NORTH MIAMI
FLORIDA
OFFICE OF THE CITY MANAGER

MEMORANDUM

To: Mayor Andre D. Pierre, Esq.
Vice Mayor Marie Erlande Steril
Councilman Michael R. Blynn, Esq.
Councilman Scott Galvin
Councilman Jean Marcellus

From: Stephen E. Johnson
City Manager

Date: October 9, 2012

RE: **TAB Y -- COUNCIL AGENDA**
OBLIGATIONS AND EXPECTATIONS OF THE CITY AS IT RELATES TO BISCAYNE LANDING

In regards to Tab Y, I have attached the Annual Operating Permit issued to the City from Miami-Dade County, the permit issued to the City from Florida Department of Environmental Protection, and the Final Audit Report provided to the City from the Office of the Inspector General; all of which highlights the obligations and expectations of the City.

Annual Operating Permit issued to the City from Miami-Dade County

Pages 1 and 2, of 4, highlights the responsibility of the City, which tasks and obligations will be performed under contractual services. In particular, see the Prohibitions outlined under #12, ON page 2 of 4.

Permit issued to the City from Florida Department of Environmental Protection

Pages 3 and 4, highlights the responsibility of the City, which tasks and obligations will be performed under contractual services, and also the City.

Final Audit Report provided to the City from the Office of the Inspector General

See Finding No.1

Also, various highlights in Appendix B

NORTH MIAMI
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MEMORANDUM

I have provided a copy of Florida Statues: 403.716 (Training of Operators of Solid Waste Management and other facilities), Department of Environmental Protection Regulation 62-701.320 – (Solid Waste Management Facility Permit Requirements), Department of Environmental Protection Regulation 62-701.500 – (Landfill Operation Requirements) all of which the City has an obligation to ensure by law and under our permit.

Please contact me if you need any further explanation or information regarding this item.

SEJ:mp

Attachments

MIAMI-DADE COUNTY
Carlos A. Gimenez, Mayor

Department of Regulatory and Economic Resources
Environmental Resources Management
701 NW 1st Court, 7th Floor
Miami, Florida 33136-3912
T 305-372-6600 F 305-372-6893
miamidade.gov

May 23, 2012

Mr. Stephen E. Johnson, City Manager
City of North Miami
776 NE 125 Street
North Miami, Florida 33161

CERTIFIED MAIL NO.: 7004 2510 0001 7496 7049
RETURN RECEIPT REQUESTED

Re: Permit to operate a Resource Recovery and Management Facility in accordance with Chapter 24 Code of Miami- Dade County, Florida, for the Biscayne Landing Concrete Rubble Processing Operation (F.K.A MUNISPORT LANDFILL, FDEP File No. 0231987 /PERA File #24652/SW-1636) site located at, near, or in the vicinity of Biscayne Boulevard (US-1) and North East 151st Street, Miami-Dade County, Florida.

Dear Mr. Benford:

Enclosed, pursuant to Chapter 24 of the Miami-Dade County Code, is the Department of Permitting Environment and Regulatory Affairs (PERA) Annual Operating Permit Number SW-1636. Submittal of your signed application and acceptance of this permit constitutes approval on your part for on-site inspections at reasonable times by PERA staff and its agents in accordance with the referenced regulations. This permit shall be protected and displayed in an accessible location at the facility being permitted, and does not constitute an approval by PERA or certification that the permittee is in compliance with the applicable laws, ordinances, rules, and regulations.

Should the equipment and/or process installed and operated be found to be inadequate to perform with the efficiency required to meet the referenced regulations, or should the owner(s)/operator(s) fail to comply with the conditions of this permit, the facility shall be subject to re-evaluation and potential enforcement action. Accordingly, the owners shall be required to provide additional equipment, and/or modifications of the operating techniques necessary to operate the facility in accordance with the applicable Federal, State and Local regulations. If it is required to install additional equipment, an application to construct shall be submitted for evaluation and approval prior to installation.

If you have any questions concerning this matter, please contact the Permitting Section at (305)-372-6600.

Sincerely,

Hardeep Anand

Hardeep Anand, P.E., Chief
Pollution Regulation and Enforcement Division

Enclosures:

cc: Patti Emad, Yeekee Chow - PERA
Michael Moore - PWWM
PERA File No. 24652/SW-1636

MIAMI-DADE COUNTY
Carlos A. Gimenez, Mayor

Department of Regulatory and Economic Resources
Environmental Resources Management
701 NW 1st Court, 7th Floor
Miami, Florida 33136-3912
T 305-372-6600 F 305-372-6893
miamidade.gov

PERMIT NO: SW-1636 / FILE# 12838
BISCAYNE LANDING (F.K.A. MUNISPORT)
NE 151ST STREET, BISCAYNE BLVD
MIAMI, FLORIDA 33162

PERMITTEE:
Mr. Stephen E. Johnson, City Manager
CITY OF NORTH MIAMI
776 NE 125 STREET
CITY OF NORTH MIAMI, FLORIDA 33161

SOLID WASTE
ANNUAL OPERATING PERMIT

DESCRIPTION OF FACILITY / EQUIPMENT

This document, issued under the provisions of Chapter 24, Miami-Dade County Environmental Protection Ordinance (MDCEPO), shall be valid from January 1, 2012 through December 31, 2012. The above named, is hereby authorized to operate at the above location which consists of the following:

A 998 cu. yd. (429 tons approx.) concrete rubble processing operation.

This facility is subject to the conditions listed below and in the following pages (if any) of this permit.

FACILITY OPERATIONS

1. The concrete crusher shall be operated in strict accordance with the information submitted in reference to permit application dated March 10, 2008, permit renewal application dated April 4, 2012, and as amended by this permit.
2. 24-hour access control shall be maintained along the perimeter by means of a physical barrier (i.e., berm, wall, fence, etc) and at the entrance(s) (i.e.,locked gate, guard, etc).
3. A representative of the operator, knowledgeable in the permit conditions, shall be on site whenever material is handled, removed or processed.
4. Materials processed shall be clean fill (limited to concrete rubble) as defined in Chapter 24, MDCEPO.
5. All wastes from facility operation shall be stored or disposed of in compliance with county, state, and federal regulations, and guidance documents.

Miami-Dade County
Permitting Environmental Regulatory Affairs

Hardeep Anand

Hardeep Anand, Chief,
Pollution Regulation and Enforcement Division

6. Dust suppression, odor and litter control, and other measures shall be implemented, as applicable, to prevent nuisance conditions as defined in Chapter 24, MDCEPO.

7. A determined nuisance, as defined in Chapter 24, MDCEPO, public health threat condition, or abnormal occurrence (i.e., fires, explosions, spills) may result in orders for immediate corrective action in accordance with Section 24-7(15)(a) of the MDCEPO, possible modification to the operation, revocation of this operating permit and/or closure of the facility. Any abnormal occurrences shall be reported to PERA within twenty-four (24) hours, and records shall be kept pursuant to Section 24-20, MDCEPO.

PROHIBITIONS

8. Open burning is not permitted at this site in accordance with Section 24-41.5 of the MDCEPO.

9. The facility operations shall not commence until an Air Pollution Operating Permit has been obtained from the Air Facilities Section of PERA.

10. Maintenance or repair activities are not allowed at this facility.

11. No violations of the Miami-Dade County Water Quality Standards or Cleanup Target Levels (CTLs) as provided in Chapter 24-44, MDCEPO, shall occur as a result of the facility operations. Violations of said standards or CTLs may result in orders for immediate corrective action, possible modification to the operation, revocation of this operating permit and/or closure of the facility.

12. The facility shall not receive construction and demolition debris from off-site sources with the objective of crushing and screening said materials for subsequent on-site use.

REPORTING / MONITORING REQUIREMENTS

13. A Monthly Operating Report (MOR) shall be submitted to the Environmental Evaluation and Compliance Section (EECS) of PERA with the quantities of waste processed and removed off-site for disposal. Said MOR shall be submitted by the 15th of the following month on the Operating Report form provided by PERA and hereby attached to this permit.

    These reports shall be submitted to the following address:

    Attn: Patti Emad, E.S.S.
    Environmental Evaluation and Compliance Section
    Pollution Regulation and Enforcement Division
    Permitting Environment and Regulatory Affairs
    701 NW 1st Ct.
    Miami, Florida 33136

14. Any significant change in concrete processing operations or procedures shall be reported to PERA in writing within thirty (30) days of the change.

15. All reports and other submittals required to comply with this permit shall be signed, and certified, if required, by an appropriate and authorized entity (e.g., registered Professional Engineer, Professional Geologist, Professional Surveyor and Mapper, permittee or authorized legal representative, etc.).

These reports shall be submitted to the following address:

Attn: Hardeep Anand, P.E., Chief
Pollution Regulation and Enforcement Division
Permitting Environment and Regulatory Affairs
701 NW 1st Ct.
Miami, Flordia 33136

OTHERS

16. This permit does not release the applicant from obtaining all required federal, state or local permits and/or approvals for the operation.

17. Violation of permit conditions or violations of Chapter 24, MDCEPO, may result in orders for immediate corrective action, possible modification to the operation, revocation of this operating permit and/or closure of the facility.

GENERAL CONDITIONS

18. The applicant, by acceptance of this document, agrees to operate and maintain the subject operation so as to comply with the requirements of Chapter 24, MDCEPO.

19. If for any reason, the applicant does not comply with or will not be able to comply with any condition or limitation specified on this document the applicant shall immediately notify and provide the department with the following information: (a) a description of and cause of non-compliance; and (b) the period of non-compliance including exact dates and times; or if not corrected, the anticipated time the non-compliance is expected to continue, and steps taken to reduce, eliminate, and prevent recurrence of the non-compliance. The applicant shall be responsible for any and all damages, which may result and may be subject to enforcement action by the department for penalties or revocation of this document.

20. As provided in Section 24-30, MDCEPO, the prior written approval of the Department of Environmental Resources Management shall be obtained for any alteration to this facility.

21. The issuance of this document does not convey any vested rights or any exclusive privileges. Nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. Nor does it relieve the applicant from liability from harm or injury to human health or welfare of property.

22. This document is required to be posted in a conspicuous location at the facility site during the entire period of operation.

23. This document is not transferable. Upon sale or legal transfer of the property or facility covered by this document, the applicant shall notify the department within thirty (30) days. The new owner must apply for a permit within thirty (30) days. The applicant shall be liable for any non-compliance of the source until the transferee applies for and receives a transfer for this document.

24. The applicant, by acceptance of this document, specifically agrees to allow access to the named source at reasonable times by department personnel presenting credentials for the purposes of inspection and testing to determine compliance with this document and department rules.

25. This document does not indicate a waiver or approval of any other department permit that may be required for other aspects of this facility.

26. This document does not constitute an approval by PERA or certification that the applicant is in compliance with applicable laws, ordinances, rules or regulations. The applicant acknowledges that separate enforcement actions may be initiated by PERA and that this document does not constitute compliance with orders issued in conjunction with enforcement actions for correction of violations.

27. Failure to comply with any condition of this document, or the requirements of Chapter 24, MDCEPO may subject the applicant to the penalty provisions of said Chapter including civil penalties up to $25,000 per day per offense and/or criminal penalties of $500 per day and/or sixty (60) days in jail.

Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Permittee:
City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161

Attention: Mr. Clarance Patterson
City Manager

Permit Number: 0219514-009-SF
Date of Issue: December 9, 2009
Expiration Date: December 9, 2014
County: Miami-Dade
Section/Township/Range: S21, T52S, R42E

Latitude: 25°54'09" N
Longitude: 80°09'05 W
Project: Munisport Landfill (aka Biscayne Landing) Closure Renewal

This renewal permit is issued under the provisions of Chapter(s) 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-4 and 62-701. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

This renewal permit is for continued phased closure of the Munisport Landfill in accordance with the approved Closure Plan. The initial closure phases approved under this permit for the landfill include installation of the water quality monitoring system and gas monitoring system. Future redevelopment plans for Biscayne Landing, identified as Phases I and II in Exhibit 2, will be integrated into the closure of the landfill. Since each redevelopment phase will or may impact the final cover, water quality monitoring system, gas management system, stormwater system, and groundwater remediation system for the landfill, each of these redevelopment phases will be submitted as modifications to this closure permit. The final closure for the landfill will consist of a mixed impermeable and permeable final cover, a groundwater and surface water monitoring system, a gas control and monitoring system, and a groundwater remediation system designed to treat ammonia-contaminated groundwater so as to minimize any adverse impacts on the altered mangrove preserve or the mangrove preserve. An Approval of Alternate Procedures and Requirements (SWAP 94-1) is associated with this closure permit to allow the use of a permeable final cover in conjunction with the groundwater remediation system. This renewal includes all updated specific conditions as a result of previous approved modifications.

This landfill is unlined and has a disposal area of approximately 170 acres. The landfill ceased receiving waste in July 1980 but was never properly closed. The closure of this landfill is intended to control landfill gas and to ensure that no contaminated groundwater leaves the landfill property. As stated above, the closure of this landfill will be implemented in phases with each phase of closure

construction requiring a modification to this permit prior to construction activities in each phase.

LOCATION: The landfill is located on US Highway 1 (Biscayne Boulevard) between N.E. 135th Street and N.E. 151st Street in North Miami, Miami-Dade County, Florida.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, Florida Statutes (F.S.). The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. 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.

3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup and auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may

be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

(a) Have access to and copy any records that must be kept under conditions of this permit;
(b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
(c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

(a) A description of and cause of noncompliance; and
(b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Rule 62-701.320, Florida Administrative Code (F.A.C.). The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

13. The permittee shall comply with the following:

(a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

(b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring information) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

(c) Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used;
6. the results of such analyses.

14. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. Plans and Specifications: Drawings, plans, documents and specifications submitted by the permittee that are not attached hereto but remain on file at the Department's Tallahassee office and Southeast District office, and at the offices of the Miami-Dade County Department of Environmental Resources Management (DERM), are made a part of this permit. The primary submittals from PBS&J include but are not limited to the "Conceptual Closure and End Use Plan", August 15, 2003, "Master Closure Plan RAI Response", November 4, 2003, "Master Closure Plan RAI Response", January 16, 2004, "Closure Permit RAI Response", March 5, 2004, and "Closure Permit RAI Response", March 28, 2004. Also "Modification No. 1" submitted, August 3, 2004, and "Modification No. 1 RAI Responses", September 23, 2004, October 6, 2004, and December 7, 2004. Also "Modification No. 2" submitted August 26, 2004, and "Modification No. 2 RAI Responses", November 23, 2004, December 9, 2004, January 3, 2005, January 22, 2005, and January 25, 2005. Also "Modification No. 3" submitted August 29, 2005, and Modification No. 3 RAI responses October 24, 2005 and November 21, 2005. Also "Modification No. 5" submitted June 18, 2007, and Modification No. 5 RAI responses August 23, 2007, October 18, 2007, and November 16, 2007.

2. Inspection Requirements: A copy of the permit, with a complete copy of the permit application and engineering drawings shall be kept on file at the landfill for inspection and review upon request.

3. Other Permits: This permit does not relieve the permittee from complying with any other appropriate stormwater, Environmental Resources Permitting or other permit requirements, including but not limited to the South Florida Water Management District permit no. 13-02206-P for stormwater.

4. Site Access: Access to the site shall be controlled to prevent unauthorized dumping or interference with the closure or long-term care requirements of this permit. Access to the unclosed portions of the landfill shall be restricted, and posted, to prevent unauthorized entry by the public.

5. Surface Water Management: All surface water runoff from the site shall be collected and treated to meet the requirements of Chapters 373 and 403, F.S. and Chapter 24 of the Miami-Dade County Environmental Protection Ordinance (MDCEPO) prior to discharge off-site.

6. Gas Monitoring: The landfill shall implement a gas management system to comply with Rule 62-701.530, F.A.C., and the site wide Methane Gas Management and Monitoring Plan included as Appendix O-6 of the Conformed Closure Permit Application submitted April 2005, revised June 23, 2005, August 25, 2005, and August 23, 2007, and submitted as part of the closure permit application and MDC_DERM guidelines and requirements. The Methane Gas Management and Monitoring Plan includes the basis of design for the system, its operation, its maintenance, reporting requirements, and a response plan should methane be detected in protected spaces and supersedes the previous Gas Management System Basis of Design Document. Gas monitoring locations required by this permit, as shown in Exhibit 3, Figures 1-6, shall be installed and gas monitoring shall be initiated within ninety (90) days of permit issuance, or as approved by the Department.

7. Monitoring Plan Implementation Schedule: The Monitoring Plan Implementation Schedule attached as Exhibit 1 is made a part of this permit. The monitoring wells shall be installed, at the locations shown in Figure 2 of Exhibit 1, and the Monitoring Plan Implementation Schedule shall be initiated within ninety (90) days of permit issuance, or as approved by the Department. As the phased installation of the groundwater remediation system progresses, according to the schedule attached in Exhibit 2, Page 2 of 2, additional compliance monitoring wells downgradient of the zone of discharge will be required. In accordance with timeframes that will be established in the RAP Approval Order, the permittee shall identify the locations of these additional compliance wells and submit the appropriate documentation for them to the Department for review. Upon approval by the Department, these wells shall be added to the closure permit by a modification of the permit.

8. Zone of Discharge: The zone of discharge for the facility shall be a three dimensional volume, defined in the vertical plane as extending from the top of the ground to the first continuous confining layer, and defined in the horizontal plane as: (1) the property boundary along the northern edge of the landfill as it extends from the northwest corner of the property to the northwest corner of the Bessemer tract; (2) the property boundary along the western and southern edges of the landfill; and

(3) along the eastern side of the landfill, no greater than 50 feet east of a line which coincides with the horizontal recovery well system and the western and southern most edges of the Bessemer tract, or as modified by the Department based on the final RAP design.

9. Ground Water and Surface Water Standards: The Outstanding Florida Waters numerical treatment target for Nitrate/Nitrite shall be less than or equal to 0.01 mg/L as N and shall not be exceeded at or beyond the property boundary. The Nitrate/Nitrite levels in the surface waters at or within the altered mangrove preserve (prior to the property boundary and the mangrove preserve) shall not exceed background levels. All other ground water and surface water standards and criteria shall be the more stringent of Chapter 24 MDCEPO, Chapter 62-522, F.A.C., Chapter 62-302, F.A.C., and any other applicable federal, state, and local regulations. Ground water standards and criteria must be met at the boundary of the zone of discharge. Surface water quality standards and criteria must be met in the surface water compliance monitoring points contained in Table 1 of Exhibit 1.

10. Approval of Alternate Procedures and Requirements: This permit is also coupled with an Approval of Alternate Procedures and Requirements, SWAP 94-1. The alternate procedure allows the use of a permeable final cover with a groundwater remediation system.

11. Final Cover Design: With the approval of SWAP 94-1, the final cover design for the landfill will include the use of both permeable and impermeable areas. The permeable or "non-developed" areas will be covered with a 24-inch thick sand layer that will allow the percolation of rainfall into the subsurface. The "developed" areas, that will include buildings, sidewalks, roads, parking lots and other structures, will represent the impermeable areas. If SWAP 94-1 is not approved or is revoked, whether because of Department action or subsequent legal proceedings, this condition will no longer be valid and the permittee will be required to request a permit modification for a final cover design that meets the criteria of Rule 62-701.600, F.A.C.

12. Improper Operations: When the Department, after investigation, has good reason (such as complaints, questionable maintenance of equipment, improper operations, etc.) to believe that any applicable standard contained in Chapter 62-701, F.A.C. or in this permit is being violated, it may require the owner or operator of the source to identify the nature of the problem and to submit a report to the Department on the results of the investigation and corrective action taken to prevent its recurrence.

13. Equipment Breakdown: In the event of equipment malfunction, destruction, breakdown or other problems resulting in the permittee being temporarily unable to comply with any of the conditions of this permit, the Department is to be immediately notified by the permittee as to the cause, what steps are being taken to correct the problem and prevent its recurrence, as required by Rule 62-4.130, F.A.C. Notification shall be made verbally to the Tallahassee Solid Waste Section at 850-245-8707 within one working day and in writing to the Solid Waste Program Administrator at the address in specific condition 17 within five working days.

14. Operation of Pollution Control Devices: The groundwater treatment, gas and stormwater control systems shall be properly operated, monitored and maintained.

15. Control of Nuisance Conditions: The operating authority shall be responsible for the control of odors and fugitive particulates arising from this operation. Such controls shall prevent the creation of nuisance conditions that may arise from adverse odors on adjacent or nearby properties and users. The permittee shall immediately investigate complaints received from the general public, and shall take corrective action to abate the nuisance where warranted.

16. Routine Maintenance: Cracks or eroded sections in the surface of any filled and covered area shall be properly repaired and a regular maintenance program shall be followed to eliminate pockets or depressions that may develop as refuse settles. The slopes and drainage structures shall be inspected at least monthly and after major storm events for evidence of settling, erosion, washout or siltation.

17. Annual Cost Estimates and Financial Instrument Adjustments: The permittee shall, in addition to annually adjusting the closure and long-term care cost estimates, adjust the financial assurance mechanism to reflect an increase in cost estimates. Cost estimate adjustments shall be in accordance with Rule 62-701.630(4), F.A.C. Instrument adjustments shall be in accordance with Rule 62-701.630, F.A.C. and 40 CFR Part 264, Subpart H as adopted by reference in Rule 62-701.630, F.A.C. Documentation of financial mechanism increases and all estimate updates shall be submitted to: Financial Coordinator, Solid Waste Section, Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, MS-4565, Tallahassee, Florida 32399-2400.

18. Escrow Agreement: The permittee has proposed to use escrow agreements as the financial mechanism for this permit, and has submitted draft agreements for review. The Department approves the use of the escrow agreements as drafted. The final escrow agreements for closure and long-term care to implement the Second Amended Grant Agreement between the City of North Miami and Miami-Dade County shall be submitted to the Department within 60 days of issuance of the Notice of Intent to Issue this closure permit, unless a later date is approved by the Department for good cause. An owner or operator using an escrow account shall submit the adjusted estimate between July 1 and September 1 annually.

19. Temporary Facilities: The nature of closure for this site will require some temporary facilities to be constructed to support the closure and redevelopment activities. In lieu of submitting plans for these temporary facilities to the Department, the permittee shall submit these plans to DERM for review and approval in accordance with the Department's "Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida", dated May 3, 2001 and Chapter 24 MDCEPO requirements.

20. Waste Relocation/Reuse: Prior to excavation, removal and/or reuse of any of the solid waste disposed of in the landfill, a waste relocation and/or reuse plan will be

submitted to DERM for review and approval in accordance with the Department's "Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida", dated May 3, 2001 and Chapter 24 MDCEPO requirements.

21. Professional Certification: The permittee is responsible for retaining a professional engineer registered in the State of Florida for supervision of final landfill closure. Within ninety (90) days of completion of the requirements contained in this permit, and within ninety (90) days of completion of each future redevelopment phase for closure, the engineer shall submit a certification of completion report to the Solid Waste Program in Tallahassee describing the complete conformity with the plans and specifications approved by the Department. This report shall also include record drawings, as appropriate, and an engineer's Certification of Construction Completion, DEP Form 62-701.900(2).

22. Substantial Changes or Revisions: The Department shall be notified and approval shall be obtained prior to executing any substantial changes or revisions to the closure or operation activities authorized by this permit.

23. Phased Closure and Permit Modifications: This closure permit does not authorize the construction of any redevelopment phase planned for Biscayne Landing. Final design documents, including construction drawings and supporting information, for each phase of redevelopment shown in Exhibit 2, Page 1 of 2, as part of closure will be submitted to the Department for approval as an intermediate or major modification to this permit, requiring public notice (including Chapter 120, F.S. point of entry), prior to initiation of any construction for each phase. The final design documents for each phase of closure submitted to the Department shall clearly identify the permeable and impermeable areas of the final cover. They will also provide reasonable assurance that landfill gas will be properly controlled and the final cover for the landfill with the groundwater remediation system will prevent the off-site contamination of groundwater and surface water. The redevelopment phases specifically authorized are as follows:
    a. Modification No. 1 approves construction of Contract No. 1, Biscayne Landing Boulevard, which provides for closure of approximately 4.13 acres of the landfill, with approximately 1.14 acres of pervious area and 2.96 acres of impermeable cover.
    b. Modification No. 2 approves construction of Phase 1A-1, Biscayne Landing Construction, which provides closure for approximately 10.9 acres of the landfill, with approximately 6.0 acres of pervious area and 4.9 acres of impermeable cover.
    c. Modification No. 3 approves construction of Phase 1A-2, Biscayne Landing Construction, which provides closure for approximately 28.01 acres of the landfill, with approximately 17.32 acres of pervious area and 10.69 acres of impermeable cover.

24. Ground Water Treatment System: An approved ground water treatment system must be installed and operating by December 1, 2010 to treat the ammonia-contaminated groundwater migrating off site, unless a different schedule is approved in writing by both parties. The ammonia-contaminated groundwater shall be treated

to meet the relevant water quality standards and criteria in Specific Condition No. 9 of this permit.

25. Declaration to the Public: Due to the extended closure activities that are proposed in phases for the landfill, within 60 days of the issuance of this permit the applicant shall file a declaration to the public, as described in Rule 62-701.610(5), F.A.C., in the office of the county clerk of Miami-Dade County. This declaration shall address the entire landfill area.

26. Closure Permit Renewal: A closure permit renewal application must be submitted at least 60 days prior to the expiration date of this permit.

27. Long-Term Care: In accordance with Rule 62-701.610(6), F.A.C., since this landfill will be closing in phases, the long-term care period will not begin until the entire landfill is closed and the requirements for the official date of closing have been satisfied. The long-term care period for this landfill shall be 30 years unless otherwise approved by the Department. During the long-term care period, the permittee shall continue to monitor the ground water, surface water, and gas at the site and shall monitor and maintain the integrity and effectiveness of the final cover.

ISSUED: **12/09/2009**

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Charles F. Goddard, Chief
Bureau of Solid and Hazardous Waste
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

NOTICE OF PERMIT

In the Matter of an
Application for Permit by:

City of North Miami
776 Northeast 125th Street
North Miami, Florida 33161

Miami-Dade County - SW
Munisport Landfill
DEP File No. SF13-00219514-009

Dear Mr. Patterson:

Enclosed is the Munisport Landfill (aka Biscayne Landing) Closure Permit Renewal No. 0219514-009-SF, issued pursuant to Section(s) 403.087(1), Florida Statutes.

Any party to this Order (permit) has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Blvd., 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 from the date this Notice is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Charles F. Goddard, Chief
Bureau of Solid and Hazardous Waste
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Date: 12/09/2009

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this NOTICE OF PERMIT and all copies were electronically mailed before the close of business on ___12/09/2009____ to the listed persons.

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

Clerk

_____12/09/2009_____
Date

WLM/lm

Attachment

Copies furnished to:
Richard Tedder, Chris McGuire, Lee Martin, Joe Lurix/FDEP
Fred Wick/FDEP (w/o attachments)
Wilbur Mayorga, Hardeep Anand/DERM
Eddy Smith/ES Consulting
Herb Tillman/Stratus Asset Management
Terrence Holihen/Kitson & Partners
Eduardo Lopez/SFWMD
Tony Cleveland/Oertel, Hoffman, Fernandez, & Cole
Richard Weiss/Weiss, Serota, Helfman, Pastoriza, Cole & Boniske
Steven Dale/Oleta River State Park

Miami-Dade County
OFFICE OF THE INSPECTOR GENERAL
Christopher R. Mazzella, Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency

February 27, 2012

Stephen Johnson, City Manager
City of North Miami
776 NE 125 Street, 4th Floor
North Miami, FL 33161

Via U.S. Mail

Re: OIG Final Report – IG10-53

Dear City Manager Johnson:

Enclosed please find a copy of the Office of the Inspector General's (OIG) final audit report on the Landfill Closure Grants administered by the Miami-Dade County Public Works and Waste Management Department.

Should you have any questions, please contact OIG Assistant Inspector General Patra Liu at 305-375-1946.

Sincerely,

Christopher Mazzella, Inspector General

Enclosure

cc: Aleem Ghany, Director, Public Works, City of North Miami

Memorandum

Miami-Dade County Office of the Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency
19 West Flagler Street ◆ Suite 220 ◆ Miami, Florida 33130
Phone: (305) 375-1946 ◆ Fax: (305) 579-2656
Visit our website at: www.miamidadeig.org

To: Hon. Carlos A. Gimenez, Mayor, Miami-Dade County
Hon. Joe A. Martinez, Chairman, Board of County Commissioners
and Members, Board of County Commissioners

From: Christopher Mazzella, Inspector General

Date: February 27, 2012

Subject: OIG Final Audit Report Re: *Landfill Closure Grants Administered by the Miami-Dade Department of Public Works and Waste Management*, Ref. IG10-53

Attached please find the above-captioned final audit report. This audit covered the Miami-Dade Department of Public Works and Waste Management's (PWWM) administration of the grant agreements (Grants) providing funds for the closure and groundwater remediation of three landfills (collectively referred to as the Landfills) owned by cities within Miami-Dade County: the Munisport Landfill located in the City of North Miami (North Miami); the City of Homestead (Homestead) Landfill; and the Virginia Key Landfill located in the City of Miami (Miami).

We provided a copy of this report, as a draft, to PWWM; the cities of North Miami, Homestead, and Miami; current independent engineer ADA Engineering, Inc.; current bond engineer Malcolm Pirnie, Inc.; and former bond engineer Brown and Caldwell, for their discretionary written responses to our audit. Responses received from PWWM, all three cities, and ADA Engineering are attached to this report as Appendix A through Appendix E, respectively. (Malcolm Pirnie and Brown and Caldwell did not provide any written feedback.) Our final report includes summations of the responses received (see Report Section IV beginning on page 3). Finding-specific responses and OIG rejoinders thereto are set forth at the end of each finding.

In accordance with Section 2-1076(d)(2) of the Code of Miami-Dade County, the OIG requests that PWWM management provide us with a status report in 90 days on the issues identified in the report and on its implementation of our recommendations. We request to receive this report on or before May 29, 2012.

Lastly, the OIG would like to thank PWWM staff, City officials, and bond engineer personnel for making their records available to us in a timely manner and for the courtesies extended to OIG auditors during the course of this review.

For reading convenience, a one-page abstract of the report follows.

Attachment

cc: Alina Hudak, Deputy Mayor, Miami-Dade County
Kathleen Woods-Richardson, Director, Department of Public Works and Waste Management
Cathy Jackson, Director, Audit and Management Services Department
Charles Anderson, Commission Auditor
All Individuals and Entities Previously Furnished with a Draft Report

ABSTRACT — FINAL AUDIT REPORT IG10-53

This audit focused on County Landfill Grants awarded to the three subject cities to close landfills located within their geographical area. The framework for the Landfill Grants was established in 2004 by the Miami-Dade County Board of County Commissioners (BCC) in its adoption of Resolution R-244-04 and in its acceptance of an accompanying report. Grant funding was derived from a $75 million bond issuance in 2005.

Our report has 7 findings and 11 recommendations. Our findings include comments on PWWM operating practices and its administration of the Grants pursuant to adopted BCC resolutions, grant agreements, and PWWM procedures. Our report chronicles how PWWM, the County's bond engineers, and the grant recipients (the cities of North Miami, Miami, and Homestead) administered the expenditure of grant monies through June 30, 2011.

The main finding of the OIG involves the lack of records maintained by two of the Grantees. The City of North Miami (Munisport) and the City of Homestead have not maintained grant-required books, records, and documents of grant fund expenditures. The required records would document that the ultimate recipient of grant funds, i.e., the entity or individual actually performing the work, used the grant funds to perform the work authorized by the grant agreement.

Another issue for the OIG is that the grant term requiring the inclusion of affidavits and releases of liens related to payments made under previous draw requests was not being followed on the Munisport Landfill closure project. In comparison, draw requests submitted on the Homestead Landfill closure project included the required affidavits and releases.

Again relating to the Munisport Landfill closure project, the OIG is uneasy with the project's coupling with the site's commercial development plans. We note that this project has not been worked since 2008[1] because of issues with the site's developer, Biscayne Landing, LLC. The landfill closure was tied to the landfill's development and when that development stopped, so did work on the landfill closure. There is no deadline in the grant agreement by which the landfill's closure must be completed and, although it has the ability to do so with available grant funds, the City of North Miami has not proceeded on its own to complete the project. The OIG also observes that the Virginia Key Landfill closure project is at a standstill. Our concern here involves the fact that approximately $28 million has been sitting idle in a restricted pooled cash account since 2005—bearing minimal interest—while the County continues to pay the debt service on bond proceeds that are not being used. It is the OIG's observation that the allocation of millions of dollars to languishing projects, such as the Virginia Key Landfill and the Munisport Landfill closure projects, is costly and ineffective.

Regarding the Homestead grant, there remains approximately $2,500 in the Homestead escrow account, notwithstanding that the project has been complete since June 2009 and final payment made in November 2009. PWWM has not made an effort to reclaim these funds from the escrow account and return them to the County.

Lastly, we note that PWWM paid $90,483 in bond engineer fees related to work at the landfill closure projects using bond proceeds instead of its operating funds. Such fees are not an authorized expenditure of bond proceeds. PWWM also paid for independent engineer services at the Munisport Landfill closure project without obtaining supporting documentation, such as monthly status reports or activity reports; meeting summaries; reports of site visits; site photos; etc., to substantiate the services provided.

---

[1] Since the development stopped in 2008, there have been no further construction-related costs for landfill closure and remediation; however, monitoring, analysis, and engineering services have been performed and paid for using bond proceeds.

MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL

OIG APPENDIX A

Department of Public Works and Waste Management's Response

IG10-53

1 Public Works and Waste Management Department (PWWM)
Response to OIG Draft Report –IG10-53
Landfill Closure Grants
January 31, 2012

Comments on Background Section

- Regarding the status of the Comprehensive Landfill Closure Plan (CLCP), the OIG has placed a large footnote [3] on page 4 of 20 detailing the associated legislative record. The PWWM uses the term CLCP to refer to the Board approved "conceptual plan to fund the county needs for closure and remediation of landfill sites throughout the county" (R-244-04; File No. 040857). The resolution approving the CLCP contemplated a subsequent comprehensive plan that would be returned to the Board for approval. This comprehensive plan was not prepared, primarily due to the fact that the conceptual plan embodies the four essential elements necessary for the closure of municipal landfills in Miami-Dade County, as set-out on page 5 of 20 in the OIG report. These are the same elements we use today as a basis for providing landfill closure grants.

  The PWWM could update/finalize the CLCP in the event that an additional municipal landfill closure project is proposed for grant funding. The Taylor Park landfill located in the City of North Miami Beach is currently under consideration by the PWWM.

- In the first full paragraph on page 5 of 20 in the OIG report, the PWWM recommends that the last sentence of that paragraph be amended to read:

  In accordance with Miami-Dade County Ordinance 95-174, a portion of the County's Utility Service Fee has been designated to fund eligible landfill closure and remediation costs. The PWWM uses this funding source to pay debt service for eligible capital projects and reimburse its disposal operating fund for eligible costs.

- On page 6 of 20, in the second paragraph, the OIG report states that the Munisport Landfill was taken off the Super Fund list and "as a result" the BCC extended the term of the grant agreement to 20 years. In actuality, these two actions are not interrelated.

- On page 7 of 20, in the first paragraph, the flow of funds from the escrow account to the City and the developer for the Munisport project is discussed. This paragraph starts as a description of the process and ends in what appears to be a finding that escrow funds went to the City's agent, the property developer. The use of the words "However," "instead" and "directly" in the final sentence seem to convey that something improper took place, when this does not appear to be the OIG's intent. The OIG may want to consider revising the last sentence to read:

  In this case, since the contractor performing the work was not retained by the City, the developer that held development rights to the land and acted as the City's agent received the disbursements from the escrow account and paid the contractor.

Finding No. 1 – The City of North Miami and the City of Homestead did not maintain complete books, records, and documents of grant fund expenditures

Public Works and Waste Management Department (PWWM)
Response to OIG Draft Report –IG10-53
Landfill Closure Grants
January 31, 2012

- The OIG has audited the North Miami and Homestead records and determined that the grant-required records were not properly maintained by these municipalities. The OIG recommends that the PWWM enforce record retention procedures going forward for the Munisport site. The PWWM can potentially add this task to the work performed by the Bond Engineer, Audit and Management Services or the OIG. The PWWM is open to a recommendation from the OIG on this issue.

Finding No. 2 - The Munisport grant agreement does not require the project's timely completion

- On the surface it seems appropriate to have a "stated duration or period of performance" for the Munisport and other landfill closure projects. Where this becomes problematic is when designs change and additional regulatory requirements are necessary. For example, the original solution for clean-up of ammonia contaminated groundwater at the Munisport site was a traditional pump and treat system that was approved and permitted by the Permitting, Environment and Regulatory Affairs Department (PERA; formerly DERM) as part of an initial remedial action plan (IRAP) – prior to the City's agreement with the developer. In an effort to minimize the impacts of such a system on residents of the proposed development, a second experimental alternative involving underground injection of sugar and air was allowed to proceed per the Second Amended Grant Agreement. When this costly and time consuming alternative was later abandoned, two other alternatives were investigated – funnel and grate system and deep well injection. Ultimately, deep well injection was selected. To implement this alternative, PERA required extensive ground water modeling to determine the environmental impact on wetland areas at the site. Construction of the ground water remediation system will now proceed in a two-phased approach to better gauge its wetlands impacts. The time and cost associated with moving from one technological solution to another has been extensive and significant. The nature of this type of project does not lend itself to a discrete time schedule, although like the OIG, we agree that this project should be completed with all possible haste.

- In hindsight, incorporating the landfill closure into a development plan seems like a bad decision, but at the time the Second Amended Grant Agreement was approved by the Board in 2004, the economy was booming and the joint pursuit of closure and development was actually anticipated to save both time and money. If the 2007-08 world economic crisis had not occurred, perhaps the closure and the development would be complete today.

- As noted in the OIG report, the City of North Miami continues to pursue joint closure and development of the site. This concept has always been predicated on the fact that the cost of closure will be lessened by the use of development features in the closure design. For example, the two condominium towers and surrounding paved areas constructed on the site as part of the joint development and closure project were considered impervious by PERA, and therefore, count toward the closure requirements. If the economy improves, this project is likely to be an eventual success.

Public Works and Waste Management Department (PWWM)
Response to OIG Draft Report –IG10-53
Landfill Closure Grants
January 31, 2012

- In an effort to move this project along, the PWWM recently recommend to the City that it consider an alternative development approach – complete source removal of waste from the site and its subsequent reclamation as a buildable property without environmental hindrance. In concept, the City would leverage the remaining bond proceeds and obtain financing from a financial institution/investor for the source removal project in exchange for a negotiated return on investment from the sale or long-term lease of the reclaimed property. The necessary regulatory approvals would have to be obtained from PERA to make this work. This site is somewhat unique in that it is a large parcel (approximately 190 acres) and has waterfront views of Biscayne Bay.

Finding No. 3 – PWWM did not obtain affidavits and releases of payments for prior draw requests before authorizing payment on subsequent draw requests for the Munisport Landfill

Affidavits and releases of lien are only required for construction work. These documents apply in cases where a subcontractor/supplier is working for the property owner's prime contractor to ensure that the subcontractors/suppliers are getting paid by the prime contractor. All work since draw No. 7 for the Munisport project has been for engineering and design work required by PERA. The PWWM will instruct the Independent Engineer to obtain releases to the City from its Contractor when construction begins.

Finding No. 4 – $28 million of encumbered funds have been idle for six years pending the execution of a landfill closure grant agreement with the City of Miami

- The OIG may want to mention that the City of Miami and the County have been engaged in back and forth negotiations since at least 2009 in an effort to get the Virginia Key project underway. The City has thus far steadfastly refused to comply with two stipulations contained in the Board approved CLCP. First, the City has refused to extend its interlocal agreement for waste disposal with the County, even though its waste disposal revenue supports the County's pledge for payment of debt service on the landfill closure bonds. Second, the City has refused to pay for long-term care and remediation costs once the landfill closure is completed.

- The PWWM, in a coordinated effort with the Mayor's Office and other County agencies, is weighing its options in light of the City's position and the on-going environmental issues associated with the Virginia Key Landfill.

Finding No. 5 – Unspent funds totaling $2,500 remain in the Homestead escrow account two years after project closure

- The OIG may want to mention that in his June 16, 2009 letter to the Homestead City Manager, then County Manager George Burgess congratulates the City on successful completion of the landfill closure project and approves the final draw request. The total expenditure amount of

$7,915,451.34 referenced in the letter was paid to the City, however, it appears that an additional $2,500 in interest accrued between the time the final draw was authorized and when the final payment was made. Since this letter indicates that the City was to receive the "maximum available amount of the grant and accrued interest" the remaining $2,500, plus any additional accrued interest, will be remitted to the City and the joint escrow account will be closed.

Finding No. 6 – PWWM has paid $90,483 of bond engineer fees for services performed from bond proceeds instead of from general revenue funds

- On page 3 of 20 the OIG report describes the PWWM using "bond proceeds instead of general fund monies." A similar statement is made on page 19 of 20, "bond engineer fees are to be paid from PWWM general revenue funds." The Waste Management portion of the PWWM is an enterprise fund, which receives no General Fund dollars (i.e. no property tax revenue) and therefore has no "general fund monies" or "general revenue funds." Our funding sources are classified as either Operating Funds or Bond Funds. This distinction is of utmost importance when describing the department's finances.

- The OIG is correct that the PWWM did pay the bond engineer $90,483 from bond proceeds for the Bond Engineer's services. The OIG may also want to state that these charges were related to work orders issued very early in the project (2005/2006) and subsequently the PWWM identified the error and paid from operating funds for all remaining bond engineering and other work, totaling $616,841. The PWWM plans to reimburse the bond fund for the $90,483 identified by the OIG.

Finding No. 7 – PWWM paid $47,928 in fees to an independent engineer that was acting as the County's bond engineer at the Munisport site even though the engineer's invoices did not contain adequate supporting documentation

- The OIG may want to mention that the tasks monitored by ADA Engineering at the landfill were being performed on a "lump sum" percent completion basis. Regardless, the PWWM will require additional back-up information from the Independent Engineer for future invoice approvals as requested by the OIG.

MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL

OIG APPENDIX B

City of North Miami's Response

IG10-53

NORTH MIAMI
FLORIDA

February 10, 2012

Christoper Mazzella
Inspector General
Miami-Dade County
Office of the Inspector General
19 West Flagler Street
Suite 220
Miami, FL 33130

Re: Response to OIG Draft Report – IG10-53

Dear Mr. Mazzella:

I respectfully submit response to OIG Draft Report – IG10-53, as entitled by Section 2-1067(f) of the Code of Miami-Dade County ("County"). This response will address several areas of concern as mentioned in the audit investigative report.

History

On February 17, 2004, the Board of County Commissioners ("BCC") approved a $31 million grant to the City of North Miami ("City") for closure to the Munisport Landfill. The BCC accepted a frame work for a Comprehensive Landfill Closure Plan (CLCP) for which the City has substantially complied with under the Second Amended Grant Agreement ("Grant") between the County and City executed on March 26, 2004 to the extent the CLCP related to the City.

The Landfill Grant

The spirit of the Grant was premised on the synergistic opportunity for closure and its related groundwater remediation concurrent with site development capping the landfill. This was expressly communicated throughout the language of the Grant as the "City and it's developer, ..." Hence, to make a distinction between the City as the "legal grantee" and the developer as the "defacto [sic] grantee" of County's funds implies an apparent inappropriate and contrary relationship when such was evidently contemplated under the Grant. To this end, the City respectfully request that the OIG's Draft Report be amended throughout to reflect the City's conforming action to the spirit of the Grant.

Records Maintained by North Miami

While the Grant specifies an accounting system in accordance with "generally accepted accounting principles and practice," such was expressly intended to be "sufficient to

776 NE 125 Street I North Miami I Florida I 33161 305.895.9888 Fax: 305.893.1367

reflect properly all receipts and expenditures of grant funds" impliedly using the common industry practices for the landfill closure and groundwater remediation work where "general ledgers, trial balances, or payable ledgers" are not standard practice. Specifically, during the design phase, the invoices are supported by timesheets and during the construction phase draw requests are supported by measured quantities of actual work performed against a schedule of values for such work. Notwithstanding, the City of North Miami is under new administration and staff, and moving forward will ensure that all books, records and documents of grant fund expenditures will be retained in a secure place and in an orderly fashion in the Finance Department and a copy provided to the Office of the City Manager. Through these records, it is our goal to provide a depository of information and to be a benchmark for future landfill closure projects. However, the City seeks guidance from the OIG on the system of accounting necessary under the circumstances for this type of project development.

Affidavits and Releases of Liens

As this project progresses, the City will obtain affidavits and releases of liens from all contractors and consultants involved, where applicable under the circumstances, as such is not customarily required for professional design services which represent a significant part of audit under this OIG's Draft Report.

The Project's Timely Completion

Notwithstanding the downturn in the economy which slowed development and delayed complete closure of this landfill, the regulatory solution for the groundwater remediation solution was yet to be approved despite many unsuccessful attempts. More than five continuous attempts requiring design, dynamic groundwater modeling for simulation, and monitoring of pilot projects were performed before regulatory approval was finally obtained because of the contiguous sensitive wetlands, environmental tidal flushing and salt/fresh water balance necessary for ecological equilibrium.

Furthermore, the regulatory approval was contingent upon favorable results after one-year of monitoring because of the same competing factors. With the imposition of these regulatory requirements, the City's actions towards obtaining an acceptable solution are consistent with consultations from the County. Hence, the suggestion that the County take over the closure project should respectfully be reconsidered. But, in light of the historical failure to timely complete and the OIG's preference of "taking the closure project out of the hands of any future developer[,]" the City will consider mechanisms to maintain the responsibility and the direct control for the timely closure using the remaining Grant funds.

Commercial Development Plans

To this end, although the City of North Miami is in the process of securing a developer for the target site, **CH2M Hill** has already been contracted to complete the ground water remediation portion of the grant. A permit for the injection well (a major component of the ground water remediation) has been issued and construction has commenced. The City of North Miami is confident that the grant funds provided for this project will be efficient and effectively spent.

Progress Report since 2009

Contrary to the OIG's Draft Report which states there has been no progress since the previously developer left the site. The following is respectfully submitted for reconsideration of that position. Over the past two years the following has been accomplished for the grant-funded groundwater remediation project:

- **December 2009:** Pre-Application meeting with Florida Department of Environmental Protection, the City of North Miami (as project sponsor and permittee) CH2MHILL, and ES Consultants for a Class 1 industrial deep injection well.

- **May 2010:** City of North Miami schedules the first of seven stakeholder meetings with the M-D Solid Waste Department, PERA (formally DERM), Receiver and the CH2MHILL team which includes ES Consultants, to discuss a groundwater remediation remedy that would fit within the monetary constraints of the Grant funding and achieve regulatory goals of the various governmental agencies.

- **June 2010:** Written conceptual approval of groundwater remedial approach from Miami-Dade County Department of Environmental Resources Management (now Miami-Dade County Permitting, Environment and Regulatory Affairs) Director.

- **September 2010:** Receiver contracted with the CH2M HILL Team to perform the groundwater remediation (contract later assigned to the City of North Miami). City issued LOI indicating intent to assume contract from Receiver if there was no ground-lease tenant at the time the Receiver was removed.

- **November 2010:** Application to construct a Class 1 industrial deep injection well submitted to the Florida Department of Environmental Protection.

- **March 2011:** Comprehensive Landfill Closure Plan amended by the Independent Bond Engineer to reflect revised Scope of Work and approved

- Schedule of Values. SOV includes five (5) years of pre-closure O&M for the groundwater remediation remedy. Note: only pre-closure groundwater O&M is allowed under the Grant agreement. The County Resolution states that any post closure O&M is the responsibility of the City.

- **April 2011**: City assumes Groundwater remediation contract from the Receiver in order to maintain closure schedule and management of approved SOV work under the County/City Grant agreement.

- **June 2011**: final (7^{th}) stakeholder meeting coordinated by the City. All stakeholder meetings included City Manager and/or Public Works Director, Solid Waste, Bond Engineer, PERA and the CH2MHILL team.

- **November 2011:** Miami-Dade County Permitting, Environment and Regulatory Affairs approved the proposed groundwater remedial approach and required a phased extraction system to address wetland conditions.

- **December 2011:** The CH2M HILL Team submitted the Remedial Action Plan to Miami-Dade County Permitting, Environment and Regulatory Affairs.

- **December 2011:** Florida Department of Environmental Protection Permit to construct a Class 1 deep injection well and monitoring well system issued to the City of North Miami.

- **January 2012:** Mobilized Class 1 Deep Injection Well drill rig.

- **February 2012**: Commencement of drilling operations for the installation of the deep injection well. In fact, the groundbreaking is scheduled for February 14, 2012.

The City respectfully submit these responses hopeful that the OIG's Draft Report will be modified to account for any inadvertent positions taken from the audit. The City wishes to be in full compliance if such is not the case. Specifically, to avoid the possibility of any reimbursement by the City for "unauthorized expenditures which may be properly determined by COUNTY, in good faith[,]" under the Grant, the City's actions toward closure of the landfill have and will continue with consultation from the County. It does,

however, appear that guidance is required from the OIG regarding its interpretation of what records are necessary under the circumstances to literally comply with the accounting system specified in the Grant. Accordingly, we eagerly await further direction.

Should you have any questions, please do not hesitate to contact my office at (305) 895-9888.

Sincerely,

Stephen E. Johnson
City Manager

c: Aleem Ghany, Public Works Director, City of North Miami

SEJ:mp

Select Year: 2012 [Go]

The 2012 Florida Statutes

Title XXIX | Chapter 403 | View Entire Chapter

PUBLIC HEALTH | ENVIRONMENTAL CONTROL

403.716 Training of operators of solid waste management and other facilities.—

(1) The department shall establish qualifications for, and encourage the development of training programs for, operators of landfills, coordinators of local recycling programs, and operators of other solid waste management facilities.

(2) The department shall work with accredited community colleges, career centers, state universities, and private institutions in developing educational materials, courses of study, and other such information to be made available for persons seeking to be trained as operators of solid waste management facilities.

(3) A person may not perform the duties of an operator of a landfill without first completing an operator training course approved by the department or qualifying as an interim operator in compliance with requirements established by the department by rule. An owner of a landfill may not employ any person to perform the duties of an operator unless such person has completed an approved landfill operator training course or qualified as an interim operator in compliance with requirements established by the department by rule. The department may establish by rule operator training requirements for other solid waste management facilities and facility operators.

(4) The department has authority to adopt minimum standards and other rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. The department shall ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish by rule various classifications for operators to cover the need for differing levels of training required to operate various types of solid waste management facilities due to different operating requirements at such facilities.

(5) For purposes of this section, the term "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or period of operation during any part of the day.

History.—s. 39, ch. 88-130; s. 63, ch. 90-331; s. 93, ch. 91-221; s. 25, ch. 93-207; s. 402, ch. 94-356; s. 15, ch. 97-103; s. 105, ch. 98-200; s. 23, ch. 2000-211; s. 34, ch. 2004-357; s. 18, ch. 2007-184.

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(5) Construction and demolition debris disposal facilities.

(a)	Construct, operate, and close a facility, including facilities that also recycle	$ 2,500
(b)	Renewal permit which does not involve additional construction	$ 1,000
(c)	Renewal permit involving only long-term care	$ 250
(6)	General permit for land clearing debris disposal facility or a mobile waste tire processing facility.	$ 100

(7) Construction permit and/or an operation permit for a facility which has multiple solid waste management components that normally would require individual solid waste permits. A single application may be submitted and the permit fee will be the sum of all individual permits; however, the total permit fees for the facility shall not exceed $25,000, exclusive of modifications and renewals.

(8) Request for an Alternate Procedure.

(a)	Landfill	$ 2,000
(b)	Other	$ 500
(9)	Research, Development and Demonstration permits (per year up to three-year duration).	$ 1,000
(10)	Ground Water Monitoring Plan Approvals for landfills with no other Department permit.	$ 500
(11)	Transfer of permit.	$ 50

Rulemaking Authority 403.061, 403.087, 403.704 FS. Law Implemented 403.087, 403.702, 403.704, 403.707, 403.70715 FS. History–New 5-27-01, Amended 1-6-10.

62-701.320 Solid Waste Management Facility Permit Requirements, General.

(1) Permit requirements. Except as otherwise provided in this chapter, no solid waste management facility shall be constructed, operated, maintained, modified, or closed without a permit issued by the Department, or by an approved local program acting under a delegation agreement with the Department.

(2) Exemptions. Except as provided in Section 403.707(2), F.S., no permit under this chapter shall be required for the following activities or facilities. For purposes of this subsection, disposal shall be deemed to include storage prior to disposal or processing.

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter which normally results from land development operations on that property. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods, automotive materials including batteries and tires, petroleum products, pesticides, solvents, or hazardous substances, is not covered under this exemption.

4. Land clearing debris disposal facilities;
5. Ash monofills;
6. Construction and demolition debris disposal or recycling facilities that are not co-located with other solid waste disposal facilities accepting putrescible wastes; and
7. Any other solid waste management facility that does not accept putrescible waste for disposal, processing, or recycling.

(14) Other facility permits. In addition to the exemptions in subsection (2) of this section, the following solid waste management facilities that are constructed and operated under an appropriate and currently valid permit are not required to obtain a separate solid waste permit pursuant to this chapter:

(a) Solid waste combustors or air curtain incinerators that are constructed and operated under a permit issued pursuant to Chapters 62-296 or 62-256, F.A.C.; however, if the facility is also storing or disposing of solid waste on the site, and such storage or disposal is not addressed in the permit, a separate solid waste permit is required;

(b) Solid waste combustors that are constructed and operated under a site certification pursuant to Chapter 403, Part II, F.S.;

(c) Solid waste management facilities, such as composting facilities, waste tire processing facilities, soil treatment facilities, and used oil processing facilities, that are required to obtain permits under Chapters 62-702 through 62-722, F.A.C. A facility shall be required to obtain a separate solid waste permit if it also manages significant quantities of other types of solid waste.

(15) Operator and spotter training and special criteria. The owner or operator of a landfill, or other solid waste management facility required by this chapter to have trained operators or spotters, shall not employ a person to perform, nor may any person perform, the duties of an operator or spotter at such facility unless that person is a trained operator or trained spotter. A facility may employ interim spotters, but only if they work under the direct supervision of a trained spotter or trained operator. A facility may employ an interim operator in lieu of a trained operator for no more than three consecutive months.

(a) Owners and operators of facilities shall ensure that operators employed at the facility are properly trained to operate the facility, and that spotters are properly trained to identify and properly manage any unauthorized waste which is received at the facility. A training plan shall be included as part of the permit application. The training plan shall either include a list and schedule of those classes offered to the public which will be attended by the facility's operators and spotters, or shall include a description of the facility's in-house training program. All training courses, whether public or in-house, must be approved by the Department in accordance with Section 403.716, F.S. Any in-house operator training program which includes an examination required by this subsection must be administered by an independent third party. Any other in-house operator training program must be administered by a trained operator. Any in-house

spotter training program must be administered by a trained operator or a trained spotter. The training plan, along with records documenting how the training plan is being implemented, shall be kept at the facility at all times and be made available for inspection by Department staff. The Department will maintain a list of relevant training courses which are available in this State.

(b) In order to be considered trained, operators of the following facilities shall complete the following training requirements at courses described in the facility's operating plan:

1. Operators of landfills, and operators of construction and demolition debris disposal facilities, shall complete 24 hours of initial training, and shall pass an examination as part of that training. Within three years after passing the examination, and every three years thereafter, operators shall complete an additional 16 hours of continued training.

2. Operators of waste processing facilities shall complete 16 hours of initial training, and shall pass an examination as part of that training. Within three years after passing the examination, and every three years thereafter, operators shall complete an additional 8 hours of continued training.

(c) In order to be considered trained, spotters shall complete 8 hours of initial training at courses described in the facility's operating plan. Within three years after attending the initial training, and every three years thereafter, spotters shall complete an additional 4 hours of continued training.

(d) Spotter location.

1. Each facility where spotters are required shall include in its operation plan the number and location of spotters and the procedures to be followed if unauthorized waste is discovered. Spotters shall be stationed where they can inspect each shipment of waste for unauthorized waste.

2. If spotters are to be located on heavy equipment spreading the waste at the working face of a solid waste disposal unit or at a waste processing facility, the operation plan shall specifically provide for the following:

a. The heavy equipment operator is trained as an operator or spotter;

b. When unauthorized waste is discovered, the heavy equipment operator must either move the unauthorized waste away from the active area for later removal and proper management, or must stop operation and notify another person on the ground or on other equipment who will come to the active area and remove the unauthorized waste before operations are resumed; and

c. Each load of waste must be visually inspected for unauthorized waste prior to being compacted or loaded into a transfer vehicle.

(e) Notwithstanding the definition in Rule 62-701.200, F.A.C., and solely for purposes of this subsection, "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the on-site person in charge of a shift or period of operation during any part of the day, such as facility

managers, supervisors and equipment operators. It does not include office personnel, laborers, equipment operators not in a supervisory capacity, transporters, corporate directors, elected officials, or other persons in managerial roles unless such persons are directly involved in on-site supervision or operation of a solid waste management facility. A trained operator may perform the duties of a trained spotter.

(f) For purposes of this subsection, "interim operator" means a person who has, in the opinion of the facility manager, shown competency in his chosen occupation through a combination of work experience, education and training and who has at least one year of experience at that facility or a similar facility. An interim operator must become a trained operator within one year of employment as an interim operator.

(g) For purposes of this subsection, "spotter" means a person employed at a solid waste management facility whose job it is to inspect incoming waste and to identify and properly manage any unauthorized waste that is received at the facility.

(h) For purposes of this subsection, "interim spotter" means a person who has, in the opinion of the facility manager, shown competency in his chosen occupation through a combination of work experience, education and training. An interim spotter must become a trained spotter or trained operator within three months of employment as an interim spotter.

(16) Emergency preparedness and response.

(a) Every permitted solid waste management facility shall have, as part of its operation plan, a contingency plan appropriate for the type of facility to cover operational interruptions and emergencies such as fires, explosions, or natural disasters. The contingency plan shall be kept at the facility at all times and shall be accessible to facility operators. The contingency plan shall include:

1. Designation of persons responsible for implementation of the contingency plan;

2. Procedures for notification of appropriate emergency response persons, including the department, the local government, and local fire protection agencies;

3. A description of emergency procedures to be followed, including the location of fire-fighting equipment and explanations of how to use this equipment;

4. Provisions for the immediate shutting down of those parts of the facility affected by the emergency and notification to customers of the closure of the facility; and

5. Procedures for notification of neighbors and local government officials of the potential impacts of the emergency, and provisions to minimize those impacts.

(b) Every solid waste disposal facility shall have:

1. Sufficient equipment to implement the contingency plan, including equipment for excavating, spreading, compacting, and covering waste;

2. Sufficient reserve equipment or arrangement to obtain additional equipment within 24 hours of equipment breakdown;

3. Communications equipment for emergency and routine communications; and

(d) The provisions of subsection 62-701.610(1), F.A.C., are applicable to all operations, including recycling operations, conducted on top of closed landfills.

(2) Construction requirements. The design for the vertical expansion shall also provide calculations and supporting information on the following factors:

(a) Construction on the slopes of a filled landfill requires a determination of foundation stability in accordance with Rule 62-701.410, F.A.C., and calculations for the total settlement of the waste in the existing landfill and the waste that will be disposed of in the new disposal area to be constructed. Total settlement calculations shall address both compression and differential settlement and shall be based on worst case predictions. Total settlement calculations shall show the final elevations of the liner systems, that gravity drainage will be maintained, and that no other component of the design will be adversely affected.

(b) The vertical expansion design shall achieve a minimum factor of safety 1.5 using peak strengths for:

1. The liner system stability for liner systems installed over existing landfill slopes to prevent sliding along the interface between liner system components; and
2. Deep stability, to prevent sliding along all potential failure surfaces through the waste mass, along the liner systems, and through the foundation soils.

(c) Surface water management during construction of the vertical expansion over the slopes of an existing landfill shall be consistent with subsection 62-701.400(9), F.A.C., and shall require proper design of the drainageway at the interface between the existing slopes and vertical expansion area. The design shall;

1. Prevent infiltration into the existing and new landfills;
2. Minimize erosion of cover materials;
3. Carry the calculated flow; and
4. Comply with the cover requirements.

(d) A gas control system shall be installed to vent gas from the interface between the existing landfill slopes and the vertical expansion slopes to prevent accumulation of gas under the new liner system. Gas-venting is achieved by installing a gas-venting layer under the entire slope that will be covered by the new liner system. The gas-venting layer shall convey gas to vertical vents at the crest of the interface slopes.

Rulemaking Authority 403.061, 403.704 FS. Law Implemented 403.702, 403.704, 403.707 FS. History–New 1-6-93, Amended 5-19-94, Formerly 17-701.430, Amended 5-27-01, 1-6-10.

62-701.500 Landfill Operation Requirements.

(1) Operating personnel. All landfills shall have at least one trained operator at the landfill during all times when the landfill receives waste, in accordance with subsection 62-701.320(15), F.A.C. All landfills shall have at least one trained spotter at each working face at all times when the landfill receives waste to detect unauthorized wastes.