

Bearing the burden of our City's fathers' iniquity:
From slaveholder land to
an industrial waste site

A report prepared for Wise Street Empower
Gregory Kelly
May 9, 2021

"Yet you say, 'Why should not the son suffer for the iniquity of the father?' When the son has done what is just and right, and has been careful to observe all my statutes, he shall surely live."

Ezekiel 18:19

There is a false premise that the industrial waste site at 702 Glenn St. "has always been" a site of salvage operations and it precedes the neighborhood around it. While the site was zoned industrial with the release of the first zoning map in 1973, history does not start there. The misery of the land and the people associated with it dates well before that.

In the middle 1800s, the land was owned by Job Johnstone, who held 164 humans in slavery, according to the 1860 Slave Census, on his vast land holding at this location and at his plantation where the Bush and Saluda Rivers come together. Their names are not recorded.

Job Johnstone died in 1860, and over a period of time his lands were divided among his heirs. The boundaries are difficult to discern; street names have changed and early plots referenced geographic features no longer present. However, the headwaters to Scott's Creek are a common reference point and appears to have been used to delineate plots among Mr. Johnstone's heirs.

Ownership of the land east of the Scott's Creek headwaters after it passed from Johnstone's descendants is difficult to trace back due to the land having been obtained not once but twice as the result of lawsuits against the apparent owner Henry C. Holloway in 1939 and 1944.¹ These lawsuits resulted in the land being auctioned. Their exact provenance is not recorded and must be traced through the Judicial Record. Mr. Holloway bought some of the adjacent land in 1917 from Thomas Shealey,² who had inherited the land from George Shealey. George Shealey obtained the land in 1898 from two-time Newberry mayor Zachary F. Wright,³ who obtained the land from Adeline Fowles,⁴ who inherited the land as a relative of Job Johnstone.⁵ This last deed may form the bulk of the land in question. Mr. Holloway obtained some of the land he resided on adjacent to this land through debt-collection judgements in his favor.⁶ Mr. Holloway bought and sold land with great frequency.

The owners of the particular land by successful auction in 1944, Halfacre and Ruff et al., sold the land east of the Scott's Creek headwaters to Commercial Investment Co. in 1945.⁷ Commercial Investment Co. was owned by Guy V. Whitener, Sr., Guy V. Whitener, Jr., and Kathryn W. Whitener.⁸ Mr. Whitener, Sr., also owned a lumber manufacturing company, known as either Whitener Lumber Co. or Newberry Lumber Co., which may have provided materials to build houses in the area. Beginning in 1945, Commercial Investment Co. developed much of the land east of the Scott's Creek headwaters east to Wise St. and north to Eleanor St. and south to

¹ Newberry County Deed Book 41, page 97

² Newberry County Deed Book 22, page 269

³ Newberry County Deed Book 11, page 443

⁴ Newberry County Deed Book 9, page 243

⁵ Newberry County Deed Book 8, page 341

⁶ Newberry County Deed Book 21, page 198

⁷ Newberry County Deed Book 41, page 181

⁸ Newberry County Deed Book 61, page 460

Adelaide St.⁹ This area, which is immediately downwind of the industrial waste site, was designated a Black neighborhood in accordance with City ordinance 08-24-1940.¹⁰ In 1953, Commercial Investment Co. divested the remaining properties¹¹ to Mr. Whitener, Sr., some of which were opposite Scott's Creek from the current industrial waste site.

Seven months after this divestiture, in December of 1953, Mr. Whitener, Sr., was convicted of raping an 11 year old White girl three months earlier in Columbia,¹² and attempting to engage two 16 year old boys to participate.¹³ The description of the crime shows premeditation and consistency with a pattern of pedophilia.¹⁴ Mr. Whitener admitted to the police he had intercourse with the 11 year old girl but denied it was rape. Two days after being raped, in an arrangement between the Columbia police and her mother, the victim was incarcerated at the Industrial School for White Girls. She was beaten and threatened with permanent incarceration until she issued a statement recanting her previous statement to the police. She remained in custody of the state for an unknown period of time past the trial. During the trial Mr. Whitener attempted to plant a juror of his acquaintance but the juror was accidentally dismissed by his own attorney.

The trial judge rejected the victim's recantation and the jury convicted him on three charges in two hours and sixteen minutes. He was sentenced to 14 years imprisonment; his conviction was upheld by the state Supreme Court.¹⁵ The case established a precedence in state law, where witnesses to a later crime can be used to establish an earlier crime, in this case, the witnessing of a second rape by the teenage boys provided foundation that the first rape earlier that day did occur.¹⁶ Mr. Whitener, Sr., a long-time resident of Newberry, was married and had children. He died in 2004, age 100, at White Oaks Manor.¹⁷

The land west of the headwaters to Scott's Creek is no less tortured. A deed search indicates that the aforementioned Zachary F. Wright inherited some or all of the area in 1898,¹⁸ from Adeline Fowles, who herself appears to have inherited the land as a relative of the Johnstone family,¹⁹ as discussed earlier. Mr. Wright sold the land to Henry C. Shealy in 1903,²⁰ who in turn sold the land to Isaac T. Timmerman in 1917.²¹ During Mr. Timmerman's ownership there is a deed granting right-of-way land access to the railway.²² The accompanying plat shows commer-

⁹ Appendix A

¹⁰ Appendix B

¹¹ Newberry County Deed Book 61, page 460

¹² Appendix C

¹³ Appendix D

¹⁴ Author's conclusion based on graduate studies of community-level social ills

¹⁵ Appendix D

¹⁶ Appendix E

¹⁷ Appendix F

¹⁸ Newberry County Deed Book 9, page 243

¹⁹ Newberry County Deed Book 8, page 341

²⁰ Newberry County Deed Book 14, page 414

²¹ Newberry County Deed Book 22, page 249

²² specifics missing from author's notes

cial buildings in the vicinity of the industrial waste site, as well as an area near the tracks noted as "cultivated."²³

In 1963, Mabel Madden of Cheraw purchased the lands from the I. T. Timmerman Estate.²⁴ This deed includes a description of "Clark Wrecking Company," in one of the plots.²⁵ At least two residents remember it as "Clarkson," not Clark, and recall it was a White-owned business. They also recall the site shredded cars and was unpleasant to live next to. In 1975, through multiple purchases, Charles Mills purchased the land from Ms. Madden²⁶ and others.²⁷ During this period it became 702 Glenn St., and absorbed other nearby properties. In 2007 Charles Mills deeded the land to his son, Stanley Mills,²⁸ who sold it to the current owners in Dec. 2019.²⁹

Since opening in August, 2020, the current owners have been shredding industrial equipment with backhoes and using oxypropane torches to reduce the size of the pieces. The smoke carries for hundreds of feet and has entered the houses of people nearby. In addition to the distinct smell of burning metal, observers have noticed a smell they describe as "sulfur." Video evidence shows yellow smoke, associated with burning sulfur, emanating from the site.³⁰

In September 2020, the Akebono Brake manufacturing plant in West Columbia, SC, closed. In December, 2020, it was sold³¹ to the anonymous shell company "201 Metropolitan Dr., LLC." which is registered in Cleveland, OH.³² The name of the shell company is the address of the plant. In March 2021, the site manager informed a member of the State Transport Police, Weight Patrol, that they were a "salvage and demolition" operation.³³ While the site presents itself as a recycling center and a service to the community, very little of their income is derived from that. In April 2021, the site manager of the industrial waste site informed a representative of the Department of Health and Environmental Control (DHEC) that the material they are shredding and torching came from the Akebono plant,³⁴ over 40 miles away. This material apparently began arriving in January 2021, when residents noticed a substantial increase in heavily-loaded trucks and smoke.

Some material is removed after being reduced in size. Industrial material that can not be reduced or resold is piling up along the property boundaries. Land used for automobile shredding and disposal in the 1960s and perhaps earlier has been greatly disturbed, raising the possibility of contamination by lead, mercury, and other heavy metals.

²³ specifics missing from author's notes

²⁴ Newberry County Deed Book 82, page 192

²⁵ Section 9 of above

²⁶ Newberry County Deed Book 125, page 24

²⁷ Newberry County Deed Book 141, page 118

²⁸ Newberry County Deed Book 1321, page 140

²⁹ Newberry County Deed Book 2167, page 121

³⁰ http://www.zerowasteplanet.com/industrial_waste/#yellow_smoke

³¹ Appendix G

³² Appendix H

³³ Personal communication

³⁴ Appendix I

Also in April 2021, the Lexington County Council issued a tax break to JJE Capital Holdings, LLC., the parent company of Palmetto State Armory, in exchange for their \$61.7 million dollar investment in the plant at 201 Metropolitan Dr., West Columbia. The new occupants, Palmetto State Armory, manufacture assault rifles and handguns and are expanding their production. There has not been an additional reported sale of the plant at 201 Metropolitan Dr. JJE Capital Holdings, LLC, may own the anonymous shell corporation 201 Metropolitan Dr., LLC. One of the owners of JJE Capital Holdings, LLC., is Julian Wilson, who is the brother of the state's attorney general, Alan Wilson.³⁵

The connection to the history of pain and misery with the land can not be ignored. The material from a manufacturing plant being remodeled to mass produce instruments of violence was trucked in from 40 miles away, to be torn apart and burned in the middle of a residential neighborhood developed by someone who later admitted to raping a child and may have done so to others, a neighborhood which was legislated to be occupied by Black persons, on land that was a place of their ancestors' captivity.

The purpose of applying an oxygen-accelerated propane flame to metal is to raise the temperature of the metal past its ignition point.³⁶ This should be more properly called "burning" instead of "cutting" metal.³⁷ In addition to the metal undergoing a chemical change and emitting smoke, the contaminants on the metal also burn. Burning steel releases any alloys that may be contained in it, including lead, chromium, arsenic, zinc, cadmium, copper, mercury and nickel. Lead is a neurotoxin that impairs cognitive development in children. Nickel and arsenic are known carcinogens. Cadmium and mercury cause kidney damage.³⁸

DHEC has visited the site three times, Feb 19³⁹, April 14, and April 15, 2021. The first time the field agent failed to note that the use of torches is limited to acetylene fuel and for maintenance purposes only.⁴⁰ This caused a delay of two months before DHEC could be induced to visit again. The second time two field agents visited. One of them noted the smoke from the operation of the torches (the site is operating up to two torches at a time), and suggested slower burning to produce less smoke.⁴¹ In spite of the state law limiting the emission of smoke to no greater than 20%,⁴² no citation was issued. Pictures taken that day the following one show opacity of 100% (total obscuring), and the smoke leaving the site premises.⁴³ The notes indicate

³⁵

https://www.postandcourier.com/columbia/business/scs-palmetto-state-armory-signs-tax-deal-for-former-west-columbia-brake-plant/article_40f9b654-a77b-11eb-8b3e-d7189f209ff5.html

³⁶ <https://weldingstars.com/how-to-set-up-a-cutting-torch-safely-and-efficiently/>

³⁷ <https://www.weldingtipsandtricks.com/cutting-torch-4.html>

³⁸ "Heavy Metals in Contaminated Soils: A Review of Sources, Chemistry, Risks and Best Available Strategies for Remediation" <https://www.hindawi.com/journals/isrn/2011/402647/>

³⁹ Appendix J

⁴⁰ Appendix K

⁴¹ Appendix L

⁴² Appendix M

⁴³ http://www.zerowasteplanet.com/industrial_waste/DHEC_smoke.html

DHEC is more concerned about the number of tires on the site and the possible need for storm-water containment.⁴⁴

Appendix K has correspondence indicating DHEC's preference that the site be determined to emit less than five tons per year, above which the waste site would be required to have a permit. DHEC modeled the emissions from the oxypropane torch as comparable to a water heater fueled by propane. They modeled the emissions⁴⁵ from the metal as comparable to the production of iron and steel in an enclosed factory equipped with "wet scrubbers."⁴⁶ They did not model any of the contaminants on the material itself, such as grease, anti-corrosive coatings, and paint. Additionally, DHEC modeled the torch itself as comparable to a water heater using propane.⁴⁷ Their conclusion is that the site is not emitting a significant amount of pollutants.⁴⁸

In stark contrast to DHEC's conclusions, there is substantial documentation showing pollutants are entering houses surrounding the waste site. As of May 9th, 2021, eighteen residents have signed statements attesting to this,⁴⁹ and video evidence supports their statements. I have personally spoken to a lung cancer survivor, a person with a heart condition that leaves them cyanotic (low oxygen) and someone with nickel allergies, all in their homes.

An additional eleven residents (twenty-nine total) have attested by signature to smelling the smoke as far east as Wise Street. It is sharp and burns the nose and eyes. These residents did not give permission for their land to be used as a repository of the fugitive emissions escaping from the non-enclosed operations of torching metal.⁵⁰ Many residents complained about not being able to open their windows due to the smell of smoke. One resident on Benedict St. stated he had seen smoke inside his house.

More than thirty residents have also signed petitions asking for for DHEC to meet with the community in person to explain their decision⁵¹ and for the City to pay for air, water and soil sampling.⁵² Proof of contamination of the surrounding properties could form the basis of a class-action lawsuit against the industrial waste site, and cooperation by the City would show good faith in resolving an issue the city is responsible for creating, first in requiring Black people to live in the area, then zoning the area upwind of the neighborhood industrial, and last by issuing the waste site a business license.

The first ordinance codifying the segregation of races in the City of Newberry was passed August 24, 1940.⁵³ It was repealed and replaced by an ordinance passed on Sept. 24, 1940,⁵⁴ which was largely unchanged until it was repealed by the Civil Rights Act of 1964 and the Fair

⁴⁴ Appendix L

⁴⁵ Appendix N

⁴⁶ <https://www.epa.gov/sites/production/files/2020-11/documents/c12s05.pdf>

⁴⁷ https://www.epa.gov/sites/production/files/2020-09/documents/1.5_liquefied_petroleum_gas_combustion.pdf

⁴⁸ Appendix N

⁴⁹ Appendix P

⁵⁰ Appendix Q

⁵¹ Appendix R

⁵² Appendix S

⁵³ Appendix B1

⁵⁴ Appendix B2

Housing Act of 1968. According to the 1960 Code of Laws for the City of Newberry, Section 17, Segregation of Races,⁵⁵ Black and White residents were not allowed to live in neighborhoods in which the majority of homes were occupied by members of the opposite race. Existing businesses were "grandfathered" so that White owned businesses in Black neighborhoods were allowed to continue. This appears to include the land that is currently the industrial waste site at 702 Glenn St.

In contrast to the economic prosperity experienced by the White owners of 702 Glenn St., the Black community downwind of the site has experienced continuing forms of institutional racism. In addition to the Jim Crow-era City ordinances prohibiting sales and building permits if the intended use of the property would be contrary to the racial makeup of the block, preventing sales to persons of a different race, post-Jim Crow era residents within the neighborhood likely experienced a banking and insurance practice known as "redlining."⁵⁶

Redlining is the policy of not offering personal loans, mortgages or insurance to people who are residents of particular neighborhoods, often identified on maps by red markers. This practice prevents residents from obtaining loans at reasonable interest rates, if at all, and can result in an inability to afford repairs such as replacing roofs or siding. Houses are difficult to sell because prospective buyers can not obtain mortgages or insurance at affordable rates. This lowers their resale value. Roofs and siding can not be repaired, leading to the deterioration of the house itself. The house effectively has a negative net value, and this affects the entire neighborhood.

This was a widespread practice and was only outlawed in 2007, after the Great Recession caused by the housing crash inspired significant reforms. While no proof exists that this occurred in Newberry, this is due to an absence of evidence, not evidence of absence. It would have been an exceptionally rare outcome for redlining to not have occurred in this community. Newberry County has copies of mortgages going back to the 1940s. An analysis comparing interest rates on mortgages in different neighborhoods would reveal if redlining occurred in Newberry and the Wise St. area, among others.

The inference of the practice can be seen in the decay of the neighborhood. Once a thriving middle class neighborhood of proud and dignified Black owners of their land and homes in the 1940s, the area known collectively as "Wise Street" is visibly suffering. Houses are in distress and many are owned by absentee landlords. Gunfire recently took the life of an innocent resident who was known as a leader in the community.

We did not arrive here by accident. This was by design, by decisions made by White males whose motivations did not and still do not include compassion towards all humans. A few of these White males can even be described as evil. The appropriate response to the conditions is to claim the land at 702 Glenn St. and turn it over to the community that has suffered the most from it. Through the work of the community in remediating and rebuilding on the land, the past demons can be exorcised, healing a gaping wound that is spreading and will continue to spread until this is done.

⁵⁵ Appendix B3

⁵⁶ <https://ncrc.org/holc/>

And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."

Matthew 25:40

List of Appendices

- A. Plot of Commercial Investment subdivision
- B. Ordinances
- C. Guy Whitener arrest and conviction
- D. State v. Whitener
- E. Supreme Court case precedence
- F. Guy Whitener obituary
- G. Sale of Akebono plant
- H. Certificate of incorporation of shell corporation
- I. DHEC Field Agent notes use of torches for burning metal but finds no violation
- J. DHEC notes of Akebono
- K. DHEC Field agent Burrows being corrected about use of torches
- L. DHEC Field Agent Madden's notes to reduce rate of burning
- M. DHEC Standard 61-62.5, emission of smoke section 1 and 4
- N. DHEC modeling/calculations
- O. Letter from Dr. Gordon Irons refuting DHEC's modeling
- P. Statements attesting smoke smelled in house
- Q. Statements attesting smelled smoke on property without permission
- R. Petition requesting DHEC visit in person
- S. Petition requesting City of Newberry pay for sampling

Revision History

05/09/21	Original version
05/10/21	Added letter from Dr. Gordon Irons as Appendix O
05/12/21	Corrected mismatch in footnotes regarding Appendices
02/19/22	Replaced Dr. Irons' letter with his calculations as Appendix O

Plat Book I
page 199

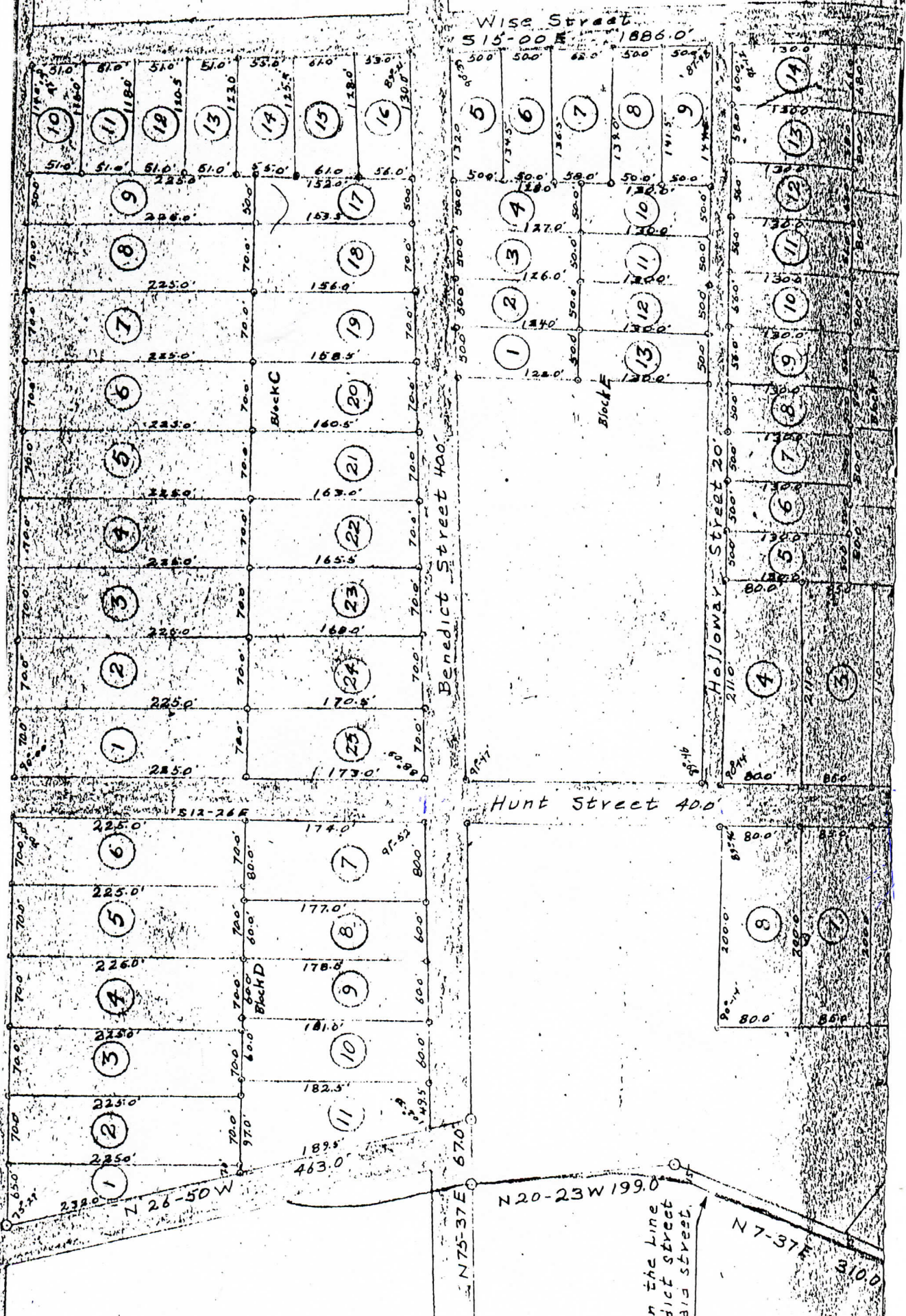
Hunt Street
N 77-34 E
Johnstone St. Ext.
Proposed Ext. of Eleanor St.
Proposed Ext. of Benedict St.
SCALE 300' = 1"
1945
Branch on the Line from Benedict st. to Adelaide St. Cor. off set for convenience
N 7-37E 3140'
N 18-12E 2800'
Duke Steel Power Line
Adelaide St.
Iron rod on Bridge
N 61-13W 3000'
N 45-NW 640'
S 76-07W 8550'
H.C. Holloway
Wise St.
Iron Pipe am
Branch
PLAT of Property of DAVID L. RUFF Esq. AL. Newberry County - S.C. Surveyed DEC. 12, 1945 BY Walter H. Halpern

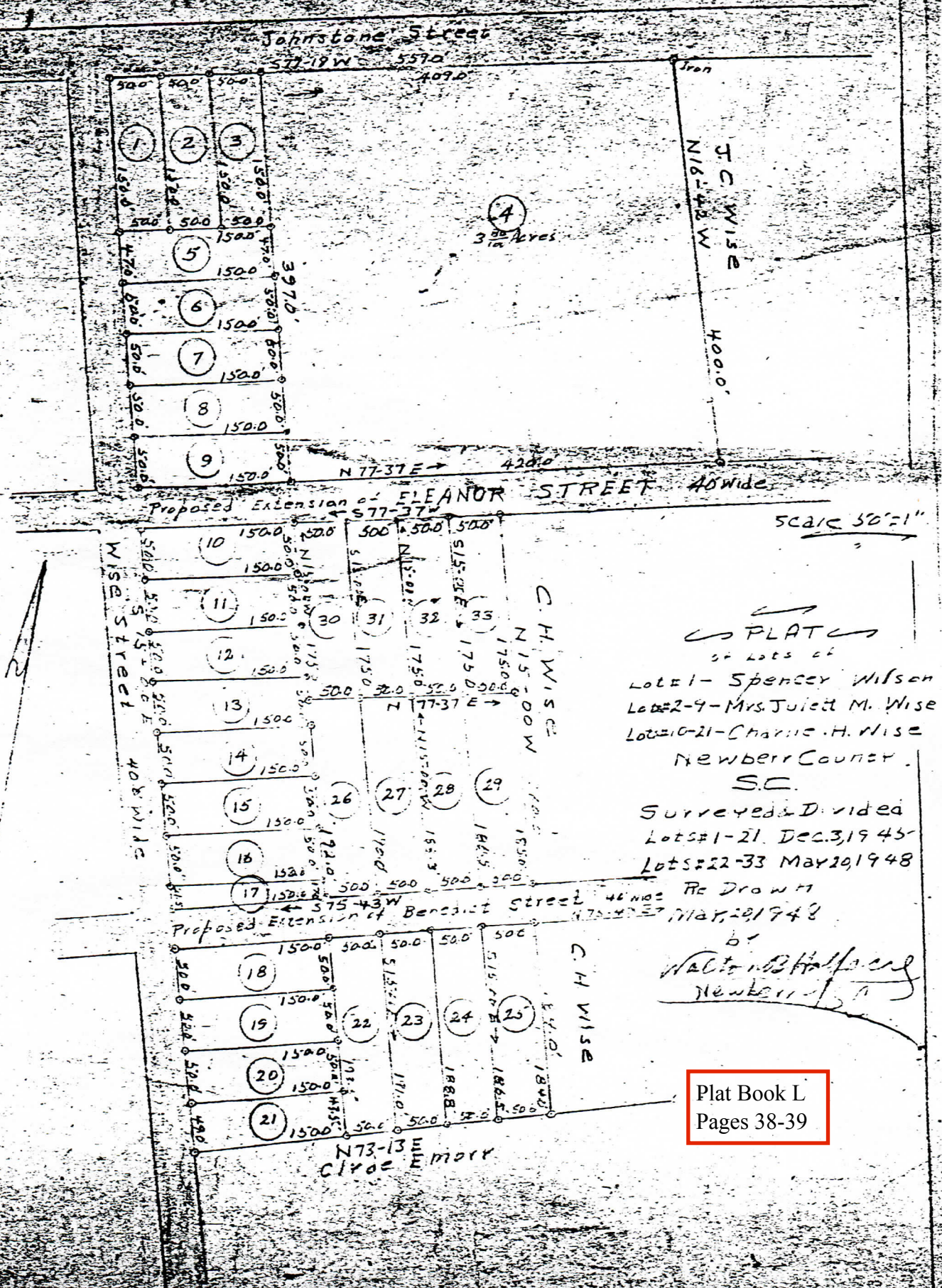
Total Acres	52.5 Acres
Less Street	3.7 "
Less Lot #1B	48.8 "
Remaining	47.3 Acres

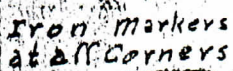
1946

~~Walter H. Hoff~~

Total Acres	52.5 Acres
Less Street	3.7 "
	48.8 "
Less Lot #1B	1.5 "
Remaining	47.3 Acres







PLAT
of
Lots A, B, C, D, E, F.
Property of
R. E. Summer
Newberry County & City

11-10-1964
Newber

AN ORDINANCE TO SECURE FOR WHITE AND COLORED PEOPLE, RESPECTIVELY, THE SEPARATE LOCATION OF RESIDENCES FOR EACH RACE.

Be it ordained by the Mayor and Aldermen of the Town of Newberry, S. C., in Council assembled, and by authority of the same:

SECTION 1. That it shall be unlawful for any white person to occupy as a residence, or to establish and maintain as a school or place of public assembly, any house upon any street or alley (private or public) between two adjacent streets on which a greater number of houses are occupied as residences by colored people than are occupied as residences by white people.

SECTION 2. That it shall be unlawful for any colored person to occupy as a residence, or to establish and maintain as a school or place of public assembly, any house upon any street or alley (private or public) between two adjacent streets on which street or streets a greater number of houses are occupied as residences by white people than are occupied as residences by colored people.

SECTION 3. On all streets or alleys upon which no house is occupied, the color of residence, schools and places of public assembly shall be governed by the adjacent streets.

SECTION 4. And any person desiring to build shall state in the application for a building permit whether the house or building so to be constructed is designed to be occupied by white or colored people, and the building inspector of the Town of Newberry shall not issue any permit in such case unless the applicant agrees to comply with the provisions of this ordinance. And it shall be unlawful for such house or building to be occupied by any member of a race other than that stated in the permit; and these applications and permits shall be filed in the office of the Clerk & Treasurer of the Town. Should any permit be issued for the erection

of a house or building in violation of this ordinance, through fraud, mistake, neglect, or for any other cause, may be revoked by the Town Council upon application by any person. Upon the application for the revocation of a building permit so granted, the Town Council shall, upon demand, order a hearing thereon, and give notice to all parties to be affected.

SECTION 5. That nothing in this ordinance shall affect the location of residences made previous to the approval of this ordinance, and nothing herein shall be so construed as to prevent the occupation of residences by white or colored servants or employees, on the lot on which they are employed.

SECTION 6. It shall be unlawful for any person to lease or sell any property with knowledge that the same is to be used or occupied in violation of any provision of this ordinance.

SECTION 7. Each day that a house or building is occupied in violation of any provision of this ordinance shall be a separate offense.

SECTION 8. Any person, either personally or through an agent, or any agent for another, violating any provision of this ordinance shall upon conviction in the Town Court be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars, or to serve upon the public works of the Town for not more than thirty (30) days.

SECTION 9. This ordinance shall take effect upon its adoption.

DONE and ratified in Council assembled, under the corporate seal of the Town of Newberry, S. C., this 26th day of August, 1940.

ATTEST:

D. L. Mance
TOWN CLERK

J. W. Earhardt
J. W. EARHARDT,
Mayor.

AN ORDINANCE TO SECURE FOR WHITE AND COLORED PEOPLE, RESPECTIVELY, THE SEPARATE LOCATION OF RESIDENCES FOR EACH RACE.

Be it ordained by the Mayor and Aldermen of the Town of Newberry, S.C., in Council assembled, and by authority of the same:

SECTION 1. Definition of terms: The following terms, as used herein, shall be construed as follows:

(a) A block shall include only the distance on any one street between intersections on that street, by other streets running substantially perpendicular thereto.

(b) An intersection of a street means either the crossing of a street by another street running substantially perpendicular thereto, or the entering of such street by another street running substantially perpendicular thereto, even though the intersecting street does not cross the intersected street.

(c) In determining the number of residences on any block of any street, only the residences facing the street within the block shall be counted, that is to say, a residence erected on a lot running from street to street shall only be counted on the street upon which the residence faces, and, likewise, a residence erected on a corner lot shall be counted only on the street on which the residence faces.

SECTION 2. That it shall be unlawful for any white person to occupy as a residence, or to establish and maintain as a school or place of public assembly for white people, any house upon any block of any street within the Town of Newberry, in which block a greater number of houses are occupied or used by colored people, than are occupied or used by white people.

SECTION 3. That it shall be unlawful for any colored person to occupy as a residence, or to establish and maintain as a school or place of public assembly for colored people, any house upon any block of any street within the Town of Newberry,

in which block a greater number of houses are occupied or used by white people, than are occupied or used by colored people.

SECTION 4. On all blocks within the Town, upon which no house exists (on either side of the street within the block), the color of residence, schools and places of public assembly shall be governed by the adjacent blocks. All alleys shall be governed by the block into which the alley enters.

SECTION 5. And any person desiring to build shall state in the application for a building permit whether the house or building so to be constructed is designed to be occupied or used by white or colored people, and the building inspector of the Town of Newberry shall not issue any permit in such case unless the applicant agrees to comply with the provisions of this ordinance. And it shall be unlawful for such house or building to be occupied by any member of a race other than that stated in the permit; and these applications and permits shall be filed in the office of the Clerk & Treasurer of the Town. Should any permit be issued for the erection of a house or building in violation of this ordinance, through fraud, mistake, neglect, or for any other cause, then such permit may be revoked by the Town Council upon application by any person. Upon the application for the revocation of a building permit so granted, the Town Council shall, upon demand, order a hearing thereon, and give notice to all parties to be affected.

SECTION 6. That nothing in this ordinance shall affect the location of residences made previous to the approval of this ordinance.


SECTION 7. It shall be unlawful for any person to lease or sell any property, with knowledge that the same is to be used or occupied in violation of any provision of this ordinance.

SECTION 8. Each day that a house or building is occupied in violation of any provision of this ordinance shall be a separate offense.

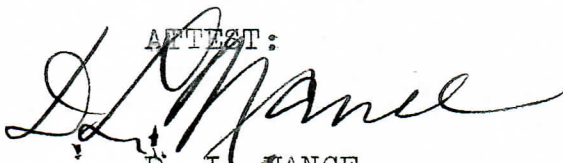
SECTION 9. Any person, either personally or through an agent, or any agent for another, violating any provision of this ordinance shall, upon conviction in the Town Court, be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars, or to serve upon the public works of the Town for not more than thirty (30) days.

SECTION 10. This ordinance shall take effect upon its adoption, and shall be construed as repealing the ordinance of the same title adopted August 26th, 1940.

DONE and ratified in Council assembled, under the corporate seal of the Town of Newberry, S. C., this ~~24th~~ day of September, A. D. 1940.


J. W. EARHARDT,
Mayor.

ATTEST:


D. L. NANCE,
Clerk & Treasurer.

Appendix B3

§ 16-4

SEGREGATION OF RACES

§ 17-1

Sec. 16-4. Inspections to insure enforcement of chapter.

The chief of the police department and the chief of the fire department or any other proper city official or employee shall have full power and authority to inspect any and all premises located within the city limits for the purpose of enforcing the terms of this chapter.

CHAPTER 17.

SEGREGATION OF RACES.¹

§ 17-1. Definitions.

§ 17-2. White persons not to occupy residences, establish schools, etc., in colored block.

§ 17-3. Colored persons not to occupy residences, establish schools, etc., in white block.

§ 17-4. Determination of color of residences, schools, etc., on blocks with no houses; factor governing alleys.

§ 17-5. Application for building permit to contain statement as to color of person to occupy house; issuance of building permit contingent on agreement to comply with provisions of chapter; revocation of permits issued through fraud, mistake, etc., contrary to provisions of chapter.

§ 17-6. Chapter not to be retroactive.

§ 17-7. Leasing or selling with knowledge property is to be used contrary to provisions of chapter.

Sec. 17-1. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

(a) *Block*. A block shall include only the distance on any one street between intersections on that street, by other streets running substantially perpendicular thereto.

1. For state law authorizing cities to provide by reasonable and suitable ordinances for the segregation of races, see S. C. Code, 1952, § 47-67.

(b) *Intersection of a street.* An intersection of a street means either the crossing of a street by another street running substantially perpendicular thereto, or the entering of such street by another street running substantially perpendicular thereto, even though the intersecting street does not cross the intersected street.

(c) *Number of residences on any block of any street.* In determining the number of residences on any block of any street, only the residences facing the street within the block shall be counted, that is to say, a residence erected on a lot running from street to street shall only be counted on the street upon which the residence faces; and, likewise, a residence erected on a corner lot shall be counted only on the street on which the residence faces. (9-24-40, § 1.)

Sec. 17-2. White persons not to occupy residences, establish schools, etc., in colored block.

It shall be unlawful for any white person to occupy as a residence, or to establish and maintain as a school or place of public assembly for white people, any house upon any block of any street within the city, in which block a greater number of houses are occupied or used by colored people, than are occupied or used by white people (9-24-40, § 2.)

Sec. 17-3. Colored persons not to occupy residences, establish schools, etc., in white block.

It shall be unlawful for any colored person to occupy as a residence, or to establish and maintain as a school or place of public assembly for colored people, any house upon any block of any street within the city, in which block a greater number of houses are occupied or used by white people, than are occupied or used by colored people. (9-24-40, § 3.)

Sec. 17-4. Determination of color of residences, schools, etc., on blocks with no houses; factor governing alleys.

On all blocks within the city, upon which no house exists on either side of the street within the block, the color of residence, schools and places of public assembly shall be

governed by the adjacent blocks. All alleys shall be governed by the block into which the alley enters. (9-24-40, § 4.)

Sec. 17-5. Application for building permit to contain statement as to color of person to occupy house; issuance of building permit contingent on agreement to comply with provisions of chapter; revocation of permits issued through fraud, mistake, etc., contrary to provisions of chapter.

Any person desiring to build shall state in the application for a building permit whether the house or building so to be constructed is designed to be occupied or used by white or colored people, and the building inspector of the city shall not issue any permit in such case, unless the applicant agrees to comply with the provisions of this chapter. It shall be unlawful for such house or building to be occupied by any member of a race other than that stated in the permit; and, the applications and permits shall be filed in the office of the city clerk and treasurer. Should any permit be issued for the erection of a house or building in violation of this chapter, through fraud, mistake, neglect or for any other cause, then such permit may be revoked by the city council upon application by any person. Upon the application for the revocation of a building permit so granted, the city council shall, upon demand, order a hearing thereon, and give notice to all parties to be affected. (9-24-40, § 5.)

Sec. 17-6. Chapter not to be retroactive.

Nothing in this chapter shall affect the location of residences made previous to the approval of the ordinance comprising this chapter. (9-24-40, § 6.)

Sec. 17-7. Leasing or selling with knowledge property is to be used contrary to provisions of chapter.

It shall be unlawful for any person to lease or sell any property, with knowledge that the same is to be used or occupied in violation of any provision of this chapter. (9-24-40, § 7.)

Newberry Observer

N D H E R A L D & N E W S

"Just Like a Letter from Home"

ED. 1865

NEWBERRY, S. C., TUESDAY, SEPTEMBER 22, 1953

NEWBERRY OBSERVER

versary Program

Guy Whitener Is Lodged In Richland Jail

Charged With Rape of Girl 11 Years Old

Guy V. Whitener, Sr., of Newberry, was still confined at the Richland County jail, according to information received from Detective Captain L. C. Williams of the Columbia police department this (Monday) morning. He is being held on a warrant charging him with the rape of an eleven-year-old white girl of Columbia last Thursday.

The arrest was made at ten o'clock last Thursday night on the ten hundred block of Beltline Avenue in Columbia, when city police stopped the 1952 Cadillac in which Whitener and the girl were riding. Capt. Williams said the car was stopped because Columbia police had been looking for a party in a similar car in connection with an earlier report on another case.

According to information received from Capt. Williams, the girl admitted having known Mr. Whitener for about two years, and having accepted rides from him before. This information had not been made public before this morning. When picked up, the girl told investigating officers of the alleged attack and led them to a motel where she said the alleged attack had taken place.

Last Saturday, through his attor-

PMA Ele Friday I

Grand Opinion Here Mc

The September term convened this morning, Monday. Bellinger of Columbia presented by Solicitor Williams. business was considered. Jury, foreman of which

True bills submitted include those on charges ranging from disorder to operating a motor vehicle under the influence of intoxicants.

Indicted for murder is E. McMorris. Ralph Gallman was indicted on the charge of point-blank. Another of the charges was against Walter C. Gables, charged with operating a motor vehicle under the influence of intoxicants. This was his sixth offense.

Indictments of housebreaking in varying degrees, covered eleven separate cases. Charged in connection with petit larceny are: Ward Gaddis, Robert Crenshaw, Nevil Thomas; Richard C. Nevil Thomas and Richard (two counts), and Ray Krell. Indictments of housebreaking and larceny are being brought a

Trial Of Whitener Enters Second Day

Winners Announced In Decorations Contest

Judges in the annual Christmas decorations contest announced the winners in the various wards Wednesday morning, adding that Newberry had many beautifully decorated homes, which added greatly to the Christmas spirit throughout the city.

The judging was done on originality, appropriateness, uniqueness and attractiveness, where decorations appeared in windows, porches, doors or other outside places. The judges stated that where winners in the past had the same decorations this year, they were not included in the judging, since it was felt that originality called for a

change in decorations.

The winners in the various wards with honorable mentions are: Ward 1, Mr. and Mrs. T. H. Crooks, Nance Street; honorable mention, Mr. and Mrs. J. J. Hitt, Nance Street.

Ward 2, Mr. and Mrs. G. R. Summer, Summer Street; honorable mention, Mr. and Mrs. R. C. Floyd, Mayer Avenue.

Ward 3, Mr. and Mrs. P. K. Harmon, Johnstone Street; honorable mention, Mr. and Mrs. C. L. Milstead, Washington Street.

Ward 4, Mr. and Mrs. Ernest Layton, O'Neal Street; honorable mention, Mr. and Mrs. Olin Layton, O'Neal Street.

Ward 5, Mrs. George Hartman, Daisy Street.

Ward 6, Mr. and Mrs. Herschel Kemper, Hunt Street; honorable mention, Mr. and Mrs. Walton Halfacre, Johnstone Street.

Winners in each ward received cash awards of five dollars.

The contest is sponsored annually by the Newberry Chamber of Commerce.

Dedication Of Summer Memorial Set For Sunday

The dedication service at Summer Memorial Lutheran Church has been set for 11:15 a. m. Sunday, December 27th, according to information received today. Rev. Karl W. Kinard, President of the South Carolina Synod, will preach at that hour. He will use as his theme: "Seizing Our Opportunities."

Rev. D. M. Shull, former president of the Newberry Conference, and pastor of Mayer Memorial Lutheran Church, will deliver the afternoon sermon at 3 p. m., with his topic being "Works of True Discipleship."

A cordial welcome is extended to all.

Seating capacity of the church is 335. Rev. Horace J. C. Lindler is the pastor. The plant has nine Sunday School rooms, an Assembly Room, and is equipped with a kitchen. The estimated cost of

New Year Party Plans Are Laid

All Newberry County High School youth and college students are urged to make plans to be present at The Newberry County Community Hall on Thursday night, Dec. 31st for the annual New Year's party.

Chairman for the Civic League is Mrs. Tom Long. She will be assisted by a Civic League committee.

Square dancing, round dancing, cake walks and candy walks will be engaged in by all from 8 til 12 o'clock, according to Dr. Mamie S. Summer, president of the Civic League.

Condition Of Girl Reported By Physicians

Packed Court Room Listens To Witnesses

Columbia, Dec. 23. — (Special The Newberry Observer) — The of the State of South Carolina Guy V. Whitener, charged with rape of a chubby 11-year-old Columbia girl at a Columbia motel September 18, moved into its second day of its long-delayed trial, morning, before Circuit Judge H. Henderson. The trial, before packed court room, followed in the same procedure as the Tuesday session, punctuated by frequent "objections" on the parts of both defense attorney, Clint Gray and the State's solicitor, T. Taylor.

By the time the representative of this newspaper left the Rich County court room (12:05 p. m.) State had called several witnesses to the stand and heard their testimony. A majority of the discussion concerned the physical condition of both the girl, who took the stand yesterday and testified for State, and Mr. Whitener, for period following the alleged offense.

Court was opened with the calling members of the police department to the stand to give testimony concerning the location of the motel in question, and statements, both oral and written, made by the girl, who is now confined at the State Industrial School for Girls.

After the police officers took the stand, James K. Wilson, electrolytic technician for the State Enforcement Department, testified that he had analyzed the various items of evidence taken from

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alf, to \$37,500.00, because of
generous donations in labor,
rials, etc.

Observer Prints Second Issue Of Next Week Early

The Newberry Observer will print
second issue of next week on
nesday afternoon instead of
rsday afternoon, so that com-
distribution of the newspa-
can be had before Friday, Jan-
1st, New Year's Day, on which
there will be no rural delivery.
l correspondents and advertis-
are asked to take notice of this
age and have copy in a day
er for next Wednesday's edi-
The regular Monday after-
issue will appear as usual.

Square dancing, round dancing,
cake walks and candy walks will
be engaged in by all from 8 til 12
o'clock, according to Dr. Mamie
S. Summer, president of the Civic
League.

Wilson Installed Head of Masons At Prosperity

Joe N. Wilson has been elected
and installed as worshipful master
of Prosperity Lodge No. 115, Anci-
ent Free Masons.

Other elected and appointed of-
ficers installed were: Ralph B.
Black, senior warden; James E.
Wicker, junior warden; B. T.
Young, treasurer; J. Ray Dawkins,
secretary; Max S. Cook, senior dea-
con; Grady Lee Halfacre, junior
deaconn; Richard H. Ross and Wil-
lie L. Bedenbaugh, stewards; and
John W. Taylor, tiler.

FROM ORANGEBURG

Mr. and Mrs. Virgil Ruff and
children of Orangeburg are spend-
ing the holidays with her parents,
Mr. and Mrs. Fred Weir.

for Girls.

After the police officers took the
stand, James K. Wilson, elab-
oratory technician for the State Law
Enforcement Department, testified
that he had analyzed the various
items of evidence taken from the
motel room and submitted as evi-
dence by the State. His testimony
included the fact that he had de-
tected the presence of male sperm
cells on the sheet, towel, and
even on a pair of panties alleged
to have been worn by the girl. His
testimony was brief, consuming but
12 minutes of the court's time.

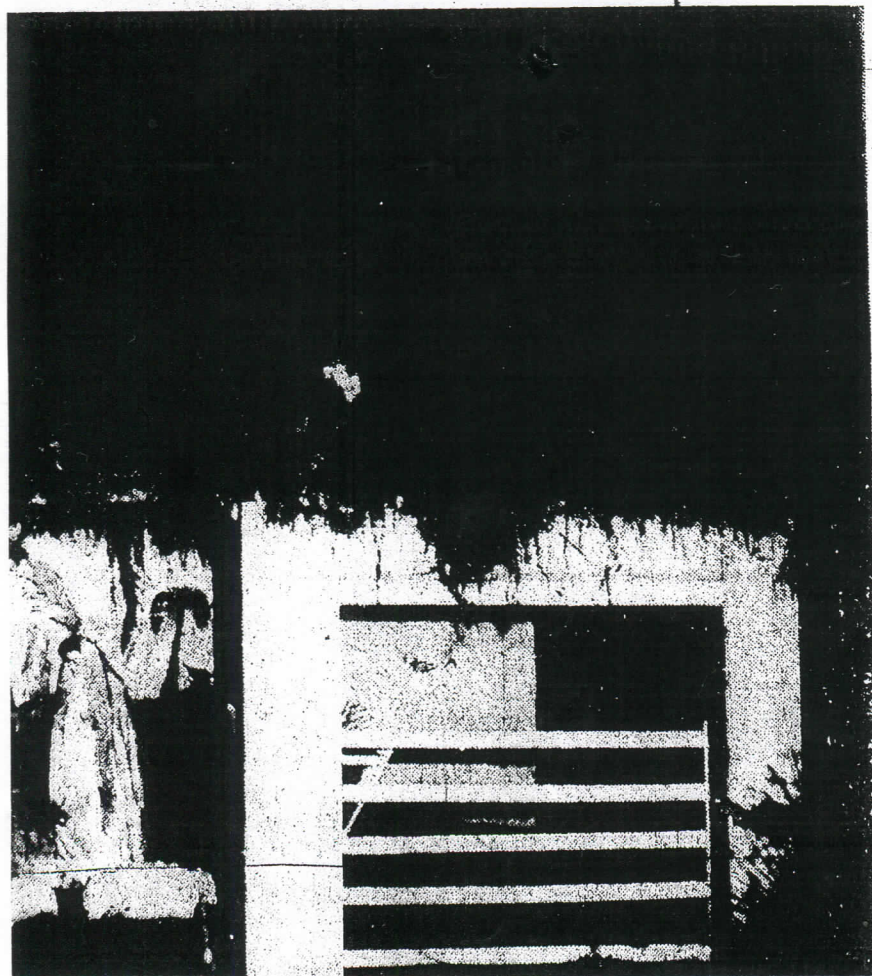
Following Mr. Wilson, two mem-
bers of the police department were
called to the stand and testified.
One of them was the district chief
of police. Their testimonies con-
cerned mainly the girl's statement,
and the emotional condition of the
girl, immediately following her be-
ing taken into custody.

