



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
CHRISTOPHER J. DAGGETT, COMMISSIONER
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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 15, 1988
AMENDMENT 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 Boards 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 15, 1988, adopted an amendment to its approved district solid waste management plan. The plan amendment, as adopted, proposed to include additional lots within Block 338 for the proposed Union County Resource Recovery Facility located in the City of Rahway. The previous plan amendment which included the original properties in the district plan was adopted on April 4, 1984 and certified an approved on October 5, 1984.

The amendment was received by the Department of Environmental Protection on November 18, 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 Union County District Solid Waste Management Plan, and has determined that the amendment adopted by the Union County Board of Chosen Freeholders on September 15, 1988, 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. These deficiencies are described in Section C.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection, have studied and reviewed the September 15, 1988 amendment 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 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 N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Fish, Game and Wildlife, and Parks and Forestry; the Green Acres Program, the State Departments of Agriculture, Community Affairs, Transportation and the Board of Public Utilities. The following agencies failed to respond to our requests for comments: the State Departments of Health and the Public Advocate; the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Division of Coastal Resources and the Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Coastal Resources (DCR) commented that the extent of any areas subject to the Freshwater Wetlands Protection Act should be determined. If the proposed activity will result in the disturbance of any freshwater wetland or open water area, DCR should be consulted to determine appropriate permit requirements. In response, the Department concurs with DCR's comments, and by way of this certification notifies Union County of this requirement.

The Division of Solid Waste Management, although finding the amendment consistent with its program, had one comment. All lots listed in the proposed amendment are listed on the site plan map for the resource

recovery facility. However, it appears that one lot, while addressed in the body of the solid waste facility application for the resource recovery facility, is not included on the standard solid waste facility application form, CP-1. Although this omission does not impact on the plan amendment, it may need to be addressed during the permitting phase.

As described in the solid waste facility application for the proposed Union County Resource Recovery Facility, and the October 5, 1984 certification of the April 4, 1984 plan amendment, the use of the additional lots will be for construction and operational access/egress for the facility, access/egress to the developed waterfront park and for utility easements which may not require acquisition of the entire lots as listed in the proposed plan amendment. The inclusion of the additional lots in the proposed plan amendment does not alter or expand the approved uses for Block 338 which were set forth in the October 5, 1984 certification of the April 4, 1984 plan amendment.

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

I, Christopher J. Daggett, 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 15, 1988 amendment to the approved Union County District Solid Waste Management Plan and certify to the Union County Board of Chosen Freeholders that the September 15, 1988 amendment is approved as specified below.

The inclusion of additional Lots, 6, 7, 8, 8.01, 10, 11, and 13 of Block 338 in the City of Rahway for the proposed Union County Resource Recovery Facility, is approved. The inclusion of the additional lots in the proposed plan amendment does not alter or expand the approved uses for Block 338 which were set forth in the October 5, 1984 certification of the April 4, 1984 plan amendment.

In addition, the Department has reviewed the entire Union County District Solid Waste Management Plan, including this amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that 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.

On April 5, 1984, Union County amended its plan to designate a specific site in the City of Rahway for development of the county's regional resource recovery facility. The county also amended its plan on September 11, 1986 to designate a specific site in the City of

Elizabeth for development of a county landfill. As noted in the certification of the September 11, 1986 amendment, and as is still the case, ambiguity exists as to the county's intentions with respect to using the Linden and Elizabeth Landfills for residual, bypass, and non-processible disposal purposes. This ambiguity must be addressed by Union County in writing within 45 days of the date of this Certification. This submission should contain a status summary of efforts to develop landfill capacity, planned waste type allocations and schedules for implementing one or both of these landfills. Until this ambiguity is addressed, Union County remains deficient with respect to N.J.S.A. 13:1E-21b(3).

2. 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 facilities.

As directed in the August 5, 1988 Emergency Redirection of Solid Waste Flow Order, and in accordance with N.J.A.C. 7:26-6.7(b)3, Union County is required to submit a plan amendment to the Department which incorporates the modifications to the waste flow as delineated in the Order. Since the Department has not received the required plan amendment to date, Union County is hereby directed to develop a plan amendment for directing county waste flows, to conduct a public hearing to include the waste flow from the Union County municipalities to the designated facilities for processing and transport to out-of-state disposal facilities, and to submit the adopted amendment to the Department for review as soon as possible.

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.

Although the Union County plan includes an approved use of the Resource Recovery Investment Tax fund, 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 comprehensive financial plans are approved for all solid waste facilities located in Union County.

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 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 this amendment

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 amendment contained herein shall operate in compliance with this amendment 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., 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 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 Amendment

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 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 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 Amendment 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 amendment as outlined in Section C. of this certification to the Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on September 15, 1988. Further, I direct Union County to resolve the deficiencies as outlined in Section C., as soon as possible.

APRIL 13, 1989
DATE


CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION