



Florida Department of Environmental Protection

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April 8, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marc C. Bruner, Ph.D
Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412

RE: Palm Beach County Resource Recovery Facility
Modification to Conditions of Certification
DEP Case Number PA 84-20I
OGC Case Number 08-0271

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Bruner:

The Siting Board authorized the construction and operation of the Palm Beach County Resource Recovery Facility on July 29, 1986 (PA84-20). The Department of Environmental Protection (Department) has modified the Conditions of Certification by Final Order on eight other occasions.

The Department has reviewed Palm Beach County Solid Waste Authority's petition dated November 16, 2007 for modification to the Conditions of Certification. The Department has also initiated additional modifications. Pursuant to 403.516 (1) (c), Florida Statutes ("F.S."), the Department may modify the terms and conditions of a site certification upon its own initiative.

On or before February 22, 2008, all parties to the certification proceeding were provided with notice by certified mail of the Department's intent to modify the Conditions of Certification for this facility, along with a copy of the proposed Order Modifying Conditions of Certification.

On March 7, 2008, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Florida Administrative Weekly (FAW). Pursuant to Section 403.516, Florida Statutes ("F.S."), and Rule 62-17.211, Florida Administrative Code ("F.A.C."), all parties to the certification proceeding have 45 days from the issuance of notice by mail to such party's last address of record in which to file a written objection to the modification; that any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the public notice in the Florida Administrative Weekly to object in writing; that failure to act within the time frame constitutes a waiver of the right to become a party; and that the

Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

No objections to the modification were received by the Department. Written comments were received via email from Young van Assenderp, P.A.(YVAPA) on behalf of the Solid Waste Authority of Palm Beach County on March 12, 2008 requesting clarifications and corrections to specific draft Conditions of Certification

The submitted comments have been considered and changes have been made, as necessary, in the Conditions of Certification. The requested changes (*italics*) followed by the Department's responses are listed below.

- 1) *Rule 62-701.200(102), F.A.C., defines "recovered materials" as certain "metal, paper, glass, plastic, textile, or rubber materials...Recovered materials as described above are not solid waste."*

A RMPF is defined in Rule 62-701.200(103), F.A.C., as "a facility engaged solely in the storage, processing, resale, or reuse of recovered materials." This definition accurately describes the Authority's existing facilities and its proposed new facility.

As stated by YVAPA, when approval was granted in 1990 for the original materials recycling facility, the DEP's rules did not include a definition for a RMPF, so the original term (MRF) was accurate, but this term now is outdated and inaccurate in the present case. Rule 62-701.200(77), F.A.C., defines a MRF as a "solid waste management facility that provides for the extraction from solid waste of recyclable materials..." The Authority's RMPFs only receive recovered materials, which are not solid waste, and the Authority's facilities do not involve the extraction of recyclable materials from solid waste.

For these reasons, the YVAPA (on behalf of the Authority) requested that the Department refer to the new facility as the New RMPF. It is believed the use of this term will avoid confusion in the future regarding the types of materials that are handled by the facility.

Additionally, a request was made to clarify Section XIII.A.1.(b) and XIII.A.4, by explaining that the Authority currently has "recovered materials processing facilities" (RMPF), which will be replaced with one new RMPF.

It was also requested that a new paragraph be added to Section XIII.A.4, to make it clear that the DEP is granting approval to the Authority for the construction of the new RMPF, subject to appropriate terms and conditions.

Department Response

The Department agrees with the recommendation to change all references to the "Materials Recycling Facility (MRF)" to "Recovered Materials Processing Facility (RMPF)". Descriptions of the facility included in the petition for modification are consistent with the definition of RMPF (Rule 62-701.200(103) cited above.

A sentence has been added to Condition XIII.A.1.(b) to clarify the applicant's intent to construct a new RMPF as described in the petition for modification.

The requested addition will not be made to Condition XIII.A.4. This specific condition is a previously noticed Condition of Certification that has been inadvertently omitted from the

final Conditions of Certification. The condition is being added to correctly reflect a past modification. The condition will stand as originally proposed and noticed.

- 2) *Condition XIII. A.1.c. includes a requirement for the annual submittal of DEP Form 62-343.900(4), F.A.C. (Annual Status Report Form) when construction exceeds one year in duration. YVAPA requested clarification for the submittal requirement for the first report.*

Department Response

Language included in Condition XIII.A.1.c. is consistent with Chapter 40E-4.381, Form 62-343.900(4), and other previously issued state permits. No changes to Condition XIII.A.1.c. have been made.

- 3) *It was requested that Condition XIII.A.16 be changed to clarify that “impacts” to wetlands includes “dredging and filling” in wetlands.*

Department Response

Condition XIII.A.16 has been modified for clarification.

- 4) *According to YVAPA, “The construction of the RMPF will not impact any detection or monitoring wells on the site and, therefore, no wells will need to be plugged or abandoned. Consequently, the Authority believes the provisions in Section XIV.D.4 are irrelevant and should be eliminated.”*

“The Authority is concerned that the presence of Section XIV.D.4 in the Conditions of Certification will give the false impression that detection or monitoring wells will be affected and, therefore, some action must be taken by the Authority. Since this is not correct, the Authority believes it would be appropriate to remove these proposed conditions.”

Department Response

The intent of Condition XIV.D.4. is to require proper abandonment and plugging of only those wells impacted by construction (if any). The requirement has not been removed. Language has been added for further clarification of the intent.

- 5) *It was requested that Condition XIV.E.17 be changed to more closely match the provisions of Rule 62-722.400(1), F.A.C., which recognizes that the annual certification is not required for a person that "is exempt pursuant to Rule 62-722.300, F.A.C., or is otherwise not subject to the requirements of" Chapter 62-722, F.A.C. As recommended, the Conditions of Certification would require the Authority to submit the annual certification, unless they are not obligated to do so, based on the Department's rules.*

Department Response

Condition XIV.E.17 has been changed to more clearly allow for the exemption.

- 6) *YVAPA requested that Section XIV.K be revised to delete the requirement to remove invasive exotic plants from the wetland buffer area.*

Department Response

After consideration of the above request, the Department has determined that Condition XIV.K. will not be changed.

The Conditions of Certification for the Palm Beach County Resource Recovery Facility are hereby modified as follows:

I. through XI. No change.

XII. MODIFICATION OF CONDITIONS

A. Pursuant to Subsection 403.516(1), Florida Statutes, the Siting Board hereby delegates ~~the authority~~ to the Secretary of the Department of Environmental Protection, who further delegates to the Siting Coordination Office, the authority to modify, after notice and opportunity for hearing, any condition of this certification which would not otherwise require approval from the Siting Board. ~~dealing with sampling, monitoring, reporting, specification of control equipment, boiler capacity, related time schedules, emission limitations (subject to notice and opportunity for hearing), conservation easements, or any special studies conducted, as necessary to attain the objectives of Chapter 403, Florida Statutes. Requests for modifications of monitoring requirements shall not be unreasonably withheld by the Department.~~

B. No change.

C. No change.

XIII. CONSTRUCTION

No change.

A. Control Measures

1. Stormwater Runoff

a) To control runoff during construction which may reach and thereby pollute Waters of the State, necessary measures shall be utilized to settle, filter, treat or absorb silt-containing or pollutant-laden stormwater to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units above background in Waters of the State. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. The Permittee shall comply with Florida Administrative Code Chapters 62-302 and 40F-4. The Permittee shall complete the forms required by 40E-4 and submit those forms and the required information to the SFWMD and Southeast District Office for approval no later than 90 days prior to start of construction, including design drawings indicating flow drainage plans during facility construction and operation. To prevent the discharge of turbid water {greater than 29 NTU's above background} from the site during construction, a temporary berm with 3H:1V side slopes and an elevation sufficient to contain the 25 year, 3 day storm event shall be constructed around the resource recovery site (except for the landfill areas and Jog Road) prior to commencement of work on the facility.

b) The new recovered materials processing facility (new RMPF) will be constructed as described in the permittee's petition for modification dated November 16, 2007 and subsequent additional information submitted in support of the petition. Construction of the new RMPF shall be conducted in a manner which does not cause violations of state water quality standards. The licensee shall implement best management practices for erosion and sedimentation control to prevent violations of state water quality standards. Turbidity curtains, entrenched silt screens, hay bales or other sediment control measures shall be properly deployed

and maintained throughout the construction period to prevent erosion and escape of sediments from the work area to adjacent surfaces and waters. As an initial precaution, prior to construction, sediment control measures shall be installed around the perimeter of the area to be developed, with additional devices and measures deployed in specific work areas. All areas disturbed by construction shall be stabilized and vegetated immediately after construction to prevent erosion. [Chapters 40 E-4.381, 40 E-40, and SFWMD Basis of Review]

c) At least 48 hours prior to commencement of construction of the new RMPF the licensee shall submit to the Department an "Environmental Resource Permit Construction Commencement" notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date. When the duration of construction will exceed one year, the licensee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year. [Chapter 40E-4.381, and 62-343.900, F.A.C.]

d) Within 30 days after completion of construction of the stormwater management system for the new RMPF, the licensee shall submit to the Siting Office and copy the DEP SED Office a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.) and a copy of the "as-built" drawings. The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. [Chapter 40E-4.381, and 62-343.900, F.A.C.]

e) Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this license or a formal determination under section 373.421(2), F.S., provides otherwise. [Chapter 40E-4.381]

f) The surface water management system for the new RMPF shall be constructed in accordance with the signed and sealed drawings included in Appendix D of the Petition for Modification dated November 2007 and updated drawings dated 12/31/07 on file with the Siting and DEP Southeast District Offices. Retention Pond 1 and Pond 2 bottom shall be @ 16.70 feet NGVD and top of bank elevation shall be at 19.0 feet NGVD. Outfall structures shall be equipped with pollutant retardant baffles. The discharge control structures shall consist of control structure CS-A and CS-B as described below: [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

<u>Structure</u>	<u>Description (inches)</u>	<u>Crest Elevation (ft. NGVD)</u>	<u>Discharge Culvert</u>
<u>CS-A</u>	<u>Weir: 1-24”(span) by 19.44”(rise)</u> <u>3-inch circular bleeder</u>	<u>17.28</u> <u>15.7 (invert)</u>	<u>2 - 24-inch RCP.</u>
<u>CS-B</u>	<u>Weir: 1-36”(span) by 19.44”(rise)</u> <u>3-inch circular bleeder</u>	<u>16.98</u> <u>15.7 (invert)</u>	<u>2 - 24-inch RCP.</u>

g) Prior to start of construction, of the new RMPF the licensee shall prepare a Storm Water Pollution Prevention Plan and submit a copy of the National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) to use a Construction Generic Permit (CGP) for stormwater discharges (as applicable) to the DEP NPDES Stormwater Notices Center.

2. through 3. No change.

4. Solid Wastes

Solid wastes resulting from construction shall be disposed of in accordance with the applicable regulations of Chapter 62-701, F.A.C.

The licensee is hereby granted permission to construct and operate a Solid Waste Resource Recovery and Materials Recycling Facility (SWRRMRF) in accordance with the letter, documents and plans submitted on August 9, 1990. The operations of the associated facility shall be pursuant to all applicable portions of Chapter 17-701, F.A.C. This SWRRMRF shall be relocated when the future landfill foot-print expansion is necessitated pursuant to the future landfill phasing plans, phases IV and final, Job No. 22-046.10, SHW #875-0987D, Sheets 4 of 5 and 5 of 5, dated September 29, 1987, prepared by Post, Buckley, Schuh and Jernigan, Inc.

5. through 15. No change.

16. Wetlands:

These conditions do not authorize dredging or filling in wetlands. Prior to site preparation for, or construction of, the new RMPF, the wetland jurisdiction line of the western marsh wetland and the landward boundary of the “30’ Wetland Buffer” surrounding it, as shown on the drawing “Wetlands Exhibit” (Attachment 1) shall be clearly marked on site. Marking intervals shall be close enough for visual reference between one flag and the next. It should be noted that the boundary of the wetlands east of the project area has not yet been verified by the Department. Regarding that area, the Department has determined only that the eastern project limits are not in wetlands. The licensee is advised to clearly mark onsite the “Limit of Disturbance” as shown on the referenced drawing and to avoid impacts to areas east of this line. [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

