

STATE OF INDIANA)	LAKE CIRCUIT/SUPERIOR COURT
)	
COUNTY OF LAKE)	CAUSE NO. 45D10-2408-PL-000499
GARY LEE,)	
)	
Plaintiff,)	
)	
vs.)	
)	
LITTLE CALUMET RIVER BASIN)	
DEVELOPMENT COMMISSION,)	
)	
Defendant.)	
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FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Gary Lee, by the undersigned counsel, files this Complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for declaratory judgment, injunctive relief, and penalties for violations of the Indiana Open Door Law (“ODL”), Ind. Code §§ 5-14-1.5-7 and 5-14-1.5-7.5, against the Little Calumet River Basin Development Commission (“Commission”) with respect to holding non-public meetings that do not qualify as executive sessions under Ind. Code § 5-14-1.5-6.1. This action also seeks a declaratory judgment and injunctive relief under the Uniform Declaratory Judgments Act, Ind. Code § 34-14-1, for the determination of legal rights and responsibilities of the Commission under Ind. Code § 14-13-2.

JURISDICTION, AUTHORITY AND VENUE

2. This Court has jurisdiction over the subject matter of this action as it is a court of competent jurisdiction, pursuant to Ind. Code § 5-14-1.5-7(a), and is a court of record within

Lake County, pursuant to Ind. Code § 34-14-1-1. This Court has personal jurisdiction over the Defendant.

3. Authority to bring this action is vested in “any person.” Ind. Code §§ 5-14-1.5-7(a); 34-14-1-2. Plaintiff is a person within the meaning of the ODL and the Uniform Declaratory Judgments Act.

4. Preferred venue lies in this Court, pursuant to Ind. Tr. Rule 75(A), because all of the parties reside in Lake County and the principal office of the Commission is located in Lake County.

PARTIES

5. Plaintiff Gary Lee is a resident of Gary, Lake County, Indiana. He lives in the watershed of the Little Calumet River and pays an annual assessment to the Commission on property he owns or controls pursuant to Ind. Code § 14-13-2-18.5(c).

6. The Commission has an easement across Plaintiff’s property that is used to transmit stormwater and groundwater runoff through a ditch for purposes of flood control. Due to his annual payment of a special assessment to the Commission and the Commission’s easement across his property, Plaintiff’s rights are affected by Ind. Code § 14-13-2.

7. Plaintiff lives near and recreates along the Little Calumet River. Plaintiff has been injured and is subject to further injury as the result of living in and owning property within the Little Calumet River Basin whose flood protection and other responsibilities are exercised by a Commission that acts beyond and/or contrary to its statutory authority. Plaintiff asserts common law standing to bring this action.

8. Defendant Little Calumet River Basin Development Commission is “a public body corporate and politic” established by the Indiana General Assembly in 1980 for the

purposes of “[p]romot[ing] the general health and welfare of citizens of Indiana” and “[p]roviding for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control and other public works projects, including levees.” Ind. Code §§ 14-13-2-4 and -5.

9. The Commission is a “public agency,” as that term is defined by the ODL, Ind. Code § 5-14-1.5-2(a), because it is a commission exercising a portion of the executive or administrative power of the state and because it is subject to an audit by the State Board of Accounts. *See* Ind. Code §§ *see* Ind. Code 14-13-2-27 and -30.

STATUTORY BACKGROUND

Indiana’s Open Door Law

10. The purpose of Indiana’s Open Door Law is to ensure that “the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed.” Ind. Code § 5-14-1.5-1. Its purposes are remedial and the provisions of the Open Door Law are to be liberally construed. *Id.*

11. Except for narrowly-defined purposes set forth in the Open Door Law, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. Ind. Code § 5-14-1.5-3(a).

12. For purposes of the ODL, a “governing body” means two or more individuals of a board or commission that takes official action upon public business. Ind. Code § 5-14-1.5-2(b).

13. For purposes of the ODL, a “meeting” is a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. Ind. Code § 5-14-1.5-2(c).

14. For purposes of the ODL, “public business” means any function upon which the public agency is empowered or authorized to take official action. Ind. Code § 5-14-1.5-2(e).

15. For purposes of the ODL, “official action” means to receive information, deliberate, make recommendations, establish policy, make decisions, or take final action. Ind. Code § 5-14-1.5-2(d).

16. For purposes of the ODL, to “deliberate” means to have a discussion which may reasonably be expected to result in a recommendation, policy, decision, or final action. Ind. Code § 5-14-1.5-2(i).

17. For purposes of the ODL, an “executive session” is a meeting from which the public is properly excluded. Ind. Code § 5-14-1.5-2(f).

18. The Open Door Law authorizes public agencies to hold executive sessions in 15 enumerated instances. Ind. Code § 5-14-1.5-6.1(b). Justifiable reasons for an executive session include the discussion of strategy with respect to collective bargaining, litigation, security systems, real property transactions, and school consolidation. *Id.*

19. The public agency must provide public notice of all executive sessions that states the subject matter “by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b).” Ind. Code § 5-14-1.5-6.1(d).

20. A violation of the Open Door Law cannot be cured by the governing body taking final action at a meeting that complies with the Open Door Law. Ind. Code § 5-14-1.5-7(c).

21. An action to enforce the requirements of the Open Door Law may be filed by any person in any court of competent jurisdiction to obtain a declaratory judgment and to enjoin continuing violations. Ind. Code § 5-14-1.5-7(a).

22. If the plaintiff first seeks an advisory opinion from the Public Access Counselor prior to filing an action for violation of the Open Door Law and prevails, the court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation. Ind. Code § 5-14-1.5-7(f).

23. The court may also impose civil penalties on a public agency or an officer of a public agency for certain violations of the Open Door Law, including discussing in an executive session subjects not eligible for discussion in an executive session. Ind. Code § 5-14-1.5-7.5.

Little Calumet River Basin Development Commission

24. The Indiana legislature created the Commission to carry out specific purposes. Ind. Code § 14-13-2-4(3). Those purposes are to (1) promote the general health and welfare of citizens of Indiana, and (2) provide for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control and other public works projects, including levees. Ind. Code § 14-13-2-4(1)-(2).

25. In 2012, the Indiana legislature amended the Commission to add four members. Ind. Code § 14-13-2-7. A member of the Commission may not be an employee or elected official of a city, town, or county governmental unit. Ind. Code § 14-13-2-7(d)(3).

26. The Indiana legislature granted the Commission 24 specific powers. Ind. Code § 14-13-2-18. Among these is the power to “[m]ake and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission’s duties and the execution of the commission’s powers under this chapter.” Ind. Code § 14-13-2-18(9).

27. In 2012, the Indiana legislature granted the Commission the authority to annually collect special assessments against each taxable parcel of real property within the Little Calumet

River watershed. Ind. Code § 14-13-2-18.5. The Commission annually collects approximately \$7.5 million in special assessments.

Uniform Declaratory Judgments Act

28. The Uniform Declaratory Judgments Act, Ind. Code § 34-14-1, authorizes any “person” affected by a statute to file an action in state court to have determined any question of construction or validity under the statute. Ind. Code § 34-14-1-2.

29. The Declaratory Judgment Act defines the word “person” to mean “any person, partnership, limited liability company, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.” Ind. Code § 34-14-1-13.

30. An action under the Uniform Declaratory Judgments Act may be filed in any court of record.

FACTUAL BACKGROUND

31. The Commission holds meetings nearly every month to conduct official business and take final actions. These meetings are open to the public.

32. The Commission held meetings on December 11, 2023; January 17, 2024; February 21, 2024; March 20, 2024; April 17, 2024; May 15, 2024; June 20, 2024; and July 17, 2024.

33. Prior to the Commission’s monthly meetings, the Commission meets privately and does not allow members of the public to attend and record these private meetings.

34. The Commission met privately prior to its meetings on December 11, 2023; January 17, 2024; February 21, 2024; March 20, 2024; April 17, 2024; May 15, 2024; June 20, 2024; and July 17, 2024. Members of the public were not allowed to attend and record these private meetings.

35. On information and belief, the Commission discusses subjects in these private meetings that are subjects not eligible for discussion in an executive session.

36. Since at least December 2023, the Commission has justified its private meetings prior to its public monthly meetings by noticing them as an Executive Session “for the discussion of pending litigation.” The notices do not identify any pending litigation, nor do they provide a “specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b)” as required by Ind. Code § 5-14-1.5-6.1(d).

37. Plaintiff is not aware of any pending litigation to which the Commission is a party.

38. On February 26, 2024, Plaintiff raised his concerns regarding the Commission holding private meetings and other violations of the Indiana Open Door Law by filing a formal complaint with the Indiana Public Access Counselor.

39. On May 30, 2024, the Public Access Counselor issued Advisory Opinion 24-FC-22. *See* Exhibit A. In doing so, the Public Access Counselor took no position on whether the Commission’s noticed executive sessions included any discussion of subjects ineligible for an executive session because his office is “unable to take sworn testimony or authenticate evidence” and, therefore, can only address matters of law. *Id.*

40. The Public Access Counselor did, however, voice concern “that there is robust discussion of any substantive action item before a vote and the final action is not simply a perfunctory ratification of a foregone conclusion drawn behind closed doors.” *Id.*

41. Upon information and belief, the Commission’s standard practice of holding private meetings prior to each monthly meeting results in “a perfunctory ratification of a foregone conclusion drawn behind closed doors.”

FIRST CAUSE OF ACTION

Violation of Indiana's Open Door Law by the Little Calumet River Basin Development Commission

42. Paragraphs 1 through 41 are re-alleged and incorporated here by reference.

43. The Commission routinely meets in private in a manner that does not permit members of the public to observe and record the meeting.

44. During some or all of these private meetings, the Commission discusses subjects that are not among the enumerated exceptions to public meetings set forth in Ind. Code § 5-14-1.5-6.1 or otherwise takes official action on public business that is required to be open at all times for the purpose of permitting members of the public to observe and record.

45. These private meetings are called by the Chair and/or Vice Chair of the Commission.

46. These private meetings are characterized by the Commission as "executive sessions" to discuss pending litigation.

47. Notices of these private meetings do not specify the subject matter of the executive session or reference the enumerated instance or instances for which the executive session is being held.

48. These private meetings have been held on one or more of the following dates at or about 5:00 pm Central Time at the same location as the public meeting: December 11, 2023; January 17, 2024; February 21, 2024; March 20, 2024; April 17, 2024; May 15, 2024; June 20, 2024; and July 17, 2024.

49. These private meetings and the notices of these meetings violate Indiana's Open Door Law. Ind. Code §§ 5-14-1.5-3(a), -6.1(d).

50. If not ordered to cease holding private meetings on subjects that are not eligible for an executive session pursuant to Indiana's Open Door Law, the Commission will continue to conduct meetings in which official action is taken on public business in violation of Indiana's Open Door Law.

SECOND CAUSE OF ACTION
Declaratory Judgment Finding
Little Calumet River Basin Development Commission
In Violation of Ind. Code § 14-13-2-7

51. Paragraphs 1 through 41 are re-alleged and incorporated here by reference.

52. Members of the Commission "may not be an employee or elected official of a city, town, or county governmental unit." Ind. Code § 14-13-2-7(d)(3).

53. Commission member William Baker is the president of the City of Munster, Indiana's Plan Commission. As such, Commissioner Baker is an employee of a city governmental unit as defined by Ind. Code § 34-6-2-38, in violation of Ind. Code § 14-13-2-7(d)(3).

