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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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(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 SEPTEMBER 11, 1986
AMENDMENTS 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 Board 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 approved, with modifications, the Union County District Solid Waste Management 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 the 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 the 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 completed such a review and on September 11, 1986, adopted amendments to its approved district solid waste management

plan. The amendments propose to include in the approved plan a county operated leaf compost facility in Springfield Township and an ash/non-processible landfill site in the City of Elizabeth.

The amendments were received by the Department of Environmental Protection on September 26, 1986, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire Union County District Solid Waste Management Plan, and has determined that the amendments adopted by the Union County Board of Chosen Freeholders on September 11, 1986, are approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the September 11, 1986, amendments to the Union County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendments to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department of Environmental Protection, as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Office of Recycling, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendments: the N.J.D.E.P. Division of Parks and Forestry; the State Departments of Agriculture, Community Affairs and Transportation; the Board of Public Utilities, the Office of Recycling, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Departments of Health, and the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Coastal Resources, and Fish, Game and Wildlife, and the Green Acres Program submitted substantive comments which are further addressed below.

1. Comments Concerning the Springfield Township Leaf Composting Facility

- a. The Division of Water Resources commented that a N.J.P.D.E.S. Groundwater Permit will not be required if the site will be used exclusively for leaf composting. However, if the Springfield Township site was used as a landfill in the past, then a N.J.P.D.E.S. Groundwater Permit and monitoring wells will be required.

- b. The Division of Environmental Quality commented that compost facilities are subject to the general prohibition of air pollution defined in N.J.A.C. 7:27-5. This regulation prohibits odors and contaminants that interfere with the enjoyment of life or property.
- c. The Green Acres Program commented that Block 185, Lot 1, is recorded on the Green Acres Recreation and Open Space Inventory Form. Moreover, the subject property is replacement land for the disposition of parkland (Watching Reservation) resulting from I-78 construction. In order for the Green Acres Program to thoroughly evaluate the proposed quarry site for a leaf compost facility, the following issues must be adequately addressed and/or resolved by the applicant:
 1. Union County selected the quarry site as replacement land for I-78 construction mitigation. The intent of this mitigation was to replace land equivalent in value and usefulness to the Park Commission.
 2. Construction of an access/queing road of approximately 180 feet is not of park related use.
 3. Union County has not proposed any reclamation plans for the site in terms of public usability. Again, as in #2 above, construction of the roadway and maintenance buildings appears to preclude reclaiming the site for public open space.
 4. Union County has failed to address any environmental impacts to adjacent Park Commission lands. For example, what adverse impacts can be expected by directly channeling excessive runoff into parkland streams as proposed?
 5. The proposed leaf volume to be composted in one year's time appears to bring the proposed facility to capacity. The engineering designs do not accommodate the increased volumes anticipated.

In response to the above comments from the Division of Water Resources and Environmental Quality, the county, by way of this certification document, is notified of these existing or potential requirements. Said requirements must be addressed as part of the technical phase of the Department's permit process. The comments raised by the Green Acres Program appear to represent a land use conflict between the proposed leaf composting use and that of replacement lands for construction mitigation as part of the I-78 highway project. This land use conflict must be properly addressed by the county within the technical phase of the Department's review process prior to the issuance of any permits to construct and operate the planned leaf composting facility.

2. Comments Concerning the City of Elizabeth Ash Residue and Non-processible Waste Landfill

- a. The Division of Environmental Quality commented that landfills are subject to the general prohibition of air pollution defined in N.J.A.C. 7:27-5; this regulation prohibits odors and contaminants that interfere with the enjoyment of life or property. Air pollution control permits may be required for equipment used to vent the landfill directly or indirectly into the outdoor atmosphere, (N.J.A.C. 7:27-8.2(a)(b)). Also, stationary conveying equipment, if any, for ash would require air pollution control permits, and probably control of fugitive particulate emissions. The environmental and health impact statement (EHIS) should address these, and other sources of fugitive emissions and their control.
- b. The Division of Water Resources (DWR) commented that the Elizabeth site will require a N.J.P.D.E.S. Groundwater Permit. The number and nature of the permits required will depend on the design of the landfill. Due to proposed filling of an adjacent inlet of the Arthur Kill, a Stream Encroachment Permit may also be required for the site. It was further recommended that Union County contact the Water Resources Management and Planning Element to ensure project consistency with the Monitoring element's programs and objectives.
- c. The Division of Coastal Resources commented that the site is adjacent to Newark Bay and a tidal water body referred to as the Great Ditch. Given this location, the Division of Coastal Resources will assert jurisdiction over the project under the Waterfront Development Law and possible state Riparian interests. The Division has permit jurisdiction over all presently flowing or formerly flowed tidal water areas and those lands within 500 feet of the current near high water line. A formal review of this project's consistency with respect to the New Jersey Coastal Zone Management Program will be conducted under the Waterfront Development permit review process. A pre-application meeting with Union County to outline some of the various coastal policies that are likely to be applicable was recommended.
- d. The Division of Fish, Game, and Wildlife commented that water quality and impacts to estuarine subtidal open water wetlands are of concern. It was recommended that these concerns be addressed in the required environmental and health impact statement (EHIS) for the project.
- e. The Division of Solid Waste Management comments that due to the proximity of Newark Airport to the proposed Elizabeth site, the Federal Aviation Administration/Newark Airport should be consulted regarding elevation restrictions and waste type restrictions for the proposed residual landfill. In addition, ambiguity exists as to the county's intentions with respect to also using the Linden Landfill for residuals disposal purposes. Therefore, any future

technical submissions to address the use of either the Elizabeth site or Linden Landfill must include a plan which outlines schedules for use, waste flow designations and waste type allocations.

In response to the above comments from the Division of Environmental Quality and Water Resources, the county, by way of this certification document, is notified of these requirements. Said requirements must be addressed as part of the technical phase of the Department's permit process. The comments raised by the Divisions of Coastal Resources, Fish, Game and Wildlife and Solid Waste Management must also be addressed within an environmental and health impact statement (EHIS) as part of the Department's technical submission requirements. Additionally, the comments raised by these agencies over the proximity of the site, particularly with respect to tidal waters of the state, present significant concern as to the appropriateness of using the site for the intended landfilling purposes. However, despite the strong level of concern expressed during the Department's state level review process, it would be premature to reject these two proposed facility sites pending the submission and review of the EHIS document.

In light of the concerns noted above, it is recommended that the county arrange for the scheduling of a pre-application meeting with the Department as soon as possible to discuss permit requirements and the specific environmental concerns noted by the state level review agencies. Such a meeting should be coordinated with the Engineering Element of the Department's Division of Solid Waste Management.

C. Certification of Union County District Solid Waste Management Plan Amendments

I, Richard T. Dewling, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans, have reviewed the September 11, 1986 amendments to the approved Union County District Solid Waste Management Plan and certify to the Union County Board of Chosen Freeholders that the September 11, 1986 amendments are approved as further specified below.

1. The inclusion into the Union County District Solid Waste Management Plan of a county operated leaf composting facility to be located on Lot 1, Block 185-B, in the Township of Springfield, Union County, is approved.

2. The inclusion into the Union County District Solid Waste Management Plan of an ash/non-processible landfill to be located on Lot 1, Blocks 1375 and 1380, in the City of Elizabeth, Union County, is approved.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. 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 be deserving of licensing under the provisions of N.J.S.A. 13:1E-126 et seq.

3. The Department has reviewed the entire Union County District Solid Waste Management Plan, including these amendments, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of this review is as follows:

- a. N.J.S.A. 13:1E-21b(3) requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste contained in the report accompanying the plan.

The Union County District Solid Waste Management Plan does not identify sufficient additional available suitable sites to provide solid waste facilities to dispose of the solid waste generated within the county until such time as the proposed resource recovery facility and ash/non-processible waste landfill becomes operational in late 1989. To remedy this lack of in-county disposal facilities, the Department has amended the Union County Plan to include an interim transfer station program with out-of-state disposal. Nevertheless, the Union County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3).

- b. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal.

The Union County District Solid Waste Management Plan has not been amended to include the "Future Solid Waste Truck Volumes with Planned Routing" as contained in Figure 6-2 of the Preliminary Environmental and Health Impact Statement for the proposed Union County Resource Recovery Facility in Rahway, New Jersey. Transportation costs to the proposed resource recovery facility have not been provided. Also, transportation routes and costs to the proposed residual landfill(s) has not been included in the approved district plan. As a result, the Union County District Solid Waste Management Plan is deficient with respect to N.J.S.A. 13:1E-21b(4).

- c. N.J.S.A. 13:1E-21b(5) requires procedures for coordinating all activities related to the collection and disposal . . . within the Solid Waste Management District, which procedures shall include the agreements entered into as provided herein between the Board of Chosen Freeholders . . . and every such person, and the procedures for furnishing the solid waste facilities contained in the Solid Waste Management Plan.

Due to the lack of any interdistrict agreements between Union County and Middlesex County and the Hackensack Meadowlands Development Commission, the Union County District Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(5).

- d. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

The Union County District Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6) until financial plans are approved for all solid waste facilities located in Union County.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendments to the Union County District Solid Waste Management 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 of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments and of the Union County District Solid Waste Management 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 of Environmental Protection, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Union County and affected by the amendments contained herein shall operate in compliance with these amendments and all other approved provisions of the Union County District Solid Waste Management Plan. Any facility operator or collector/hauler 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. 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 of Environmental Protection 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 Plans

The provisions of the Union County District Solid Waste Management 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. Also, all non-hazardous 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 (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of Plan Amendments

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Union County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved amendments contained herein.

5. Definitions

For the purpose of these amendments 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 N.J.A.C. 7:26-1.4 and N.J.A.C. 7:26-2.13.

6. Effective Date of Amendments

The Amendments to the Union County District Solid Waste Management 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 of Environmental Protection pursuant to its authority under the law. The Union County District Solid Waste Management 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 and rules, regulations, and orders of the Department, including the 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 Amendments and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendments as outlined in Section C. of this certification, to the Union County District Solid Waste Management Plan which were adopted by the Union County Board of Chosen Freeholders on September 11, 1986 and further direct the Union County Board of Chosen Freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

DATE

2/23/87



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION