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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

(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 DECEMBER 29, 1987
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 December 29, 1987, adopted an amendment to its approved district solid waste management plan. The proposed amendment designates Lot 33, Block 4001, in Montgomery Township, Somerset County, as the location for a residual/bypass landfill. The amendment was received by the Department of Environmental Protection

on January 20, 1988, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire Somerset County District Solid Waste Management Plan, and has determined that the amendment adopted by the Somerset County Board of Chosen Freeholders on December 29, 1987, is 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 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 December 29, 1987 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 (DSWM) 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 Agriculture and Community Affairs, the Board of Public Utilities, the New Jersey Turnpike Authority, 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, 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, the State Department of Transportation, and the Green Acres Program submitted substantive comments which are further addressed below.

The Division of Environmental Quality (DEQ) noted that landfills are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution," which prohibits odors and other air contaminants which interfere with the enjoyment of life or property. DEQ also commented that new and closed landfills should be equipped with positive ventilation systems, which direct landfill gases to air pollution control devices. These vents and devices require air pollution control permits pursuant to N.J.A.C. 7:27-8.2(a)1 and 16, which require permits for all stationary equipment used to ventilate a solid waste facility directly or indirectly to the ambient atmosphere. The DSWM concurs with the DEQ's comment, and by way of this plan amendment certification, notifies Somerset County of the above mentioned requirements.

The Division of Water Resources (DWR) commented that the proposed landfill would require a New Jersey Pollutant Discharge Elimination System Discharge to Groundwater Permit from the Bureau of Ground Water Quality Management. They also noted that approvals would be necessary for the disposal of leachate at local treatment plants. The potential impacts on sludge quality and the potential effect of the leachate on existing sludge management methods will need to be addressed. Additionally, if the wastewater/leachate treatment system is to connect to an existing treatment facility, or if a new wastewater treatment facility is proposed, an amendment to the Upper Raritan Water Quality Management Plan would be necessary. The DSWM concurs with the Division of Water Resources comments, and by way of this plan amendment notifies Somerset County of the above mentioned requirements.

DWR also expressed concerns regarding the presence of wetlands at the project site, and stated that development requiring wastewater facilities is prohibited in wetlands in Montgomery Township. In response, according to the U.S. Fish and Wildlife National Wetlands Inventory map, no wetlands are present on Lot 33, Block 4001 in Montgomery Township. However, wetlands are indicated on Lot 34, Block 4001, which was at one time considered as a potential landfill site, but is not included in the current amendment. This issue must be investigated further during the technical review phase of the Department's solid waste facility permitting process, and DWR input will be solicited at that time.

The Division of Fish, Game and Wildlife (DFG&W) noted that the proposed landfill had the potential to impact threatened/endangered grassland bird species, and that thorough surveys to determine the presence or absence of these species should be required. This issue will be addressed in the technical review phase of the Department's solid waste facility permitting process. The DFG&W also expressed concern regarding the possibility of the project site expanding onto Lot 34, Block 4001, where the landfill could potentially impact Crusier Brook and its associated wetlands. In response, such an expansion is not included in this plan amendment.

The Division of Parks and Forestry indicated that there are no identified cultural resources listed in the State Register of Historic Places within the project boundaries; however, there are several farmsteads potentially eligible for listing in the immediate vicinity. In response, any impacts which the proposed landfill would have on these farmsteads must be addressed by the applicant in the technical review phase of the permitting process.

The Division of Solid Waste Management (DSWM) commented that there do not appear to be any significant problems associated with the designated site, but that there are some site features which may require more extensive study and/or special construction to meet Department requirements. These features include site subgrade and foundation, hydrogeological characteristics, and site accessibility. Additionally, a small section of the Crusier Brook 100 year flood plain extends onto the site, which may require a Stream Encroachment Permit. Finally, the proposed plan amendment does not identify haulage routes to and from the facility. Should the

proposed site survive the technical review phase of the Department's permitting process, a plan amendment which identifies such haulage routes must be certified by the Department prior to the commencement of operations at the facility. All of these issues must be addressed by the applicant during the technical review phase of the permitting process.

The DSWM also commented that any materials designated for source separation and recycling as per Somerset County's District Recycling Plan should be considered as unauthorized waste at the facility. Additionally, it is recommended that the facility's Operations and Maintenance Manual include an incoming waste inspection plan which insures that the materials so designated are not disposed of as solid waste at the facility. A penalty enforcement plan should also be developed, which includes a graduated penalties schedule, with penalties of not less than \$500 for the first offense, and not less than \$1,000 for each offense thereafter.

The Department of Transportation (DOT) noted that the necessary engineering feasibility and environmental studies for the "Route 206 Bypass or Hillsborough Bypass" have not been completed or accepted. Specific information regarding access to the site shall be addressed during the technical review phase of the Department's solid waste facility permitting process. Additionally, DOT commented that any work within the limits of a state highway right-of-way would require a valid permit from the New Jersey Department of Transportation. The DSWM concurs with the DOT's comment, and by way of this plan amendment certification notifies Somerset County of this requirement.

The Green Acres Program noted that the proposed site is near the Sourland Mountain Preserve. Any potential impacts of the proposed landfill on this County Park must be addressed in the technical review phase of the Department's permitting process.

In addition to the comments received by the State Level Review Agencies, the transcript from the June 20, 1987 public hearing was reviewed for comments. These comments focused on the potential degradation of the surrounding environment due to the development of the landfill. Specific concerns were raised regarding the facility's impact on a development which is now planned to include a percentage of affordable housing units, pursuant to a Mount Laurel settlement between Montgomery Township and a private development company. Although the planned units are not to be constructed on Lot 33, Block 4001, concerns were expressed regarding the landfills proximity to the planned units. 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 landfill development are mitigated so that the facility will not degrade the surrounding environment. In addition, the comments received at the public hearing did not indicate that development of the landfill would prevent development of the planned low and moderate income housing units, or that Montgomery

Township lacks sufficient vacant, developable land and/or financial resources to otherwise satisfy its Mount Laurel obligation.

Additional comments were made regarding the possibility of ash from a resource recovery facility being classified as a hazardous waste. The proposed residual/bypass landfill will be reviewed as a solid waste facility, and will be prohibited from accepting hazardous waste. Should incinerator ash be classified as a hazardous waste, it will then be disposed of at an appropriate hazardous waste disposal facility.

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 December 29, 1987 amendment to the approved Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the December 29, 1987 amendment is approved as further specified below.

The inclusion in the Somerset County District Solid Waste Management Plan of Lot 33, Block 4001, in Montgomery Township, Somerset County, as the designated site for development of a residual/bypass landfill 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.

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

1. 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.

While the current plan amendment designates a site for a residual/bypass landfill, Somerset County has yet to implement the resource recovery element of its plan to include a site for a resource recovery facility. The Department remains concerned about the vulnerability of out-of-state disposal, even when supported by contractual arrangements. While the transfer station program satisfies N.J.S.A. 13:1E-21b(5) on an interim basis, Somerset County remains deficient here due to a lack of a site for development of a resource recovery facility. Therefore, Somerset County remains deficient with respect to N.J.S.A. 13:1E-21b(3), in that the plan has

not designated sufficient available suitable sites for disposal of Somerset County's solid waste.

- 2. N.J.S.A. 13:1E-21(b)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 facilities.

Since the Somerset Plan does not include 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 facilities, I find that the Somerset Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4).

- 3. 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.

As the February 17, 1987 amendment to the Somerset County District Solid Waste Management Plan, designating proposed uses for the District Resource Recovery Investment Tax Fund, was approved, conditional upon the siting/implementation of a resource recovery and residual landfill site; and since a resource recovery site has not yet been designated, the plan remains deficient in regard to N.J.S.A. 13:1E-21b(6).

Community vs. Progress vs. N.J.T. 1988 in Somerset

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