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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.L., COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(SOMERSET COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MAY 3, 1988
AMENDMENT TO THE SOMERSET 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 July 31, 1980, the Department approved, with modifications, the Somerset 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 Somerset County Board of Chosen Freeholders completed such a review and on May 3, 1988 adopted an amendment to its approved district solid waste management plan.

The proposed amendment would designate Lots 2, 3, and 3A, in Bridgewater Township, Somerset County, as the location for a resource recovery complex, including a mass burn incinerator and a recycling center.

The amendment was received by the Department of Environmental Protection on May 24, 1988 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the Somerset County Board of Chosen Freeholders on May 3, 1988 is approved as provided in N.J.S.A. 13:1E-24.

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

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 May 3, 1988, amendment to the Somerset 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 this plan amendment is consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to fourteen 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 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 amendment: the State Departments of Community Affairs, and Agriculture; the New Jersey Advisory Council on Solid Waste Management, the Board of Public Utilities, and the Green Acres Program. 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, Fish, Game, and Wildlife, Parks and Forestry, and Solid Waste Management, and the State Department of Transportation submitted substantive comments which are further addressed below.

The Division of Environmental Quality (DEQ) commented that the proposed facility is in an area of high industrial density. A federal Prevention of Significant Deterioration permit will be required prior to development of the proposed facility. A rigorous analysis of the combined effect of other local air emissions including the proposed hazardous waste incinerator and sludge incinerator may be required. DEQ also indicated that prior to development, the proposed resource recovery facility (RRF) will be subject to various requirements including air permits and air quality modeling. Additionally, the RRF is subject to the general prohibition of air pollution, as defined in N.J.A.C. 7:27-5. Emission offsets may also be required.

In response, this certification addresses site identification as the initial, planning stage of the development of a resource recovery complex. The DEQ's comments reflect the preliminary nature of this siting decision with respect to the entire procedure of solid waste facility development. Upon approval of the siting decision, actual facility development cannot proceed unless and until the project proposer goes through the Department's comprehensive environmental review and permitting process, which includes an environmental and health impact statement review and a number of permit reviews. The requirements noted by the DEQ are issues which must be addressed during this subsequent environmental review and permitting stage of the process. The proposed facility will be required to obtain all applicable permits and to comply with all applicable regulations and requirements prior to development.

The Division of Water Resources (DWR) commented that the proposed resource recovery complex would require a New Jersey Pollutant Discharge Elimination System permit and recommended that background soil and groundwater quality be established, given the industrial nature of the area and the potential for previously existing contamination. DWR also stated that the project site is identified as wetlands on the U.S. Fish and Wildlife National Wetlands Inventory Maps, and could, therefore, require a Freshwater Wetlands Permit and possibly an Army Corps of Engineers 404 Permit and Water Quality Certification.

In response, as noted above, these issues will be addressed in the permitting phase of the Department's review process. Acquisition of all applicable permits will be required prior to the commencement of site development.

The Division of Fish, Game, and Wildlife (DFG&W) commented that wetland identification and site containment should be addressed in the Environmental and Health Impact Statement (EHIS) for the proposed facility.

In response, the Department concurs with DFG&W's comments, and by way of this certification notifies Somerset County of these requirements.

The Division of Parks and Forestry (DP&F) indicated that the proposed facility would result in a secondary, visual impact to the Van Veghten House, which is listed on the State and National Registers of Historic Places, and requested that a thorough documentation of the degree of visual impact be provided in the final EHIS for the proposed facility. Additionally, prehistoric artifacts have been found in the "valley of the small stream," which borders the northern boundary of the proposed site. Therefore, there is a possibility that prehistoric artifacts may also occur within the project area. If there is, or will be, any federal involvement in this project, the Office of New Jersey Heritage should be contacted, and an archaeological survey of the site may be required.

In response, the Department concurs with DP&F's comments, and by way of this certification notifies Somerset County that these issues must be addressed in the technical review phase of the Department's permit process.

The Division of Solid Waste Management (DSWM) noted that the proposed amendment does not designate waste flows or truck routes to the RRF, nor

did it specify the waste flows for the residual ash generated by the RRF. All three of these issues must be addressed in a future plan amendment, before a tentative decision to issue a permit for the proposed facility can be made. DSWM also indicated that the proposed facility must be of sufficient size to handle all processible waste excluding designated recyclables generated within Somerset County.

The Department concurs with DSWM's comments and by way of this certification, notifies Somerset County of these requirements.

The Department of Transportation (DOT) commented that a valid permit must be obtained for any off-site mitigation work performed within the State Highway Right-of-Way. Applications for these permits are to be made to the DOT's Netcong Maintenance Office.

The Department concurs with the DOT's comments, and by way of this certification, notifies Somerset County of this requirement.

In addition to the comments received from the State level review agencies, the transcript from the March 2, 1988 public hearing was reviewed for substantive comments. These comments included many of the issues raised by the State level review agencies, as well as an alleged lack of information regarding alternatives, the population density in the vicinity of the RRF, and the potential impacts on the surrounding environment due to the development of the resource recovery facility. These comments were addressed by Killam Associates, Consulting Engineers for Somerset County in documents entitled Response to Public Comments on the proposed Solid Waste to Energy Resource Recovery Facility Volumes 1 and 2.

In reference to alternative resource recovery technologies, Somerset County proposed the use of resource recovery facilities in their original district solid waste management plan, which was approved by the Department on July 31, 1980. The county has since had sufficient time to evaluate alternative resource recovery options. Mass burn is a proven reliable resource recovery technology. With proper environmental safeguards as would be required by any permit this Department might issue, mass burn can be utilized with minimal impacts to the surrounding environment. Additionally, pursuant to the Solid Waste Management Act, no solid waste facility may be constructed or operated until a detailed application for formal authorization is submitted to and approved by the Department. This application must include engineering plans and designs, and an environmental and health impact statement which sufficiently demonstrates that the facility will meet the standards and criteria set forth in the Solid Waste Management Act and its implementing regulations. This permitting procedure is designed to ensure that potential adverse environmental impacts from solid waste facility development are mitigated so that the facility will not degrade the surrounding environment. When implemented with proper environmental controls, an RRF can operate safely even in a densely populated area.

C. Certification of Somerset County District Solid Waste Management Plan Amendment

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 May 3, 1988 amendment to the approved Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the May 3, 1988 amendment is approved as further specified below.

The inclusion in the Somerset County District Solid Waste Management Plan of Lots 2, 3, and 3A, Block 6101 in Bridgewater Township, Somerset County, as the designated site for a resource recovery complex, which shall include a mass burn incinerator and a recycling center of sufficient size to handle all of Somerset County's processible waste is approved. The construction and 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.

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 the within amendment to the Somerset 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 this amendment and of the Somerset 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 Somerset County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Somerset 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., 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 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 Somerset 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 Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Somerset 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 amendment contained 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 N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of Amendment

The amendment to the Somerset 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 Somerset 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 Amendment 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 amendment as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on May 3, 1988.

8/5/88
DATE

Richard T. Dewling
RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION