out and re-lined with sediment tubes or silt fence within sixty (60) days of completion of this report. (NOTE: this maintenance was completed within two (2) weeks of the date of inspection).
3. Minor ponding noted in several locations on the benches of the Class 2 Landfill should be monitored following cleanout of the downdrains to ensure that further ponding of storm water is eliminated.

4. Erosion and undermining of the concrete revetment channel noted along the northern access ramp for the Class 2 Landfill should be repaired within ninety (90) days of completion of this report to improve drainage in the area and to prevent potential personnel/equipment safety concerns.
5. Sediment buildup noted in the Class 2 Landfill perimeter drainage ditch should be cleaned out within sixty (60) days of completion of this report to avoid ponding of water around the toe of the landfill. (NOTE: this maintenance was completed within two (2) weeks of the date of inspection).

Class 3 Landfill

6. Minor erosion in the foundation drainage layer just above the liner noted in the Class 3 Landfill should be repaired just prior to placement of waste in these areas. (NOTE: this repair was completed within two (2) weeks of the date of inspection).

This assessment of the Class 2 and Class 3 Landfills at Cross Generating Station reported herein is based on field observations and review of readily available information provided to the inspection team of the subject coal combustion residual (CCR) management unit(s). Qualified Santee Cooper engineering staff performed the field observations and review of pertinent information and made the assessment in conformance with the requirements of Section 257.84 of the Federal Register and in accordance with reasonable and generally accepted engineering practices.

**Cross Generating Station
Santee Cooper
Pineville, SC**

**Page 4
Coal Combustion Residual Class 2
and Class 3 Landfill Inspection
Report**

Coal Combustion Residual Class 2 and Class 3 Landfill Inspection – Cross Generating Station

1.0 General Information and Introduction

1.1 Purpose and Scope

The purpose of this report is to fulfill the requirements of Section 257.84(b) of the Federal Register regarding the safety and inspection of CCR surface impoundments. Section 257.84(b) states that "Existing and new CCR landfills and any lateral expansion of a CCR landfill must be inspected on a periodic basis by a qualified professional engineer to ensure that the design, construction, operation, and maintenance of the CCR unit is consistent with recognized and generally accepted good engineering standards." The inspection must, at a minimum, include:

- i. A review of available information regarding the status and condition of the CCR unit, including, but not limited, to, files available in the operating record (e.g., the results of inspections by a qualified person, and results of previous annual inspections)
- ii. A visual inspection of the CCR unit to identify signs of distress or malfunction of the CCR unit.

The inspection report must also be written by a qualified professional engineer and must address the following:

- i. Any changes in geometry of the structure since the previous annual inspection
 - No changes in the geometry of the Class 2 Landfill beyond normal filling operations
 - No changes in the geometry of the Class 3 Landfill (final construction inspection and approval to operate were pending at time of inspection)
- ii. The approximate volume of CCR contained in the unit at the time of the inspection
 - The Class 2 Landfill contains approximately 7,780,000 cubic yards of CCRs

*Cross Generating Station
Santee Cooper
Pineville, SC*

*Page 5
Coal Combustion Residual Class 2
and Class 3 Landfill Inspection
Report*

- The Class 3 Landfill was not certified for operation at the time of inspection and did not contain any CCRs
- iii. Any appearances of an actual or potential structural weakness of the CCR unit, in addition to any existing conditions that are disrupting or have the potential to disrupt the operation and safety of the CCR unit
- Some maintenance items noted on Class 2 Landfill as discussed in the Executive Summary and Sections 4.2 and 5.3.1; however, landfill is safe for continued operation
 - One (1) maintenance item noted on Class 3 Landfill as discussed in the Executive Summary and Sections 4.3 and 5.3.2; however, landfill is safe for future operation
- iv. Any other change(s) which may have affected the stability or operation of the CCR unit since the previous annual inspection
- No other changes noted on the Class 2 Landfill that impact the stability or operation of the landfill
 - No other changes noted on the Class 3 Landfill that impact the stability or operation of the landfill

2.0 Description of Coal Combustion Residual Management Units

2.1 Location and General Description

The Cross Generating Station (CGS) is located on the east bank of the Diversion Canal in Berkeley County, South Carolina, approximately 5.2 miles northeast of Cross, South Carolina. CGS is located on Cross Station Road, Pineville, South Carolina, 29468. Lake Marion is northwest of CGS, and Lake Moultrie is southeast of the station.

CGS currently has a single operational CCR landfill (the Class 2 Landfill) and another entering operation by the end of 2015 (the Class 3 Landfill). Final receipt of waste for the Class 2 Landfill was December 31, 2015 and the Class 3 Landfill entered operation in mid-December 2015 (after completion of the field inspection of this report). Table 2.1 below shows a summary of the size and general dimensions of the CCR management units at CGS as well as their current capacity:

Table 2.1: Summary of Landfill Dimensions and Size

	Class 2 Landfill	Class 3 Landfill (Cell 1B-1)
Base Width (ft)	1500	800
Base Length (ft)	3000	1600
Side Slopes H:V	3:1	-
Approximate Current Storage Volume (cy)	7,780,000	0

2.2 Type of CCRs Currently Stored in Landfill

The Class 2 Landfill currently accepts flue gas emissions (FGD) control residuals, bottom ash, fixated fly ash, and boiler slag. FGD residuals are limited to portions of the landfill more than 100 feet from the outside slopes to mitigate slope stability concerns with the material. All materials are carefully compacted using tracked bulldozers and a vibratory roller where needed to ensure that the landfill space is used efficiently and to minimize the risk of settlement and/or slope instability. The Class 3 Landfill will begin accepting

SCDHEC-approved waste streams before the end of 2015.

2.3 Principal Project Structures

2.3.1 Class 2 Landfill

The CGS Class 2 Landfill is regulated under SCDHEC's Solid Waste Management regulations. It was originally permitted in 1982 and began receiving CCRs in 1984. The original permit allowed placement of material up to elevation 120 feet (NGVD 1929), which is approximately 38 feet above grade. A consent agreement in 2011 allowed Santee Cooper to continue placement of material above this elevation, with a maximum top elevation of 210 feet (NGVD 1929).

The Landfill is approximately 1500 feet wide at its base and 3000 feet long. The side slopes are 3:1 (horizontal to vertical), with terraces to prevent excessive storm water runoff velocity built approximately every 20 vertical feet. Storm water is routed from the slopes to these terraces and then through downdrains at each end of the landfill, helping to minimize erosion on the slopes.

2.3.2 Class 3 Landfill

Santee Cooper is currently constructing a new Class 3 CCR landfill adjacent to the existing Class 2 landfill on its eastern and western sides. As a result, the eastern and western perimeter slopes of the Class 2 landfill are covered with Class 3-grade landfill liner. The entire top deck of the Class 2 landfill will also be closed in this manner; the liner in these areas is still under construction. This liner serves as permanent cover/closure for the Class 2 side slopes under the authorization of the Class 3 construction permit. The northern and southern ends of the landfill are both covered with a more traditional clay cap and vegetative cover.

The Class 3 Landfill cell (Cell 1B-1) currently under construction is approximately 800 feet wide at its base and 1600 feet long. This cell is the only operational cell of the Class 3 landfill at this time and as a result is the only cell analyzed in this report. Subsequent reports will include other cells as they enter service.

The landfill abuts the current Class 2 Landfill and consists of lined cells with a geocomposite drainage net and sand drainage layer to facilitate removal of leachate water from the landfill into the leachate pond to the south of the landfill. No CCRs have been placed in the Class 3 Landfill as of the date of inspection; however, an operating permit was issued by SCDHEC during December 2015.

3.0 Summary of Relevant Reports and Incidents

3.1 Summary of Reports on the Safety of CCR Units

Furnished reports of weekly inspections, conducted by CGS personnel for the period October 2015 to November 2015 indicated no major structural or operational problems at the CGS Class 2 Landfill or the CGS Class 3 Landfill. No significant deterioration was indicated in the documentation reviewed.

4.0 Field Observations

4.1 Project Overview and Significant Findings

Santee Cooper qualified engineer Michael Melchers, P.E. performed a site visit to CGS on November 16, 2015. The site visit began mid-morning. Weather conditions during the visit were approximately 65 degrees Fahrenheit, sunny, and dry, although approximately five (5) inches of rain had been received in the previous ten (10) day period.

The overall condition of the CCR Class 2 Landfill was satisfactory with no significant findings noted. Similarly, the CCR Class 3 Landfill was found to be in satisfactory condition with no significant findings noted.

All findings were discussed with station personnel following completion of the field inspection to facilitate monitoring and repair of any deficiencies noted.

Please note that field observations as outlined in Sections 4.2 and 4.3 below are indicative of conditions on-site as of November 16, 2015. Several of the observations noted have now been corrected as outlined in the Executive Summary and Section 5.3 of this report. In addition, the Class 2 Landfill has ceased to receive waste and is in the midst of closure, while the Class 3 Landfill has entered operation and is now receiving waste streams in accordance with SCDHEC regulations.

4.2 Class 2 Landfill

4.2.1 Crest/Operating Area

The crest of the Class 2 Landfill was generally found to be in satisfactory condition. The southern half of the crest area is currently being covered with Class 3 landfill liner in advance of the opening of the new Class 3 CCR landfill being constructed adjacent to the existing Class 2 landfill. The northern half was operational as of the date of inspection with material being placed and compacted by Santee Cooper personnel. Several areas on the northern end of the landfill showed signs of erosion due to excessive storm water

runoff; however, no significant areas of concern were noted during the field inspection.

4.2.2 Outside Slopes – Northern and Southern Side Slopes

The northern and southern side slopes of the Class 2 CCR landfill are covered with a clay cap and vegetative cover in accordance with SCDHEC regulations and were found to be in generally satisfactory condition. The condition of the cap and vegetative cover on the northern and southern slopes was found to be generally satisfactory with isolated areas of minor erosion and loss of grass cover. Some more significant erosion was noted at the interface between the clay cap and the Class 3 landfill liner on the southwest corner of the Class 2 Landfill. No obvious signs of slumps, slides, bulges, tension cracks, seepage, or animal burrows were observed on the slope.

4.2.3 Outside Slopes – Eastern and Western Sides

The eastern and western slopes of the Class 2 CCR Landfill are covered with Class 3-type landfill liner as a part of construction of the adjacent Class 3 landfill expansion at CGS. These slopes were found to be in generally satisfactory condition, as the liner protects the slopes from erosion resulting from rainfall. No obvious signs of slumps, slides, bulges, tension cracks, seepage, or animal burrows were observed.

4.2.4 Stormwater Conveyance Structures

Storm water on the Class 2 CCR Landfill is primarily handled with working surface grading to the perimeter slopes, where water is directed to benches built approximately every twenty (20) vertical feet. Downdrains are built into each bench on the northern and southern ends of the landfill which convey storm water into a perimeter drainage ditch at the toe of the landfill. Several of the downdrains were found to be clogged with sediment from recent significant rain events, resulting in minor ponding of water on the storm water benches, although the pipes themselves appeared to be in satisfactory condition. Heavy sedimentation was also noted in the perimeter drainage ditch in multiple locations.

4.2.5 Roads/Ramps/Other Infrastructure

Two (2) ramps are used to access the working face of the Class 2 CCR Landfill. The northern ramp runs from the northeast corner to the west, entering the working face of the landfill on the northwestern side. The access road surface was found to be in satisfactory condition. A concrete revetment channel is used to convey storm water along the interface between the ramp and the slope of the landfill. A portion of the channel was found to be undercut by erosion near the 2nd bench of the landfill, likely due to excessive flows during recent large storm events. A second ramp runs from the southwest corner towards the north. The access road surface was found to be in satisfactory condition. Some erosion damage was noted in the channel running along the interface between the ramp and the landfill.

4.3 Class 3 Landfill

4.3.1 Operating Area, Liner, and Leachate Collection System

The operating area of the Class 3 landfill was found to be in satisfactory condition upon inspection. As previously noted, no CCRs have been placed in the Class 3 Landfill as of the date of inspection. The sand drainage layer placed above the Class 3 liner was found to be in satisfactory condition overall with several isolated areas of erosion due to recent heavy rains noted, particularly along the interface between the Class 2 Landfill and the Class 3 Landfill where storm water runoff from the slopes of the Class 2 Landfill drains down the new Class 3 liner into the Class 3 drainage layer placed at the base of the structure. The drainage layer and associated leachate collection pump system appeared to be in good condition and were functioning as designed, as no ponding was noted in the new Class 3 landfill cell:

4.3.2 Outside Slopes

The outside slopes of the Class 3 Landfill cell were found to be in satisfactory condition. Construction of the containment for the base of the cell was recently completed and vegetative cover is still being established; however, no obvious signs of slumps, slides, bulges, tension cracks, seepage, or animal holes were observed on the slope.

4.2.4 Stormwater Conveyance Structures

Storm water on the Class 3 CCR Landfill is managed by collecting and pumping all

stormwater from the sand drainage layer above the Class 3 liner through HDPE outlet pipes and into the on-site leachate pond. Stormwater is directed to the pump inlets by proper grading of the drainage layer. The HDPE conveyance pipes from the pump intakes to the leachate pond appeared to be in satisfactory condition at the time of inspection. The storm water channel around the perimeter of the Class 3 Landfill cell also appeared to be in satisfactory condition and was functioning as designed at the time of inspection.

4.3 Adequacy of Maintenance, Operating, and Surveillance Procedures

4.3.1 Adequacy of Maintenance Procedures

Overall, maintenance of the Class 2 and Class 3 CCR Landfills appears to be adequate. No major maintenance issues were noted during the field inspection or in the weekly inspection reports completed by CGS personnel and reviewed by the inspection team. Some minor maintenance of storm water control structures is warranted as noted in the Recommendations section and the Field Observations section; however, most damage appeared to have occurred as a result of historic rainfall received in the weeks leading up to the inspection.

4.3.2 Adequacy of Operating Procedures

Based on field observations and discussions with CGS personnel, the operating procedures for the Class 2 and Class 3 CCR Landfills appear to be adequate.

4.3.3 Adequacy of Surveillance Procedures

CGS personnel complete daily informal inspections and weekly formal inspections on the Class 2 and Class 3 CCR Landfills in accordance with good engineering practice and Section 257.84 of the Federal Register. These inspections are being properly documented and should continue as they are currently being conducted.

5.0 Conclusions and Recommendations

Conclusions are based on visual observations from a one-day site visit on November 16, 2015, and review of technical documentation provided to the inspection team.

5.1 Conclusions Regarding the Structural Soundness of the Management Unit(s)

Based on a review of the engineering data provided and the observations of the inspection team during the site visit, the CGS Class 2 Landfill appears to be structurally sound under static loading conditions. The slopes of the landfill also appear to be structurally sound under moderate seismic loading conditions. The factor of safety associated with the stability of the Class 2 Landfill should also continue to increase as construction and initial filling of the adjoining Class 3 Landfill (entering operation in 2016) continues.

Based on a review of the engineering data provided and the observations of the inspection team during the site visit, the CGS Class 3 Landfill appears to be structurally sound under static loading conditions. No waste had been placed into the Class 3 Landfill at the time of inspection; however, design documents appear to be soundly engineered and existing infrastructure, including liner, drainage layers, and storm water/leachate management systems appeared to be in acceptable condition.

5.2 Conclusions Regarding Field Observations

The inspection team was provided access to the CGS Class 2 Landfill and Class 3 Landfill as required to conduct a thorough field inspection. The east and west slopes of the Class 2 Landfill are currently covered by liner for the Class 3 Landfill lateral expansion and are thus properly closed in accordance with SCDHEC permit documents. The liner appeared to be in good condition and is adequately covering those portions of the Class 2 Landfill abutting the expansion. The visible (not covered by Class 3 liner) portions of the perimeter slopes were observed to have no signs of overstress, significant settlement, shear failure, or other signs of instability. Storm water controls on the landfill also appear to be generally adequate at this time. There are no apparent

indications of unsafe conditions or conditions needing emergency remedial action. Some minor maintenance is needed (see Section 1.4.1). The Class 3 Landfill was similarly found to be in good condition, with only minor erosion noted in the drainage layer directly above the liner. No CCRs had been placed in the Class 3 Landfill at the time of inspection.

This is the first annual engineering inspection of the Class 2 Landfill and Class 3 Landfill at CGS. As a result, no geometry change from a previous inspection is noted. A review of annual surveys from 2012 to 2015 also revealed no changes to geometry beyond normal filling of the landfill. The Class 2 Landfill is currently being operated in accordance with its South Carolina Department of Health and Environmental Control (SCDHEC) permit and will continue to be filled vertically until December 31, 2015, at which time placement of CCR in the landfill will cease. Closure will be completed by June 2016. No additional changes in the geometry of the Class 2 Landfill are expected after completion of closure. Operations in the Class 3 Landfill will begin on December 16, 2015.

5.3 Recommendations

A number of maintenance concerns were noted during the field inspection. These items were as follows:

5.3.1 Class 2 Landfill

1. Minor erosion was noted in several locations on the active face of the Class 2 Landfill and on the northern and southern slopes of the structure where a traditional soil and vegetative cover is being used for closure, likely due to the large volume of rain (over 30 inches) received in the six (6) weeks preceding the inspection. These areas should be repaired within ninety (90) days of completion of this report. (NOTE: repairs to northern and southern slopes were completed within two (2) weeks of the date of inspection. The active face will be repaired as part of closure during the 1st and 2nd quarter of 2016).
2. Several of the downdrain inlets located on the 1st and 2nd benches on the northern and southern ends of the Class 2 Landfill were filled with sediment at the time of inspection, again due to heavy rains received on-site in the weeks

preceding the inspection. These inlets should be cleaned out and re-lined with sediment tubes or silt fence within sixty (60) days of completion of this report to keep the discharge lines clear until final closure is complete. (NOTE: this repair was completed within two (2) weeks of the date of inspection).

3. Minor ponding in several locations on the benches of the Class 2 Landfill was noted due to clogging of the downdrains. These areas should be monitored following cleanout of the downdrains to ensure that further ponding of storm water is eliminated.
4. Erosion and undermining of the concrete revetment channel along the northern access ramp for the Class 2 Landfill was noted as a result of heavy rains on-site. This area should be repaired within ninety (90) days of completion of this report to improve drainage in the area and to prevent potential personnel/equipment safety concerns.
5. Sediment buildup was noted in the drainage ditch that runs along the perimeter toe of the Class 2 Landfill, likely resulting from surface erosion and runoff during recent heavy rains. This ditch should be cleaned out within sixty (60) days of completion of this report to avoid ponding of water around the toe of the landfill. (NOTE: this repair was completed within two (2) weeks of the date of inspection).

5.3.2 Class 3 Landfill

1. Minor erosion in the foundation drainage layer just above the liner was noted in the Class 3 Landfill. The damage should be repaired prior to placement of waste in these areas. (NOTE: this repair was completed within two (2) weeks of the date of inspection).

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
MRR Pickens, LLC,	)	Civil Action No.: 2016-CP-39-100
	)	
Plaintiff,	)	
	)	
vs.	)	ANSWER AND COUNTERCLAIM
	)	OF PICKENS COUNTY
	)	
County of Pickens and William Cato,	)	
Weldon Clark, Robert Ballentine, Jo	)	
Johnston, Dennis Reinert, and Bob Young,	)	
individually and in their official capacity as	)	
appointed members of the Pickens County	)	
Planning Commission,	)	
	)	
Defendants.	)	

County of Pickens hereby, responding to the Verified Complaint and Petition for Appeal in this case, does hereby Answer and Counterclaim as follows:

AS A FIRST DEFENSE

1. That all allegations of the Complaint and Petition for Appeal not hereafter admitted or qualified are hereby denied.
2. Upon information and belief, admits paragraphs 1 and 2 of the Complaint.
3. Admits paragraphs 3 and 4 of the Complaint.
4. Admits so much of paragraph 5 as would indicate that the named Defendants are members of the Planning Commission, and denies the remainder. County would show that Plaintiff has violated the S.C. Tort Claims Act in naming these individuals as Defendants.
5. Admits paragraph 6 of the Complaint.
6. Admits paragraphs 7 and 8 of the Complaint.

7. Regarding paragraph 9, admits that MRR applied for a Permit to S.C. DHEC, but denies the remainder of said paragraph and would show that MRR agreed with Pickens County to apply for a Permit to operate a Construction and Demolition/Land Clearing Debris (C&D/LCD) Landfill, and to operate a C&D/LCD Landfill. County would further show that in the 2007 Development Agreement, MRR agreed to apply for and operate "a construction and demolition and land clearing debris landfill." The term "Construction and Demolition Landfill" is utilized in said Development Agreement on page 2 and page 3, and on Exhibit B, Exhibit C and Exhibit D of said Agreement.

8. Regarding paragraph 10, admits that DHEC issued a Permit for a Construction and Demolition/Land Clearing Debris (C&D/LCD) Landfill, to Highway 93 C&D Landfill, on November 3, 2008, which C&D Landfill was owned by Plaintiff. County denies the remainder of said paragraph, and denies Plaintiff's legal conclusions stated in Footnote 1 (craving reference instead to the relevant regulations). County denies that the November 3, 2008 Permit was legally modified thereafter, and would show that Plaintiff's attempts to obtain modification were unlawful, in violation of state regulations, and in violation of agreements with Pickens County.

9. Denies paragraph 11 and would show that the only valid Permit is the Permit issued November 3, 2008, which allows for wastes listed on Appendix I of Regulation 61-107.19, and which states, "All other wastes, including animal carcasses, are prohibited from disposal at this landfill." The subsequent Permit is unlawful, having been obtained unlawfully, fraudulently and secretly by Plaintiff.

10. Admits only so much of paragraph 12 as would indicate the existence of the 2015 amendment to the Development Agreement. Denies the remainder, and would show that Plaintiff's actions were fraudulent and fraught with misrepresentations.

11. Admits only so much of paragraph 13 as is reflected by the specific language of said amendment. Denies the remainder, and would show that Plaintiff's actions were fraudulent and fraught with misrepresentations. Further, the only valid agreement was to operate a C&D/LCD Landfill, in strict accordance with the Permit issued November 3, 2008.

12. Admits only so much of paragraph 14 as would indicate actual language of the document, and denies the remainder. Craves reference to the entire Development Agreement.

13. Admits only so much of paragraphs 15 and 16 as would reflect the entire language of the Host Agreement and Development Agreement. Denies the remainder of said paragraph, and craves reference to the language of the entire documents.

14. Regarding paragraphs 17, 18, 19 and 20, admits so much as is reflected by the Deeds in question, and denies the remainder. County emphasizes MRR's multiple violations of other portions of the agreements, MRR's major and material misrepresentations, and its unlawful actions.

15. Upon information and belief admits so much of paragraph 21 as would indicate that MRR obtained an appraisal at said amount. Denies the remainder and demands strict proof thereof.

16. Admits so much of paragraph 22 as would indicate the language of the agreements, and denies the remainder. County references again MRR's misrepresentations, fraudulent acts and unlawful actions. County agreed for MRR to operate a C&D/LCD landfill.

17. Regarding paragraphs 23, 24, 25 and 26, admits so much as is stated in the relevant documents, and denies the remainder.

18. Regarding paragraph 27, admits so much as indicates the approval by Planning Commission, and denies the remainder. However, County would show that representatives of MRR made willful, intentional, and knowing material misrepresentations to the Planning Commission, and further, that MRR made fraudulent omissions of material information to the Planning Commission. Any actions of Planning Commission were made in reliance upon MRR's misrepresentations, fraud and fraudulent omissions. Reference is craved to the Transcript of the January 12, 2015 Planning Commission meeting.

19. Admits so much of paragraphs 28 and 29 as would reflect the actual language of the letter of January 13, 2015, and denies the remainder. County emphasizes its reliance upon MRR's willful misrepresentations, and MRR's fraudulent acts and fraudulent omissions.

20. Regarding paragraphs 30 and 31, does not have sufficient knowledge upon which to base a response, and therefore denies same and demands strict proof thereof. Further County would show that County continues to allow MRR to operate a C&D/LCD landfill, in accord with the agreements and representations by MRR, and in strict compliance with the Permit issued by DHEC on November 3, 2008, which includes Special Condition No. 2.

21. Regarding paragraphs 32, 33, 34, 35 and 36, admits so much as is reflected by the Agenda and the letter of January 11, 2016, and denies the remainder of said paragraphs. Further, County would show that the Planning Commission letter of January 11, 2016 instructed MRR to present "sufficient information to the Commission of your intention to strictly comply with our 2007 and 2015 land use approval and receive a renewal of your permit from the Commission." Rather than comply with the instruction to provide information of intent to comply with the relevant agreements, MRR failed and refused to comply with the instruction, and failed and refused to request

an Appeal or Review to Planning Commission, and instead filed this lawsuit. County further references MRR's misrepresentations and fraudulent and unlawful actions.

22. Denies paragraph 37, and craves reference to the specific language of the letter of January 11, 2016.

23. Denies paragraph 38 entirely, and would show that MRR has intentionally made material misrepresentations and has acted fraudulently and unlawfully.

24. Denies paragraphs 39, 40, 41 and 42. County again emphasizes that MRR failed and refused to provide the information requested by the Planning Commission in its letter of January 11, 2016, failed to seek Review or Appeal to Planning Commission. County further emphasizes MRR's willful material misrepresentations and its fraudulent and unlawful actions.

25. Denies paragraphs 43, 44, 45, 46 and 47, and would show that MRR's allegations in this Verified Complaint are willfully false, misleading and fraudulent, such that this Court should appropriately sanction MRR for knowingly misrepresenting to this Court, as well as misrepresenting to County.

26. Regarding paragraph 48, craves reference to the minutes of the meeting, and denies the remainder. However, County refers this Court to the actual Transcript of said Planning Commission meeting of January 12, 2015, which reveals willful and fraudulent material misrepresentations by MRR.

27. Denies paragraphs 49, 50 and 51, and would show that County agrees that MRR may operate a C&D/LCD landfill, in accord with agreements and representations by MRR, and as provided strictly in the Permit issued November 3, 2008, which includes Special Condition No. 2. County recognizes the appropriate role of DHEC, but would show that MRR must not act

fraudulently or unlawfully. Further, any actions by MRR and DHEC must be consistent with the Pickens County Solid Waste Management Plan of 2013, which disallows "Special Waste" and disallows a Class Three Landfill and any Class Three solid waste.

28. Regarding paragraphs 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64, County has insufficient knowledge of any attempts by MRR to contract with any entity to bring coal ash or CCR waste into Pickens County, and therefore denies same and demands strict proof thereof. Denies the remainder of said paragraphs, and would show that the attempts by MRR to place coal ash and/or CCR waste into this landfill in Pickens County are unlawful, are in violation of the Pickens County Solid Waste Management Plan, and are in direct contradiction of the multiple representations made by MRR and its agents and representatives, and constitute fraudulent activity. Further, Pickens County continues to agree for MRR to operate a C&D/LCD Landfill, in accord with relevant agreements and representations by MRR, and in strict accord with the Permit issued on November 3, 2008.

29. Regarding paragraphs 65, 66 and 67, denies that MRR lawfully obtained any modifications to the Permit issued by DHEC on November 3, 2008, and would show that any modifications thereafter were obtained unlawfully and through misrepresentations and fraudulent acts, and without any notice to Pickens County. County recognizes the full language of the relevant regulations and statutes. County would show that MRR's actions violated both statutes and regulations.

30. Regarding paragraph 68, County has insufficient information upon which to base a response and therefore denies same. County would show that deposit of CCR into this landfill

would violate statutes and regulations and would contravene agreements and representations by MRR, and would violate the Pickens County Solid Waste Management Plan of 2013.

31. Denies paragraph 69 of the Complaint.

32. Admits so much of paragraph 70 as reflects the existence of said statute, but would show that Plaintiff failed and refused to provide the information requested by Planning Commission in its letter of January 11, 2016, and has failed and refused to request Review or Appeal to Planning Commission, and has therefore failed to exhaust administrative remedies, and therefore is not entitled to bring this Appeal to this Court.

33. Denies paragraphs 71, 72, 73, 74, 75, 76, 77, 78 and 79, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

34. Denies paragraphs 80, 81, 82, 83, 84, 85 and 86, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

35. Denies paragraphs 87, 88 and 89, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

36. Denies paragraphs 90, 91, 92, 93, 94, 95, 96 and 97, other than recognition of the actual language of the documents referenced, and would show that MRR's actions are fraught with

misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

37. Denies paragraphs 98, 99, 100, 101, 102, 103, 104 and 105, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

38. Denies paragraphs 106, 107, 108, 109, 110 and 111, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

39. Denies paragraphs 112, 113, 114, 115, 116, 117 and 118, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

40. Denies paragraphs 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134 and 135, other than recognition of the specific language of referenced statutes, and would show that MRR's actions are fraught with misrepresentations to Pickens County, misrepresentations to this Court, and fraudulent and unlawful behavior, such that MRR is entitled to no relief of any kind, but instead should be sanctioned by this Court.

AS A SECOND DEFENSE
FAILURE TO STATE VIABLE CLAIM

41. County reaffirms its earlier allegations as fully as if repeated herein.
42. Plaintiff has failed to state viable claims and/or legitimate basis for any viable claims, and its eight Causes of Action must be denied and dismissed.

AS A THIRD DEFENSE
SOUTH CAROLINA TORT CLAIMS ACT

43. County reaffirms its earlier allegations as fully as if repeated herein.
44. To the extent that any or all of Plaintiff's claims constitute a Tort, or allege tortious conduct, such claims and/or allegations are subject to the South Carolina Tort Claims Act, S.C. Code Sections 15-78-10, et seq., and therefore must fail, as being prohibited by the statutory exemptions to the waiver of immunity, as set forth in Sec. 15-78-120, and is proscribed from requesting or receiving any punitive damages.

AS A FOURTH DEFENSE
UNCLEAN HANDS

45. County reaffirms its earlier allegations as fully as if repeated herein.
46. Due to the willful and material misrepresentations to County, the willful and material misrepresentations to this Court, and the fraudulent and unlawful actions and fraudulent omissions of Plaintiff, Plaintiff has unclean hands, and is entitled to no relief of any kind, but instead should be sanctioned by this Court for its conduct.

AS A FIFTH DEFENSE
UNJUST ENRICHMENT

47. County reaffirms its earlier allegations as fully as if repeated herein.

48. Due to the willful and material misrepresentations to County, the willful and material misrepresentations to this Court, and the fraudulent and unlawful actions and fraudulent omissions of Plaintiff, Plaintiff would be unjustly enriched were it to obtain any monetary award or relief from Pickens County. Instead, Plaintiff should be sanctioned by this Court for its conduct.

AS A SIXTH DEFENSE
INTENTIONAL ACTS AND INTENTIONAL CONDUCT OF PLAINTIFF

49. County reaffirms its earlier allegations as fully as if repeated herein.

50. Due to the Intentional Acts and Intentional Conduct of Plaintiff, which precipitated any controversy between these parties, and which includes willful and material misrepresentations to Pickens County, willful and material misrepresentations to this Court, and the fraudulent and unlawful actions and fraudulent omissions of Plaintiff, Plaintiff is entitled to no relief, but instead should be sanctioned by this Court.

AS A SEVENTH DEFENSE
FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES

51. County reaffirms its earlier allegations as fully as if repeated herein.

52. Plaintiff has failed and refused to exhaust administrative remedies with the Pickens County Planning Commission, in failing and refusing to request Review or Appeal to Planning Commission, and further, in failing and refusing to provide the information requested by Planning Commission in its letter of January 11, 2016.

53. Further, Plaintiff failed and refused to respond to reasonable and relevant questions posed to it by Planning Commission, particularly regarding its intent to deposit coal ash/CCR waste into the landfill, which substantially contributed to Planning Commission's actions.

54. Having failed and refused to pursue available and reasonable administrative remedies with Planning Commission, Plaintiff is barred from pursuing any Appeal to this Court, and/or any other request for relief from this Court.

AS AN EIGHTH DEFENSE
FRAUDULENT ACTS BY PLAINTIFF

55. County reaffirms its earlier allegations as fully as if repeated herein.

56. Due to the Fraud, Fraudulent Acts, Fraud in the Inducement and Fraudulent Omissions by Plaintiff (as are more fully stated hereinbelow, for which County craves reference), Plaintiff is entitled to no relief whatsoever, but instead should be sanctioned by this Court.

AS A NINTH DEFENSE
ILLEGALITY OF ACTIONS

57. County reaffirms its earlier allegations as fully as if repeated herein.

58. Plaintiff has committed a number of unlawful and/or illegal actions relevant to the issues in this case, including but not limited to:

- (A) Efforts to place coal ash/CCR waste into the landfill as permitted November 3, 2008, which would violate Federal and South Carolina Statutes and Regulations, and which would violate the "Special Waste" provisions of the Pickens County Solid Waste Management Plan of 2013 (and as defined in S.C. Code Sec. 44-96-390), and which would violate agreements with Pickens County and which contravene MRR's representations to Pickens County.
- (B) Efforts to change the Permit Conditions of the Permit issued November 3, 2008, including major modifications of the Permit, without any notice to

Pickens County, secretly, clandestinely and with specific intent to obtain major changes, without notice to Pickens County or to the public, in violation of the South Carolina Solid Waste Management Act, Sec. 44-96-10, et seq., and Regulations, including but not limited to R. 61-107.19, Part I, A. 48. (defining "major modification" and "minor modification," R. 61-107.19, Part IV, I. 2 (requiring public review and public comment for major modifications)).

- (C) Other material misrepresentations and acts of fraudulent conduct in its conduct with Pickens County officials, to procure and in its efforts to obtain inappropriate major modifications to its Permit, clandestinely, secretly and without notice to Pickens County or to the public.

AS A TENTH DEFENSE
UNCONSCIONABILITY

59. County reaffirms its earlier allegations as fully as if repeated herein.

60. Due to the material and willful misrepresentations by Plaintiff, and the fraudulent conduct by Plaintiff, any relief to Plaintiff would be unconscionable and must be denied.

61. That Plaintiff's material and willful misrepresentations, and its fraudulent conduct, are unconscionable, and any relief to Plaintiff must be denied, and instead, this Court should sanction Plaintiff for such conduct.

AS AN ELEVENTH DEFENSE
FURTHER ALLEGATIONS IN SUPPORT OF PICKENS COUNTY'S
DEFENSES AND COUNTERCLAIMS

62. County reaffirms its earlier allegations as fully as if repeated herein.

63. That on all occasions, and at all meetings and in all discussions between Plaintiff and Pickens County, from initial discussions in 2006-2007, through the County Planning Commission meeting of January 12, 2015, MRR and its agents and representatives always represented that this landfill was to be for Construction and Demolition and Land Clearing Debris (C&D/LCD), and not for other categories of wastes. These representations by MRR and its agents and representatives were material representations. At all times, Pickens County and its officials made it clear that this landfill was to be limited to C&D/LCD.

64. That on November 3, 2008, DHEC issued a Permit to Plaintiff, to operate the facility named in the Permit as "Highway 93 C&D Landfill." Said Permit appropriately contained the following Special Condition:

This Permit is limited solely to the disposal of items listed in Appendix I of R. 61-107.19. All other wastes, including animal carcasses, are prohibited from disposal in this landfill.

(County refers this Court to Appendix I of said Regulation, which includes categories of Land Clearing Debris, Construction and Demolition waste, Brown Goods (i.e., used furniture and the like), and Animal Carcasses).

65. That the Special Condition of the November 3, 2008 Permit, as stated above, was appropriate and acceptable to Pickens County.

66. That until the recent present controversy between Plaintiff and Pickens County arose, Pickens County remained under the understanding and belief that the 2008 Permit remained intact.

67. That, in accord with the Development Agreement of 2007 and the Host Agreement of 2007, Pickens County revised its Solid Waste Management Plan in 2013 (SWMP). Plaintiff approved the 2013 SWMP.

68. That by statute, any action by Plaintiff and DHEC in regard to a solid waste facility must be consistent with the local government's SWMP.

69. That the 2013 SWMP prohibits "Special Wastes" (p. 18, SWMP), and as defined by S.C. Code Section 44-96-390. Further, no Class Three Landfill is allowed in Pickens County, nor is such permittable, under current Demonstration of Need Regulations.

70. That, only since the recent controversy between Plaintiff and Pickens County has arisen, Pickens County has learned that throughout 2014, and throughout much of 2015, MRR and its agents and representatives, were meeting and engaging in extensive communications, decisions and meetings with S.C. DHEC, in an effort to bring about major modifications and substantial changes to the November 3, 2008 Permit, all secretively, clandestinely and underhandedly, and without any notice to Pickens County or to the public.

71. That Pickens County has very recently learned, that in 2014 and 2015, MRR and its agents and representatives, filed at least three (3) major engineering reports and plans with DHEC, all without any notice of any kind to Pickens County or to the pubic, including:

- (A) Work Plan for Site-Specific Hydrogeologic Investigation - prepared for MRR by Civil & Environmental Consultants, Inc. (CEC), August 2014. On page 5 of said Report, CEC states:

The permit, issued in November 2008, is for a Construction, Demolition, and Land-Clearing Landfill . . .

Such statement above is an accurate statement. However, the Report states further:

During recent meetings between MRR and DHEC, it was confirmed that the modification of the Class Two Permit to meet the requirements of Regulation R. 61-107.19. Part V. Class Three Landfills would require a minor permit modification. (emphasis added).

- (B) Site-Specific Hydrogeologic Investigation Report - prepared by CEC for MRR, submitted to DHEC December 2014. On page 1 is found the following:

The Permit, issued in November 2008, is for a Construction, Demolition, and Land-Clearing Landfill

Also:

During recent meetings between MRR and DHEC, it was confirmed that a modification of the Class Two Landfill Permit to meet the requirements of Regulation R. 61-107.19. Part V Class Three Landfills would require a minor permit modification, to satisfy the Class Three Landfill requirements, MRR engaged Civil & Environmental Consultants, Inc. (CEC) to conduct further hydrogeologic evaluation of the proposed landfill to provide additional data for a permit modification.

- (C) "Minor Permit Modification"

Prepared for MRR Southern, LLC by CEC, submitted to DHEC March 2015 (updated August 2015). The following found on page 2:

This document consists of a Minor Permit Modification Application to obtain the option to develop cells of the Facility with an Alternate Liner System as opposed to the currently permitted Class 2 System.

Also, on page 51:

The landfill will accept Class 2 and certain special wastes

72. That neither MRR nor DHEC ever notified Pickens County or the public that MRR was preparing such reports and making efforts to modify the Permit in any manner, to add an Alternate Liner System, to deposit special wastes, to change the Permit from Class Two to meet the requirements of Class Three Landfills, or any other modifications of the Permit or of the landfill or of wastes to be deposited into the landfill.

73. To the contrary, and in direct contradiction to the above, MRR and its representatives and agents continued to inform Pickens County that its intent was the same as in 2007, to construct and operate a C&D/LCD landfill.

74. That as a result of the aforesaid secretive, clandestine, underhanded and fraudulent discussions, communications and meetings between MRR and DHEC, DHEC issued a Major Modification (as defined by Reg. 61-107.19 Part I, B. 48), although inappropriately and unlawfully characterizing it as a "minor modification," in an effort by MRR to avoid any notice or disclosure of its untoward actions and intentions to Pickens County or to the public. Said Permit, which was unlawfully and inappropriately obtained, and which should be declared void by this Court, radically and majorly changes and substantially alters the facility, substantially alters its operations, and alters

the Class Two design requirements, and potentially would allow "special wastes" such as coal ash and other "special wastes." Said Permit is dated August 10, 2015.

75. That as of the date of the issuance of this pleading, neither DHEC nor MRR has formally notified Pickens County of the issuance of this unlawfully obtained 2015 Permit, and neither Pickens County nor the public was ever notified or provided any opportunity to comment upon, or be involved in, said substantial, radical and major changes.

76. That despite the aforesaid secretive, clandestine and underhanded meetings, discussions and communications between DHEC and MRR, MRR officials, including MRR's present attorney, engineering consultant Scott Brown, MRR's managing member Hector Norbert, Dan Moore (MRR Project Manager), and General Manager Chris Roof, appeared at the January 12, 2015 meeting of the Pickens County Planning Commission and, incredibly, MRR made the following false and material representations:

- (A) "It's probably also important to note right up front that the land use details and development details for the project are just the same as they were when we got the initial approval on the site back in 2007." (Tr., p. 6).
- (B) "This was previously called and referred to as a construction and demolition debris landfill. This is the same type of facility that the county is operating."
"This is exactly the same type of landfill that the county is operating over on Old Liberty Road" (Tr., p. 8)
(It must be noted that the County's existing facility is for C&D/LCD only).
- (C) "This agreement requires MRR to provide the county with all of our regulatory reports, things such as semiannual groundwater monitoring

reports, any compliance issues, notices of violation. We have to -- anything we submit to DHEC has to be submitted to you all at the very same time we submit it to DHEC." (Tr., p. 11).

Note: The above statement accurately describes MRR's duties to notify Pickens County of filings with DHEC; yet, MRR had at that point failed to provide Pickens County with any information related to its ongoing efforts to change the Permit and to change the facility.

(D) MRR denies the need for liners. (See Tr., p. 14).

Note: MRR incredibly states this to Planning Commission, despite enormous efforts and submission of extensive engineering reports, for the purpose of adding a liner.

77. That in late 2015, MRR refused to respond to requests for information concerning its intentions to deposit coal ash into this landfill, instead continuing its course of action of fraud and deceit.

78. That at the Planning Commission meeting in January of 2015 MRR continued to refuse to provide full and appropriate information concerning its intentions to deposit coal ash and/or other wastes into this landfill, which led to the issuance of the January 11, 2016 letter.

AS A TWELFTH DEFENSE AND BY WAY OF COUNTERCLAIM
FRAUD

79. County reaffirms its earlier allegations as fully as if repeated herein.

80. That the actions of MRR constitute Fraud, in that:

(A) MRR, its agents and representatives, made numerous representations to Pickens County concerning its intentions to construct and operate

a landfill only for C&D/LCD waste, and made further representations, as referenced hereinabove, at the January 12, 2015 Planning Commission meeting.

- (B) That MRR's representations were false.
- (C) That MRR knew that these representations were false.
- (D) That Pickens County relied upon MRR's representations.
- (E) That said representations were material in all communications and transactions with Pickens County.
- (F) That Pickens County had a right to rely upon the truth of said representations of MRR, and such reliance was reasonable.
- (G) That Pickens County was without knowledge of the falsity of MRR's representations.
- (H) That MRR intended for Pickens County to rely upon these representations and for Pickens County to act based upon these representations.
- (I) That as a result of the above, Pickens County consequently suffered proximate injury.

81. That Pickens County's damages and injuries include, but are not limited to, the use of extensive County resources, time and personnel in the pursuit of an appropriate C&D/LCD Landfill to be available for its citizens, and all costs and expenses related thereto, as well as the loss of available C&D/LCD disposal for its citizens once the existing County Landfill is full (should MRR continue to violate its agreements and representations); and in the event that MRR does

deposit wastes, such as coal ash, CCR, other "special wastes," and/or other wastes inappropriate for this C&D/LCD Landfill, then Pickens County and its citizens will suffer additional damages and injuries to persons, property and environment.

**AS A THIRTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
BREACH OF CONTRACT**

82. County reaffirms its earlier allegations as fully as if repeated herein.

83. That due to the misrepresentations and inappropriate and unlawful actions by MRR, MRR has breached its Development Agreement and Host Agreement with Pickens County, has breached the terms and conditions of the November 3, 2008 Permit, and has violated the Pickens County Solid Waste Management Plan of 2013.

84. That as a proximate result, Pickens County has suffered the damages as set forth in paragraph 81 above.

**AS A FOURTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
FRAUD IN THE INDUCEMENT**

85. County reaffirms its earlier allegations as fully as if repeated herein.

86. That MRR willfully and fraudulently induced Pickens County to enter into the relevant agreements and to grant relevant approvals for certain actions of MRR, through use of misrepresentations and other acts of fraud.

87. That as a proximate result, Pickens County has suffered the damages as set forth in paragraph 81 above.

**AS A FIFTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
FRAUDULENT ACTS ACCOMPANYING THE BREACH**

88. County reaffirms its earlier allegations as fully as if repeated herein.

89. That in addition to breaching its contracts and agreements with Pickens County, MRR has committed Fraudulent Acts accompanying the breaches of contract, including but not limited to:

- (A) Misrepresenting and continuing to misrepresent its intentions and the true nature of its facility and operations, throughout the years from 2007 to the present.
- (B) Misrepresenting and making intentional false statements at the Planning Commission meeting of January 12, 2015.
- (C) Violating its duty to provide Pickens County with its filings and submissions of reports, studies and documents designed to change the 2008 Permit.
- (D) Fraudulently concealing its ongoing meetings, submissions of reports and studies and documents, and communications with DHEC in 2014 and 2015, and perhaps at other times not yet discovered by Pickens County.
- (E) Fraudulently omitting from discussions and representations with Pickens County its efforts to change the 2008 Permit and to change the agreed-upon facility and operations.

90. That as a proximate result, Pickens County suffered the damages as set forth in paragraph 81 above.

AS A SIXTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
FRAUDULENT OMISSIONS

91. County reaffirms its earlier allegations as fully as if repeated herein.

92. That MRR fraudulently omitted material information from its representations and communications with Pickens County, including but not limited to, its true intentions to deposit

wastes other than C&D/LCD into this landfill, and its intentions and activities to materially change the Permit, the facility and its operations, from what was agreed upon with Pickens County.

93. That as a proximate result, Pickens County suffered the damages as set forth in paragraph 81 above.

AS A SEVENTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
FRAUDULENT CONCEALMENT

94. County reaffirms its earlier allegations as fully as if repeated herein.

95. That MRR fraudulently concealed from Pickens County its true intentions for this landfill, as well as its ongoing activities to substantially change the Permit, the landfill and its operations, and the types of intended wastes, from what was agreed upon with Pickens County, in an ongoing effort to avoid any opposition to such by Pickens and in an ongoing effort to continue receiving approvals from Pickens County.

96. That as a proximate result, Pickens County suffered the damages as set forth in paragraph 81 above.

AS A EIGHTEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
INTENTIONAL ACTS

97. County reaffirms its earlier allegations as fully as if repeated herein.

98. That the misrepresentations of MRR, its agents and representatives, and its ongoing activities to substantially change the Permit, the landfill, its operations, and the types of intended wastes, from what was agreed upon with Pickens County, in an ongoing effort to prevent opposition from Pickens County and in an ongoing effort to receive approvals from Pickens County, were done intentionally and willfully and constitute Intentional Acts.

99. That as a proximate result, Pickens County suffered the damages as set forth in paragraph 81 above.

AS A NINETEENTH DEFENSE AND BY WAY OF COUNTERCLAIM
ABUSE OF PROCESS

100. County reaffirms its earlier allegations as fully as if repeated herein.

101. That this action by MRR, together with its Motion for Emergency Temporary Injunction, have been brought by MRR with and through an ulterior purpose, and constitute willful acts in the use of legal process which are not proper or warranted in the regular conduct of actions and transactions with Pickens County.

102. That the aforesaid actions and filings by MRR, which has acted with fraud and deceit, and which has unclean hands, are aimed at objectives not legitimate in the use of legal process.

103. That the aforesaid actions and filings by MRR are an attempt at coercion, to obtain a collateral advantage, and to obtain inappropriate advantage, including the attempts to force upon Pickens County an inappropriate and unwanted landfill operation, with intended inappropriate waste disposal, into Pickens County.

104. That MRR has acted with fraud and deceit and has unclean hands, and is entitled to none of the relief it seeks in these legal actions it has filed.

105. That MRR, in the presentation of its Verified Complaint, and in the Affidavits issued in support of its Motion for Emergency Temporary Injunction, has made and continues to make patently false representations to this Court.

106. That as a proximate result, Pickens County suffered the damages as set forth in paragraph 81 above.

AS A TWENTIETH DEFENSE AND BY WAY OF COUNTERCLAIM
UNFAIR TRADE PRACTICES ACT

107. County reaffirms its earlier allegations as fully as if repeated herein.
108. That MRR has engaged in unfair and deceptive acts and practices in the conduct of its trade and the conduct of commerce.
109. That MRR's unfair and deceptive acts and practices are in violation of the South Carolina Unfair Trade Practices Act, S.C. Code Sections 39-5-10, et seq.
110. That MRR's unfair and deceptive acts and practices are offensive to public policy and are immoral, unethical and oppressive.
111. That MRR's unfair and deceptive acts and practices adversely affect the public interest, and have the potential and likelihood for repetition.
112. That Pickens County has been proximately damaged as a result of MRR's unfair and deceptive acts and practices, and per S.C. Code Section 39-5-140, Pickens County is entitled to treble damages, attorneys fees and costs for this action.

AS A TWENTY-FIRST DEFENSE AND BY WAY OF COUNTERCLAIM
DECLARATORY JUDGMENT AND INJUNCTION

113. County reaffirms its earlier allegations as fully as if repeated herein.
114. That Pickens County is in need of, and entitled to, an Order and/or Declaratory Judgment and/or Injunction of this Court:
- (A) Preventing MRR from depositing any coal ash or Coal Combustion Residue (CCR) into this landfill in Pickens County.

- (B) Preventing MRR from depositing any wastes which meet the definition of "Special Waste," per S.C. Code Section 44-96-390 and per the 2013 Pickens County Solid Waste Management Plan, into this landfill in Pickens County.
- (C) Prohibiting MRR from depositing into this landfill in Pickens County, any wastes which are not specifically listed on Appendix I to R. 61-107.19.
- (D) Finding that the Permit issued by DHEC on November 3, 2008, is the only valid Permit for this landfill.
- (E) Finding that the Permit/Permit Modification issued August 10, 2015 has no validity, was unlawfully obtained, and is null and void.
- (F) Finding that MRR must fully comply with, and its actions must be fully consistent with, the 2013 Pickens County Solid Waste Management Plan.

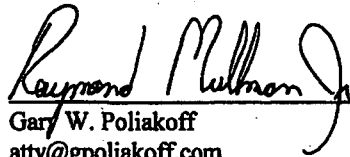
115. That, for the acts of fraud and/or fraudulent behavior, and for all intentional acts of MRR as referenced herein, Pickens County is entitled to punitive damages.

WHEREFORE, Pickens County prays:

- (A) That all claims of MRR be denied and dismissed.
- (B) For Judgment against MRR for damages related to any and all Counterclaims advanced herein, as actual damages.
- (C) For Punitive Damages, for any and all acts of MRR constituting fraud, fraudulent behavior, any form of fraud, and/or intentional acts, in an amount to be determined by this Court.
- (D) For the violations of the Unfair Trade Practices Act, treble damages, plus costs and attorneys fees related to this action.

- (E) For Declaratory Judgment, Injunction and/or Order of this Court, as set forth in paragraphs 113 and 114 herein.
- (F) For such other and further relief as this Court may deem just and proper.

March 2, 2016
Spartanburg, SC



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ATTORNEYS FOR PICKENS COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS
MRR Pickens, LLC,
Plaintiff,
vs.
County of Pickens and William Cato, Weldon
Clark, Robert Ballentine, Jo Johnston, Dennis
Reinert, and Bob Young, individually and in
their official capacity as appointed members of
the Pickens County Planning Commission,
Defendants.

2016 MAR 3 AM 11 01
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION No.: 2016-CP-39-100

**PLAINTIFF MRR PICKENS, LLC'S
MOTION TO RECONSIDER ORDER ON
PRELIMINARY INJUNCTION**

Pursuant to Rule 59 of the South Carolina Rules of Civil Procedure (SCRCP), Plaintiff MRR Pickens, LLC ("MRR Pickens" or "Plaintiff") respectfully moves to alter, amend, and/or reconsider the Court's Order signed by Judge Robin B. Stilwell dated and received by the Plaintiff on February 22, 2016 on Plaintiff's Motion for Preliminary Injunction. MRR Pickens requests the Order be amended or altered as following:

I. THE TRIAL COURT ERRONEOUSLY ENJOINED MRR PICKENS FROM ACCEPTING COAL ASH

This Court should alter and amend its Order to delete the sentence in the Order that states: "For further clarification, the Plaintiff is specifically proscribed from dumping any coal ash at the subject dump site during the pendency of this action." (Order p. 2). The Court's Order correctly recognizes that MRR Pickens has a permit to operate a Class Two Landfill in Pickens County; however, the Order enjoins the lawful scope of the Class Two Permit by prohibiting coal combustion residuals (CCRs) or Coal Ash. The Class Two Permit includes CCR or Coal Ash, as this type of waste is permitted under MRR Pickens' Landfill Permit Number LF2-00003

("Permit"), as issued in 2008 and modified in 2015.¹ Respectfully, this conclusion is in error and constitutes a wrongful injunction against MRR Pickens.

A. Coal Ash or CCR as a Waste Stream is and Always Has Been Allowed under MRR Pickens' SCDHEC Class Two Landfill Permit Number LF2-00003

The Court erred in entering an order that actually enjoins MRR Pickens. This Order prohibits MRR Pickens from accepting any coal ash, which significantly limits the scope of its duly authorized South Carolina Department of Health and Environmental Control (SCDHEC) Permit. The Order implies the Court's decision is based on a finding that the parties had a meeting of the minds as reflected in the 2008 Permit and the 2008 Permit does not allow CCR. This is not correct.

The Permit as written in 2008 and as modified in 2015 both permit CCR. The 2008 version of the Permit was issued under the current Solid Waste Management Regulations, Reg. 61-107.19, promulgated, administered, and enforced by SCDHEC. Part I of Reg. 61-107.19 states: "This regulation establishes minimum standards for the site selection, design, operation, and closure of all solid waste landfills and structural fill areas. Disposal of waste under the purview of this regulation is based on the waste's chemical/physical properties and is not dependent upon the source of generation with the exception of municipal solid waste that shall be disposed in Class Three landfills."

The language in the Permit as written in 2008 states: "This permit is limited solely to the disposal of items listed in Appendix I of R. 61-107.19." *Ex. 11* to Response of Pickens County to Plaintiff MRR Pickens, LLC's Motion for an Emergency Preliminary Injunction. A waste stream, such as CCR or coal ash, is included in Appendix I of R. 61-107.19. This Appendix states that "[a]cceptable wastes may be generated by construction, demolition, land-clearing,

¹ For clarification, MRR Pickens has not been issued two (2) permits nor are referenced permits separate and distinct. Only one permit exists: Class 2 Landfill Permit No. LF2-00003.

industrial, and/or manufacturing activities, and/or obtained from segregated commercial waste."

R. 61-107.19, App. I (emphasis added). Under Part IV.A of R. 61-107.19, Appendix I includes waste streams, such as CCR or coal ash, that demonstrate similar properties to the wastes listed and are approved by SCDHEC on a case-by-case basis, or waste that test less than ten (<10) times the maximum contaminant level (MCL) as published in R. 61-58, State Primary Drinking Water Regulation. CCR or coal ash falls within the waste characterization standard of R. 61-107.19.

