

A G E N D A

SPECIAL MEETING, OCONEE COUNTY COUNCIL

THURSDAY, OCTOBER 6, 1994

5:00 PM

1. Call to Order
2. Invocation
3. Consideration of Approval of Consent Order By & Between Oconee County & SC DHEC Extending the Deadline for Closure of Five Forks Landfill, etc.
4. Old Business
5. New Business
6. Adjourn

MEMBERS, OCONEE COUNTY COUNCIL

Mrs. M. Fran Burrell, District I Mr. Harrison E. Orr, District II
Mr. Michael E. Harper, District III Mr. Roy B. Strickland, District IV
Mr. Alton K. Williams, District V

MINUTES, SPECIAL MEETING, OCONEE COUNTY COUNCIL

The Oconee County Council held a special meeting, Thursday, October 6, 1994 at 5:00 pm in Council Chambers with all Council Members except Mr. Williams present. The County Attorney was also present.

Members of the press notified (by fax):
Journal/Tribune, WLOS TV, WCCP Radio, Greenville News, WGOG Radio, Northland Cable, Anderson Independent & Shopping Guide.

Press

Members of the press notified (by hand delivery): Keowee Courier & WBFM Radio.

Members of the press present: Dick Mangrum
- WGOG Radio.

The meeting was called to order by Vice Chairman Strickland in the absence of Supervisor-Chairman Crain.

Call to Order

The invocation was given by Mr. Harper.

Invocation

Upon recommendation of Mr. Jack Hirst, Solid Waste Director & Mr. Timothy Cain, Attorney, Mr. Harper made a motion, seconded by Mrs. Burrell, approved 3 - 0 (Mr. Strickland acting as Chairman, Mr. Williams absent) that Mr. Cain & Mr. Hirst be allowed to negotiate for a better contract with the SC Department of Health & Environmental Control to extend the closure of the Five Forks Landfill until December 9, 1994 and if negotiations were not possible, the attached consent order be signed and returned to SC DHEC, Columbia, SC.

Consent Order

Adjourn: 5:30 pm

Norman D. Crain
Supervisor-Chairman
Oconee County Council

THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

IN RE: OCONEE COUNTY LANDFILL - FIVE POINTS (DWP-084)
OCONEE COUNTY

CONSENT ORDER
94-40-SW

FINDINGS OF FACT

1. Oconee County (hereinafter, the County) was issued a Domestic Waste Permit (DWP-084) for the Oconee County Landfill - Five Points (hereinafter, the Landfill) by the South Carolina Department of Health and Environmental Control (hereinafter, the Department).
2. The Municipal Solid Waste Landfills Regulation, South Carolina Code Reg. 61-107.258. (hereinafter, the Regulation) became effective on June 25, 1993. According to the Regulation all municipal solid waste landfill (MSWLF) units that received waste after October 9, 1991 but stop receiving waste before October 9, 1993 are exempt from the requirements of the Regulation, with the exception of the closure criteria and post closure care requirements of the Regulation. Additionally, the regulation requires that the final cover be installed within six (6) months of last receipt of wastes. Owners and Operators of MSWLF units as described above that fail to complete cover installation within this six (6) months period will be subject to all requirements of the Regulation, unless otherwise specified.

3. The Environmental Protection Agency has granted an extension in the corresponding federal regulations in that final cover must be installed before October 9, 1994 for such landfills, as opposed to six (6) months after last receipt of wastes, as was previously required.
4. A joint resolution was passed by the General Assembly of the State of South Carolina and approved by the Governor that provides that if the Environmental Protection Agency or the United States Congress extends certain effective dates in the RCRA Subtitle D Municipal Solid Waste Landfill Criteria, any extension applies to all municipal solid waste landfills in this State to which the criteria applies. Therefore, due to the approval of this joint resolution the Landfill must install final cover before October 9, 1994 or be subject to all of the requirements of the Regulation, unless otherwise specified.
5. The Landfill last received waste before October 9, 1993 and is in the process of installing final cover. Due to excessive rainfall and subsequent lost work time the Landfill has informed the Department that the October 9, 1994 deadline cannot be met, and has asked to be granted a reasonable extension to allow for the installation of the final cover to be completed. The Landfill is asking for this extension so that it will not be subject to all of the requirements of the Regulation when this deadline is missed.

6. There is no mechanism in the Solid Waste Policy and Management Act of 1991 or in the Regulations to provide for an extension, therefore this Consent Order is necessary.

NOW, THEREFORE IT IS ORDERED AND AGREED with the consent of the County and pursuant to the South Carolina Solid Waste Policy and Management Act of 1991, Sections 44-96-260, 44-96-280 and 44-96-450 that the County shall:

1. No later than December 9, 1994, complete the final cover system installation for the Landfill in accordance with the approved closure plan submitted to the Department.
2. If any event occurs which causes or may cause a delay in meeting the above-scheduled date for completion of the specified activity, notify the Department in writing before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Department shall provide written notice as soon as practicable that a specific extension of time has been granted or that no extension has been granted. An extension shall be granted for the scheduled activity delayed by an event of force majeure which shall mean any

event arising from causes beyond the control of the County that causes a delay in or prevents performance of any of the conditions under this Consent Order including, but not limited to: (i) acts of God, fire, war, insurrection, civil disturbance, explosion; (ii) adverse weather conditions that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; (iii) restraint by court order or order of public authority; (iv) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and (v) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the County. Events which are not force majeure include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to exercise due diligence in obtaining governmental permits. Any extension shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.

3. Upon failure to comply with this schedule or any approved extension of this fully executed Order, the Landfill must comply with all requirements of Municipal Solid Waste Landfills, South Carolina Code Reg. 61-107.258. unless otherwise specified.

4. Upon failure to comply with this schedule or any approved extension of this fully executed Order, pay to the Department upon demand, a civil penalty of five hundred dollars (\$500.00) per day for each day of non-compliance; provided, any delay was not caused by events constituting force majeure as described in paragraph two (2) above. Such determination will be made in the sole discretion of the Department.

IT IS FURTHER AGREED that failure to meet the deadline established herein or any other violation of the provisions of this Order shall be deemed unlawful. Upon ascertaining any such violation, the Department may initiate action to obtain compliance with both this Order and the Act.

THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

DATE: _____
Columbia, South Carolina

BY: _____
Douglas E. Bryant,
Commissioner

We Consent:

Oconee County - Five Points (DWP-084)

Norman D. Crain

DATE: 10/7/94

Jack M. Hirst

DATE: 10/7/94

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Hartsill W. Truesdale, P.E.,
Chief
Bureau of Solid and Hazardous
Waste Management

DATE: _____

Approved by: Legal Office

DATE: _____