



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

April 30, 2009

- CERTIFIED MAIL - RETURN RECEIPT REQUESTED -

Mr. Lindsey J. Sampson, Director
Solid Waste Division
Lee County Southwest Florida
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: Lee County Solid Waste Energy Recovery Facility
DEP Case No. PA90-30
C&D Facility Relocation
Post-Certification Amendment dated January 26, 2009

Mr. Sampson:

On January 27, 2009 the Florida Department of Environmental Protection's Siting Coordination Office (Department) received a request from Lee County for a post-certification amendment to the Site Certification Application for the Lee County Solid Waste Energy Recovery Facility for the expansion of the existing Recovered Material Processing Facility (RMPF), construction of a new Vehicle Maintenance Facility (VMF), and the construction of the Construction and Demolition Debris (C&D) recycling facility including the relocation of well cluster WTE-3S and WTE-3D. The Department received revised and additional information dated February 17, 2009 and March 30, 2009 respectively.

Pursuant to Section 62-17.205(1), F.A.C., the Department has determined that the additions of the VMF, the expansion of the existing RMPF, and the relocation of well cluster WTE-3S and WTE-3D are amendments to the application that will not require modification to the Conditions of Certification (COC) for the facility. However, the construction and operation of the C&D recycling facility require a modification to the COC and shall be handled separately.

According to the submitted information, no additional irrigation area will be installed and no additional water withdrawal facilities will be required for the RMPF expansion or the VMF.

Should dewatering activities occur, Lee County shall submit a detailed plan for construction dewatering activities in accordance with COC XIV.A.9 and XVI.B.3.a.

Prior to construction of the RMPF expansion and the VMF, Lee County shall provide surface water management system construction plans to the Department's South District Office and the

Siting Coordination Office for review and approval in accordance with Condition of Certification XVI.C.

Lee County shall submit an amended ground water monitoring program to the Department's South District Office and the Siting Coordination Office prior to relocation of well cluster WTE-3S and WTE-3D for review and approval in accordance with Conditions of Certification XV.E.3 and XVI.B.3.c.

Accordingly, the Department has no objections to the above RMPF expansion, the addition of the VMF and the well cluster WTE-3S and WTE-3D relocation.

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes ("F.S."), within 21 days of receipt of this Order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department concerning the post-certification amendment you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within 21 days of receipt of this Order; or
2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this Order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to section 120.573, Florida Statutes ("F.S."), is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to rule 62-110.106(4), Florida Administrative Code ("F.A.C."), the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a

copy of the petition to the addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under sections 120.569 and 120.57, F.S.

Pursuant to subsections 120.54(5)(b)4 and 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP facility number, and the name and address of the facility;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or an Order Responding to Supplemental Information provided to the Department pursuant to meetings with the Department.

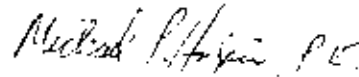
Judicial Review

Any party to this Order has the right to seek judicial review of it under section 120.68, F.S., by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of your post-certification amendment should be directed to Cindy Mulkey at (850) 245-2175. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

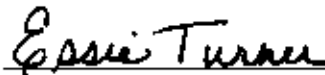
Sincerely,



Michael P. Halpin, P.E.
Administrator,
Siting Coordination Office

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

	<u>4/30/09</u>
Clerk	Date

Service List: CC by email:

Emily Norton, Esquire Fish and Wildlife Conservation Commission 6230 South Meridian Street Tallahassee, FL 32399-1600 emily.norton@myfwc.com	Matt Davis, Assistant General Counsel Department of Community Affairs 2555 Shumard Oak Blvd. Tallahassee, Florida 32399 matthew.Davis@dca.state.fl.us
Jennifer Brubaker, Attorney Supervisor Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 jbrubake@psc.state.fl.us	Menchion, Kimberly, Assistant General Counsel Department of Transportation Haydon Burns Building 605 Suwannee Street Mail Station 58 Tallahassee, FL 32399-0450 Kimberly.Menchion@dot.state.fl.us
David Dee, Esquire Landers & Parsons Post Office Box 271 Tallahassee, FL 32302 ddee@yvlaw.net	David Owen, Esquire Office of the County Attorney Post Office Box 398 Fort Myers, FL 32902 owend@leegov.com
Jim Golden S. F. Water Management District Post Office Box 24680 West Palm Beach, FL 33416 jgolden@sfwmd.gov	Kristin Chardo Environmental Coordinator Covanta Energy 10500 Buckingham Rd. Fort Myers, Florida 33905 kchardo@covantaenergy.com
George Ball-Llovera Covanta Energy 10500 Buckingham Rd. Fort Myers, Florida 33905 gball-llovera@covanta.com	Toni Sturtevant, Esquire Department of Environmental Protection 3900 Commonwealth Blvd. Mail Station 35 Tallahassee, FL 32399-3000 toni.sturtevant@dep.state.fl.us
Ken Heatherington, Executive Director South Florida Regional Planning Council 1926 Victoria Avenue Fort Myers, FL 33990 dhutchinson@swfrpc.org	

Also CC. by email:

Liz Donley: ldonley@swfrpc.org
Nichole Gwinnett: ngwinnett@swfrpc.org
Ken Heatherington: kheatherington@swfrpc.org.