54. Commission member Tom Wichlinski is the Secretary of the Town of Griffith, Indiana's Board of Zoning Appeals. As such, Commissioner Wichlinski is an employee of a city governmental unit as defined by Ind. Code § 34-6-2-38, in violation of Ind. Code § 14-13-2-7(d)(3).

55. Commissioners Baker and Wichlinski are not eligible to serve as members of the Commission because they are employees of a city, town, or county governmental unit.

56. If not ordered to cease holding positions as members of the Commission, Commissioners Baker and Wichlinski will continue to violate Ind. Code § 14-13-2-7(d)(3).

THIRD CAUSE OF ACTION
Declaratory Judgment Finding
Little Calumet River Basin Development Commission
Acted Beyond the Scope of its Authority in IC § 14-13-2-18

57. Paragraphs 1 through 41 are re-alleged and incorporated here by reference.

58. On or about January 17, 2017, the Commission entered into a license agreement with Maya Energy, LLC. A copy of this license agreement is attached as Exhibit B.

59. Maya Energy, LLC is a private for-profit company.

60. The license agreement authorizes Maya Energy, LLC to construct and operate a solid waste processing facility on 35 acres owned by the Commission south of the Little Calumet River.

61. The license agreement with Maya Energy, LLC does not “promote the general health and welfare of citizens of Indiana,” nor does it “provide for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control and other public works projects, including levees” as directed by Ind. Code § 14-13-2-4(1)-(2).

62. The Commission’s license agreement with Maya Energy, LLC is not “necessary or incidental to the performance of the commission’s duties” as required by Ind. Code § 14-13-2-18(9).

63. The Commission’s license agreement with Maya Energy, LLC is beyond its authority granted by the Indiana legislature and, thus, is an invalid, *ultra vires* act that is void.

64. If not ordered to terminate the license agreement with Maya Energy, LLC, the Commission will continue to act beyond the scope of its authority and contrary to its statutory purposes set forth in Ind. Code § 14-13-2.

PRAYER FOR RELIEF

WHEREFORE, based upon all of the allegations set forth above, Plaintiff respectfully requests that this Court:

1. Issue a declaratory judgment setting forth Defendant's violations of Indiana's Open Door Law;
2. Permanently enjoin Defendant from further violations of the Indiana Open Door Law, and require that all future meetings of Defendant be properly and publicly noticed and open to the public to attend and record except for meetings limited to a discussion of strategy with respect to one of the expressly authorized instances listed in Ind. Code § 5-14-1.5-6.1;
3. Pursuant to the Uniform Declaratory Judgments Act, declare that Commissioners Baker and Wichlinski are not eligible to serve on the Commission as they are employees of municipalities;
4. Pursuant to the Uniform Declaratory Judgments Act, declare that the Commission's license agreement with Maya Energy, LLC is void as an exercise of power beyond the scope of the Commission's authority;
5. Enter judgment in favor of Plaintiff and against Defendant;
6. Award Plaintiff his costs, expenses, and attorneys' fees pursuant to Ind. Code § 5-14-1.5-7(f);
7. Award Plaintiff his costs pursuant to Ind. Code § 34-14-1-10;
8. Assess civil penalties against Defendant and its officers pursuant to Ind. Code § 5-14-1.5-7.5; and
9. Grant such other relief as the Court deems just and proper.

November 22, 2024

Respectfully submitted,

s/Michael J. Zoeller

Michael J. Zoeller (Ind. Bar No. 38038-49)

Senior Attorney

Conservation Law Center

116 South Indiana Ave., Suite 4

Bloomington, IN 47408

mjzoelle@iu.edu

(812) 856-4223

EXHIBIT A**STATE OF INDIANA****ERIC J. HOLCOMB, Governor****PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

May 30, 2024

Michael J. Zoeller
116 S. Indiana, Suite 4
Bloomington, IN 47408

Via email: mjzoelle@iu.edu**Re: 24-FC-22**

Dear Mr. Zoeller,

This letter is in response to your complaints regarding meetings of the Little Calumet River Basin Development Commission and Advisory Board. First, I apologize for the delay in this matter. Factors out of my control drew my attention away from addressing your concerns sooner.

I have reviewed all the materials you have submitted, as well as the responses from the Commission. A limitation of my office is that I am unable to take sworn testimony or authenticate evidence. To that end, I can only address matters of law and if the parties do not agree on facts, I typically opine as if both perspectives are accurate.

Here, you allege executive sessions were not properly noticed and its Advisory Board did not notice nor open their meetings to the public. The Commission asserts that is not the case and all proper measures were taken to ensure legal meetings for both the Commission and Advisory Board. The Open Door Law (ODL) only requires that notice be posted outside of the principal office where the meeting takes place pursuant to Indiana Code section 5-14-1.5-5(b)(1). Internet notice is a courtesy extended by a governing body but not statutorily required. It is certainly encouraged, but not an actionable matter for a formal complaint. Based on the information and notices provided by the Commission and the Advisory Board, it appears as if the notices are in order.

Next, you noted concern about the Commission only taking oral public comment after a decision has been made. The code you reference only applies to bodies such as school boards or charter school boards. Only these types of governing bodies are required to take oral public comment before the body has taken final action. See Ind. Code § 5-14-1.5-3(d). Although not required, it would likely be best practice to take public comment prior to a final vote for the sake of good governance. That stated, such a requirement is not legally enforceable for this type of governing body.

You also allege that the Commission decided to lease new office space without public knowledge during a public meeting. The Commission, again, responds that it did discuss “at length” the lease in a public meeting. As correctly stated by the parties, Indiana code 5-14-1.5-6.1(b)(2)(D) allows for strategic discussions of all manner of real estate transactions. The Open Door Law does indeed prohibit final action taken in an executive session (see Ind. Code § 5-14-1.5-6.1(c), but mere strategic discussion is acceptable. My concern is always that there is robust discussion of any substantive action item before a vote and the final action is not simply a perfunctory ratification of a foregone conclusion drawn behind closed doors. What is considered “robust” is a subjective matter of perspective, but the explanation by the Commission does not suggest any non-compliance.

Finally, the Commission argues that your complaint was untimely because it came after January 17, 2024; however, I calculate “business days” and exclude holidays and weekends, therefore your filing on February 23, 2024 was timely¹. Nevertheless, it does not appear the Little Calumet Basin Development Commission or its Advisory Board violated the Open Door Law.

Please do not hesitate to contact me with any questions.

Best regards,



Luke H. Britt
Public Access Counselor

Cc: Mark J. Crandley

¹ The issue of media notice was brought up significantly after-the-fact and is considered untimely. Even still, the response of the Commission appears to be satisfactory.

EXHIBIT B

LICENSE AGREEMENT

This **LICENSE AGREEMENT** (hereinafter referred to as "LICENSE") is made by and between MAYA ENERGY, LLC (hereinafter referred to as "MAYA") and the LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION, a governmental entity created under Indiana Code 14-13, (hereinafter referred to as the "COMMISSION").

WHEREAS, the COMMISSION is the owner of a certain parcel of real estate in Lake County, Indiana, which is described as follows:

See attached Exhibit "A" (the "PARCEL")

WHEREAS, MAYA desires to license the use of approximately 35 acres of said PARCEL, which area is depicted as the "Proposed Lease Area" attached as Exhibit "B" (the "SITE"). MAYA agrees that it will have no ownership in the PARCEL.

WHEREAS, MAYA desires to construct, maintain, and operate associated buildings and equipment on said PARCEL in connection with the operation of a Solid Waste Processing Facility (the "OPERATION") as described in the drawings and specifications attached as Exhibit "C" (the "FACILITIES").

NOW THEREFORE, for the good and valuable consideration as set out in the mutual promises and covenants hereafter set forth, the parties agree as follows:

A. GRANT OF LICENSE.

1. The COMMISSION does hereby grant, permit, and license to MAYA the right to construct, operate, and maintain the OPERATION and associated FACILITIES as described in the LICENSE and its Exhibits "A", "B" and "C" for the consideration set out herein.

B. CONSIDERATION.

1. As consideration for the benefits hereby received, MAYA shall pay to the COMMISSION the following sums:

<u>Period</u>	<u>Payment</u>
Year 1 - 10	\$100,100.00/year
Year 11 - 20	\$110,110.00/year
Year 21 - 30	\$121,121.00/year
Year 31 - 40	\$133,233.00/year
Year 41 - 50	\$146,556.00/year

LICENSE payments shall be due and payable in advance to the COMMISSION commencing on or before June 1st of each calendar year. MAYA shall pay COMMISSION the sum of \$8,341.67 upon execution of this LICENSE, which sum shall be credited toward MAYA's first payment due six (6) months after signature of this License Agreement by the Commission.

C. LICENSE OF FACILITIES, OPERATION AND PARCEL.

The FACILITIES shall be constructed in accordance with all applicable codes and approvals as well as maintained and operated at the sole cost and expense of MAYA. The OPERATION, PARCEL and FACILITIES shall not be modified from the descriptions set out in Exhibits "A", "B"

and "C" except with the prior written authorization from the COMMISSION, which shall not be unreasonably withheld.

D. TERM.

The term of this LICENSE shall be for a period of fifty (50) years, commencing on June 1, 2017 and expiring on May 31, 2067 (hereinafter "TERM"). During the TERM, MAYA may use the SITE for construction and operation of the FACILITIES, as defined by the Indiana Department of Environmental Management (hereinafter "IDEM"), or for any other related or similar lawful purpose meeting all applicable federal, state and local laws. If MAYA remains in possession of the PREMISES with the consent of the COMMISSION after the termination of any term herein granted, then the tenancy thereby created shall be from month to month, but otherwise subject to all the terms and provisions of this LICENSE.

E. COMMISSION'S RIGHTS.

The parties agree that the PARCEL is public property to be used for the purposes as set out in the applicable laws of the State of Indiana and the United States of America. In the event the COMMISSION, or its' assignee or successor, determines that MAYA has failed to comply with any of the provisions of this LICENSE, the COMMISSION may, at its' option, terminate this LICENSE provided: (a) it serves MAYA written notice of such default and (b) MAYA has failed to cure the same within ninety (90) days after receipt of said notice. Thereafter, the COMMISSION may serve MAYA written notice of said intent to terminate at least one (1) year prior to the intended date of termination. Within thirty (30) days after sending notice of intent to terminate, MAYA may, at its' option, request a hearing at a public meeting of the COMMISSION to object to the intended termination. Prior to the conclusion thereof, the COMMISSION may affirm, modify or rescind its' intent to terminate, which action shall be final. MAYA shall have up to one hundred eighty (180) days after date of termination to remove its' equipment, materials and structures from the PREMISES at its' sole cost.

Upon such termination, the COMMISSION, at its' sole option, shall have the right to pursue any remedy at law or in equity. All such remedies shall be cumulative and not exclusive and may be exercised concurrently or cumulatively.

The parties understand and agree that the notice periods, termination deadlines, and removal deadlines set forth above are agreements between the parties applicable to circumstances in which MAYA has failed to comply with any of the provisions of this LICENSE. The parties understand and agree that these deadlines are not applicable and binding upon the parties if the COMMISSION is mandated by the United States Army Corps of Engineers (hereafter "USACE"), or any other applicable regulatory agency, to remove or relocate MAYA's buildings from the PREMISES. Under those circumstances, the parties shall be bound by the mandates and timelines set forth by the USACE, or other applicable regulatory agency.

F. TRANSFER OR ASSIGNMENT OF LICENSE.

MAYA may not assign its' rights under this LICENSE without prior written approval from the COMMISSION, which approval shall not be unreasonably withheld and which shall include, but not be limited to, the assignee agreeing, in writing, to all terms and stipulations set forth in this LICENSE.

G. ACCESS TO FACILITIES.

MAYA, or any responsible person or firm designated by MAYA, shall have at all times the right of access to the PARCEL, OPERATION and the FACILITIES of MAYA for the purposes of

construction, installation, operation, maintenance, repair or removal of any of MAYA's buildings or equipment. MAYA agrees that any and all persons or firms shall adhere to all applicable laws, as well as provisions contained herein.

H. GOVERNMENTAL REGULATIONS.

MAYA shall, at MAYA's sole cost and expense, comply with all of the requirements of county, municipal, state, federal and other applicable governmental authorities now in force, or which may hereafter be in force, pertaining to the operation of its' FACILITIES, and shall faithfully observe all municipal and county ordinances, and state and federal statutes now in force, or which may hereafter be in force. The right of ingress and egress herein granted across the PARCEL shall be exercised and used in such a manner as not to cause any damage or destruction of any nature whatsoever, or any interruption of the use of the PARCEL or adjoining lands owned by the COMMISSION, and which is consistent with any standards or requirements mandated by the USACE.

The COMMISSION hereby reserves the right to use the PARCEL in any manner that will not prevent or interfere with MAYA'S rights granted hereunder; provided, however, that the COMMISSION shall not obstruct, or permit to be obstructed, the PARCEL at any time whatsoever without the express prior written consent of MAYA, which consent shall not be unreasonably withheld.

I. DAMAGE TO FACILITIES.

Should the FACILITIES be partially or completely destroyed by wind, water, fire, lightening, or other casualty during the term of this LICENSE, MAYA shall promptly proceed to make repairs as soon as possible. The COMMISSION shall not be liable for any direct or consequential losses sustained by MAYA by reason of MAYA being unable to utilize its' building, facilities and/or equipment in the event of such a casualty, and MAYA agrees to indemnify and hold the COMMISSION harmless from any claims therefore.

J. INCIDENTAL EXPENSES.

MAYA shall pay all expenses relating to the construction of the FACILITIES on the PARCEL. Any and all such work shall be performed by contractors approved by any applicable regulatory agencies and MAYA shall not have the right to authorize any such work other than that incident to its' construction of the FACILITIES for the OPERATION as defined herein.

K. REMOVAL OF EQUIPMENT.

It is understood and agreed by and between the parties hereto that all machinery and equipment installed by MAYA shall remain the personal property of MAYA, and that MAYA has the privilege and right to remove the same at any time during the term of this LICENSE, provided that the FACILITIES and/or PARCEL is restored to as good a condition as prior to the installation, reasonable wear and tear excepted, and provided further that MAYA is not in default of any provision herein.

L. NEGLECT OF PREMISES.

MAYA agrees not to commit waste on the PREMISES and to deliver possession of the PREMISES to the COMMISSION at the termination of this LICENSE in substantially as good a condition as at the commencement thereof, damages from natural elements, normal depreciation and decay, excepted. MAYA agrees that all buildings and equipment constructed or installed on the PARCEL shall comply with all federal, state and local laws/ordinances including, but not limited to, the National Electrical Code, the National Fire Code, the current

BOCA Basic Building Code, and Requirements of the Indiana Department of Environmental Management.

M. MAINTENANCE OF PREMISES.

MAYA, at its' sole expense, shall keep the PREMISES in a condition reasonably safe and shall maintain the PARCEL and FACILITIES in a manner so as to meet all applicable laws and ordinances. MAYA shall keep all equipment in proper enclosure and maintain all surrounding property free of debris resulting from any work done on the PARCEL by its' employees, agents, contractors or assigns.

N. INSURANCE.

MAYA, at its' sole expense, shall procure, maintain and pay for liability, environmental harm, and casualty insurance in the amount no less than Five Million Dollars (\$5,000,000.00) in connection with its' operations and equipment located on the SITE, FACILITIES and the PARCEL, naming the COMMISSION as co-insured, and shall provide the COMMISSION with a copy of such insurance policy or policies upon the signing of this LICENSE.

O. INDEMNIFICATION.

MAYA and James Ventura, its' president, individually, shall indemnify and hold the COMMISSION harmless against any claims, damages, liability or loss incurred by the COMMISSION as a result, direct or indirect, of any environmental violation, damage and/or harm caused by MAYA's FACILITIES and/or OPERATION, or any accident or other occurrence causing damages and injuries to any person or persons, or property resulting from the use of the PARCEL, FACILITIES, or any part thereof, including attorney's fees, except due to the negligence of the COMMISSION, its' agents or employees.

P. SEVERABILITY.

The invalidity or unenforceability of any particular provision of this LICENSE shall not affect the other provisions hereof and the LICENSE shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Q. GENERAL PROVISIONS.

1. Enforcement: All covenants hereof shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the parties.

2. Attorney Fees: A defaulting party shall pay reasonable fees of the other incurred in enforcing any conditions and covenants of this LICENSE, including any reasonable costs in connection with court costs, attorney fees, and costs in connection with any appeals to higher courts concerning this matter. All legal matters shall be in the State of Indiana.

3. Counterparts: This LICENSE may be executed simultaneously in various counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

R. HEADINGS.

The headings to the various paragraphs of this LICENSE have been inserted for reference only and shall not, in any manner, be construed as modifying or affecting or amending in any way the express terms and provisions hereof.

S. REQUIREMENTS.

MAYA acknowledges responsibility to meet all Federal and State environmental requirements in regards to the OPERATION. Any notice received by MAYA with regard to a possible environmental violation must be delivered to the COMMISSION within forty-eight (48) hours of its' receipt. MAYA shall be responsible for and reimburse the COMMISSION for any fines levied as the result of the notice not being timely sent.

T. ADDITIONAL FACILITIES.

This LICENSE may not be sold, assigned or transferred without the prior written consent of the COMMISSION. MAYA acknowledges that any third party locating any improvements on the PARCEL must enter into a separate agreement with MAYA which must be previously approved, in writing, by the COMMISSION. COMMISSION agrees to fully cooperate and timely provide information to MAYA that may be required for completion of any application or related documents necessary so that MAYA may construct, maintain and operate the FACILITIES as intended by this LICENSE.

U. SURETY BOND.

In the event the State of Indiana or a State of Indiana state agency requires a surety bond from MAYA for any reason whatsoever, including financial responsibility for closure, then MAYA agrees to post and/or provide a surety bond to the COMMISSION in the same amount as required by the State of Indiana aforesaid.

V. TAXES, ASSESSMENTS AND UTILITIES.

MAYA shall be responsible for all real estate taxes, assessments for public improvements or private property, if any, and other governmental impositions, duties and charges of every kind and nature whatsoever which shall or may, during the term of this LICENSE, be charged, laid, levied, assessed, or imposed upon the PARCEL, FACILITIES and/or OPERATION or any part thereof. MAYA shall make any payments when due, if any. MAYA, with the prior written approval of the COMMISSION, may protest, appeal, or contest any real estate tax assessment for the PARCEL and/or FACILITIES. Such approval shall not be unreasonably withheld by the COMMISSION. In such event, however, MAYA agrees to pay all fees and costs attendant to any such appeal, including but not limited to court costs and attorney's fees, if any.

W. COMMISSION'S RIGHT OF INSPECTION AND RE-ENTRY.

The COMMISSION reserves the right, upon 24 hours prior written notice to MAYA, to enter upon, inspect and examine the PARCEL, FACILITIES and/or OPERATION at any time during business hours, and MAYA agrees to allow the COMMISSION free access to the same to show the premises within sixty (60) days of the termination of this LICENSE.

In the event that this LICENSE shall be terminated as hereinabove provided, or by summary proceedings or otherwise, or in the event that the PARCEL, FACILITIES and/or OPERATION, or any part thereof, shall be abandoned by MAYA, the COMMISSION, or its agents, employees and/or representatives, may immediately, or at any time thereafter, re-enter and resume possession of said PARCEL, or any part thereof, and remove all persons and property therefrom, either by summary dispossession proceedings or by a suitable action or proceeding at law, or by force or otherwise, without being liable for any damages therefor.

X. LIENS.

MAYA shall not do or cause anything to be done whereby the PARCEL, FACILITIES and/or OPERATION may be encumbered by any mechanic's or other liens. Whenever and as often as

any mechanic's or other lien if filed against said PARCEL, FACILITIES and/or OPERATION purporting to be for labor or materials furnished or to be furnished to MAYA, MAYA shall either (i) remove the lien of record by payment or by bonding with a surety company authorized to do business in the state in which the property is located within twenty (20) days from the date of the filing of said mechanic's or other lien and delivery of notice thereof to MAYA, or (ii) contest, in good faith, the existence, amount or the validity thereof by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of, or other realization upon the mechanic's lien so contested. Should MAYA fail to take either of the foregoing steps, then the COMMISSION shall have the right, among other things, to either terminate the LICENSE, take possession or pay said lien without inquiring into the validity thereof, and MAYA shall forthwith reimburse the COMMISSION for the total expense incurred by it in discharging said lien, including attorney's fees, at COMMISSION'S sole discretion.

IN THE EVENT MAYA FAILS TO OBTAIN AN AIR QUALITY/CONSTRUCTION PERMIT FROM THE STATE OF INDIANA TO CONDUCT ITS OPERATION ON THE PARCEL ON OR BEFORE JUNE 1, 2017, THEN THIS LICENSE SHALL BE NULL AND VOID, AND ANY DEPOSIT MADE BY MAYA SHALL BE FORFEITED.

IN WITNESS WHEREOF the parties have executed this LICENSE this 17 day of January, 2017.

MAYA ENERGY LLC

By: James Ventura
James Ventura, President

LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION

By: Daniel C. Repay

Print: Daniel C. Repay

Its: Executive Director

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Gerald M. Bishop
GERALD M. BISHOP, Esq.

12 13 14 15

DESCRIPTION OF PROPERTY:

SUBJECT PARCEL:

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE SOUTHWEST QUARTER EXCEPTING THEREFROM THE RIGHT OF WAY OF THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD, IN SECTION 20, TOWNSHIP 38 NORTH, RANGE 8 WEST OF THE 2ND P.M., IN LAKE COUNTY, INDIANA, CONTAINING IN ALL 100 ACRES, MORE OR LESS.

ALSO EXCEPTING THEREFROM:

THE NORTH 770.23 FEET OF THE EAST 200 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/2 OF THE SOUTHEAST 1/2 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 8 WEST OF THE 2ND P.M. IN THE CITY OF GARY, LAKE COUNTY, INDIANA.

