

NOTICE OF ACTIVITY AND USE RESTRICTION

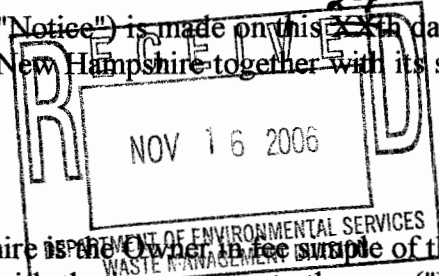
Site: Burns Hill Road Landfill.
Burns Hill Road
Hudson, New Hampshire 03051
Map 211, Lot 66 (Formerly Map 15, Lot 7)

546
Hudson
Planning

FEES:	34.63
SURCHARGE:	2 -
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NHDES Site No.: 198806099

This Notice of Activity and Use Restriction ("Notice") is made on this ²⁴ ~~30~~ day of ~~XXX~~ January 2006 by the Town of Hudson, 12 School Street, Hudson, New Hampshire together with its successors and assigns (collectively "Owner").



WITNESSETH

WHEREAS, Town of Hudson, New Hampshire is the Owner, in fee simple of that certain parcel of land located in Hudson, New Hampshire with the improvements thereon ("Property") and recorded at the Hillsborough County, New Hampshire Registry of Deeds at Book 6653, Page 1722; and,

WHEREAS, a portion of the Property contains an unlined landfill that was inactive in 1979 following a 4- to 5-year period of landfilling that was preceded by open-pit burning. The landfill has been registered with the New Hampshire Department of Environmental Services (NHDES) as a landfill that was not operated after July 10, 1981 and, therefore is not subject to the New Hampshire Solid Waste Rules for closure of a landfill. In accordance with RSA 147-F:15, I, and the New Hampshire Risk Characterization and Management Policy for Contaminated Sites, the presence of the landfill requires that this Notice be implemented to manage potential exposure and restrict development activities within the footprint of the landfill in order to minimize the risks to human health and the environment; and

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached thereto and made a part hereof, is subject to this Notice. The Property is shown on Plan No. 31606 recorded at the Hillsborough County, New Hampshire Registry of Deeds. Exhibit B, attached hereto and made a part hereof, is a reduced copy of such plan showing the Property subject to this Notice; and,

WHEREAS, the NHDES has reviewed and approved this Notice, and has approved the continued use of the property, subject to the restrictions set forth in this Notice.

NOW, THEREFORE, notice is hereby given that the Activity and Use Restrictions ("AUR") set forth below apply to the Property:

1. **Permitted Activities and Uses Set Forth in the AUR.** The AUR provides that, pursuant to RSA Chapter 147-F, no significant risk exists to human health, safety, or public welfare or to the environment, under current conditions and for any foreseeable period of time, so long as the following activities and uses occur on the Property:
 - (a) Commercial or industrial uses as permitted by the Town of Hudson Zoning Ordinances or otherwise by the Town of Hudson.

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- (b) Activities conducted within the Property that do not excavate, or disturb subsurface waste materials and adjacent surrounding soil. Continued periodic staging of construction equipment and supplies by the Town of Hudson provided that this activity does not compromise cover soils.
- (c) Maintenance of cover materials, vegetation, gravel, and placement of additional materials so long as the subsurface waste materials are not disturbed.
- (d) Short term (three months or less) underground utility and/or construction activities including, but not limited to, excavations (including emergency repair of underground utilities), which are likely to disturb waste materials, provided that such activities are conducted in accordance with Obligations/Conditions (a) and (b) of Section 3 of this AUR, and all applicable worker health and safety practices pursuant to regulations promulgated by the Occupational Safety & Health Administration.
- (e) Such other activities and uses, which, in the opinion of an Environmental Consulting Firm and with concurrence by NHDES, shall present no greater risk or harm to human health, safety, or welfare or to the environment than the permitted activities and uses set forth herein.

2. **Restricted Activities and Uses Set Forth in the AUR.** Activities and uses which are inconsistent with the AUR, and which, if implemented at the Restricted Area Property, may result in a significant risk of harm to human health, safety, public welfare, or the environment are as follows:

- (a) Any activity, including, but not limited to excavation, which is likely to disturb waste materials without prior development of the waste management procedures and a Health and Safety Plan in accordance with Obligations/Conditions (a) and (b) in Section 3 of this AUR.
- (b) Use of the restricted area as a residence, school, day care, nursery, recreational areas (such as parks or athletic fields), or any other use at which a child's presence is specifically intended.

3. **Obligations/Conditions.** Obligations and/or Conditions that shall be taken to maintain a condition of no significant risk as set forth in the AUR shall include the following:

- (a) Waste materials and potentially contaminated surrounding soils that are excavated from within the Restricted Area of the site shall be handled and disposed of in accordance with an NHDES-approved Soil Management Plan. Waste materials shall not be filled in other areas of the site. No excavation and removal of waste materials shall be permitted without prior approval of the NHDES.
- (b) Activities at the site that will require the excavation of waste materials and contaminated media shall be completed in compliance with a site-specific Health and Safety Plan prepared by a Certified Hygienist or other qualified health and

safety professional. The Plan shall specify the types of personal protective equipment, monitoring devices, and engineering controls necessary to prevent worker and potential receptor exposures to possible contaminants in the waste materials and adjacent soils. Workers who may come into contact with the waste materials should be appropriately trained on the requirements of the Plan, and the Plan must remain available on-site throughout the course of the project.

- (c) Existing briars and other vegetation shall restrict access to the southern slope. Vehicular access to the top of the restricted area will continue to be provided by strategically placed boulders.
- (d) Maintain existing cover materials that limit access and exposure to waste materials. Maintain drainage swale and gently sloping ground surface on top of the restricted area to minimize pooling of surface water runoff. Install additional materials, as necessary, to prevent exposure of waste materials.
- (e) The NHDES shall be granted permanent access to the Restricted Area of the property for inspection and monitoring purposes.

4. **Emergency Procedures.** In the event of an emergency that requires immediate excavation of the waste materials and contaminated media that may result in a significant risk of harm from exposure to contaminants at the site, the Owner shall:

- (a) Promptly notify NHDES of such emergency or condition.
- (b) Limit disturbance of waste materials to the minimum reasonable necessary to adequately respond to such emergency.
- (c) Implement appropriate precautions to reduce exposure of workers and neighbors to the site to waste materials and contaminated media (e.g., personal protective equipment and dust minimization); and
- (d) Engage the services of an Environmental Consulting Firm to supervise the preparation and implementation of a written plan, for review and approval by NHDES, for restoring the Property to a condition consistent with the AUR, and to review and evaluate response actions to ensure minimal disturbance of waste materials and contaminated media.

5. **Proposed Changes in Activities and Uses.** The AUR may be amended or modified by Owner of the Property upon application to and approval by NHDES. Any proposed changes in activities and uses at the Property that may result in a greater risk to exposure than currently exists at the Property shall be evaluated by an Environmental Consulting Firm, which shall render an opinion as to whether the proposed changes will present an unacceptable level of risk to human health and the environment. Said opinion shall accompany the application. Any and all requirements set forth in the opinion or by NHDES as part of the approval process to insure a condition of no significant risk in the implementation of the proposed activity or use shall be satisfied before such activity or use is commenced.

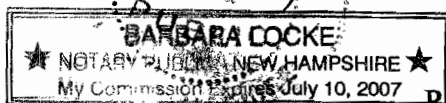
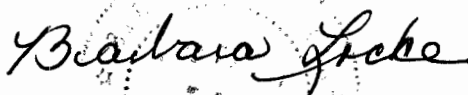
6. **Duration of Activity and Use Restrictions.** The AUR shall run with the land, become binding upon successive owners of the Property or portions of the Property.
7. **Termination of Activity and Use Restrictions.** The AUR may be terminated in accordance with the following procedures:
- (a) Owner of Property shall submit to NHDES a written request to terminate this AUR with an explanation as to why such restrictions are no longer necessary to maintain the protection of human health and the environment.
 - (b) Owner shall provide such supporting documentation as outlined in the RCMP or Env-Wm 1600 et seq. or as NHDES may deem necessary to justify the termination of the AUR.
8. **Recordation.** This Notice of AUR, any modifications or amendments to this Notice of AUR, and termination of this Notice of AUR are effective upon recordation of the Notice in the chain of Title for the Property at the Hillsborough County, New Hampshire Registry of Deeds. All recordation costs shall be the responsibility of the Property Owner. Owner shall provide certified copies of all AUR recorded instruments to NHDES within 60 days of recordation.
9. **Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer.** This Notice shall be incorporated either in full or by reference into the chain of title of all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed. The Activity and Use Restrictions and the proposed deed language shall be submitted to NHDES for review and approval prior to recordation.
10. **Violation of Activity and Use Restriction.** Violation of any Condition or Obligation herein shall result in termination of the AUR and subject the Property to the applicable and appropriate contaminant cleanup standards.

