



Florida Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926
Telephone: 813-632-7600

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Mimi Drew
Secretary

December 9, 2010

Certified Mail Return Receipt No. 7009 1410 0001 0092 0703

Hillsborough County Solid Waste Management Department
Mr. Barry Boldissar, Director
Post Office Box 1110
Tampa, Florida 33601

Subject: Department's Response to the County's October 22, 2010 Letter
Southeast County Class I Landfill
Hillsborough County
WACS ID #41193

Dear Mr. Boldissar:

The Department received the Hillsborough County Solid Waste Management Department's ("the County's") October 22, 2010 response to the Department's July 21, 2010 Warning Letter #WL10-005SW29SWD ("Warning Letter"), which identified two potential violations associated with the landfill gas collection and control system ("GCCS") at the County's Southeast County Class I Landfill ("facility").

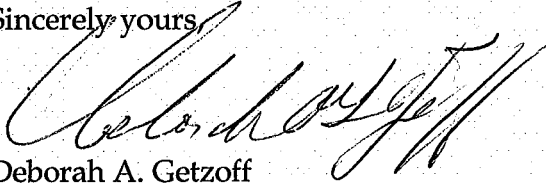
The Department has reviewed this response, in which the County provided information regarding the circumstances that led to the County's staff's modification to, and operation of, the GCCS at the facility. Additionally, the County requested that the Department withdraw its Warning Letter and waive the assessed \$3,500.00 in penalties and \$700.00 in Department costs.

The Department acknowledges the County's position on this matter. However, because the potential violations are deviations from the Department's rules and permit requirements, the Department cannot agree to withdraw the Warning Letter or waive the assessed penalties in their entirety.

In consideration of the County's request, the Department has determined that it is appropriate to reduce the penalties by fifty percent because no environmental harm occurred as a result of the potential violations. Therefore, a draft Short Form Consent Order for settlement of \$1,750.00 in penalties and \$700.00 in costs is enclosed for the County's review and signature.

The Department appreciates the County's cooperation in this matter. If the County has questions about this letter, please contact Ms. Stephanie Watson by telephone at (813) 632-7600, ext. 451, or by email at stephanie.m.watson@dep.state.fl.us.

Sincerely yours,



Deborah A. Getzoff
District Director
Southwest District

dag/sw
Enclosure

ec: William Kutash, P.G., Waste Program Administrator, FDEP SWD
Susan Pelz, P.E., Solid Waste Section, FDEP SWD
Steve Morgan, Solid Waste Section, FDEP SWD
Stephanie Watson, Solid Waste Section, FDEP SWD
Melissa Madden, Solid Waste Section, FDEP SWD
Mara Nasca, Air Program Administrator, FDEP SWD
Ron Cope, HCEPC



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December 9, 2010

Hillsborough County Solid Waste Management Department
Mr. Barry Boldissar, Director
Post Office Box 1110
Tampa, Florida 33601

SUBJECT: Proposed Settlement of Warning Letter #WL10-005SW29SWD
OGC File No.: 10-3622

Dear Mr. Boldissar:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated July 21, 2010, a copy of which is attached. The corrective actions required to bring Hillsborough County Solid Waste Management Department's ("the County's") Southeast County Class I Landfill ("facility") into compliance have been performed. The Department finds that the County is in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matters identified in the attached Warning Letter, the County is assessed civil penalties in the amount of \$1,750.00, along with \$700.00 to reimburse the Department costs, for a total of \$2,450.00.

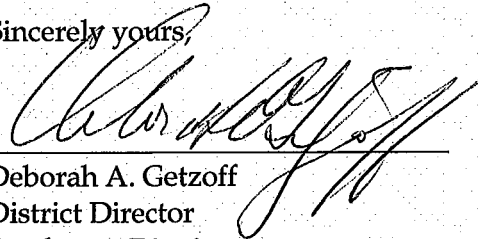
The civil penalties are apportioned as follows: \$3,000.00 for violation of Rule 62-701.320(1), Florida Administrative Code; and \$500.00 for violation of Rule 62-4.160(2), Florida Administrative Code. A fifty percent adjustment has been deducted from each pending penalty, for a total penalty of \$1,750.00.

The Department acknowledges that the payment of these civil penalties by the County does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by County check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, FL, 33637-0926, within 30 days of the County's signing this letter.

The County's signing this letter constitutes its acceptance of the Department's offer to resolve this matter on these terms. If the County elects to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes.

If the County does not sign and return this letter to the Department at the District address within 30 days of receipt, the Department will assume that the County is not interested in settling this matter on the above described terms, and will proceed accordingly. None of the County's rights or substantial interests is determined by this letter unless the County signs it and it is filed with the Department Clerk.

Sincerely yours,



Deborah A. Getzoff
District Director
Southwest District

FOR THE RESPONDENT:

I, _____ on behalf of _____
(Print Name)

HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: _____
(Signature)

Date: _____

Title: _____

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 2010.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Deborah A. Getzoff
District Director
Southwest District

FILING AND ACKNOWLEDGMENT

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

Clerk

Date

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; 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; (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order; (d) A statement of when and how the petitioner received notice of the Consent Order; (e) A statement of all material facts disputed by petitioner, if any; (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

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 subject Consent Order 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 receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, 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.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



Florida Department of Environmental Protection

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Telephone: 813-632-7600

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

July 21, 2010

Certified Mail Return Receipt No. 7009 1410 0001 0092 0352

Hillsborough County Solid Waste Management Department
Mr. Barry Boldissar, Director
Post Office Box 1110
Tampa, Florida 33601

Subject: Warning Letter #WL10-005SW29SWD
Southeast County Class I Landfill, WACS ID #41193
Gas Collection & Control System Construction Permit No: 35435-016-SC/08
Hillsborough County

Dear Mr. Boldissar:

The purpose of this letter is to advise the Hillsborough County Solid Waste Management Department ("the County") of possible violations of law for which the County may be responsible and to seek the County's cooperation in resolving the matter. A review of the Department's permitting files regarding for the Southeast County Class I Landfill Permit No: 35435-016-SC/08 indicates that violations of Florida Statutes and Rules may exist at the Southeast County Class I Landfill ("the facility").

- 1) On February 4, 2009, the Department issued Permit No: 35435-016-SC/08 ("the Permit") to the County, which authorizes construction of the landfill gas collection and control system for Phase I-VI and Sections 7 & 8 at the facility ("the LFG collection and control system"). The design of the LFG collection and control system is depicted in the Department-approved drawings entitled, "Southeast County Landfill Gas Collection and Control Project," dated October 8, 2008, received October 8, 2008, submitted by SCS Engineers ("Design Drawings"). For the Certification of Construction Completion ("COC") for the LFG collection and control system, the Department received as-built drawings entitled, "Southeast County Landfill Gas Collection and Control System Project," dated April 15, 2010, received April 16, 2010, submitted by SCS Engineers ("Record Drawings"). Detail 3 on Sheet 13 of 30 of the Record Drawings depicts a horizontal collector wellhead ("wellhead") on the upslope horizontal landfill

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gas collector. Sheet 5 of 50 of the Record Drawings depicts that wellheads were installed at 13 upslope horizontal landfill gas collectors. The installation of wellheads is a modification of the LFG collection and control system that was not included in the Design Drawings approved by the Department.

