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Scott A. Weiner
Commissioner

IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
UNION COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE JUNE 20, 1991
AMENDMENT TO THE UNION COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts. On August 13, 1980, the Department of Environmental Protection approved, with modifications, the Union County District Solid Waste Management Plan (County Plan).

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by the district in meeting the solid waste management needs of the district for a ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for a ten-year period, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)

The Act further provides that a district may review its plan at any time and, if found inadequate, a new plan must be adopted. The Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 20, 1991 adopted an amendment to its approved County Plan. The June 20, 1991 amendment proposed the inclusion of an additional lot at the existing J&J Recycling Company transfer station/materials recovery facility on Flora Street in Elizabeth.

The June 20, 1991 amendment was received by the Department on July 5, 1991 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on June 20, 1991 is approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendment has been approved, deficiencies in the County Plan have been identified within Section C. of this certification.

B. Findings and Conclusions with Respect to the Union County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Scott A. Weiner, Commissioner of the Department of Environmental Protection and Energy (Department or DEPE), have studied and reviewed the June 20, 1991 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that this plan amendment is consistent with the Statewide Solid Waste Management Plan.

In conjunction with the review of the amendment, the Department circulated copies to fifteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. These agencies were the following:

- Division of Environmental Quality, DEPE
- Division of Water Resources, DEPE
- Division of Coastal Resources, DEPE
- Division of Parks and Forestry, DEPE
- Division of Fish, Game and Wildlife, DEPE
- Division of Solid Waste Management, DEPE
- Green Acres Program, DEPE
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste Management
- Department of Agriculture
- Department of Health
- Department of Transportation
- Department of Community Affairs
- Department of the Public Advocate
- U.S. Environmental Protection Agency

1. Agency Participation in the Review of the June 20, 1991 Amendment

The following agencies did object to the proposed plan amendment:

Division of Water Resources, DEPE
Division of Coastal Resources, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Community Affairs
Department of Agriculture
U.S. Environmental Protection Agency

The following agencies did not respond to the Department's requests for comments:

New Jersey Turnpike Authority
Department of Health
Department of the Public Advocate

The following agencies submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEP
Division of Environmental Quality, DEP
Department of Transportation

2. Comments Received for the June 20, 1991 Amendment

Issue: Specific permitting requirements for the J&J Recycling Company transfer station/materials recovery facility proposed expansion on Flora Street in Elizabeth.

Comment: The Division of Environmental Quality (DEQ) commented that transfer stations are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Transfer stations are also subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and air contaminants.

The Department of Transportation (DOT) commented that if the J&J Recycling Company transfer station/materials recovery facility requires ingress or egress to a State highway, an access permit and possibly a drainage permit must be obtained.

The DSWM commented that a draft permit has been issued for the existing J&J Recycling Company facility operating on Flora Street in Elizabeth. However, one of the supporting documents included with the June 20, 1991 plan amendment package contains information which conflicts with the facility operations as identified in the draft permit. Specifically, the

Operations and Maintenance Manual explains a mechanized operation consisting of a track loader/grapppler, in-feed conveyor, primary and secondary trammels, stationary magnet and an additional process conveyor. The operation presented in the permit application portrays a process that relies almost entirely on hand sorting of waste piled on the tipping floor. If the J&J Recycling Company intends to build and operate a mechanized facility, the current permitting activity can be terminated and a new permit application submitted or if the current tentative approval is finalized, a request for modification must be submitted for approval. In either case, prior to construction of the described facility, J&J must receive prior approval from the DSWM.

Also, the DSWM noted that the amendment indicates that wood waste and concrete are being marketed at facilities which do not have the required approval of the Office of Recycling. Specifically, Industrial Recycling of Newark, N.J., and Clayton Block Company of Edison, N.J., are not approved pursuant to N.J.S.A. 13:1E-99.34b. In addition, the amendment indicated that wood waste and sheetrock are being marketed at Red Hook Recycling of Brooklyn, N.Y. According to proposed rules found at N.J.A.C. 7:26A, the interstate shipment of recyclable materials must be conducted in a source separated fashion requiring the separation of delivered loads of sheetrock and wood waste.