EXHIBIT

A

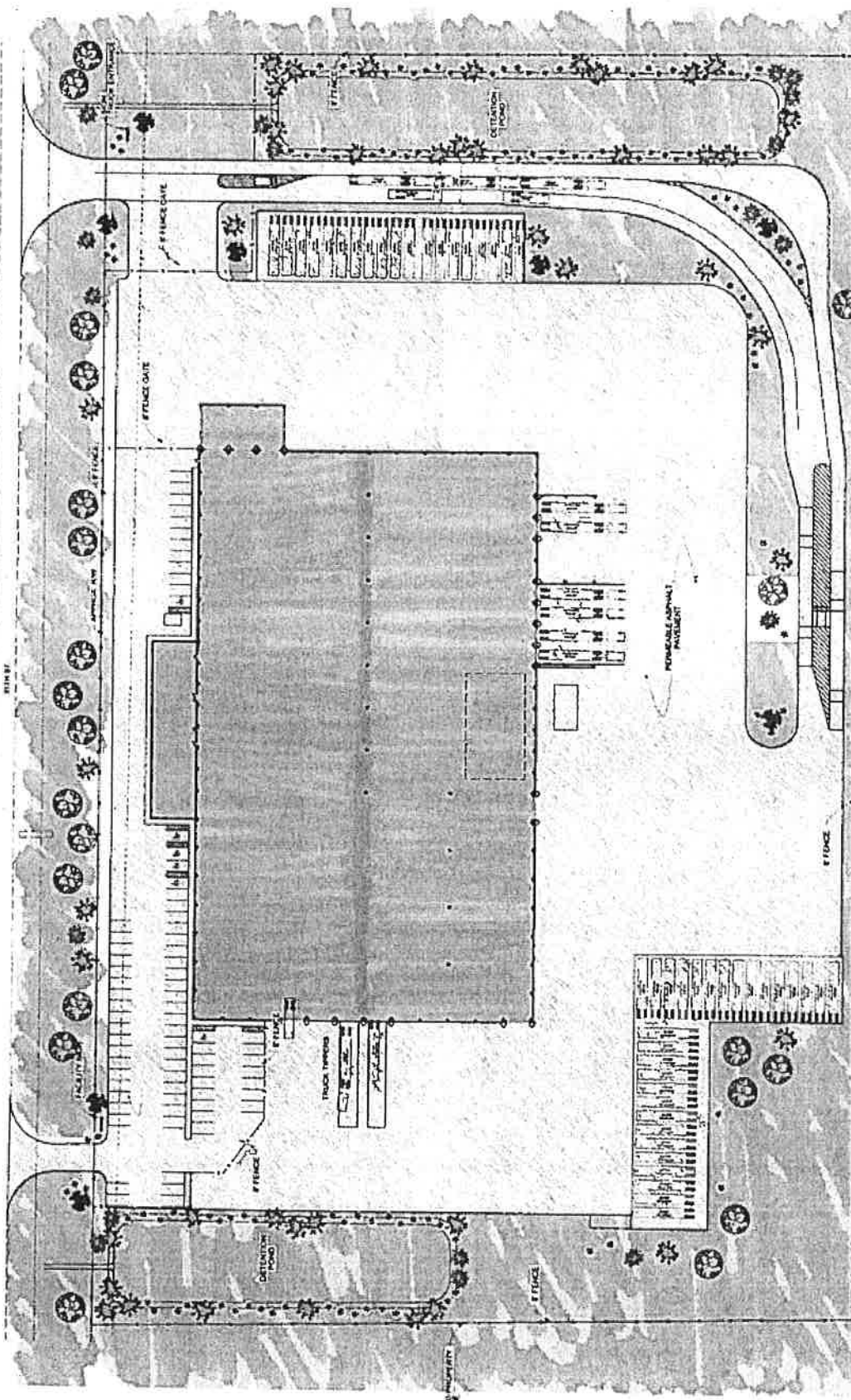
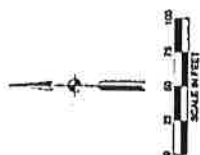
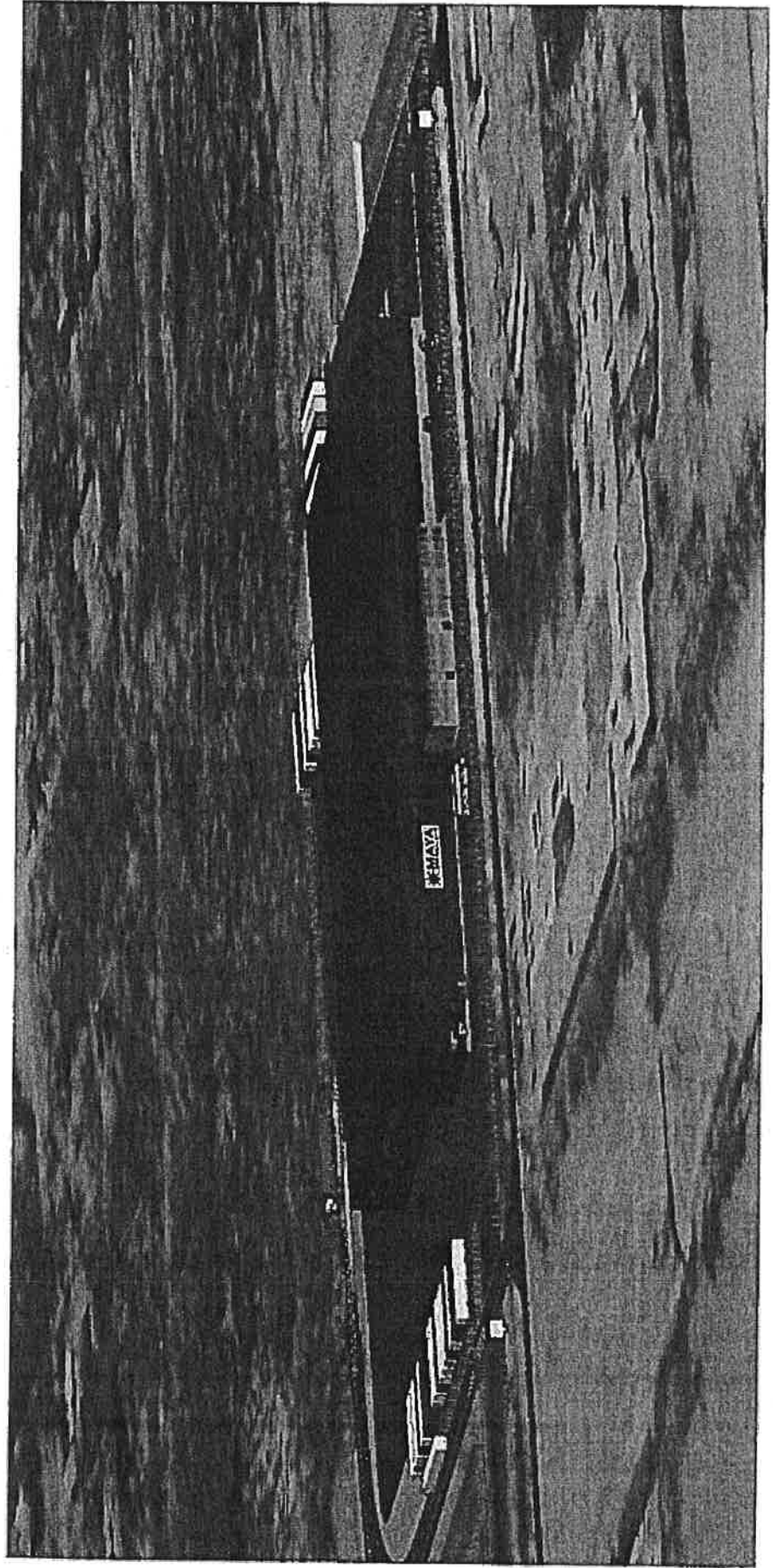
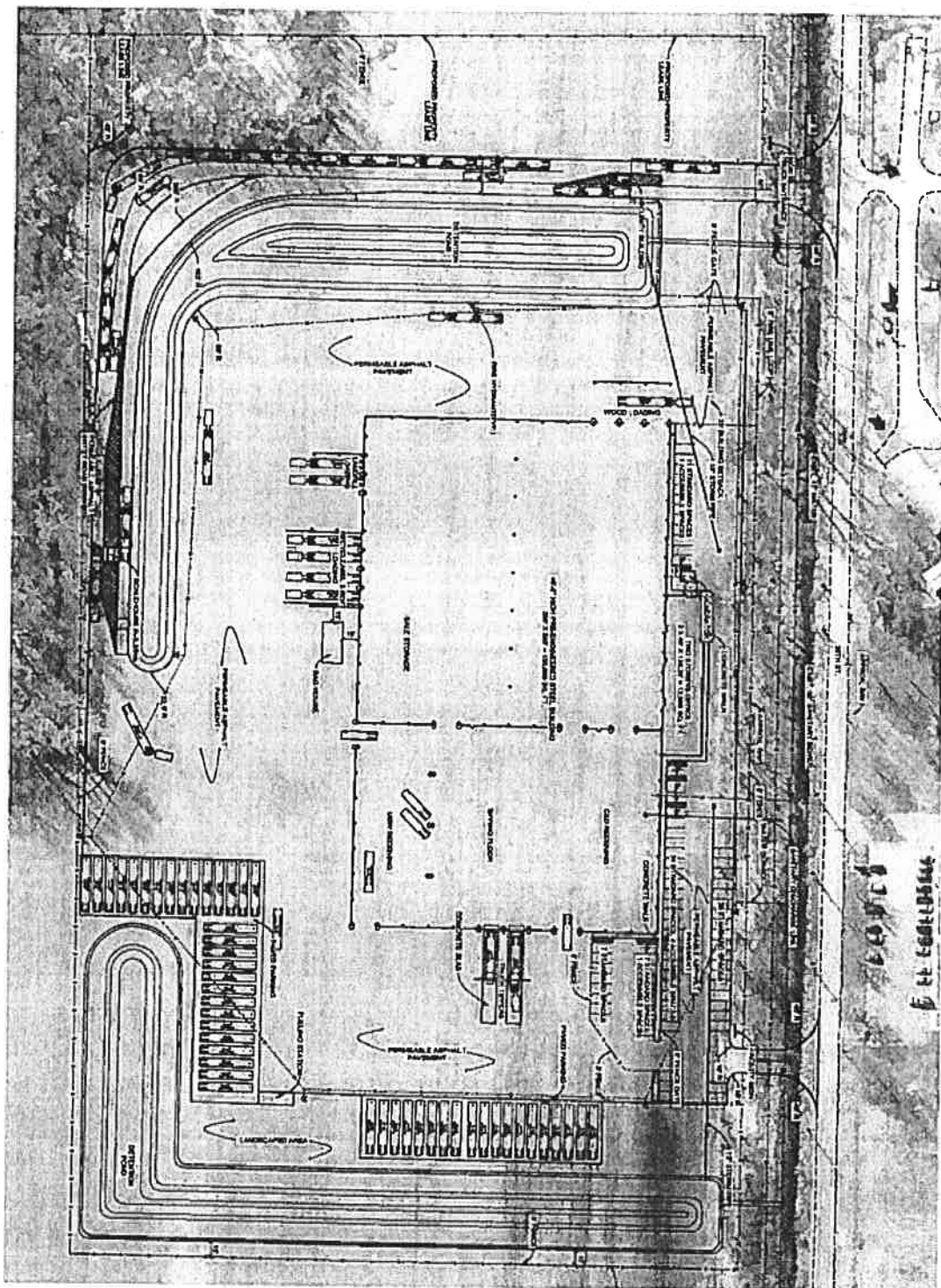


Exhibit "C"

“Regional Material Recovery/Recycling”





BOOKS

Garita Consulting Engineers
7701 - 24th Avenue East
Redmond, WA 98073-1400
Phone: 206/881-1400
Fax: 206/881-1401
E-mail: garita@netnet.net

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RESEARCHERS. CD-4 counts below 200 cells/mm³ had been associated with an increased risk of death in patients with AIDS. The researchers found that patients with CD-4 counts below 200 cells/mm³ were more likely to die from AIDS-related causes than those with higher counts. The researchers also found that patients with CD-4 counts below 200 cells/mm³ were more likely to be hospitalized than those with higher counts. The researchers concluded that CD-4 counts below 200 cells/mm³ were a strong predictor of death and hospitalization in patients with AIDS.

SITE PLAN
C01

SITE PLAN

Recycling Facility
Prepared for:
MAVA ENERGY, LLC
Baltimore, MD

Recovery Facility

4

RELIMINARY
REPORT DATE & TIME
8/19/04
7:30:00 PM

<p> NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____ </p>	<p> NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____ </p>
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