BY:



Richard J. Maddox
Chairman, Board of Selectmen
Town of Hudson, New Hampshire

DATE: 9/5/06



LEGAL DESCRIPTION

HUDSON LANDFILL

A certain parcel or tract of land situated on the easterly side of Burns Hill Road in the Town of Hudson, County of Hillsborough, and State of New Hampshire being shown on a plan entitled "Taking /Boundary Plan, (Lots 7 & 26, Map 15 and Lot 176, Map 14), Hudson Dump, Burns Hill Road, Hudson, New Hampshire," dated 6 March 2000, last revised 1/15/02, prepared by Hayner/Swanson, Inc., and recorded in the Hillsborough County Registry Of Deeds as plan number 31606.

Beginning at a stone bound on the easterly sideline of Burns Hill Road, at the division line between land now or formerly of Denise G. Matthews and Claire G. Mikulis and land now or formerly of the Town of Hudson as shown on said plan; thence

North 69°50'53" East a distance of 460.68 feet by said Matthews and Mikulis land to a drill hole in a stonewall; thence

North 72°06'38" East a distance of 134.03 feet by said Matthews and Mikulis land and stonewall to a drill hole; thence

North 67°34'24" East a distance of 301.91 feet by said Matthews and Mikulis land and stonewall to a drill hole at the corner of stonewalls; thence

South 23°41'22" East a distance of 116.82 feet by said Matthews and Mikulis land to a stone bound; thence

North 66°19'43" East a distance of 877.67 by said Matthews and Mikulis land to a stone bound; thence

South 23°40'17" East a distance of 248.71 feet by said Matthews and Mikulis land to a stone bound at land now or formerly of Frank E. Giuffrida; thence

South 39°18'40" West a distance of 90.91 feet by said Guiffrida land to a stone bound at other land now of formerly of Denise G. Matthews and Claire G. Mikulis; thence

South 48°38'36" West a distance of 620.14 feet by said Matthews and Mikulis land to a stone bound; thence

South 88°06'43" West a distance of 124.46 feet by said Matthews and Mikulis land to a stone bound; thence

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South 64°06'45" West a distance of 111.31 feet by said land of Matthews and Mikulis to a stone bound; thence

South 49°45'03" West a distance of 174.42 feet by said land of Matthews and Mikulis to a stone bound; thence

South 26°42'07" West a distance of 86.40 feet by said land of Matthews and Mikulis to a stone bound; thence

South 86°10'30" West a distance of 92.02 feet by said land of Matthews and Mikulis to a stone bound; thence

North 51°25'25" West a distance of 97.62 feet by said land of Matthews and Mikulis to a stone bound; thence

South 77°36'34" West a distance of 63.82 feet by said land of Matthews and Mikulis to a stone bound; thence

South 66°13'14" West a distance of 161.14 feet by said land of Matthews and Mikulis to a stone bound; thence

South 80°43'53" West a distance of 101.29 feet by said land of Matthews and Mikulis to a stone bound; thence