- 2) On July 8, 2010, the Department received email correspondence from SCS that indicated that the County has been operating the LFG collection and control system since January 19, 2010. Specific Condition #C.1.b. of the Permit indicates that operation of the LFG collection and control system is not authorized until 1) a COC that meets that the requirements of Specific Conditions #B.2. and #B.3. of the Permit has been submitted and approved by the Department and 2) a permit modification of Operation Permit No. 35435-014-SO/01 or its successor that authorizes operation of the LFG collection and control system is issued by the Department. Specific Condition #C.1.b. authorized temporary operation of the system for up to 180 days to allow for system start-up and operational adjustments while the certification of construction completion and permit modification submittals and approvals required by this specific condition were completed. On December 31, 2009, the County notified the Department that temporary start-up operation of the system began on December 16, 2009. Based on the December 16, 2009 start-up date, authorization for temporary operation of the system expired on June 14, 2010. According the Department's files, a COC was received on April 16, 2010, but has not been approved. An application for a permit modification of Operation Permit No. 35435-014-SO (Permit Modification No. 35435-018-SO/MM) was received on May 20, 2010, but has not been approved. Because a COC has not been approved, a permit modification that authorizes operation of the LFG collection and control system has not been issued, and authorization for temporary startup operation of the system expired on June 14, 2010, the County is not currently authorized by the Permit to operate the LFG collection and control system.

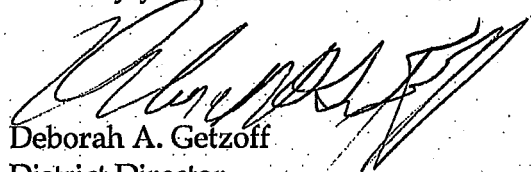
Chapter 403.707(1), Florida Statutes ("F.S.") provides: "No solid waste management facility may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the Department." Rule 62-701.320(1), Florida Administrative Code ("F.A.C.") provides: "...no solid waste management facility shall be constructed, operated, maintained, modified, or closed without a permit issued by the Department...."

Rule 62-4.160(1), F.A.C., states, "The terms, conditions, requirements, limitations, and restrictions set forth in this permit, are 'permit conditions' and are binding and enforceable pursuant to Section 403.141, 403.727, or 403.859, F.S." Rule 62-4.160(2), F.A.C. states, "This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department." Specific Condition #A.3.a. of the Permit provides: "Any construction, operation or other activities not previously approved as part of this permit shall require a separate Department permit unless the Department determines a permit modification to be more appropriate, or unless otherwise approved in writing by the Department. Any significant changes to the construction or operation at the facility shall require a permit modification. Permits shall be modified in accordance with the requirements of Rule 62-4.080, F.A.C. A modification which is reasonably expected to lead to substantially different environmental impacts which required a detailed review by the Department is considered a substantial modification." Specific Condition #C.1.b. of the Permit provides: "This permit does not authorize the operation of the Phase I-VI and Sections 7 & 8 gas collection and control system and other related appurtenances until the following requirements have been completed and submitted by the Permittee, and approved by the Department: 1) Certification of Construction Completion requirements of Specific Conditions #B.2. and #B.3., 2) Issuance of a permit modification of Operation Permit No. 35438-014-SO/01 or its successor, submitted in accordance with Specific Condition #A.3.a., that authorizes operation of the landfill gas collection and control system and its related appurtenances."

The activities at the facility that may be contributing to violations of the above-described statutes or rules should be ceased. The operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the administrative imposition of penalties up to \$10,000.00 pursuant to Section 403.121, F.S., or the judicial imposition of civil penalties up to \$10,000.00 per violation per day pursuant to Sections 403.141 and 403.161, F.S. It is typically Department policy to initiate enforcement action and seek civil penalties of \$3,500.00 and \$700.00 in Department costs for conditions such as those described above.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. The County is requested to contact Stephanie Watson at (813) 632-7600, ext. 451, within 15 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts the County may have that will assist in determining whether any violations have occurred. The County may bring anyone to the meeting that the County feels could help resolve this matter. We look forward to the County's cooperation in completing the investigation and resolution of this matter.

Sincerely yours,



Deborah A. Getzoff
District Director
Southwest District

cc: William Kutash, P.G., Waste Program Administrator, FDEP SWD
Susan Pelz, P.E., Solid Waste Section, FDEP SWD
Steve Morgan, Solid Waste Section, FDEP SWD
Stephanie Watson, Solid Waste Section, FDEP SWD
Melissa Madden, Solid Waste Section, FDEP SWD
Mara Nasca, Air Program Administrator, FDEP SWD
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