As set forth in the Verified Complaint and the memorandum in support, MRR Pickens' Permit would allow CCR or coal ash in both its 2008 version or its recently modified version. During the hearing, MRR Pickens' counsel clarified that CCR or coal ash is a waste stream that falls within its Permit under R. 61-107.19. Specifically, CCR or coal ash falls within MRR Pickens' permitted SCDHEC Class 2 Landfill because it is waste that tests less than ten (<10) times the maximum contaminant level (MCL) as referenced above. This is the accepted threshold for a Class Two Landfill in South Carolina. In fact, CCR or coal ash is and has been accepted in Class Two Landfills or its equivalent for nearly 25-30 years² in South Carolina under SCDHEC oversight and authorization. See Exhibit 1 to MRR Pickens' Reply Memorandum. Further, there is nothing in the Permit that excludes CCR or coal ash. However, this Court's Order impermissibly singles out CCR or coal ash, and treats this type of Class Two waste as prohibited under the Permit.

² Santee Cooper's "Class 2 Landfill currently accepts [CCRs including] flue gas emissions (FGD) control residuals, bottom ash, fixated fly ash, and boiler slag." *Ex. 1* to Plaintiff MRR Pickens, LLC's Reply to Response of Pickens County, at p. 7 (emphasis added). The "Class 2 Landfill is regulated under SCDHEC's Solid Waste Management regulations. It was originally permitted in 1982 and began receiving CCRs in 1984." *Id.* at p. 8. CCR meeting regulatory criteria and approved by SCDHEC has always been Class Two waste as prescribed by R. 61-107.19, Appendix I, and has been allowed in at least 12 Class Two landfills across the State. *Ex. 13* to Plaintiff MRR Pickens, LLC's Memorandum in Support of Motion for Emergency Preliminary Injunction. CCR is not Class Three waste or special waste as argued by Defendant Pickens County's counsel during the hearing.

B. MRR Pickens Should Not be Enjoined by the Court *Sua Sponte* on Its Motion.

The Court erred in *sua sponte* entering an order that enjoins MRR Pickens. The Defendants never moved for a preliminary injunction. MRR Pickens was the only movant before the Court and without proper notice or motion, a trial court cannot *sua sponte* enjoin this party. Rule 65, SCRPC, prohibits an injunction that suspends a business unless proper notice of that purported action is provided. The Court's Order suspends MRR Pickens's business of accepting CCR. If this is the conclusion that this Court intends to make, then MRR Pickens should be allowed to present evidence, including testimony from SCDHEC officials, that CCR or coal ash is an acceptable Class Two waste allowed under MRR Pickens' lawful permit issued in 2008 and as written under its 2015 modification. As this Order now stands, MRR Pickens' due process rights have been necessarily violated and it suffers additional harm by this Court's limitation of the Permit. This Court should alter its Order by deleting the prohibition on CCR or coal ash and allowing MRR Pickens to accept any Class Two waste allowed by SCDHEC after a case-by-case determination.

C. SCDHEC, not this Court, Should Determine what Wastes are Acceptable Class Two Waste under MRR Pickens' Class Two Permit

Only SCDHEC can determine what types of waste are acceptable under its permit. See *Greeneagle, Inc. v. S.C. Dep't of Health & Evtl. Control*, 399 S.C. 91, 730 S.E.2d 869 (S.C. App. 2012) (holding that DHEC has sole authority to issue, deny, revoke, or modify permits); S.C. Code Ann. §§ 44-96-260(1) & (2)(2015). As *Greeneagle* states, DHEC is final arbiter and charged with authority to determine if waste meets environmental classifications. *Id.* Should there be a conflict as to whether CCR or coal ash is allowable under the Permit, then this dispute is only proper for SCDHEC to determine and, if timely, the South Carolina Administrative Law

Courts to adjudicate. *Id.*; S.C. Code Ann. §§ 44-1-60 & 1-23-600(D)(2015). Respectfully, this Court lacks jurisdiction to limit or modify MRR Pickens' lawfully granted Permit and overstepped its authority by holding that MRR Pickens must comply with its 2008 permit (and not its 2015 modified version), and that its 2008 permit does not allow the acceptance of CCR.

Thus, this Court should properly find that MRR Pickens has a Class Two Permit and allow SCDHEC and, if necessary, the South Carolina Administrative Law Court to determine the nature and scope of the Permit and R. 61-107.19.

II. THE TRIAL COURT SHOULD RECONSIDER ITS ORDER REGARDING IRREPARABLE HARM

MRR Pickens has shown irreparable harm based on the Verified Complaint, affidavit testimony, and exhibits presented at the hearing. "The sole purpose of a temporary injunction is to . . . avoid possible irreparable injury to a party pending litigation." *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 600, 553 S.E.2d 110 (2001). "Irreparable injury does not mean that the injury is beyond the possibility of compensation in damages." Flanagan, J., *South Carolina Civil Procedure*, 3rd Ed. (S.C. Bar. 2010) p. 533. Irreparable harm exists in circumstances where there is misappropriation or denial of the use of property, the limitation on one's property rights, or the loss of business. See *Levine v. Spartanburg Reg'l Services Dist.*, 626 S.E.2d 38, 367 S.C. 458 (S.C. App. 2005). As the *Levine* opinion held the "the potential loss of a business satisfies the irreparable harm requirement for the issuance of an injunction" and "loss of business goodwill or loss that is not easily calculated in pecuniary terms is sufficient to show irreparable injury for purposes of obtaining a temporary injunction." *Id.*

The potential of irreparable harm to MRR Pickens is overwhelming. MRR Pickens' only business is the operation of a Class Two Landfill on its property in Pickens County (the "Property"). MRR Pickens is properly permitted by SCDHEC and has entered into agreements

with Pickens County to operate its Class Two Landfill without limitation. Because the County now wants to prohibit MRR Pickens from accepting CCR waste, the County has prevented MRR Pickens from conducting any business on the Property. By taking away the right to operate as a Class Two Landfill, the County prevents MRR Pickens from pursuing and procuring business opportunities, including but not limited to disposal of CCR, or risk going to jail. The number and magnitude of missed business opportunities is vast and continues to grow given the broad impact of the County's actions. As set forth in the Verified Complaint and the affidavit testimony, the Termination Notice prevents MRR Pickens from contracting with any third parties. The danger is imminent that MRR Pickens will daily lose contracts and business opportunities with third parties for waste disposal allowed by its Class Two Permit. For these reasons, this Court should reconsider, alter, and amend its Order to find that the potential for irreparable harm exists to MRR Pickens without an injunction.

III. THE TRIAL COURT SHOULD RECONSIDER ITS ORDER REGARDING NO ADEQUATE REMEDY AT LAW.

MRR Pickens has shown that no adequate remedy at law exists for the harm that will suffer during the pendency of this action. South Carolina law is well established that no adequate remedy at law exists in cases involving loss of a business opportunity, loss of business goodwill, and economic loss that could threaten the very existence of a plaintiff's business. *See Levine v. Spartanburg Reg'l Services Dist.*, 626 S.E.2d 38, 367 S.C. 458 (S.C. App. 2005). There is simply no adequate remedy at law to prevent the loss of a business opportunity, loss of business goodwill, and economic loss which threatens the existence of a MRR Pickens' business. As the court in *Levine* recognized, it is difficult to quantify a pecuniary losses that relate to goodwill or an action that threatens the very existence of one's business. Furthermore, South Carolina law holds that the no adequate remedy at law element is met when the use or enjoyment

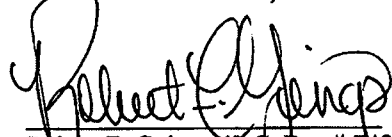
of one's property rights are restricted. See *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 699 S.E.2d 699 (S.C. App. 2010) (holding that a money damages cannot provide an adequate remedy for the restriction to real property). For these reasons, this Court should reconsider, alter, and amend its Order to find that the no adequate remedy at law exists without an injunction.

CONCLUSION

For the reasons stated herein, the Order of February 22, 2016 should be altered, amended, and/or reconsidered by the Court.

Respectfully Submitted,

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