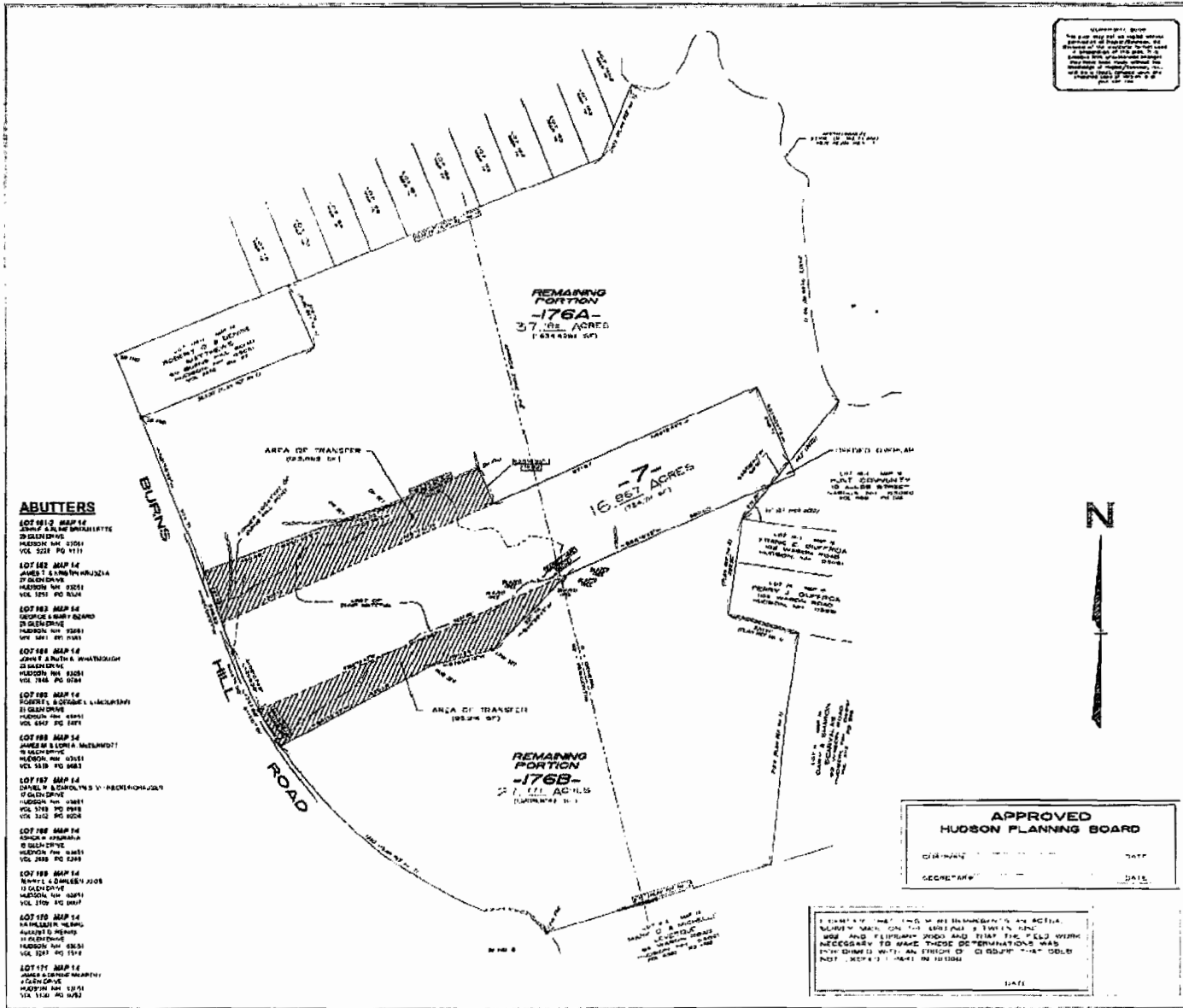
South 56°45'33" West a distance of 186.40 feet by said land of Matthews and Mikulis to a stone bound at the easterly sideline of Burns Hill Road; thence

Northwesterly along a curve the right having a radius of 1,475 feet, a delta angle of 13°07'01", an arc distance of 337.68 feet by said sideline to a point; thence

North 20°09'07" West a distance of 246.52 feet by said sideline to the point or place of beginning.

Said parcel contains 16.867 acres or 734,711 square feet, being the same, more or less.

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VICINITY MAP

PLAN REFERENCES:

1. LOT 101 RECORD MAP 14 JAMES G. & LINDA W. WHEATSTONE 29 GLEN DRIVE HUDSON, NH 03051 VOL. 5228 PG. 1111
2. LOT 102 RECORD MAP 14 JAMES T. & YVONNE W. WHEATSTONE 27 GLEN DRIVE HUDSON, NH 03051 VOL. 1261 PG. 1044

NOTES:

1. PRESENT CORNER IS AT CORNER OF GLEN DRIVE & BURNS HILL ROAD.
2. LOT NUMBERS REFER TO THE TOWN OF HUDSON RECORDS MAPS 14 AND 15.
3. PURCHASE OF PLANS TO CLARIFY THESE AREAS OF TRANSFER TO TOWN PURPOSES.
4. PRESENT CORNER OF RECORD IS AT CORNER OF BURNS HILL ROAD & GLEN DRIVE.

TAKING / BOUNDARY PLAN
(LOT 101 & 102 MAP 14)

HUDSON DUMP
BURNS HILL ROAD
HUDSON, NEW HAMPSHIRE

PREPARED FOR:
TOWN OF HUDSON

12 WEST SIDE ST. HUDSON, N.H. 03051 (603) 896-0000

6 MARCH 2000

HSI Hayner/Swanson, Inc.
Civil Engineers/Land Surveyors
Three Chocoma Street, Hudson, New Hampshire 03051-0301
Tel: (603) 892-2027 Fax: (603) 892-2027

SCALE: 1" = 100'

PLOT FROM NOD FOR 1055