

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

In the matter of a request
for approval of alternate procedures by:

Hillsborough County Solid Waste Management Division
332 North Falkenburg Road
Tampa, Florida 33619

Case No.: SWAP 19-1

APPROVAL OF ALTERNATE PROCEDURES

This cause comes before me upon receipt of a request by the Hillsborough County Solid Waste Management Division (“Petitioner”), for the approval of alternate procedures and requirements under Rule 62-701.310, Florida Administrative Code (F.A.C.). Petitioner owns and operates the Southeast County Landfill (SCLF) in Hillsborough County, Florida and requests that an exception be granted from compliance with subparagraph 62-701.400(3), F.A.C., for Phases I-VI of the landfill. This subparagraph requires that composite and double liner systems for landfills be designed to limit the hydraulic head above the liner, during routine landfill operations after placement of initial cover, to no greater than 12 inches. Specifically, Petitioner requests relief from this requirement by allowing Phases I-VI of the SCLF to operate with a hydraulic head over the liner in excess of 12 inches.

FINDINGS OF FACT

1. Petitioner currently operates a lined Class I landfill at the SCLF under permit number 35435-022-SO-01, as modified, that was issued on November 7, 2013 and expires on November 7, 2023. The SCLF is located at 15960 County Road 672, Lithia, Hillsborough County, Florida, and has been given WACS ID# 41193. The current permit for the SCLF allows for continued operations of landfill Phases I-VI, and Sections 7, 8, and 9. Phases I-VI have a disposal area of 162.4 acres. Sections 7, 8 and 9 have a disposal area of 34.5 acres, but they are not included in the Petitioner’s request for approval of alternate procedures and requirements.

2. In 1984, Petitioner was issued a permit by the Department to construct and operate Phases I-VI in accordance with the regulations that were effective in 1982. At that time, Chapter 17-7, F.A.C., did not require Class I landfills to be constructed with a bottom liner or a leachate collection and removal system (LCRS). However, Phases I-VI were designed and constructed over a clay settling area, of a former phosphate mine, that was used as a single phosphatic clay bottom liner for the new landfill. The bottom liner was completed with a Hypalon geomembrane installed on the sideslopes of the perimeter berm and keyed into the bottom phosphatic clays. In addition, an LCRS was installed for Phases I-VI that consisted of crushed granite and tire-chip-filled trenches, 8-inch diameter perforated Schedule 80 polyvinyl chloride (PVC) pipes and high density polyethylene (HDPE) pipes in granite -filled trenches. The gravel- and tire-filled trenches drained to the 8-inch pipes, which then drained to Pump Station B (PS-B) located in the Phase VI disposal area. PS-B was designed to be the ultimate low point for the entire footprint of Phases I-VI after final placement of waste material and resulting consolidation of the waste phosphatic clays. Leachate collected in PS-B was then removed from the landfill for proper disposal.

3. On December 10, 1985, the Department amended Chapter 17-7, F.A.C., to begin requiring single liners for all new Class I landfills and limited the leachate depth over the liner to one foot. On January 6, 1993, the Department further amended its solid waste rules to require either a composite liner or a double liner at all new Class I landfills and stated the LCRS must be designed to limit the leachate hydraulic heads to no greater than 12 inches.

4. On October 30, 1996, the Department issued Petitioner an operation permit renewal. This permit authorized Petitioner to operate the LCRS for Phases I-VI with a head over the liner in excess of 12 inches, in accordance with an approved Leachate Management Plan, and included provisions for low, normal and high-leachate level operation.

5. On May 27, 2001, the Department again amended its solid waste rules to clarify that unless landfills were specifically subject to the current landfill liner and LCRS requirements

of Chapter 62-701, F.A.C., they remained subject to the requirements that applied when the landfill was originally permitted.

6. On April 21, 2016 the Petitioner notified the Department that detection monitoring well TH-67, near Phase II, was experiencing elevated concentrations of conductivity, total dissolved solids (TDS), chloride, and sodium. As a result, on July 27, 2017, a Consent Agreement (OGC No. 17-0058) was executed between Petitioner and the Department which required Petitioner to: (1) request an approval of alternate procedures and requirements to reauthorize operating the LCRS in Phases I-VI with a leachate head over the liner in excess of 12 inches; and, (2) prepare and submit a Corrective Action Plan (CAP) to the Department. The objective of the CAP was to address the inadequacies of the LCRS and provide a proposal for evaluating and reducing leachate levels in Phases I-VI.

7. After execution of the Consent Agreement, Petitioner conducted more investigations of the LCRS in Phases I-VI and implemented some corrective measures including: (1) installing and sampling additional detection monitoring wells; (2) constructing an approximately 1,600-foot leachate cut-off trench; (3) performing subsurface conductivity tests and a LCRS tracer dye test; and, (4) installing and operating additional dewatering locations in Phases I and II. Also, Petitioner prepared several draft versions of the CAP that were submitted to and discussed with the Department.

8. On September 25, 2019, a meeting was held between Petitioner and the Department about the requirement in the Consent Agreement that Petitioner submit a request for approval of alternate procedures and requirements to allow a leachate head over the liner in excess of 12 inches. Petitioner agreed to implement additional monitoring, operational changes, and corrective actions as part of the request for approval of alternate procedures and requirements.

9. On November 27, 2019, Petitioner submitted a Request for Alternate Procedure Approval to operate in Phases I-VI with a leachate head over the liner in excess of 12 inches. Petitioner maintains that since Phases I-VI were originally permitted to construct and operate in

1984, they are not subject to the Department's current liner and LCRS requirements. Further, Petitioner has proposed additional monitoring, operational changes, and corrective actions that are expected to maintain leachate hydraulic head over the liner in Phases I-VI to 30 inches or less. Petitioner provided information these additional measures, when properly constructed and implemented, will ensure leachate levels over the liner will be controlled and continued operation of Phases I-VI will be protective of human health and the environment.

