

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of a request  
for variance by:

New River Solid Waste Association  
New River Regional Landfill  
P.O. Box 647  
Raiford, Florida 32308

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OGC No.: 16-1237  
SWVA No.: 16-03

ORDER GRANTING VARIANCE

The Department hereby gives notice that it is granting a variance to the New River Solid Waste Association (Petitioner) pursuant to section 403.201, Florida Statutes (F.S.), for the New River Regional Landfill in Union County, Florida. The Petitioner has requested a variance from section 403.717(3)(c), F.S., which prohibits the disposal of whole waste tires in landfills.

FINDINGS OF FACT

1. The New River Regional Landfill is a permitted 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.

2. In 2007 the Association received an Innovative Waste Reduction and Recycling Grant (IG8-04) for \$72,000 from the Department to conduct a research study on an innovative technique to beneficially reuse whole waste tires at the landfill. The purpose of the research was to test whether whole tires can effectively serve as a

bedding media (a geoconduit) for liquids addition at landfills. The Association subcontracted with the University of Florida to assist with this evaluation. Professor Timothy Townsend, PhD, P.E., was the principal investigator for the research.

3. On December 14, 2009, the Department issued a variance (OGC No. 09-3494) that allowed this use of whole waste tires as part of a Department solid waste permit. The variance was issued for a period of 24 months, beginning on the date the Petitioner received the necessary permit modification to proceed with the project. The permit modification, and the start of the 24-month research period, began on March 9, 2010.

4. On November 5, 2013, the Department issued a variance (OGC No. 13-1278) that allowed the continued use of whole waste tires as part of a Department solid waste permit. The variance was issued for a period of 24 months, beginning on the date the Petitioner received the necessary permit modification to proceed with the project. The permit modification, and the start of the 24-month research period, began on June 4, 2014.

5. The research during the previous 48-month period that began in March 2010 has proceeded with no signs of environmental harm or adverse impact to the operation of the landfill. It provided promising results that whole waste tire geoconduits are effective for distributing liquids in landfilled waste. However, additional testing is needed to determine the appropriate design and construction conditions for long-term application and for possible use in gas collection systems.

6. The Petitioner proposes to use whole waste tires to construct geoconduits for both leachate addition and gas collection systems. Leachate addition lines are proposed in Cells 3, 4, 5, and 6 of the Class I landfill, and landfill gas collection lines are proposed for Cell 6. Whole tires will be used to construct geoconduits of differing configurations in

these applications, and their performance will be evaluated by measuring flow rates, pressures, and other appropriate parameters. The installation of geoconduits will be limited to Cells 3, 4, 5, and 6 of the landfill and will not be located within 100 feet of an existing landfill side slope or within 25 feet of a landfill gas collection device.

7. On August 5, 2016, Professor Townsend submitted a petition for variance on behalf of the New River Solid Waste Association to continue this research. This petition has demonstrated that additional research is needed to validate and develop this technology and that the Petitioner will suffer a substantial hardship if it is prevented from completing this project. The petition 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.

8. The Department published a Notice of Intent to Grant in the Florida Administrative Register on August 25, 2016, and the Petitioner published a Notice of Intent to Grant in a newspaper of general circulation in the area affected on September 1, 2016. No request for hearing was filed within the requisite timeframe.

#### CONCLUSIONS OF LAW

1. Section 403.201(1)(c), F.S., authorizes the Department to grant a variance from the provisions of Chapter 403 and the rules promulgated thereunder if necessary to relieve or prevent hardship.

2. Rule 62-110.104(1), Florida Administrative Code, requires that a person seeking a variance under section 403.201, F.S., must demonstrate that any hardship asserted as a basis of the need for a variance is peculiar to the affected property and not self-imposed and that the grant of a variance will be consistent with the general

intent and purpose of Chapter 403.

3. The Department concludes that the Petitioner has demonstrated that a variance from the provisions of section 403.717(3)(c), F.S. is warranted, that the hardship asserted as a basis for the variance is peculiar to the affected property and not self-imposed, and that the grant of the variance will be consistent with the general intent and purpose of Chapter 403.

4. This variance, by itself, does not constitute authorization for the Petitioner to proceed with the proposed project. This facility shall operate only in accordance with the appropriate permits issued by the Department's Tallahassee Office.

For these reasons, the Petition for Variance is GRANTED, subject to the following conditions.

#### CONDITIONS

1. This variance 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. After the variance has expired, the Petitioner may leave the geoconduits in place but may not add any new whole waste tires to the landfill.

2. The Petitioner shall only use whole waste tires to construct geoconduits for both leachate addition and gas collection.

3. This variance will remain valid even if some of the details of the project change, provided that such changes are in accordance with any applicable permit conditions and rules.

4. The issuance of this variance does not relieve the Petitioner from the need to comply with all other conditions of the solid waste permit, or from any requirements of other federal, state, or local agencies.

## NOTICE OF RIGHTS

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.

Petitions by the applicant or any of the parties listed below must be filed within 14 days of receipt of this written notice. Petitions filed by other persons must be filed within 14 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 14 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 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, and telephone number of the 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; 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, Mail Station 35, 3900 Commonwealth Boulevard, 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 thirty days after this order is filed with the clerk of the Department.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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Tim J. Bahr, P.G.  
Assistant Director  
Division of Waste Management  
2600 Blair 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 electronically mailed to Darrell O'Neal, New River Solid Waste Association, P.O. Box 647, Raiford, Florida 32083, and to the listed persons below on this 13 day of October, 2016, 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.

Hope Thigpen  
(Clerk)

10/13/2016

(date)

Copies furnished to:

Timothy G. Townsend, Ph.D., P.E., University of Florida, [ttownsend@ufl.edu](mailto:ttownsend@ufl.edu)  
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