The Richland County jail phy-
sician, Dr. L. C. Davis, was the
State's next witness. He stated that
he had examined the girl, who had
given him an "alias," at 1:00 o'clock
of the morning following the event
in question. He said that he had
also examined Mr. Whitener. He
said that he found no traces of
male sperm cells on either Mr.
Whitener or the girl, but elaborated
on the statement saying that it was
"highly improbable" to locate such
cells after five or six hours, with so
many varying factors aplying to
the situation. He stated that his
examination of the girl revealed a
dilation of the internal organs,
greater than the average, but not
of recent origin.

Dr. Davis got a brief respite,
when Judge Henderson called a
ten-minute recess, but returned to
the stand, to be cross examined by
Attorney Graydon, after court re-
convened. The defendant's attor-
ney, after frequent consultation
with his fellow-attorney, R. Aubrey
Harley of Newberry, stressed Dr.
Davis' testimony that no evidence
of sperm cells were found on either
the girl or Mr. Whitener. Dr. Da-
vis' testimony consumed about
three-quarters of an hour.

The State next called upon Dr.
C. K. Lindler, Richland County
physician, who had also examined
the girl and Mr. Whitener. His
examination of the girl was several
days after her being taken into cus-
tody, on September 23, but he re-
ported that a thorough physical
examination revealed the presence
of two small bruises on her right

Rule Highlight



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D18-25-J1c

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G. M. & R. E. NEEL STORE
Thursday, January 7, 1954, from 9 until 12.

SILVERSTREET
Thursday, January 7, 1954, from 2 until 5.

CHAPPELLE
Friday, January 8, 1954, from 9 until 12.

KINARDS
Friday, January 8, 1954, from 2 until 5.

JAMES HOMER CROOKS STORE
Monday, January 11, 1954, from 9 until 12.

A. E. & R. E. REESE STORE
Monday, January 11, 1954, from 2 until 5.

PEAK
Tuesday, January 12, 1954.

POMARIA
Wednesday, January 13, 1954.

ST. LUKE'S
Thursday, January 14, 1954, from 9 until 12.

O'NEAL
Thursday, January 14, 1954, from 2 until 5.

LITTLE MOUNTAIN
Friday, January 15, 1954.

PROSPERITY
Monday, January 18, 1954.
At Auditor's Office to March 1st, after which a penalty of 10 per cent will be added.

RALPH B. BLACK,
Auditor Newberry County.
D18tfc

NOTICE
ONE - YEAR CONTRACTS
FOR MAINTAINING LOTS
IN LOCAL CEMETERIES
NOW BEING ACCEPTED
\$6.00 Per Lot
PER YEAR
Eugene Derrick
PHONE 1097-J

BUILDING MATERIALS
215 lbs. Shingles, 250 lbs. Sheet Rock
8 and 9 ft. Armstrong Ceiling Tile
Oak Flooring
Asbestos Siding
Fir Crown Mold and other fir mold
FULMER BUILDING
SUPPLIES
Telephone 1628

to leave court in time to meet his deadline.

Trial Tuesday
The last report of this newspaper, last Monday afternoon, stated that Mr. Whitener was still confined at the Newberry County Memorial Hospital, and his condition listed by his physicians as "not having changed." Local Attorney Harley appeared in court that morning with affidavits signed by his two physicians, to that effect.

Judge Henderson, at the request of Solicitor Taylor, issued a bench warrant for Mr. Whitener to appear in court Tuesday morning to stand trial. Mr. Whitener was at court Tuesday, and was immediately examined by county physicians Hall and Lindler, who had examined him, on court order, here in Newberry last Thursday afternoon. They found him "weak, but well enough in our opinion for the trial to begin."

Attorney Graydon entered several motions: for continuance of the trial; for dropping the indictment because of a "multiplicity" of charges, and that the State elect which of the counts in the indictment on which to try Whitener. Solicitor Taylor elected to take the rape count and the carnal knowledge of a minor count. The latter was retained over Mr. Graydon's objection.

After Mr. Whitener had entered a plea of "not guilty," Graydon declared that the defense was "not ready to go on trial" but was being required to do so. The jury was then selected in exactly one hour.

Though the trial moved at a snail's pace, because of Mr. Graydon's frequent objections, the Solicitor was able to call four witnesses to the stand that first day. The girl, chief witness for the State, spent more than an hour on the stand, relating the alleged attack. Two boys, James Coleman and H. B. Sharpe, both 16 years old, supported the girl's statements in their testimony. The fourth State's witness was City Detective W. H. Rawlinson, who told of arresting the girl and Mr. Whitener in his car late on the night of September 18, and then of examining the cabin. The afternoon session was a drawn-out one, and no major developments came up before Judge Henderson recessed the Court until the Wednesday morning session, which is reported earlier in this article.

Ann Spotts, Miss Frankie Joye, Derrill Schumpert, Marion Hoffmeyer, Miss Alice Carter, Newberry College.

FROM FLORIDA
Mr. and Mrs. P. H. Kinsey and son, Lance, of Gainesville, Fla., are visiting Mrs. Kinsey's parents, Mr. and Mrs. H. F. Longshore, Sr.

FROM McCORMICK
Mr. and Mrs. Bob Hendrix and daughter, Mary Ann, of McCormick visited his mother, Mrs. J. R. Hendrix, on Cline Street, Saturday.

IN PINWOOD
Miss Julia Wicker is spending the Christmas season in Pinewood with Mr. and Mrs. O. D. Harvin and Mrs. N. C. Toole.

HOLIDAYS HERE
Mr. and Mrs. Al Fischer and son of Orangeburg and Forest Carpenter of Baltimore will spend the Christmas holidays here with their mother, Mrs. E. A. Carpenter.

BETH EDEN LUTHERAN PARISH
Rev. Thomas H. Weeks, Pastor
Newberry, South Carolina
Sunday Services, Dec. 27, 1953 are as follows:
St. James 9:00 a. m.
Beth Eden 10:30 a. m.
Colony 12:00 Noon
Sunday School:
Beth Eden 9:30 a. m.
St. James 10:00 a. m.
Colony 11:00 a. m.

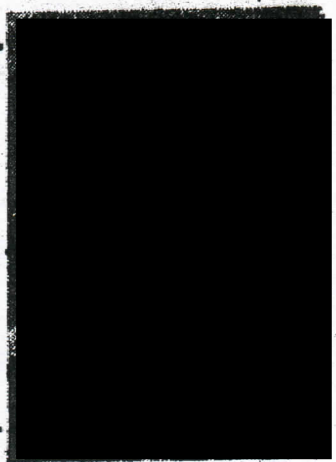
BARN
FOR JUST 83¢
A SQUARE FOOT

watch for ad
in this paper!

or write
Southern Surplus
Sales Co., Inc.

mons

The.... Rail



ut Folks You Know ...

ABOUT TIME for us to begin singing "Auld time to welcome in the New Year as the old one" during the past twelve months your Observer has brought me big stories, for truly this year has been an interesting headline articles. This may not be something happens most every minute. To be familiar saying, "where there's news, we take it here's none, we make it!" We are gratified it appears regularly in The Observer, for we have the privilege to be associated with such a fine staff as those of this staff . . . Publisher J. W. WHEELAN, MIRIAM HENDRIX, J. D. ROSEY ENGLISH, GEORGE EARHARDT, ALSPERGER, GRADY GALLMAN, H. L. L., and JIM PRICE, not to forget our faithful "PREACHER" SWITTENBURG.

MAS IS NOW story as far as and we imagine all our readers with few exceptions wonderful occasion giving and me with loved ones. more than just exchange of gifts you kept this in glorious theme is an any other as-

Kemper Chevrolet begun preparing their novel Christy until some future. We refer to the "hard" model of a company Exec. Of KEMPER, constructing a scale Chevy which has in his showroom the made careful came up with a complete with citing a "Merry

the "pause that refreshes" at no charge. It's little things like this which make Newberry such a wonderful place in which to live, don't you agree?

REMEMBER SEVERAL issues back we promised to let you in on some top secrets about the 1954 Buicks? We don't want to steal any of dealer ROY GASQUE'S thunder, but we will say this much—you owe it to yourself to make a date RIGHT NOW with Gasque Buick for the date Friday, January 8th, 1954. That is the day that the '54 models will be shown here and well, you'll be simply overwhelmed with their breath-taking beauty. We don't think that Brother Roy would object if we tell you the pre-war series "CENTURY" Buick is back in 1954, prettier, more powerful and better performing than ever before. Also, all the Buick series of cars this year have the lines of the magnificent "Skylark" sports car, which was introduced in 1952 and which won nation-wide

Court Hands Whitener 14 Year Sentence

Guy V. Whitener of Newberry today, Monday, spent the fourth day of the 14-year sentence handed down by the Court last Thursday, Christmas Eve, which culminated a three-day trial at the Richland County Court House in Columbia. He was found guilty of raping an 11-year-old Columbia white girl by a jury, which returned the verdict after being closeted two hours and sixteen minutes.

Defense Attorneys A. Aubrey Harley of Newberry and Clint T. Graydon of Columbia have indicated that they would appeal the case to a higher court, possibly on the claim that the jury failed to understand the charges. Meanwhile they have until, Saturday, ten days, to file their appeal of the case.

Representing the State of South Carolina during the trial was Solicitor T. Pou Taylor. Presiding was Circuit Judge E. H. Henderson.

A. J. Bowers Marks 35th Anniversary With Mutual of N.

A. J. Bowers, Jr., of Newberry celebrates today (December 28) 35th anniversary with The Mutual Insurance Company of New York. He is a field representative of the company's Columbia agency, managed by Walter W. Fulmer.

Mr. Bowers joined the agency as district manager in 1918.

Colored New

PROMOTED IN KOREA

IX CORPS, KOREA—Ted F. 22, son of Mrs. Rosa Todd, Johnson St., Newberry, S. C., recently promoted to corporal while serving with IX Corps in Korea.

The corps, one of three in Korea, coordinates the intensive post-training and reconditioning of units under its control.

Corporal Ruff, a cannoneer with the 937th Field Artillery Battalion's Battery C, entered the Army in August, 1952 and holds the American and Korean Service Ribbons.



Natur-Tender, Dressed

Appendix D



**Receive free daily summaries of new opinions
from the **South Carolina Supreme Court**.**

State v. Whitener

228 S.C. 244 (1955)

89 S.E.2d 701

THE STATE, Respondent, v. GUY V. WHITENER, Appellant.

16960

Supreme Court of South Carolina.

February 8, 1955.

*245 *246 Messrs. C.T. Graydon, of Columbia, and R. Aubrey Harley, of Newberry, for Appellant.

*247 Messrs. T. Pou Taylor, Solicitor, and John W. Foard, Jr., Assistant Solicitor, of Columbia, for Respondent.

*248 February 8, 1955.

LEGGE, Justice.

At the December, 1953, term of the Court of General Sessions for Richland County, appellant was indicted on three counts, the first charging rape, the second charging carnal knowledge of a woman child under the age of fourteen and above the age of ten years, and

the third charging him with aiding and abetting another in the carnal knowledge of the same child within a few hours after appellant had raped her.

On December 14, 1953, appellant gave notice of a motion for change of venue, upon the ground that because of the unfavorable publicity that had been given to the charges against him in the press, on the radio, and otherwise, he could not obtain a fair and impartial trial in Richland County. The motion was heard on December 16, 1953, and refused. He then moved for a continuance upon the following grounds:

(1) That, as disclosed by the affidavits in support of the motion for change of venue, he could not at that time obtain a fair and impartial trial; (2) That the cause would require from three to five days for trial and would therefore not be concluded until a day or two before Christmas, which would be unfair to the defendant; (3) That his counsel had received information to the effect that there were two or three persons, living without the State, who might be material witnesses; and (4) That the solicitor had signed the indictment on the sheet containing the third count, and that the third count, which would thus necessarily have to be in the hands of the jury along with the first two, was such as to be prejudicial to the defendant. This motion was heard on December 16, and refused.

On December 17, when the case was called for trial, appellant's counsel moved for a continuance upon the ground that appellant was so ill that his life would be endangered if he were forced to trial at that time. In support of the motion, his physician, Dr. A.W. Welling of Newberry, South *249 Carolina, testified that appellant at that time had a virus pneumonia and that it would endanger his life to attend trial that morning. Two of the county physicians of Richland county who had been sent by order of the court to the hospital at Newberry, where appellant was, testified that their examination that morning revealed that he had a slight fever, and that he was probably suffering from influenza; that they would not advise his standing trial at that time, but that under proper care and treatment he should be able to stand trial within from three to five days. The case was then continued to the morning of Monday, December 21, 1953.

At the call of the case for trial on December 21, appellant's counsel again moved for a continuance on the ground that he was too ill to stand trial. After consideration of affidavits of Dr. A.W. Welling and Dr. B.M. Montgomery, submitted in support of the motion, the court again sent the two county physicians to Newberry for the purpose of examining him; and upon their return they testified on the afternoon of the same day that his temperature was less than one degree above normal, and that they had found no evidence of virus pneumonia, pneumonitis, or any condition that in their opinion would make it dangerous to his life or health to stand trial at that time. The motion for continuance was then refused

The Supreme Court of South Carolina

ORDER

The South Carolina Bar and Commission on Continuing Legal Education and Specialization have furnished the attached lists of lawyers who were administratively suspended from the practice of law on January 31, 2005, under Rule 419(b), SCACR, and remain suspended as of April 1, 2005. Pursuant to Rule 419(e), SCACR, these lawyers are hereby suspended from the practice of law by this Court. They shall, within twenty (20) days of the date of this order, surrender their certificates to practice law in this State to the Clerk of this Court.

Any petition for reinstatement must be made in the manner specified by Rule 419(f), SCACR. If a lawyer suspended by this order does not seek reinstatement within three (3) years of the date this order, the lawyer's membership in the South Carolina Bar shall be terminated and the lawyer's name will be removed from the roll of attorneys in this State. Rule

danger of prejudice is enhanced.”); State v. Parker, 315 S.C. 230, 233, 433 S.E.2d 831, 832 (1993) (“[T]he connection between the prior bad act and the crime must be more than just a general similarity.”); State v. Rogers, 293 S.C. 505, 507, 362 S.E.2d 7, 8 (1987) (stating that where the acts are ten years apart and the only connection between the testimony of the two daughters was that the defendant touched them both, the prior bad act evidence should have been excluded), *overruled on other grounds by* State v. Schumpert, 312 S.C. 502, 506 n.1, 435 S.E.2d 859, 862 n.1 (1993); State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (1986) (finding where the robbery could not have been committed without the get-away-car, the relevance of the car theft to the crimes charged was easily perceived); State v. Stokes, 279 S.C. 191, 192-93, 304 S.E.2d 814, 814-15 (1983) (concluding the trial judge erred in admitting testimony from a witness who speculated that the defendant intended to rape her because there was no connection made between that prior bad act and the act for which the defendant was charged); State v. Whitener, 228 S.C. 244, 265, 89 S.E.2d 701, 711 (1955) (allowing testimony of another sexual act perpetrated against the same victim some hours after the original offense because the crimes were so related to each other that proof of one tended to establish the other); State v. Hubner, Op. No. 3917 (Ct. App. filed Jan. 10, 2005) (Shearouse Adv. Sh. No. 2 at 89) (stating that the similarity between separate acts must not merely be a similarity in the results; “[r]ather, there must be such a concurrence of common features that the various acts are normally to be explained as caused by a general plan of which they are the individual manifestations”); State v. Carter, 323 S.C. 465, 468, 476 S.E.2d 916, 918 (Ct. App. 1996) (reversing defendant’s conviction where there was no legal connection between the prior bad act and the crime charged); State v. Campbell, 317 S.C. 449, 451, 454 S.E.2d 899, 901 (Ct. App. 1994) (finding absent a connection between the two acts, the testimony of prior drug sales utilizing a similar sales technique precisely the type of evidence Lyle prohibits).

Wallace is correct that some of the appellate decisions appear to focus exclusively on the alleged close similarity between the other crime and the crime charged, while others look beyond mere close similarity to consider the system or connection between the two. Nevertheless, sorting out any

The Supreme Court of South Carolina

In the Matter of Benjamin Blakely Boyd, Respondent.

Appellate Case No. 2015-001270

ORDER

The Office of Disciplinary Counsel (ODC) has filed a petition seeking to appoint the Receiver to protect the interests of respondent and his clients pursuant to Rule 31 of the Rules for Lawyer Disciplinary Enforcement (RLDE) contained in Rule 413 of the South Carolina Appellate Court Rules. The request is based on respondent's current medical condition.

IT IS ORDERED that respondent is hereby enjoined from taking any action regarding any trust, escrow, operating, and any other law office account(s) respondent may maintain at any bank or other financial institution, including, but not limited to, making any withdrawal or transfer, or writing any check or other instrument on the account(s).

IT IS FURTHER ORDERED that the Receiver, Peyre T. Lumpkin, is hereby appointed to assume responsibility for respondent's client files, trust account(s), escrow account(s), operating account(s), and any other law office account(s) respondent may have maintained. Mr. Lumpkin shall take action as required by Rule 31, RLDE, to protect the interests of respondent's clients. Mr. Lumpkin may make disbursements from respondent's trust account(s), escrow account(s), operating account(s), and any other law office account(s) respondent may have maintained that are necessary to effectuate this appointment.

This Order, when served on any bank or other financial institution maintaining trust, escrow, operating accounts and/or any other law office accounts of respondent shall serve as notice to the bank or other financial institution that Peyre T. Lumpkin has been duly appointed by this Court.

exceeds the scope of the indictment is only permitted if it satisfies one of the exceptions found in Rule 404(b), SCRE. Berry asserts that assuming the victim's testimony was relevant; it was inadmissible because it did not relate to an exception set forth in Rule 404(b), SCRE. He contends the trial court erred in finding the victim's testimony was admissible as evidence of a common scheme or plan. The State argues the victim's testimony established the basis for the delay between the victim turning sixteen and the date she reported the abuse. The State also contends the victim's testimony was properly admitted as evidence of a common scheme or plan.

We believe the trial court properly admitted the victim's testimony as evidence of a common scheme or plan. *See Clasby*, 385 S.C. at 155, 682 S.E.2d at 896 ("Where there is a close degree of similarity between the crime charged and the prior bad act, both this [c]ourt and the [c]ourt of [a]ppeals have held prior bad acts are admissible to demonstrate a common scheme or plan.") (quoting *State v. Gaines*, 380 S.C. 23, 30, 667 S.E.2d 728, 731 (2008)). The victim's testimony in this case established the incidents of abuse occurred in the same manner and in the same locations as the conduct that formed the basis of the charge of CSC with a minor brought against Berry. *See State v. Whitener*, 228 S.C. 244, 265, 89 S.E.2d 701, 711 (1955) (recognizing that the common scheme or plan exception "is generally applied in cases involving sexual crimes, where evidence of acts prior and subsequent to the act charged in the indictment is held admissible as tending to show continued illicit intercourse between the same parties"); *State v. McClellan*, 283 S.C. 389, 392, 323 S.E.2d 772, 774 (1984) (concluding that victim's testimony regarding prior attacks by defendant, which were not the subject of an indictment, was properly admitted under the common scheme or plan exception in trial for CSC with a minor, second degree where testimony showed "the continued illicit intercourse forced upon her by [defendant]"); *State v. Weaverling*, 337 S.C. 460, 471, 523 S.E.2d 787, 792-93 (Ct. App. 1999) (finding victim's testimony regarding pattern of sexual abuse he suffered by the defendant was properly admitted as part of a common scheme or plan exception in trial for CSC with a minor and disseminating harmful material to a minor where the "challenged testimonial evidence of [defendant's] prior bad acts show[ed] the same illicit conduct with the same victim under similar circumstances over a period of several years").

Finally, Berry maintains that assuming the victim's testimony is relevant and falls within an exception in Rule 404(b), SCRE; it is still not admissible because any probative value is substantially outweighed by the danger of unfair prejudice. The trial court stated that after balancing the probative value of the victim's testimony and its prejudicial effect, it found the probative value was not substantially

Whitener, 100
NEWBERRY —
Guy Vanderbilt
Whitener, 100,
of 3272 College
St., widower of
Carrie Williams
Whitener, [died](#)
Monday, Jan.
19, 2004 at
[White](#) Oak
Manor.
Born in Lincoln
County, N.C., he
was a son of the
late M. Luther
and Ella Mae
Sain Whitener.
He had been
owner and
president of
Whitener
Lumber Co.,
Newberry, and
was part owner

and vice
president of
Southwest
Forest
Industries. He
also owned and

operated lumber
mills in other
areas of South
Carolina, [North
Carolina](#) and
[Georgia](#).

Serving eight
years with the
South Carolina
Forest
Commission, six
years as
chairman, he
was appointed
by the late
Governor Olin
D. Johnson to
serve on his

staff while in office. He was instrumental in establishing many South

Carolina parks. A member of Central United Methodist Church in Newberry and the Chesley Cannon Bible Class, he helped establish and build the Isle of Palms Methodist Church. Survivors include a sister, Bonnie W. Hamrick; seven grandchildren,

seven great-grandchildren,
two great-great-grandchildren.

Services are 3 p.m.

Wednesday at Central United Methodist Church. Burial is in Rosemont [Cemetery](#), Springdale Section.

Visitation is 6-7:30 tonight at Whitaker Funeral Home. Memorials may be made to Central United Methodist Church, P.O. Box 67,

Appendix G

1 of 6

2020061809 BK: 20914 PG: 1971 - 1976 6 PGS
 DEED
 Rec: \$15.00 Cnty: \$7,040.00 State: \$16,640.00
 December 31, 2020 08:44:52 AM
 FILED IN LEXINGTON COUNTY, SC *Tina Quarry*

Return to:
 201 Metropolitan Drive LLC
 4760 Richmond Road
 Suite 200
 Cleveland, Ohio 44128

LIMITED WARRANTY DEED

STATE OF SOUTH CAROLINA)
) KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF LEXINGTON)

AKEBONO BRAKE CORPORATION, a Michigan corporation, successor by merger with ABMA, LLC, with an address of 301 Ring Road, Elizabethtown, Kentucky 42701 ("Grantor"), for valuable consideration paid by 201 METROPOLITAN DRIVE LLC, an Ohio limited liability company, with an address of 4760 Richmond Road, Suite 200, Cleveland, Ohio 44128 ("Grantee"), the receipt of which is hereby acknowledged, has, subject to the Permitted Exceptions (as hereinafter defined) granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release subject to the Permitted Exceptions unto Grantee, all of Grantor's right, title and interest in and to the approximately 30.00 acres located at 201 Metropolitan Drive West Columbia, South Carolina, bearing Lexington County TMS No. 005698-03-013, as more particularly described on the attached **Exhibit A**, together with all and singular, the rights, members, hereditaments and appurtenances to such property belonging or in anywise incident or appertaining (collectively, the "Property").

THE PROPERTY IS HEREBY CONVEYED SUBJECT TO the following (collectively, the "Permitted Exceptions"): (i) all matters that would be shown by a current accurate survey of the Property; and (ii) all matters listed in Exhibit "B" attached hereto and incorporated herein by reference, but only to the extent applicable to said Property.

TO HAVE AND TO HOLD all and singular the Property unto Grantee, its successors and assigns forever.

And Grantor subject to the Permitted Exceptions does hereby bind Grantor and Grantor's successors and assigns, to warrant and forever defend all and singular the Property unto Grantee and Grantee's successors and assigns, against Grantor and Grantor's successors and assigns lawfully claiming or to claim the same or any part thereof.

[Signature Page Follows]



1416757.3

1

2020061809 BK: 20914 PG: 1971 - 1976 6 PGS
 DEED
 Rec: \$15.00 Cnty: \$7,040.00 State: \$16,640.00
 December 31, 2020 08:44:52 AM
 FILED IN LEXINGTON COUNTY, SC *Tina Quarry*

Description
 First Page
 Last Page
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 Toggle Page Selection
 Clear All Selected Pages
 Open New Window

Shortcut
 Home
 End
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 Right Arrow

Return to:
 201 Metropolitan Drive LLC
 4760 Richmond Road
 Suite 200
 Cleveland, Ohio 44128

LIMITED WARRANTY DEED

STATE OF SOUTH CAROLINA)
) KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF LEXINGTON)

AKEBONO BRAKE CORPORATION, a Michigan corporation, successor by merger with ABMA, LLC, with an address of 301 Ring Road, Elizabethtown, Kentucky 42701 ("Grantor"), for valuable consideration paid by 201 METROPOLITAN DRIVE LLC, an Ohio limited liability company, with an address of 4760 Richmond Road, Suite 200, Cleveland, Ohio 44128 ("Grantee"), the receipt of which is hereby acknowledged, has, subject to the Permitted Exceptions (as hereinafter defined) granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release subject to the Permitted Exceptions unto Grantee, all of Grantor's right, title and interest in and to the approximately 30.00 acres located at 201 Metropolitan Drive West Columbia, South Carolina, bearing Lexington County TMS No. 005698-03-013, as more particularly described on the attached **Exhibit A**, together with all and singular, the rights, members, hereditaments and appurtenances to such property belonging or in anywise

Tina Querry

2021-04-29, 13:26

Appendix H



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
12/16/2020	202035000782	DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG (LCP)	99.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

WESTON INC.
4760 RICHMOND ROAD
SUITE 200
CLEVELAND, OH 44128

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Frank LaRose
4586336

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
201 METROPOLITAN DRIVE LLC

and, that said business records show the filing and recording of:

Document(s)

DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG

Effective Date: 12/15/2020

Document No(s):

202035000782



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
16th day of December, A.D. 2020.

Ohio Secretary of State

Form 533A Prescribed by:

Date Electronically Filed: 12/15/2020



Toll Free: 877.767.3453 | Central Ohio: 614.466.3910

OhioSoS.gov | business@OhioSoS.govFile online or for more information: OhioBusinessCentral.gov

Articles of Organization for a Domestic Limited Liability Company

Filing Fee: \$99**Form Must Be Typed****CHECK ONLY ONE (1) BOX**

- (1) ☒ Articles of Organization for Domestic
For-Profit Limited Liability Company
(115-LCA)

- (2) ☐ Articles of Organization for Domestic
Nonprofit Limited Liability Company
(115-LCA)

Name of Limited Liability Company (Name must include one of the following words or abbreviations:
"limited liability company", "limited", "LLC", "L.L.C.", "Ltd.", or "Ltd".)Optional: Effective Date (MM/DD/YYYY) (The legal existence of the corporation begins upon the
filing of the articles or on a later date specified that is not
more than ninety days after filing.)Optional: This limited liability company shall exist for

Period of Existence

Optional: Purpose

**** Note for Nonprofit LLCs**

The Secretary of State does not grant tax exempt status. Filing with our office is not sufficient to obtain state or federal tax exemptions. Contact the Ohio Department of Taxation and the Internal Revenue Service to ensure that the nonprofit limited liability company secures the proper state and federal tax exemptions. These agencies may require that a purpose clause be provided. **

Notes

Date: 02/18/2021 Time: 16:25:44 Created by: Rachel N Burrows

2/17/2021 @ 10:15AM- Drove to the 3 roads where complainant told me to go and did not see any smoke of any kind coming from the 2 businesses (was unclear which side of the street the business was on without exact location). Sat around for a few minutes to observe and did not see anything while I was there.

Date: 02/18/2021 Time: 16:28:48 Created by: Rachel N Burrows

2/18/2021- Missed call from complainant at 2:28PM

Called back at 3:24PM- Explained I needed an exact address and could not do anything further without the address of the business. As mentioned, before I sat in between 2 properties unsure which one was the correct establishment to investigate. Complainant sent an email me the correct address and photos. Received this email 2/18/2021 @4:19PM.

2/19/2021- I had a missed call and voicemail requesting a received email to know his email was sent/received. Sent a received email 2/19/2021 @9:50 AM before heading to 702 Glenn Street.

Date: 02/25/2021 Time: 16:06:18 Created by: Rachel N Burrows

2/19/2021- Went to facility in question Newberry Recycling (NWS) on 2/19/2021 around 11AM- address is 702 Glenn Street Newberry, SC 29108

The property owner showed me around the property. There was nothing in violation of air regulations for open burning (there was a burn barrel on site that was used as a trash can for large trash bags when people bring in aluminum cans) nor did the facility need an air permit as the torch is considered an exempt item from air permits and they do not conduct any kind of crushing or grinding.. The facility cuts metal with a torch- at the time of the visit there was no torching going on. Emailed complainant on 2/19/2020 @1:41PM to inform him that there was no violations from our current air standards and no open burning was occurring while I was on site.

Date: 03/10/2021 Time: 13:09:10 Created by: Rachel N Burrows

Received email from complainant on 3/09/2021 @2:18PM stating the facility is still torching metal. I emailed it to Cindy Kilpatrick who then forwarded it onto Phyllis Copeland with permitting to further see if a permit is going to be needed or not. I spoke with Phyllis via email and phone. No permit is required for the facility at this time.

I also spoke with Monica Taylor about this complaint on 3/10/2021 at 3:10PM.

Date: 04/13/2021 Time: 14:07:20 Created by: Rachel N Burrows

Today I went with Samuel Madden to 702 Glenn Street. We spoke with the property owner. [REDACTED] showed us around the entire property to investigate the complaint. The facility was torching large pieces of metal today when we arrived. The facility was torching metal bins from a different facility. The smoke that was coming from the torched metal was still on property but very close to leaving the property. We suggested taking a longer time to cut the metal so the emissions/smoke from the torch would not be as excessive as they were. While we were on site the employees did start going slower so the emissions were much more manageable and not as thick as they were when we arrived. As we walked along the property Samuel and I noticed a large number of tires. We discussed the 1000 tire solid waste limit for businesses and suggested having some tires taken off site to avoid that 1000 tire limit.

The metal bins that were being cut up had oil in them previously, which did cause some of the emissions/smoke. We also suggested on top of having the oil drained prior to being brought on site that the company they buy from washes anything with oils in it out before shipping it off.

I took photos of most of the property. The photos are in a file in the onedrive.

Date: 04/13/2021 Time: 14:48:49 Created by: Rachel N Burrows

I had a teams meeting with Veronica Barringer, Blakely Lovelace, and Elizabeth Basil @1:00PM to discuss what had been noted via investigation.

Date: 04/21/2021 Time: 14:09:06 Created by: Rachel N Burrows

This report is also now in epermitting as well. Epermitting number is HP8-09WZ-4VMSX

<< Reply all ▾ 🗑 Delete 🗑 Junk Block ...

Re: Newberry Recycling Update

From: Burrows, Rachel N. <burrowrn@dhec.sc.gov>

Sent: Thursday, April 15, 2021 4:10 PM

To: Lovelace, Blakely <lovelabb@dhec.sc.gov>; Corley, Chris <CORLEYCL@dhec.sc.gov>; Barringer, Veronica <barrinv@dhec.sc.gov>; Basil, Elizabeth <basilej@dhec.sc.gov>

Cc: McCaslin, Steven <mccaslsd@dhec.sc.gov>

Subject: Newberry Recycling Update

Good afternoon,

Here is a synopsis of all my findings today.

At 9:07AM I arrived at All Automotive and Assistance and spoke with [REDACTED] who rents the property. This is a body shop. I walked the property and did not see any sign of open burning or anything of the sorts. They had no burn barrels on site.

At 9:13AM I arrived at Newberry Recycling. I spoke with [REDACTED] about the following:

What type of torch they used? Oxypropane Torch

What type of fuel they used? Propane

How much fuel they used per month? About 100 gallons

How often is the fuel refilled? Every 2 months even if the 400-gallon tank is not empty

How much metal is torched monthly normally? About 20 tons per month

How much metal is torched with the purchase of the Akebono plant in Columbia and normal torching? About 300 tons this month

How much metal is torched yearly 12 month rolling sum (12 mrs)? I calculated 3,600 tons if they do keep up the pace of 300 tons- if the facility sticks to a normal 20 tons per month, they will have a 12mrs of 300 tons

Typical pieces bought by Newberry Recycling- cars, household goods (washers, dryers, fridges, old metal frames, metal beams, lawn mowers), scrap from around a house

I was at Newberry Recycling from 9:13AM to 10:37 asking questions from above, looking at records, walking the property and observing the torching taking place today. As the torching was occurring, I witnessed water being flushed over the equipment. There was some smoke that are shown in the photos. The smoke is less than Tuesday while Samuel and I were out there. A typical day of what is bought at the facility is attached along with photos from what was being torched. Most of the items bought and brought to the scrap yard are household goods as mentioned above. Cars are sent to either CMC Recycling in Lexington, SC or CNC in Greenwood, SC. Metal is sorted out into what could be torched on site and what needs to be sent to a larger facility to be processed. The Akebono metal was the largest job they had for torching. Most of the products that do come into the facility are shredded and not actually torched. Normally they will buy batteries and structural type metals. Beams from buildings (i.e. house or facility) is what would normally be torched.

I received a missed call from [REDACTED] @ 12:17PM. I called [REDACTED] back @ 1:35PM. [REDACTED] told me after I left [REDACTED] neighbor who owned the body shop came over to say the complainant was on [REDACTED] property with cameras/phone. The body shop owner asked what he was doing. The complainant told the body shop owner he was recording DHEC not wearing a mask and what I was doing. I did not know I was being recorded and did not see the complainant. I had taken

⏮ Reply all ✎ Delete 🗑 Junk Block ...

Re: Newberry Recycling

Cell: (803) 920-4838
Fax: (803) 896-0617
Connect: www.scdhec.gov

From: Basil, Elizabeth <basilej@dhec.sc.gov>
Sent: Wednesday, April 14, 2021 10:17 AM
To: Barringer, Veronica <barrinv@dhec.sc.gov>
Cc: Johnson, Sonya C. <JOHNSOSC@dhec.sc.gov>; Corley, Chris <CORLEYCL@dhec.sc.gov>
Subject: Re: Newberry Recycling

Thank you-

We can use part of this information for the letter we send them as well.

From Steve McCaslin concerning air permit (and we may want to go ahead and do this for the other facility). Can you all get with Rachel and ask her to request that information?

Liz, the exemption specifically listed on our published list is for torch cutting when used for facility maintenance. When they go back out if they can gather info about the specific type of torch they are using and some estimates on the amount of fuel they use per year and the amount a metal they cut in tons we can put together some emission estimates. As Rhonda mentioned not sure this meets the definition of a stationary source but if we determine less than 5 TPY that would be best. Also could this be a fugitive source? Have them take some pictures for us well.

Elizabeth Basil, Assistant Bureau Chief
Bureau of Environmental Health Services
S.C. Dept. of Health & Environmental Control
Office: 803.896.8408
Mobile: 803.521.1119
Connect: www.scdhec.gov [Facebook](#) [Twitter](#)



From: Barringer, Veronica <barrinv@dhec.sc.gov>
Sent: Tuesday, April 13, 2021 8:38 PM
To: Basil, Elizabeth <basilej@dhec.sc.gov>
Cc: Johnson, Sonya C. <JOHNSOSC@dhec.sc.gov>; Corley, Chris <CORLEYCL@dhec.sc.gov>
Subject: Fwd: Newberry Recycling

Sent from my iPhone

Begin forwarded message:

⏪ Reply all ✓ 🗑 Delete 🗑 Junk Block ...

Re: Newberry Recycling

Subject: Re: Newberry Recycling

I forgot to add, Mr. Lowe said that he does not remove or accept any electrical transformers at the site.

Samuel Madden

Environmental Health Manager
S.C. Dept. of Health & Environmental Control
Office: (864) 227-5915
Mobile:
Fax: (864) 942-3680
Connect: www.scdhec.gov



From: Madden, Samuel <MADDENSI@dhec.sc.gov>
Sent: Tuesday, April 13, 2021 5:23 PM
To: Barringer, Veronica <barrinv@dhec.sc.gov>
Cc: McCluskey, Christopher <MCCLUSCD@dhec.sc.gov>
Subject: Re: Newberry Recycling

Veronica,

Sure, I visited the site this morning at approximately 10:15AM with Rachel Burrows. Upon arrival we observed heavy smoke coming from a cutting/torching operation on the site. We immediately made contact with the owner, [REDACTED]. [REDACTED] recently purchased the yard from the previous owner. [REDACTED] told us that the material they were cutting up at the time was steel containers from the closed Akebono plant in Columbia. While in production at the Akebono plant, these containers were used to wash cutting oil from steel shavings produced from the machining processes. The containers were emptied of the oil and wash water, but a thin film of oil remained on most surfaces of the material, so when they used the torches to cut the boxes up a significant amount of smoke was produced. There were no fires or open burning, all the smoke was produced by torch cutting of the containers. They were running two or three torches at the time we arrived. We toured the whole property and observed other pieces of equipment from the Akebono plant with similar oily residue. I did not observe any oil leaks or spills and I did not observe any sheen on any of the water puddles on-site. I observed a pile of several hundred tires at the back corner of the property. I told [REDACTED] that [REDACTED] was only allowed to store 1000 tires on-site and [REDACTED] should keep an eye on [REDACTED] tire pile and dispose of any excess tires. We should have the industrial stormwater

⏪ Reply all ✓ 🗑 Delete 🚫 Junk Block ...

Re: Newberry Recycling

Akebono plant in Columbia. While in production at the Akebono plant, these containers were used to wash cutting oil from steel shavings produced from the machining processes. The containers were emptied of the oil and wash water, but a thin film of oil remained on most surfaces of the material, so when they used the torches to cut the boxes up a significant amount of smoke was produced. There were no fires or open burning, all the smoke was produced by torch cutting of the containers. They were running two or three torches at the time we arrived. We toured the whole property and observed other pieces of equipment from the Akebono plant with similar oily residue. I did not observe any oil leaks or spills and I did not observe any sheen on any of the water puddles on-site. I observed a pile of several hundred tires at the back corner of the property. I told [REDACTED] that [REDACTED] was only allowed to store 1000 tires on-site and [REDACTED] should keep an eye on [REDACTED] tire pile and dispose of any excess tires. We should have the industrial stormwater program look at the site as well because [REDACTED] said [REDACTED] has a permit but also said they have never sampled their discharge from their outfall. [REDACTED] does scrap metal removal from manufacturing plant cleanouts and tear downs, so that is where the majority of his scrap metals are generated it seemed like. [REDACTED] does take some metal from the public, but not much. By the time we left the site, the torching had stopped, and the smoke had stopped. We advised [REDACTED] to not use as many torches at one time to make sure the smoke doesn't get too bad and to also ensure that the material [REDACTED] brings in is cleaned off better to prevent the smoke in the first place. I didn't see any indication that [REDACTED] needs any solid waste permits, but [REDACTED] should keep an eye on the number of tires [REDACTED] has on-site. I have some concern about the oily residue that remained on some of the scrap [REDACTED] has brought on-site. The fire-fighting capabilities at the site were also questionable. [REDACTED] had two hand-held extinguishers and a 400-gallon tote of water that uses a portable pump, but the pump wasn't on-site at the time of the visit. I will follow-up with some pictures that I took. Rachel also took several pictures at the site. Let me know if you have any further questions.

Thanks,

Samuel Madden
Environmental Health Manager
S.C. Dept. of Health & Environmental Control
Office: (864) 227-5915
Mobile:
Fax: (864) 942-3680
Connect: www.scdhec.gov



From: Barringer, Veronica <vbarrin@dhc.sc.gov>

61-62.5

Standard No. 1

Emissions from Fuel Burning Operations

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
February 25, 1983	-	7	2
May 24, 1985	457	9	5
April 22, 1988	970	12	4
February 24, 1989	868	13	2
June 26, 1998	2244	22	6
October 26, 2001	2648	25	10
May 27, 2011	4130	35	5
May 25, 2012 (Errata)	4130	36	5
September 28, 2012 (Errata)	4130	36	9
June 27, 2014	4388	38	6
June 26, 2015	4481	39	6
September 23, 2016	4650	40	9

SECTION I - VISIBLE EMISSIONS

A.Existing Sources

No one shall discharge to the ambient air from any existing source constructed prior to February 11, 1971, smoke which exceeds opacity of forty (40) percent. The forty (40) percent opacity limit may be exceeded for soot blowing, but may not be exceeded for more than six (6) minutes in a one hour period nor be exceeded for more than a total of twenty-four (24) minutes in a twenty-four (24) hour period. Emissions caused by soot blowing shall not exceed sixty (60) percent.

B.New Sources

No one shall discharge to the ambient air from any source constructed on or after February 11, 1971, smoke which exceeds opacity of twenty (20) percent. The twenty (20) percent opacity limit may be exceeded for soot blowing, but may not be exceeded for more than six (6) minutes in a one hour period nor be exceeded for more than a total of twenty-four (24) minutes in a twenty-four (24) hour period. Emissions caused by soot blowing shall not exceed sixty (60) percent.

C.Special Provisions

Owners and operators shall, to the extent practicable, maintain and operate any source including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. In addition, the owner or operator of fuel burning sources except natural gas and propane fired units, shall maintain a log of the time, magnitude, duration, and any other pertinent information to determine periods of startup and shutdown and make available to the Department upon request.

D.Test Method

The method which is approved by the Department for determining compliance with opacity limitations under this Section is EPA Reference Method 9 (40 Code of Federal Regulations (CFR) 60, Appendix A, as revised July 1, 1986). Alternate methods may be utilized only if approved in advance by the Department and by the Environmental Protection Agency (EPA).

SECTION II - PARTICULATE MATTER EMISSIONS

A.Allowable Discharge

The allowable discharge of particulate matter resulting from fuel burning operations shall be limited to the values obtained by use of Figure 1 and/or Part B. (For the purpose of determining heat input, total equipment capacity refers to total equipment capacity discharging through each stack. If a boiler has more than one (1) stack the total rated capacity will be the boiler rated capacity discharging to these stacks). Interpolation of Figure 1 for fuel burning operations of 1300 million British thermal units (Btu) per hour (Btu/hr) heat input and larger shall be accomplished by use of the equation:

$$E = 57.84 P^{-0.637}$$

where E = the allowable emission rate in pounds per million Btu heat input,
and P = million Btu/hr heat input

61-62.5

Standard No. 4

Emissions from Process Industries

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
February 25, 1983	-	7	2
June 24, 1983	314	7	6
May 24, 1985	457	9	5
April 22, 1988	970	12	4
February 24, 1989	868	13	2
June 26, 1998	2244	22	6
October 26, 2001	2648	25	10
May 25, 2007	3069	31	5
May 27, 2011	4130	35	5
December 28, 2012 (Errata)	4130	36	12
April 26, 2013	4330	37	4
June 27, 2014	4388	38	6
June 24, 2016	4590	40	6
September 23, 2016	4650	40	9

1.00	4.10	35	41.3
1.25	4.75	40	42.5
1.50	5.38	45	43.6
1.75	5.96	50	44.6
2.00	6.52	60	46.3
2.50	7.58	70	47.8
3.00	8.56	80	49.0
3.50	9.49	100	51.2
4.00	10.4	500	69.0
4.50	11.2	1000	77.6
5.00	12.0	3000	92.7

* Please note that certain small operations may not require a permit (see exemptions under Regulation 62.1, Section II).

TABLE B
Effect Factor for Particulate Matter Emissions**
(To Be Used with Standard 4 - Section VIII)

Material	Effect Factor (F)
a. All materials not specifically listed hereunder	1.0
b. Elements and their compounds on the basis of the element contained therein***	none assigned
c. Specific Materials: Acid Mists	0.25

** The Board will make additions to this table as required from time to time to preserve public health and property in South Carolina.

*** When a material contains two (2) or more elements, the effect factor of the element having the lowest effect factor shall apply.

SECTION IX - VISIBLE EMISSIONS (WHERE NOT SPECIFIED ELSEWHERE)

A. Where construction or modification began on or before December 31, 1985, emissions (including fugitive emissions) shall not exhibit an opacity greater than forty (40) percent.

B. Where construction or modification began after December 31, 1985, emissions (including fugitive emissions) shall not exhibit an opacity greater than twenty (20) percent.

SECTION X - NON-ENCLOSED OPERATIONS

A. All non-enclosed operations shall be conducted in such a manner that a minimum of particulate matter becomes airborne. In no case shall established ambient air quality standards be exceeded at or beyond the property line.

B. The owner or operator of all such operations shall maintain dust control of the premises and any roadway owned or controlled by the owner or operator by paving or other suitable measures. Oil treatment is prohibited.

C. All crushing, drying, classification, and like operations shall employ a suitable control device acceptable to the Department, and shall discharge no more particulate matter than that specified in Section VIII of this standard.

SECTION XI - TOTAL REDUCED SULFUR (TRS) EMISSIONS OF KRAFT PULP MILLS

A. Applicability and Designation of Affected Sources

1. The provisions of this subpart are applicable to the following affected sources in kraft pulp mills which commenced construction prior to September 24, 1976: digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, recovery furnace, smelt dissolving tank, lime kiln, and condensate stripper system.

2. The effective date of this section is February 22, 1980.

B. Total Reduced Sulfur (TRS) Emission Standards

The rate of TRS emissions from existing kraft pulp mills shall be limited to the following:

	Maximum Allowable Emission of TRS as Hydrogen Sulfide (H ₂ S) by Dry Volume, Averaged Over Twelve (12) Hours
Recovery Furnace	
Cross Recovery Furnaces	25 ppm (corrected to 8 percent oxygen)
Old Design Furnaces ¹	20 ppm (corrected to 8 percent oxygen)
New Design Furnaces ²	5 ppm (corrected to 8 percent oxygen)
Digester System	5 ppm
Multiple-Effect Evaporator System	5 ppm
Lime Kiln	20 ppm (corrected to 10 percent oxygen)
Brown Stock Washer System	no control
Black Liquor Oxidation System	no control
Condensate Stripper System	5 ppm
Smelt Dissolving Tank	0.016 gram per kilogram (g/kg) BLS ³

¹ Old design furnaces are defined as furnaces without welded wall or membrane wall construction or emission control designed air systems.

⏪ Reply all ▾ 🗑 Delete 🚫 Junk Block ⋮

Re: Newberry Recycling emission calcs.

Thank you Steve!

Letter head with your signature? 📎

Elizabeth Basil, Assistant Bureau Chief

Bureau of Environmental Health Services

S.C. Dept. of Health & Environmental Control

Office: 803.896.8408

Mobile: 803.521.1119

Connect: www.scdhec.gov [Facebook](#) [Twitter](#)



From: McCaslin, Steven <mccaslsd@dhec.sc.gov>

Sent: Tuesday, April 20, 2021 2:48 PM

To: Basil, Elizabeth <basilej@dhec.sc.gov>

Cc: Burrows, Rachel N. <burrowrn@dhec.sc.gov>

Subject: Newberry Recycling emission calcs.

Liz as requested attached are the estimates for the torch cutting. The estimates show they are well below our permit thresholds. Let me know if you need anything else.

Steve McCaslin, P.E.

Director, Air Permitting Division

Bureau of Air Quality

S.C. Dept. of Health & Environmental Control

Office: (803) 898-3869

Mobile: (803) 920-1545

Connect: www.scdhec.gov [Facebook](#) [Twitter](#)



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Re: Newberry Recycling emission calcs.



Basil, Elizabeth

Wed 4/21/2021 8:38 AM

To: McCaslin, Steven

Cc: Burrows, Rachel N.



Steve, someone has to put the servant into civil servant

Elizabeth Basil, Assistant Bureau Chief
Bureau of Environmental Health Services
S.C. Dept. of Health & Environmental Control
Office: 803.896.8408
Mobile: 803.521.1119
Connect: www.scdhec.gov [Facebook](#) [Twitter](#)



From: McCaslin, Steven <mccaslsd@dhec.sc.gov>
Sent: Wednesday, April 21, 2021 8:04 AM
To: Basil, Elizabeth <basilej@dhec.sc.gov>
Cc: Burrows, Rachel N. <burrowrn@dhec.sc.gov>
Subject: RE: Newberry Recycling emission calcs.

Sure I can even put my PE stamp on it, who should I send the bill 😊

From: Basil, Elizabeth
Sent: Tuesday, April 20, 2021 3:26 PM
To: McCaslin, Steven <mccaslsd@dhec.sc.gov>
Cc: Burrows, Rachel N. <burrowrn@dhec.sc.gov>
Subject: Re: Newberry Recycling emission calcs.

Thank you Steve!

Letter head with your signature? 📎

Elizabeth Basil, Assistant Bureau Chief
Bureau of Environmental Health Services
S.C. Dept. of Health & Environmental Control
Office: 803.896.8408
Mobile: 803.521.1119
Connect: www.scdhec.gov [Facebook](#) [Twitter](#)



The Air Permitting Division received a request from the BEHS to provide information on whether torch cutting at the Newberry Recycling site would require an air permit.

Researching the availability of emission factors for this type of resource results in limited emissions data. The site in question uses an Oxypropane torch. I was able to determine that the state of Ohio approximates emissions from torch cutting operations throughout the state using the emission factor scarfing from AP-42, Section 12.5 Iron and Steel Production, table 12.5-1 (10/86). This is an emission factor of 0.10 pounds of particulate per ton of metal processed. They also approximate the emissions of the propane combustion by using the emission factors for LPG combustion in boilers, which are found in AP-42, section 1.5, table 1.5-1 (07/08). Other states have used similar approaches.

Emissions from Propane Combustion:

Worst case facility reports to fill 400 gallon tank every 2 months, assuming the tank is empty on each fill that equates to 2,400 gallons of propane per year combusted.

$$\text{Particulate} = (0.7 \text{ lbs}/1000 \text{ gallons burned})(2400 \text{ gal./year}) = 1.68 \text{ lbs/year}$$

$$\text{NOx} = (13.0 \text{ lbs}/1000 \text{ gal})(2400 \text{ gal/year}) = 31.2 \text{ lbs/year}$$

Emissions from metal cutting:

The facility reported they normally cut about 20 tons per month of metal. For the current month they have cut about 300 tons. For determining the need for an air permit the emissions will be estimated on the worst case of 300 tons/month or 3,600 tons/year.

$$\text{Particulate} = (0.1 \text{ lbs}/\text{ton metal})(3,600 \text{ tons/year}) = 360 \text{ lbs /year.}$$

Total particulate emitted from the torch cutting operation is approximately 361.68 lbs per year or 0.18 tons per year. Particulate emissions less than 5 tons/year are exempt from the requirement to obtain an air permit. NOx is the next biggest emission at 31.2 lbs/year or 0.0156 tons per year which is less than the 5 ton per year permit threshold. There are some other pollutants from the propane combustion but the factors for these are lower and would not change the need for an air permit.

Process	EF	Units
Scarfig		0.1 lb-PM/ton-metal
LPG combustion		0.7 lb-PM/1,000-gal propane
LPG Combustion		13 lb-Nox/1,000-gal propane

Combustion Calcs:

400 gal-propane/2-month
2400 gal-propane/yr

1.68 lb-PM/yr
31.2 lb-NOx/yr

Total Calcs:		
	lb/yr	TPY
PM	361.68	0.18084
Nox	31.2	0.0156

Scarfig Calcs:

300 tons metal/month processed
3600 tons metal/yr processed

360 lbs-PM/yr

Gordon A. Irons, Ph.D., P.Eng. FCIM, FCAE,
Emeritus Professor

June 14, 2021

Mr. Gregory Kelly
Zero Waste Planet
Newberry, South Carolina

Dear Mr. Kelly,

You requested that I examine the estimate made by DHEC in April 2021 of the emissions at Newberry Recycling. My estimate of the particulate emissions is over 100 times than of the estimate of DHEC. At the observed consumption rate of liquid oxygen, the site would exceed the state limit to operate without a permit by a factor of four times; thus, the site would be emitting substantial levels of particulate emissions.

Let me first summarize my qualifications to make an evaluation. I have Bachelors, Masters and Ph.D. Degrees in Metallurgical Engineering and have a retired P.Eng. status in Ontario. Since 1980 and up to my retirement in 2014 I was a Professor in the Department of Materials Science and Engineering at McMaster University, the founding Director of the McMaster Steel Research Centre (SRC) and the Dofasco Professor of Ferrous Metallurgy. I currently am a Professor Emeritus in the same department. During my career, I taught undergraduate and graduate courses related to metallurgical phenomena and processes, including steelmaking. My research centred on reaction phenomena in steelmaking including injection processes. I have 100 peer-reviewed journal publications, and 153 journal publications. I was recently ranked by Stanford University to be in the top 2% of authors cited in the field of mining and metallurgy globally.

I have divided my findings into 2 sections:

1. Overview and Summary
2. Detailed Explanation

OVERVIEW & SUMMARY

DHEC suggested that steel scarfing is similar enough to scrap cutting with oxy-fuel burners to be used for the emissions estimates. While they are superficially similar in that both processes use an oxy-fuel torch to heat the steel to the ignition point, so that an oxygen jet from the same torch reacts with the steel to create iron oxide, FeO and a large amount of heat to melt the steel and iron oxide. The oxygen jet “cuts” the steel in both processes, but it is really burning the steel. Scarfing is used to remove a thin layer of steel, whereas scrap cutting cuts right through the steel.

The emissions for scarfing that DHEC cited were 0.1 lb of particulate emission per ton of steel scarfed. They applied this directly to scrap cutting as 0.1 lb of particulate emission per ton of steel processed. DHEC concluded that for 300 tons of scrap per month that the emissions were $300 \times 0.1 = 30$ lb of particulate emissions per month (plus a minor amount from propane combustion). This approach is incorrect for 2 reasons:

1. There is no reason that the amount of treatment per ton should be the same for scarfing and scrap cutting.
2. More seriously, scarfing is carried out indoors, so the particulates are contained, whereas the cutting at Newberry Recycling is outdoors, so the particulates are easily carried away to the nearby residents. Your videos show the black smoke emitted. Online videos of scarfing show similar plumes, but they are contained in the building.

My approach to estimating the emissions is based on the fundamental physics and chemistry of liquid iron oxidation by oxygen jets. Simply stated, all the oxygen injected into liquid iron will almost instantaneously and completely react to form iron oxide, FeO. Some of the iron oxide will be in a slag (a molten oxide phase) and some in the particulates carried away in the atmosphere. I argue in the Detailed Explanation that the mass of the fume is 0.366 of the mass of the O₂ jet is a conservative number based on the oxygen steelmaking process.

Therefore, the amount of dust created is directly related to the tons of oxygen used, not the tons of steel treated. You were able to estimate that Newberry Recycling used:

- 12000 lb oxygen/month and
- 200 USG liquid propane/month.

The Detailed Explanation shows that:

- 2700 lb of O₂ /month was used in the oxy-propane burner for propane combustion (using Equation 1, below),
- the remaining 9300 lb of O₂ /month was used in the oxygen jet to iron oxide in the slag and airborne particulates (using Equation 2).
- The 3400 lb/month of airborne emissions were created (0.366×9300 lb/month).

My estimate is more than 100 times greater than the DHEC estimate. At this usage rate Newberry Recycling would exceed the state limit of 5 tons/year to operate without an air permit by a factor of 4. This represents a significant amount of noxious dust released to the local neighbours as your videos have shown.

If the same oxygen to propane ratio is maintained, then every ton of oxygen that is used makes approximately 0.283 tons of particulate emissions. This makes it clear that oxygen use is directly related to particulate emissions.

DETAILED EXPLANATION

This method requires an understanding of the similarities and differences between scrap cutting, scarfing and oxygen steelmaking.

Oxy-Fuel Cutting of Steel

I have taken this description of scrap cutting from The Welding Institute website:

<https://www.twi-global.com/technical-knowledge/job-knowledge/oxyfuel-cutting-process-and-fuel-gases-049>

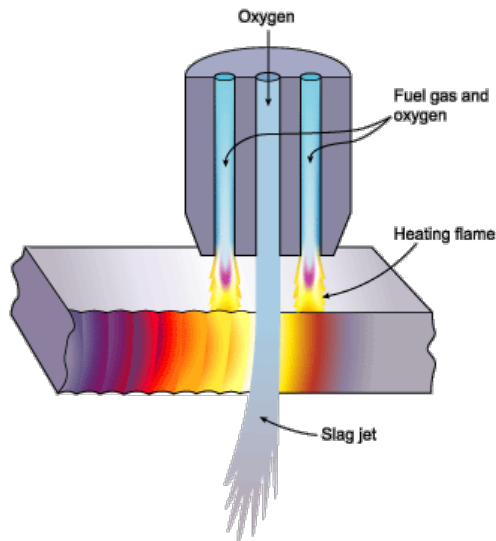
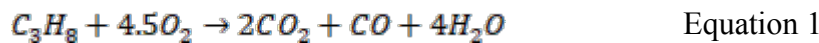


Figure 1: Schematic of oxy-fuel cutting, from TWI Ltd.

In this process, using propane as the fuel, a ring of fuel gas/oxygen burners are used to heat the steel to the ignition point, 1300 to 1650F.

When the fuel is propane a 4.5:1 ratio is used for partial combustion:



Entrainment of atmospheric oxygen completes the combustion of CO to CO₂.

With the steel above the ignition point the central jet oxygen reacts with the steel to make iron oxide, FeO:



This is a very exothermic reaction and takes the steel to well beyond the melting points of Fe and FeO, so that a slag (molten oxides) jet cuts through the steel. The torch traverses across the steel to make the cut. The slag jet is a mixture of FeO of various sizes. Some are large enough to collect as droplets and fall to the ground, but others are small enough to be airborne particles. FeO is the oxide of iron at high temperature, but as the droplets cool, oxygen from the atmosphere may further oxidize them to other iron oxides, Fe₂O₃ or Fe₃O₄, as they are solidifying. The question is: How much of the slag becomes airborne particles to be carried away? This can be answered from what is known about oxygen steelmaking.

Oxygen Steelmaking

In oxygen steelmaking supersonic oxygen jets are injected on the surface of liquid iron from the blast furnace to remove carbon and silicon by oxidation. In Figure 2 the jet is strong enough to push the slag to the side, so that the jet contacts the liquid iron. It is well-known that the reaction (Equation 2) at such temperatures (2900F) of essentially pure oxygen with essentially pure liquid iron, even at high velocity, is so fast that no unreacted oxygen leaves the reaction zone. Our own research on a steelmaking vessel demonstrated this (H. Gou, G.A. Irons and W.K. Lu, 1992, Mathematical Modelling of Post Combustion in a KOBM Converter, Metall. Trans. B, Vol. 23B,

pp. 179-188). The iron oxide created at the jet impact zone creates droplets due to the shearing action of the jet, and the droplets are entrained into the slag metal emulsion (Subagyo, G.A. Brooks, K.S. Coley and G.A. Irons, 2003, Generation of Droplets in Slag-Metal Emulsions through Top Gas Blowing, *ISIJ International*, Vol. 43, No. 7, pp. 983-989). A much larger slag volume is created in this process than in scrap cutting because SiO_2 and other oxides are created by the oxidation of impurities in the iron; CaO is also added to flux the slag. Therefore, the slag captures most of the iron oxide droplets in the vessel. Nevertheless, significant amounts of these droplets, composed of mainly iron oxide, escape with the carbon monoxide and carbon dioxide leaving the vessel.

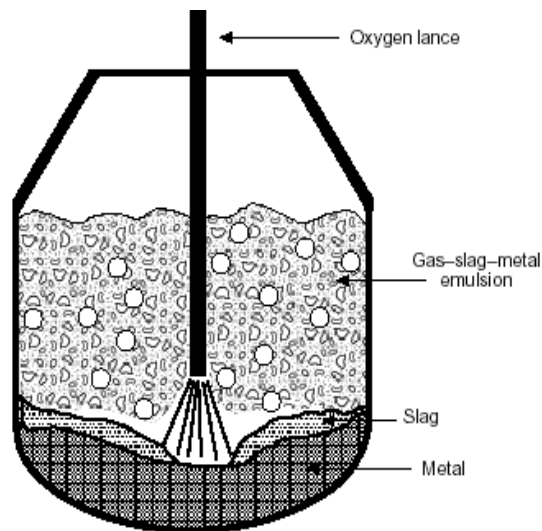


Figure 2: Schematic representation of an oxygen steelmaking furnace, from *The Making, Shaping and Treating of Steel: Steelmaking and Refining Volume*, 1998, AISE Steel Foundation, R. J. Fruehan (Editor)

Table I shows the materials balance for entering and leaving the process. It is also balanced in the input and output of energy which reflects the fact that for this material balance the process is self-sustaining from the exothermic reactions. The important part of the balance for the discussion of scrap cutting is that an input of 165.75 lb of oxygen results in an output of 60.61 lb of fume (both circled in red). The fume is airborne particulate, mainly iron oxide, that is carried with the off-gases to a gas cleaning system. It is not directly emitted to the atmosphere. In the Table only the 35.24 lb of iron in the fume is shown; the balance is mainly oxygen in the FeO and some other oxides such as lime (CaO) and silica (SiO_2) present in the slag.

Table I: Material and Energy Balance for the Production of 1000 kg (2200 lb) of Steel, from The Making, Shaping and Treating of Steel: Steelmaking and Refining Volume Hardcover, 1998, AISE Steel Foundation , R. J. Fruehan (Editor)

Input			Output		
Hot Metal	kg	lb.	Steel	kg	lb.
Fe	821.60	1807.5	Fe	997.97	2195.5
C	40.81	89.78	C	0.40	0.88
Si	5.26	11.58	Si	0.05	0.11
Mn	3.95	8.69	Mn	1.38	3.04
P	0.53	1.16	P	0.10	0.22
S	0.09	0.19	S	0.10	0.22
BF slag	5.40	11.88			
Total	877.64	1930.8	Total	1000.0	2200.0
Scrap	kg	lb.	Slag		
Fe	200.53	441.16	CaO	47.92	105.42
C	0.18	0.40	SiO ₂	12.01	26.42
Si	0.04	0.09	MgO	6.35	13.97
Mn	0.72	1.60	FeO _T	26.42	58.12
P	0.02	0.05	MnO	5.00	11.01
S	0.06	0.11	P ₂ O ₅	1.13	2.49
Total	201.55	443.41	Al ₂ O ₃	1.3	2.86
			Total	100.13	220.29
Ore	kg	lb.	Fumes	kg	lb.
Fe	11.52	25.35	Fe	16.02	35.24
SiO ₂	0.130	0.285	Total	27.52	60.61
MnO	0.034	0.075			
Other	5.134	11.294			
Total	16.818	37.0			
Fluxes	kg	lb.	Gases:	kg	lb.
CaO	47.92	105.42	CO (90%)	85.26	187.57
MgO	6.35	13.97	CO ₂ (10%)	14.89	32.75
SiO ₂	0.53	1.17			
Other	1.65	3.62			
Total Burnt time	40.78	89.70			
Total Dolo-lime	15.67	34.48			
Oxygen Gas	kg	lb.			
52.8 Nm ³		1849.7 scf			
@298K		@70°F			
Total O₂	75.34	165.75			
Total Inputs	1227.8	2701.2	Total Outputs	1227.8	2701.2

I propose that this rate of airborne particulate emission 60.61 lb particles/165.75 lb O₂ or 0.366 lb particulates/lb O₂ is a conservative estimate of the particle emission rate for oxy-propane scrap cutting. I expect it to be *higher* for scrap cutting for the following reasons:

1. The torch is much closer to the steel in scrap cutting than the lance in the oxygen steelmaking furnace making the interface breakup more energetic.

2. The slag-metal emulsion in steelmaking will capture a significant fraction of the rising particles.
3. The gas does not change direction at the steel interface in the cutting process; it goes straight through. The high-speed jet creates waves and instabilities in the vertical wall of the cut and shear liquid FeO droplets from the surface. This phenomenon was demonstrated in our work (Y.F. Zhao and G.A. Irons, 1990, The Breakup of Bubbles into Jets During Submerged Gas Injection, Metall. Trans. B, Vol. 21B, pp. 997-1003).

Therefore, 0.366 lb of airborne particulate per lb of O₂ is a very low estimate of how much is created in scrap cutting.

Estimation of Airborne Particulate Emissions from Newberry Recycling

The above long-winded discussion demonstrates that the airborne particulate emission can be conservatively estimated with a very simple procedure:

1. Measure the consumption of propane and oxygen over a period.
2. Calculate the oxygen used for combustion of the propane according to Equation 1.
3. The remaining oxygen is used to make the slag and the particulates according to Equation 2.
4. 36wt% of the remaining oxygen forms the particulate emissions.

You were able to estimate the volumes of the propane and oxygen tanks on site and estimate the monthly delivery rates, so that for 1 month the rates your estimates were:

- 12000 lb O₂/month
- 200 USG liquid propane/month.

From these consumption figures:

- 2700 lb of O₂ /month was used for propane combustion (using Equation 1),
- 9300 lb of O₂ /month was used to make slag and particulates (using Equation 2), and
- 3350 lb/month of airborne emissions were created (using the 0.366 ratio).

Other Emissions in Scrap Cutting

There are 2 other emissions to consider:

1. The discussion so far has considered that the steel is pure iron because it is usually at least 98%Fe. Any dissolved carbon in the steel will be oxidized to CO and CO₂ and any metallic alloying elements will be oxidized. Therefore, the oxides of alloying elements, such as Cr, Ni, Mo, and Mn will be present in the particulates. Some of these have adverse health effects.
2. In the heat-affected zone around the cut, any paint, grease, oil or other organics will be vaporized into the atmosphere. Similarly, there are adverse health effects for these, particularly leaded paints.

Comparison with DHEC Emissions Estimate of April 2021

Scarfig of steel ingots in a steel mill has some similarity with scrap cutting. The ingots have usually cooled below the ignition temperature, so an oxy-fuel burner is used to start the reactions

with the main oxygen jet. The oxygen jet in scarfing is directed at the surface of the steel ingot to remove a thin layer of steel that contains some defects. The aim is to remove as little steel as possible to remove the defects.

DHEC used EPA emissions data:

<https://www.epa.gov/sites/production/files/2020-11/documents/c12s05.pdf>

that was gathered from a joint American Iron and Steel Institute and EPA publication in 1979. The study gave the emissions for machine scarfing as 0.1 lb emissions/ton of steel scarfed when the emissions were not controlled (*i.e.* the gases were not passed through an electrostatic precipitator to capture the particles). A scarfing machine is a machine designed move the torch in a consistent, controlled pattern over the steel surface. This improves the consistency of the process and provides a better environment for the operator. The scarfing machines are housed in buildings to protect the machines and workers from wind, snow, and rain. The ingots are moved in and out of the buildings. The emissions refer to the emissions to the atmosphere, that is *outside the protective building*. There were no details in the report on how this data was gathered, but there would be undoubtedly large variations from facility to facility due to:

1. How much scarfing was required on each ingot.
2. The type of scarfing machine used.
3. How enclosed the building was.
4. Weather conditions during measurement.
5. Measurement techniques.

There are many videos available online showing how scarfing machines operate in more recent times, such as:

https://www.youtube.com/watch?v=jRh_XUxZ7vA

What is clear from such videos is that the scarfing machines are indoors and that there is a large amount of black smoke created. The black smoke is similar to the smoke you have videoed outdoors at the Newberry Recycling facility.

The 0.1 lb emissions/ton of steel scarfed was used by DHEC; they multiplied it by the processing rate at Newberry Recycling of 300 tons per month to give 30 lb of emissions per month (plus a minor amount of particulate from propane combustion). This is obviously very much under-estimates the emissions because at Newberry Recycling the cutting is done *outdoors*.

Furthermore, there is no reason that the amount of treatment per ton of steel should be the same for scarfing and cutting.

A more appropriate way to compare the treatment rates is how much oxygen is used, not how much steel is treated. The EPA scarfing emissions do not report how much oxygen was used in the process, so it is not possible to directly compare them with my method of calculation. However, it is clear that the amount of oxygen is directly related to how much iron oxide slag and particulates are made. My calculation is a conservative estimate of how much particulate emission is created. It was 3350 lb/month of airborne emissions, more than 100 times the 30

lb/month in the DHEC estimate. These findings suggest that the emissions at the Newberry Recycling facility should be further investigated to ensure the health of the local residents.

I hope these estimates will help you with your efforts to show the seriousness of these emissions.

Sincerely,

A handwritten signature in cursive script that reads "Gordon A. Irons".

Gordon A. Irons

Appendix P

"I attest that I have smelled burning metal in my house, from the fugitive emissions at the 702 Glenn St. industrial waste site."

Name	Address	Signature	Age
Frederick Hentz Jr.	715 Hunt St	Frederick H. Hentz Jr.	36
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] R.B.
Tennell Danks	2323 Holloway St	Tennell Danks	39
Charles Graham	2323 Holloway St	Charles Graham	54
Kelly Betton	718 Hunt St. Newberry 29108	Kelly Betton	42
Susan Suber	2337 Holloway St. Nby S.C. 29108	Susan Suber	51
KANEKI Gray	2220 Emory St. Nby S.C. 29108	KANEKI Gray	43
Frederick Hentz	715 Hunt St. Newberry 29108	Frederick Hentz	69
Coreal J. Caldwell	2311 Holloway St. Newberry, SC 29108	Coreal J. Caldwell	56
Jonathan Harmon	2315 Holloway St.	Jonathan Harmon	28
Tameka Harmon	2315 Holloway St	Tameka Harmon	41
Carl A Lyles	2221 Emory St.	Carl A Lyles	72
JERALAN LYLES	2221 Emory St.	Jeralan Lyles	63
Delphena Brooks	2207 Emory St.	Delphena Brooks	67
CETRIS BROOKS	2207 Emory St	Cetris Brooks	26

"I attest that I have smelled burning metal in my house, from the fugitive emissions at the 702 Glenn St. industrial waste site."

Name

Address

Signature

Age

Bethzabe Bautista 2310 Benedict st Bethzabe Bautista 28

Guadalupe Bautista 2109 Benedict 666 45

Michael Butz 800 Glenn St. Michael Butz 45

Bag Nguyen 2017 Adelaide St Newby

Appendix Q

"I attest that I have smelled burning metal on my property or residence, from the fugitive emissions at the 702 Glenn St. industrial waste site, and that I do not give the site permission to deposit their fugitive emissions on my property or residence."

Name	Address	Signature	Age
Charles Graham	2323 Holloway St.	<i>Charles Graham</i>	54
Charlene Granville	2215 Emory St.	<i>Charlene Granville</i>	58
Jonathan Han	2315 Holloway St.	<i>Jonathan Han</i>	28
Tennet Dawkins	2323 Holloway St.	<i>Tennet Dawkins</i>	39
Frederick A. Hentz Jr.	715 Hunt St	<i>Frederick A. Hentz Jr.</i>	36
Quincy Bates	701 W. 5th St	<i>Quincy Bates</i>	62
Kelly Belton	718 Hunt St. 29108	<i>Kelly Belton</i>	42
Toria Suber	2104 Benedict St 2908	<i>Toria Suber</i>	43
Mary Mathis	2418 Benedict St M.M.	<i>Mary Mathis</i>	62
Susan Suber	2337 Holloway St. Nby S.C. 29108	<i>Susan Suber</i>	51
Katree Lee Rhola	2305 Holloway St	<i>Katree Lee Rhola</i>	45
Karek. Gray	2220 Emory St.	<i>Karek. Gray</i>	43
Polray Dawkins	2351 Emory St	<i>Polray Dawkins</i>	47
Frederick Hunt	715 Hunt St. Newberry	<i>Frederick Hunt</i>	64
Sarah Caldwell	2311 Holloway St. Newberry, SC	<i>Sarah Caldwell</i>	56

"I attest that I have smelled burning metal on my property or residence, from the fugitive emissions at the 702 Glenn St. industrial waste site, and that I do not give the site permission to deposit their fugitive emissions on my property or residence."

<u>Name</u>	<u>Address</u>	<u>Signature</u>	<u>Age</u>
Tameka Harmon	2315 Holloway St	Tameka Harmon	41
Carl A Lyles	2221 Emory St	Carl A Lyles	72
JERALEAN LYLES	2221 Emory St.	Jeralan Lyles	63
DELPHENA BROOKS	2207 Emory St	Delphena Brooks	67
Cetris Brooks	2207 Emory St	Cetris B	26
Bethzabe Bautista	2310 Benedict St	Bethzabe Bautista	28
Amir Griffin	2382 Benedict St	Amir Griffin	21
Guadalupe Bautista	2104 Benedict.	GBB	45
Michael Butz	800 Glenn St	Michael Butz	45
Baylan Nguyen	2017 Adelaide St	Baylan	21
Robin Luff	2101 Adelaide St.	Robin Luff	36
Willie W. Chaplin	813 Hunt St.	Willie W. Chaplin	
Janet Luff	816 Hunt St.	Janet	58
Gregory Kelly	2127 Adelaide St	Gregory Kelly	53

Appendix R

"As a resident of the City of Newberry, I request that DHEC meet in person with community members regarding the industrial waste site at 702 Glenn St. We ask that we be given time to speak, and that in turn DHEC present to the assembled community members the result of DHEC's research into the site. I nominate Gregory Kelly to act as a volunteer coordinator for scheduling this meeting."

Name	Address	Signature	Age
Charles Granville	2215 Emory St.	Charles B. Granville	58
Charles Graham	2323 Holloway St.	CS	54
Jonathan Harmon	2318 Holloway St.	Jonathan Harmon	28
Frederick A. Dentz Jr.	715 Hunt St.	Frederick A. Dentz Jr.	36
Randy Bates	701 Wise St	Randy Bates	62
Turner Danks	2323 Holloway St	Turner Danks	39
Kelly Belton	718 Hunt St. 29108	Kelly Belton	42
Munson Sumner	950 Speed St 29108	Will	46
Toria Suber	2104 Benedict St	Toria Suber	43
Christopher Swittenberg	706 Wise St		28
Bhaunkel L. Hood	29 912 Suber Dr		
Mary Marnis	2418 Benedict St.		62
Susan Suber	2337 Holloway St. Nby SC. 29105		
Kathleen Rhodes	2333 Holloway St		45
Kristi Gray	2220 Emory St. Nby SC	Kristi Gray	43

"As a resident of the City of Newberry, I request that DHEC meet in person with community members regarding the industrial waste site at 702 Glenn St. We ask that we be given time to speak, and that in turn DHEC present to the assembled community members the result of DHEC's research into the site. I nominate Gregory Kelly to act as a volunteer coordinator for scheduling this meeting."

Name

Address

Signature

Age

Rodney Dawkins	2351 Emory	Rodney Dawkins	49
Frederick Hargis	715 Hunt St Newberry	Frederick Hargis	64
Bethzabe Bautista	2310 Benedict	Bethzabe Bautista	28
Amir Griffin	2382 Benedict	Amir Griffin	21
Curtis Worthy	2391 Benedict St	Curtis Worthy	58
Guadalupe Bautista	2104 Benedict	GBB	45
Lorenzo Cardenas	2013 Benedict St	L. Cardenas	26
Michael Butz	800 Glenn St	Michael Butz	45
Robin Ruff	210 Adelaide St	Robin Ruff	36
Milton Hargis	2035 Adelaide	Milton Hargis	59
Gregory Kelly	2127 Adelaide St	G. Kelly	53
Caitie Kelly	2127 Adelaide St.	Caitie Kelly	54

<u>Name</u>	<u>Address</u>	<u>Signature</u>	<u>Age</u>
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This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Appendix S

"As a resident of the City of Newberry, I request that the City of Newberry, using our tax dollars, conduct air, soil and water sampling on the properties immediately adjacent to and directly across the street from 702 Glenn St., and to continue sampling progressively further outward until the full extent of the escaping contamination has been determined. I nominate Gregory Kelly to act as a volunteer coordinator for arranging this sampling."

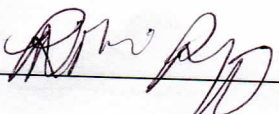
<u>Name</u>	<u>Address</u>	<u>Signature</u>	<u>Age</u>
Frederick A. Hertz Jr.	715 Hunt St	Frederick A. Hertz Jr.	36
Randy Bates	701 Wise St	Randy Bates	62
Tenell Danks	2323 Holloway St	Tenell Danks	39
Charles B. Granville	8215 Emory St	Charles B. Granville	58
Jonathan Hunt	2315 Holloway St.	Jonathan Hunt	28
Randy	2323 Holloway St.	Randy	28
Kelly Belton	718 Hunt St., 29108	Kelly Belton	42
Munson Summer	950 Spears St. Nbg, SC	Munson Summer	46
Taria Suber	2104 Benedict St	Taria Suber	43
Christopher Swittenberg	706 Wise ⁵⁴	Christopher Swittenberg	28
Shauntel L. Hook	912 Suber St	Shauntel L. Hook	29
Mary Mathis	2418 Benedict St	Mary Mathis	62
Susan Suber	2337 Holloway St Nbg SC.	Susan Suber	51
Katutell Rhodes	2333 Holloway St	Katutell Rhodes	45
Kimberly Gray	2220 Emory St Nbg S.C.	Kimberly Gray	43

"As a resident of the City of Newberry, I request that the City of Newberry, using our tax dollars, conduct air, soil and water sampling on the properties immediately adjacent to and directly across the street from 702 Glenn St., and to continue sampling progressively further outward until the full extent of the escaping contamination has been determined. I nominate Gregory Kelly to act as a volunteer coordinator for arranging this sampling."

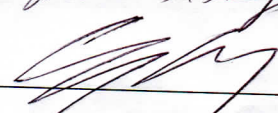
Name	Address	Signature	Age
Rodney Dawkins	2351 Emory St	Rodney Dawkins	47
Frederick Hunt	715 Hunt St Newberry		64
Samuel Caldwell	2311 Holloway St. Newberry, SC		56
Tamara Harmon	2315 Holloway St	Tamara Harmon	41
Carl A Lyles	2221 Emory St	Carl A Lyles	72
Jermaine Lyles	2221 Emory St	Jermaine Lyles	63
Delphena Brooks	2207 Emory St	Delphena Brooks	67
Cetris Brooks	2207 Emory St	Cetris Brooks	26
Bethzabe Bautista	2310 Benedict St	Bethzabe Bautista	28
Amir Griffin	2382 Benedict	Amir Griffin	21
Curtis Worthy	2391 Benedict St	Curtis Worthy	58
Goodlope Bautista	2104 Benedict	GBG	45
Lorenzo Cordinas	2013 Benedict St		26
Michael Butz	800 Glenn St	Michael Butz	45
Ray Van Nguyen	2017 Adelaide St. Newberry		


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<u>Name</u>	<u>Address</u>	<u>Signature</u>	<u>Age</u>
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Robin Ruff	2101 Adelaide St		36
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Milton Hays	2135 Adelaide St	Milton Hays	59
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Gregory Kelly	2127 Adelaide St		53
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Cathy Kelly	2127 Adelaide St.		54
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