CONCLUSIONS OF LAW

Rule 62-701.310, F.A.C., authorizes the approval by the Department of alternate procedures and requirements concerning solid waste management facilities. Based upon the above findings and the information contained in the Request for Alternate Procedure Approval, the Department concludes:

1. That Petitioner has demonstrated a sufficient basis for the exception from the established requirements;
2. That Petitioner has adequately demonstrated that the alternate procedures provide an equal degree of protection for the public and the environment as the established requirements; and,
3. That the alternate procedures are at least as effective as the established requirements.

Upon consideration of the foregoing it is therefore ORDERED that the request for alternate procedures and requirements from subparagraph 62-701.400(3), F.A.C., are GRANTED, subject to the following conditions.

CONDITIONS

1. This Order only applies to Phases I-VI of the SCLF.
2. Liquid level measurements, for controlling the leachate hydraulic head over the liner in Phases I-IV, shall be based upon the requirements of Paragraph 9.2.4 "LCRS Monitoring Locations" and Table 9.2.4 "Liquid Levels Maintenance Schedule" in Appendix E of the Request for Alternate Procedure Approval. In particular, the target liquid levels for monitoring locations PS-B, MP 2-2, and CO 2-1 shall be at or below 30 inches as stated in the Performance Criteria of Table 9.2.4.
3. A modification to solid waste permit shall be obtained from the Department and implemented that changes the Fill Sequence Plan for Phases I-VI to increase stormwater drainage and reduce infiltration. Specifically, the revised fill sequence shall include the design of all future lifts with landfill crown slopes of about 7.5 percent in areas that have not reached their final permitted design elevations.
4. Accelerated final closure shall be performed in all areas of Phases II and III that have reached their final permitted design elevations.
5. The piezometers shown in Figure 4 of the Request for Alternate Procedure Approval shall be abandoned and grouted to eliminate unnecessary pathways for surface water to enter the LCRS in Phases I-VI.
6. Unless the Department takes affirmative action to revoke or modify this Order, it will have unlimited duration.

NOTICE OF RIGHTS

Pursuant to Section 403.815, F.S., and Rule 62-110.107, F.A.C., you are required to publish at your own expense the enclosed Notice of Proposed Agency Action. The notice shall be published one time only within 30 days in the legal ad section of a newspaper of general circulation in the area(s) affected. For the purpose of this rule, "publication in a newspaper of

general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. You must provide proof of publication to the Department at the address listed below as soon as practical after publication. The Department's Order Granting Approval of Alternate Procedures and Requirements will be considered final, unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed agency action 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, Mail Station 35, Tallahassee, Florida 32399-3000, or by electronic mail at Agency_Clerk@DEP.state.fl.us.

Petitions by the applicant or any of the parties listed below, or requests to extend the time in which to petition, must be filed within twenty-one days of receipt of this written notice. Petitions filed by other persons must be filed within twenty-one days of publication of the notice or receipt of the written notice, whichever occurs first. The petitioner shall mail a copy of the

petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must be in accordance with Rule 28-106.201, F.A.C., and contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.


Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case under the provisions of that statute. This does not prevent any interested parties from agreeing to other forms of alternate dispute resolution.

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, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 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 30 days after this order is filed with the Clerk of the Department.

DONE AND ORDERED this 13 day of March, 2020, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Kimberly A. Walker, Program Administrator
Permitting and Compliance Assistance Program
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically mailed to Kimberly Byer, P.G., Division Director, Hillsborough County Solid Waste Management Division, 322 North Falkenberg Road, Tampa, Florida, 33610, at byerk@hillsboroughcounty.org and to the below listed persons on this 13 day of March, 2020, in Tallahassee, Florida.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department clerk, receipt of which is hereby acknowledged.

Tamela Starling
(Clerk)

3/13/2020
(date)

Copies furnished to:

Joe O’Neill, Hillsborough County
Larry Ruiz, Hillsborough County
Kollan Spradlin, P.E. SCS Engineers
Cory Dilmore, P.E., FDEP
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STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF PROPOSED AGENCY ACTION

The Department of Environmental Protection gives Notice of its Intent to grant approval of an alternate procedure pursuant to Rule 62-701.310, Florida Administrative Code (F.A.C.), to the Hillsborough County Solid Waste Management Division for an exception from compliance with subparagraph 62-701.400(3), F.A.C. at Phases I-VI of the Hillsborough County Southeast County Landfill (SCLF) in Hillsborough County, Florida. Specifically, Petitioner requests relief from the requirements of subparagraph 62-701.400(3), F.A.C. in Phases I-VI of the SCLF which require that landfill liner systems be designed to limit the hydraulic head above the liner, during routine landfill operations after placement of initial cover, to no greater than 12 inches.

The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Division of Waste Management, Solid Waste Section, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Persons whose substantial interests are affected by the above proposed agency action have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.), to petition for an administrative determination (hearing) on the proposed action. The petition must contain the information set forth below, pursuant to Rule 28-106.201, F.A.C., and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, within 21 days of publication of this notice. A copy of the Petition must also be mailed at the time of filing to the applicant at the address indicated. Failure to file a petition within 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file/identification number;

(b) The name, address, e-mail address, facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how each petitioner received notice of the Department's decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the Department's decision;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's decision; and

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wants the Department to take with respect to the Department's decision.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of publication of this notice in the Office of General Counsel of the Department at the above address. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case under the provisions of that statute. This does not prevent any interested parties from agreeing to other forms of alternate dispute resolution.