Once the buffer has been marked as indicated above, a clearly visible effective construction barrier (silt fence, etc.) shall be placed along the landward boundary of the

buffer as shown on the “Wetlands Exhibit” drawing (Attachment 1). Construction impacts shall not occur within the 30-foot buffer area or within the wetlands. The licensee shall request an inspection and approval of the marked wetland and buffer line, and of the barrier placement location, prior to commencing any other site preparation or construction activities. [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

17. Gopher Tortoise Protection

Prior to any site preparation or construction activities on the site, the licensee shall obtain the appropriate authorization from the Florida Fish and Wildlife Conservation Commission regarding protection/relocation of gopher tortoises on the site (as necessary) pursuant to Rules 68A-27.002 and 68A-27.004 (F.A.C.). A copy of the authorization should be forwarded to the DEP SED Office within 30 days of issuance. [Rules 68A-27.002 and 68A-27.004, F.A.C.]

B. through C. No change.

XIV. OPERATION

A. through C. No change.

D. Water Discharges

1. through 3. No change.

4. Groundwater Monitoring Program

a. through e. No change.

f. Any existing monitoring wells (other than compliance wells required by Chapter 62-761 or 62-762, F.A.C. for release detection, and wells that are part of an approved groundwater monitoring plan) that are impacted by construction of the new RMPF and will no longer be utilized, if any, shall be properly plugged and abandoned in accordance with the requirements of Rule 62-532.500(4), F.A.C. prior to site development for the new RMPF. Compliance wells required by Chapter 62-761 or 62-762, F.A.C. for release detection, and/or wells that are part of an approved groundwater monitoring plan shall remain active. [Rules 62-532.500(4), 62-761, and 62-762, F.A.C.]

5. New RMPF Storm Water System

Perpetual operation and maintenance of the storm water system for the new RMPF is the responsibility of the Solid Waste Authority of Palm Beach County. A maintenance schedule shall be implemented to ensure that the storm water management system is functioning as designed. [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

E. Solid/Hazardous Waste

1. through 16. No change.

17. No later than April 1st of each year, the licensee shall submit an Application for Recovered Materials Certification to DEP’s Bureau of Solid and Hazardous Waste, Recovered Materials Certification and Reporting Program, as applicable, in accordance with 62-722.400(1), F.A.C. unless otherwise exempt from this requirement. [Rule 62-722.400(1), F.A.C.]

F. through I. No change.

J. Wastewater Management for New RMPF

1. Washwater: Wash water from the new RMPF, including the washbay area, shall be pumped to a double-walled, high density polyethylene, above ground storage tank. The storage tank will be fitted with high level alarms and leak detection. The wash water shall be temporarily held in the storage tank prior to shipment to an offsite licensed treatment facility. [Applicant Request]

2. Domestic Wastewater: Domestic wastewater generated at the new RMPF shall be discharged to a domestic sewage pump station and conveyed via pipeline to the City of West Palm Beach domestic wastewater treatment plant. [Applicant Request]

K. Wetland Buffers – New RMPF

The licensee shall maintain the wetland buffer zone required by Condition XIII. A. 16. Buffer areas shall be maintained free of invasive exotic plants (Florida Exotic Pest Plant Council's 2003 Category I Invasive Exotic Species), trash, and construction and fill material. [Chapter 40E-4.301]

L. Historical or Archeological

If historical or archaeological artifacts are discovered at any time on the project site, the licensee shall immediately notify the appropriate Department office and the Department of State, Division of Historical Resources. [Chapter 40E-4.381]

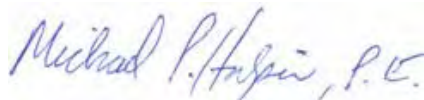
XV. through XX. No change.

A complete set of the Conditions of Certification (including attachments) can be viewed and downloaded from the following website:

<http://www.dep.state.fl.us/siting/Highlights/conditions.htm>. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 2600 Blair Stone Road, M.S. 48, Tallahassee, Florida 32399-2400, (850) 245-8002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, Florida Statutes by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, 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 from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Executed in Tallahassee, Florida.



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.

Linda Karokous 4-8-08
Clerk Date

CC by email (return receipt requested):

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