

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of a request for waiver by:
New River Solid Waste Association
P.O. Box 647
Raiford, Florida 32308

OGC 21-0594
SWVA No.: 21-1

ORDER GRANTING WAIVER

The State of Florida Department of Environmental Protection ("Department") hereby gives notice that it is granting a waiver to the New River Solid Waste Association ("Petitioner") pursuant to section 120.542, Florida Statutes ("F.S."), for the facility at 24276 NE 157th Street, Raiford, Union County, Florida ("Facility"), Latitude/Longitude: 30°06'00"/82°13'00". On June 14, 2021, the Petitioner submitted a petition for variance or waiver ("Petition for Waiver") to the Department. The Petitioner requests a waiver from paragraph 62-701.300(10)(a), Florida Administrative Code ("F.A.C."), which prohibits placement of noncontainerized liquid waste in solid waste disposal units.

FINDINGS OF FACT

1. The New River Regional Landfill is a permitted solid waste disposal facility located east of State Road 121, 2.5 miles north of Raiford, Florida. The facility includes a Class I landfill and a Class III landfill. The facility is also a designated waste tire collection center limited to storing no more than 500 tires at a time. The landfill is owned and operated by the New River Solid Waste Association, an association of Baker, Bradford, and Union counties and has been assigned WACS Number 39815 by the Department.

2. The Petition for Waiver submitted by the Petitioner is part of a research project being conducted by the University of Florida under the direction of Professor

Timothy Townsend, PhD., P.E., which includes evaluation of two proposed septage injection systems that discharge septage into a municipal solid waste landfill. The research project will test two different configurations that are designed to reduce solids binding and determine the useful life of each configuration.

3. The two proposed septage injection systems include 1) a horizontal injection system; and 2) a gravity drainage pit system. Two horizontal septage injection systems have been installed in the lined Cell 2 landfill area, and two gravity drainage pit systems have been installed in the lined Cell 3 landfill area. Each system is designed to have a maximum capacity of 5,299 gallons.

4. Whole waste tires are utilized as geoconduits in each proposed septage injection system in some manner. The Department issued an Order Granting Variance pursuant to section 403.201, Florida Statutes (F.S.) on March 4, 2019, which allows the utilization of whole waste tires as geoconduits as part of the septage injection systems.

5. Septage used for the study will originate from residential septic tanks and will be transported to the landfill using a 4,500-gallon capacity septage truck. The septage will be introduced to the chambers of each type of injection system by connecting a hose from the truck to an 8 to 12-in diameter PVC pipe that extends vertically from each chamber. Septage will flow by gravity into each of the chambers.

6. The volume of septage that is introduced into each injection system chamber will be determined using a sight gage on the septage truck and by monitoring liquid levels in the septage chambers by using piezometers. Liquid levels in each of the chambers will be measured continuously using pressure-transducers that are installed in the piezometers. Additional loads of septage will be applied to the chambers after the

pressure transducers indicate that the liquid levels have sufficiently recovered through percolation of the septage into the waste.

7. When the chambers have accumulated an excessive amount of solids, the chambers will be abandoned and covered with the next lift of waste. The solids will be left in place and become a part of the waste.

8. Odors will be minimized by the designs and locations of the septage injection systems. Each septage injection system has been installed at least four feet below the surface of the waste, and no septage will be applied to the landfill working face. The facility is a Class I landfill with a gas collection system and each septage injection system has been installed in areas with gas collection wells and will be at least 100 feet from the edge of outside slopes.

9. The Petitioner has indicated that septage injection into a landfill will provide better chemistry for biological processes, thereby increasing decomposition rates and landfill gas generation, thus providing a more sustainable landfill.

10. The Petitioner has indicated that the proposed activity is not expected to consume any landfill volume beyond that expected from the installation of the septage injection systems and that the proposed septage injection project is not expected to adversely impact landfill operations.

11. The Petitioner has demonstrated that research is needed to validate and develop the proposed technology and that the Petitioner will suffer a substantial hardship if it is prevented from completing this project. The Petitioner has also demonstrated that the project is not expected to have any adverse environmental consequences and that it may in fact produce research results that could improve solid waste management practices in Florida.

12. No comments were received from the public in response to the Notice of Receipt of this waiver published in the Florida Administrative Register on June 18, 2021.

CONCLUSIONS OF LAW

1. Section 120.542, F.S., authorizes the Department to grant a waiver from any of its rules upon a demonstration that the purpose of the underlying statute will be or has been achieved by other means and that application of the rule would create a substantial hardship or would violate principles of fairness

2. The Petitioner has demonstrated that it will suffer a substantial hardship if it is required to comply with Rule 62-701.300(10)(b), F.A.C.

3. The underlying statute for Rule 62-701.300(10)(b), F.A.C., is Section 403.704, F.S., which requires the Department to develop requirements for the operation of solid waste management facilities and solid waste disposal that seek to minimize the adverse effects of solid waste management on the environment. The Petitioner has demonstrated that granting the waiver would not be expected to have any adverse environmental consequences or impacts for the continuing operations at the New River Landfill. Thus, the Petitioner has demonstrated that the purpose of the underlying statute will be met because there will be no adverse effects on the environment or on the facility operations.

4. The Department concludes Petitioner has demonstrated that a waiver from the provision of Rule 62-701.300(10)(a), F.A.C. is warranted, that it would suffer a substantial hardship if the waiver was not granted, that the grant of the waiver will be consistent with the general intent and purpose of Chapter 403, F.S., and that the purpose of the underlying statute has been met by other means.

5. This waiver, by itself, does not constitute authorization for Petitioner to proceed with the proposed project. The facility shall operate only in accordance with the appropriate permits issued by the Department's Tallahassee Office. For these reasons, the Petition for Waiver is GRANTED, subject to the following conditions.

CONDITIONS

1. Petitioner shall construct and operate the two septage injection systems as proposed in the June 14, 2021 Petition for Waiver which contains specific procedures and locations associated with the proposed septage injection systems.

2. Petitioner shall operate the facility in accordance with applicable permits issued by the Department, except the requirement of Rule 62-701.300(10)(a), F.A.C., which would otherwise prohibit the placement of noncontainerized liquid waste in solid waste disposal units, shall not apply.

3. This waiver is issued for a period not to exceed 24 months, beginning on the date that the Petitioner receives any necessary permit or permit modifications to proceed with the project.

4. This facility is permitted to recirculate leachate, and the Petitioner must adhere to applicable daily leachate recirculation limits, conduct monitoring for seeps to minimize leachate/runoff mixing, and recirculate leachate only during normal operating hours.

5. The issuance of this waiver does not relieve the Petitioner from the need to comply with all conditions of the applicable solid waste permit, or from any applicable requirements of other federal, state, or local laws, including the requirements specified in Chapter 62-701.510, F.A.C.

NOTICE OF RIGHTS

The Department's Order Granting Waiver 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 must be filed within 21 days of receipt of this written notice. Petitions filed by other persons must be filed within 21 days of publication of the notice or receipt of the written notice, whichever occurs first. Under section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. 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 10th day of September 2021, in Leon County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Tim J. Bahr

Digitally signed by
Tim J. Bahr
Date: 2021.09.10
08:45:59 -04'00'

Tim Bahr, P.G., Director
Division of Waste Management
2600Blair Stone Road
Tallahassee, FL 32399-2400

CERTIFICATE OF SERVICE

I, the undersigned designated Department clerk, HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by United States Mail to Mr. Perry Kent, New River Solid Waste Association, P.O. Box 647, Raiford, Florida 32083, and to the listed persons below on this 10th Day of September , 2021.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Lea Crandall

Digitally signed by Lea Crandall
Date: 2021.09.10 15:53:07 -04'00'

(Clerk)

(Date)

Copies furnished to:

Perry Kent, Executive Director, NRSWA, pkent@nrswa.org
Joel Wolsey, Assistant Director, NRSWA, jwoolsey@nrswa.org
Timothy G. Townsend, Ph.D., P.E., University of Florida, ttown@ufl.edu
Thomas James Smallwood, University of Florida, tsmallwood@ufl.edu
Carol Sawyer, P.E., Jones Edmunds, CSawyer@ionesedmunds.com
Greg Strong, District Director, DEP Northeast District Office,
Greg.Strong@dep.state.fl.us
Brian Durden, DEP Northeast District Office, Brian.Durden@FloridaDEP.gov
Ashanti McBride, DEP OGC, Tallahassee, Ashanti.McBride@FloridaDEP.gov
Elizabeth Kromhout, P.G., PCAP Solid Waste Section,
Elizabeth.Kromhout@FloridaDEP.gov
Frederick Kocher, P.G., DEP PCAP Solid Waste Section,
Frederick.Kocher@FloridaDEP.gov