Response: The issue of specific permitting requirements is more appropriately addressed during the Department's technical phase of the permit review process. By copy of this certification, the DSWM's Engineering Element, the County Freeholders, and the applicant are notified of these requirements and the DEQ, DOT and the DSWM of this response. Also, by copy of this certification, the J&J Recycling Company is requested to contact the DSWM, Bureau of Small Facility Review, to resolve the discrepancy in operations at the facility and to adhere to the requirements of the Office of Recycling.

Issue: Outstanding enforcement violations against J&J Recycling Company

Comment: The DSWM commented that the DiMarco family, with principals in both DiMarco Disposal Service, Inc. and J&J Recycling Company, has been the subject of substantial enforcement action by the DSWM and the Board of Public Utilities (now merged with the DEPE). While the DSWM recommends approval of the June 20, 1991 amendment at the planning phase of the Department's review process, outstanding enforcement violations remain unresolved in ongoing court proceedings. Careful consideration of historical performance of the companies in question will occur as part of the A-901 disclosure statement review process.

Response: While within Section C. of this certification the inclusion of the J&J Recycling Company transfer station/materials recovery facility proposed expansion on Flora Street in Elizabeth is approved, the substantial enforcement violations pending against the owners of the company must be satisfactorily addressed during the A-901 full disclosure statement review. By copy of this certification, the County Freeholders, the applicant, and the DSWM are notified of this response.

C. Certification of the June 20, 1991 Union County District Solid Waste Management Plan Amendment

I, Scott A. Weiner, Commissioner of the Department, in accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, have reviewed the June 20, 1991 amendment to the approved County Plan and certify to the County Freeholders that the June 20, 1991 amendment is approved as further specified below.

1. June 20, 1991 Amendment

The district plan inclusion of Lot 740, Block 8, in the City of Elizabeth, as part of the J&J Recycling Company transfer station/materials recovery facility is approved. The addition of this adjacent lot to the existing facility will not result in a change in the capacity (less than 100 tons per day) but will facilitate a more efficient materials recovery operation. The facility accepts waste types 10 (commercial only), 13, and 27 (exclusive of asbestos) to recover the following recyclables: paper, wood, concrete, ferrous metals, nonferrous metals, sheetrock, heavy aggregate, plastic, asphalt roofing, and tires. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to merit licensing pursuant to N.J.S.A. 13:1E-126 et seq. The planning approval contained herein shall not be construed in any way as an approval of J&J Recycling Company under the Disclosure Law nor an approval of any permits which J&J Recycling Company must obtain in order to construct and/or operate this solid waste facility.

2. Union County District Solid Waste Management Plan Deficiencies

On July 25, 1991, I certified the December 13, 1990 amendment to the County Plan. In that certification, I noted deficiencies within the County Plan. Specifically, these deficiencies pertain to an ambiguity regarding the use of the Linden and Elizabeth landfills, a lack of transportation and financing plans, and the need to address the recommendations of the Governor's Emergency Solid Waste Assessment Task Force Final Report relative to source reduction, recycling, and regionalization. The County has since submitted to the DEPE an amendment, which is under review, that addresses the Task Force recommendations pertaining to source reduction and recycling. However, the County must still address the remaining deficiencies within 180 days of the July 25, 1991 date of the certification or January 22, 1992. By copy of this certification, I am reminding the County of this directive.

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with this amendment to the County Plan and which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of this amendment, provided, however, that any such registrant may, upon application to the Department, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any facility operator or transporter who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26-1 et seq., and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9 and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plan

The provisions of the County Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules set forth at N.J.A.C. 7:26-6.

4. Certification to Proceed with the Implementation of the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department to the County Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County shall proceed with the implementation of the approved amendment certified herein.

5. Definitions

For the purpose of this amendment and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and -99.12 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of the Amendment

The amendment to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection and Energy

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section C. of this certification, to the Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on June 20, 1991. I hereby also require, as noted in Section C., the Union County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

11-27-91

DATE



SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY