

# Closure Documentation for the Southernmost Waste-to-Energy (SWEF) Facility

PREPARED FOR: City of Key West

PREPARED BY: CH2M HILL

DATE: August 31, 2010

PROJECT NUMBER: 408719.BB.01

## Background

The Southernmost Waste-to-Energy Facility (SWEF) began operations in 1986 and handled a maximum of 150 tons of garbage per day. The facility served a population of approximately 39,000 and, at full operating capacity, provided 2.3 megawatts per hour of electrical power that was sold to City Electric System. The City of Key West (the City) operated the SWEF under operating permits issued by the Florida Department of Environmental Protection (FDEP). SWEF was located on approximately 2.25 acres adjacent to the Stock Island Landfill. The Landfill was closed in 1993.

Following the closure of the waste incinerator and power production facilities at the SWEF in April 2004, the tipping floor and waste storage pit at the SWEF were converted to a temporary solid waste transfer facility. The pit that had been used for waste storage during incinerator operation was filled by the City and a concrete slab was poured over the fill. The filled pit and tipping area were then used for temporary storage of waste awaiting transport and disposal by Waste Management, through a contract with the City.

In September 2007, the City began construction of a solid waste transfer station located on approximately 4 acres in Rockland Key, Monroe County, Florida. Certification of Construction Completion for the new transfer station was approved by FDEP on July 22, 2009, and the facility began operation on August 24, 2009. Upon the start of operations at the new transfer station, all solid waste was removed from the SWEF and the facility was closed as a solid waste processing facility.

## Purpose

The purpose of this technical memorandum (TM) is to document closure of the SWEF and outline due diligence requirements for demolition and removal of the infrastructure associated with the SWEF to prepare the site for future use by the City as a transit facility. The City property on Stock Island includes the former SWEF and the closed Stock Island Landfill. The Stock Island Landfill was closed in 1993 under Consent Order OGC File No. 89-0466 and currently is undergoing post-closure care as prescribed by the Consent Order. For purposes of the TM, the approximate delineation between the Stock Island Landfill and the SWEF is the outside edge of the perimeter road, as shown in Exhibit 1. The Stock Island Landfill and the associated liner system, landfill gas monitoring probes, and

groundwater monitoring wells shall not be disturbed by future construction activities unless Consent Order OGC File No. 89-0466 is appropriately amended to authorize any disturbance or replacement of existing facilities.

## Closure Chronology and Documentation for the SWEF

- Final Operating Permit for the SWEF was Permit No. 0127929-002-SO/09, which was issued in 2004 and expired in 2009 (Exhibit 2).
- On April 6, 2004, the City ceased operation of the SWEF as a waste-to-energy facility and began operating it as a temporary solid waste transfer station. The City surrendered its Title V permit to FDEP at that time (Exhibit 3).
- Paragraph 10 of Consent Order OGC No. 09-0114-44-SW provided FDEP authorization to continue operating the SWEF as a transfer station (Exhibit 4). Paragraph 10 of the Consent Order provides a 180-day time frame for construction of the City's new transfer station. Although the new transfer station took more than 180 days to construct and put into operation, FDEP allowed the temporary transfer station to remain in operation under the terms of the Consent Order (Exhibit 5).
- On January 4, 2010, FDEP notified the City that the SWEF was officially closed as a solid waste management facility (Exhibit 6).

## Results of Site Assessment

CH2M HILL prepared a Letter Report titled *Due Diligence for Proposed Bus Facilities at Stock Island* for the City in January 2006. The report identified nine areas of concern (AOCs) that subsequently were investigated during a Preliminary Site Assessment performed by CH2M HILL in 2007. The AOCs are identified in Exhibit 7. The results of the site assessment are presented in the report, *Preliminary Site Assessment Report, Southernmost Waste-to-Energy Facility* (CH2M HILL, April 2007). Recommendations of the Site Assessment Report were as follows:

*The results of this preliminary site assessment indicate potential site impacts associated with past operations at the Southernmost Waste-to-Energy (SWTE) site and the adjacent closed landfill. Analytical results from soil (three AOCs), groundwater (four AOCs), and the sediment samples collected at the site exceeded applicable regulatory standards and/or criteria. Arsenic was detected in soil samples and concentration exceedances were close to the soil cleanup target level (SCTL). Background soil sampling and analyses for arsenic and vanadium are recommended to establish background conditions specific to the site. In addition, resampling and analysis of groundwater from AOC-1, AOC-6, and MW-1 should be performed for metals using EPA Method 6010B. Resampling and analysis of groundwater from AOC-1 should be performed to evaluate whether Aroclor 1016 is present.*

*The purpose of this report is to provide a preliminary assessment of potential environmental impacts associated with past activities at the site. It is beyond the scope of this study to determine the full extent of impact from any of these potential source areas. CH2M HILL recommends that an Interim Remedial Action Plan (IRAP) be prepared for the SWTE site to identify monitoring and confirmatory sampling that should be performed after demolition of onsite buildings.*

The results of the resampling recommended in the Site Assessment Report were presented in a TM titled, *Resampling of Specific Monitoring Wells*, prepared for R. B. Havens, City of Key West, by T. Langille, CH2M HILL and dated September 25, 2007:

*Based on the groundwater sampling results and review of previous data, it appears the results for AOC-1 for Aroclor 1016 stand with both results greater than the cleanup criteria for Aroclor 1016. In addition, thallium exceeded the groundwater cleanup target level in both samples collected from AOC-7.*

On the basis of these results, CH2M HILL recommended "...that analyses for Aroclor 1016 in AOC-1 and thallium for AOC-7 should be added to the solid waste management facility closure monitoring requirements."

## Demolition of Existing Site Facilities

CH2MHILL was tasked to prepare an Opinion of Probable Demolition Costs to remove the facilities currently located on the site. This task includes all roads and any item or material stored onsite that the City states is surplus. Demolition costs include demolition, haul, and disposal at the Broward County landfill; grading of the site; and placement of 2 feet of suitable fill over the entire site. Demolition of the facilities includes removal of underground tanks, concrete slabs, buildings with foundation, pavement, outside storage area, equipment, trees, bollards, some underground utilities, and appurtenances. Building piles were estimated to be cut off 4 feet below existing ground elevation. Exhibit 8 shows the major facilities to be removed.

Table 1 summarizes the Opinion of Probable Demolition Cost.

TABLE 1  
Opinion of Probable Demolition Costs

Description	Subtotal
Demolition	\$ 274,192
Haul and Disposal	\$ 716,553
Earthwork (Grading and 2 foot Fill)	\$ 314,581
<b>Subtotal</b>	<b>\$ 990,745</b>
Mobilization/Demobilization (5%)	\$ 49,537
Bonds/Insurance (3%)	\$ 29,722
<b>Subtotal</b>	<b>\$ 1,070,004</b>
Contingency (10%)	\$ 107,000
<b>TOTAL</b>	<b><u>\$ 1,177,005</u></b>

The estimate is based on the assumption that the work will be done on a competitive bid basis and the Contractor will have a reasonable amount of time to complete the work. The cost for hauling and disposal was calculated using a fee from the City's waste disposal contract.

## Assumptions and Clarifications

1. Disposal of material will be at a permitted municipal solid waste landfill.
2. No hazardous material or waste are present at the facility.
3. A lead paint and asbestos investigation will be completed, with the results available at the bid.
4. The City will remove all material and equipment deemed salvageable before demolition.
5. The Fire System Building with fire pump will be relocated by the City.
6. The water and electrical feeds will be disconnected by the City before demolition.
7. The fuel tanks will be relocated by the City before demolition.
8. The existing landfill perimeter road remains.
9. The 2 feet of acceptable fill across the site is acceptable to FDEP for closure.
10. The fence remains.
11. Access to the police area will be relocated by the City before demolition.
12. Electrical and water to the police area remains.
13. All underground tanks are concrete and are nonhazardous.
14. The City owns all material, equipment, and structures to be demolished.
15. The City will pump out the septic tank before demolition.

## Path Forward

The following activities need to be performed at the SWEF to clear the site for future development:

- Develop an IRAP as recommended in the Site Assessment Report. The IRAP will define additional sampling that is needed to document site conditions and provide recommendations for future utilization. Data collected during the 2007 Site Assessment indicated the presence of elements and compounds at concentrations in excess of the residential soil cleanup target levels, but below the industrial soil cleanup target levels. Expected recommendation from the IRAP would be as follows:
  - If no elements or compounds are detected in excess of the industrial soil cleanup target levels, onsite materials remaining after demolition will be used as onsite fill material and 2 feet of clean soil will be placed over the onsite materials.
  - If elements or compounds are detected in excess of the industrial soil cleanup target levels, materials exceeding the industrial target level will be excavated and removed from the site for disposal at an appropriately licensed disposal site. The remaining onsite materials will be used as onsite fill material and 2 feet of clean soil will be placed over the onsite materials.

- Groundwater data collected during the 2007 Site Assessment indicated exceedances of groundwater cleanup target levels for Aroclor 1016 at AOC-1 and thallium at AOC-7. The recommendation of the Site Assessment was to add these parameters to the routine ground monitoring program for the site. Data from the routine groundwater monitoring program will be reviewed as part of the IRAP to assess whether further action is required for groundwater.
- Conduct an inspection and testing for asbestos in conjunction with the IRAP.
- Conduct an inspection and testing for lead-based paint in conjunction with the IRAP.
- Develop procedures for disposal and/or processing and use of demolition debris as fill material at the site.

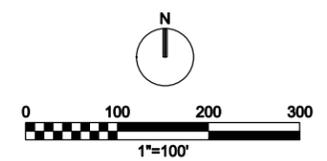
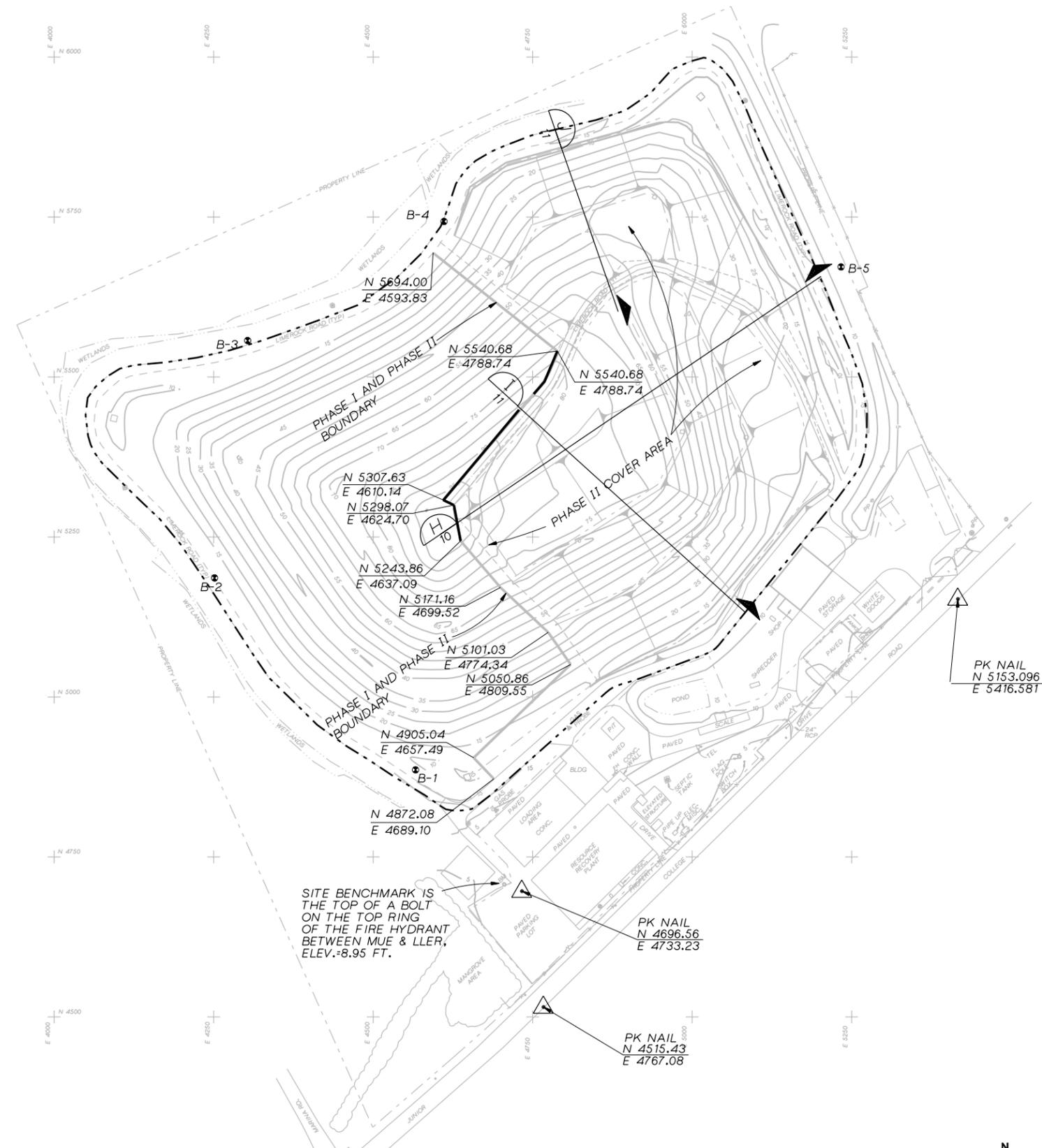
## Exhibits

**Exhibit 1**  
**Stock Island Landfill**  
**Overall Site Plan**

1 2 3 4 5 6

A  
B  
C  
D

**LEGEND**  
 - - - - - APPROXIMATE LIMITS OF LANDFILL GEOMEMBRANE



NO.	DATE	REVISION	CHK	APVD	BY	APVD

3011 S.W. WILLISTON ROAD  
 GAINESVILLE, FLORIDA 32608  
 EB9000072 AAC001882

CITY OF KEY WEST  
 STOCK ISLAND LANDFILL AND  
 PUBLIC TRANSPORTATION FACILITY  
 KEY WEST, FL

**CH2MHILL**

CIVIL

**STOCK ISLAND LANDFILL  
 PLAN AND LIMITS OF GEOMEMBRANE**

1" = X'  
 VERIFY SCALE  
 BAR IS ONE INCH ON ORIGINAL DRAWING.  
 0 1'

DATE OCTOBER 2009  
 PROJ 393273  
 DWG C-1  
 SHEET

REUSE OF DOCUMENTS: THIS DOCUMENT, AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF CH2M HILL AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CH2M HILL. © CH2M HILL 2009. ALL RIGHTS RESERVED.

CONFORMED DOCUMENTS

**Exhibit 2**  
**Operating Permit for SWEF**

PERMITTEE:

City of Key West  
c/o E. David Fernandez, Utilities Director  
5701 West College Road  
Key West, Florida 33040

GMS ID No. 5244M05354  
Permit/Certification No. 0127929-002-SO/09  
Date of Issue: February 12, 2004  
Expiration Date: February 12, 2009  
County: Monroe  
Latitude: 24° 34' 42"  
Longitude: 81° 44' 49"  
EMA: Florida Keys  
Section/Township/Range: 27/67S/25E  
Project: City of Key West-Southernmost  
Waste-to-Energy Facility

This Permit is issued pursuant to Sections 403.061, 403.087 and 403.707, Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rules 62-4, 62-25, 62-160, 62-302, 62-522, and 62-701. The above-named Permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawings, plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

To operate an existing waste-to-energy facility with a processing capacity of 150 tons of solid waste per day, generating 2.3 megawatts of electrical power per day; to operate an existing on-site solid waste transfer station and to construct an aboveground leachate collection tank with a secondary containment. The facility is specifically identified as City of Key West-Southernmost Waste-to-Energy Facility.

**The Permit is subject to the following fifteen (15) General and twenty-five (25) Specific Conditions. A copy of the approved application package is enclosed for your records.**

**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, 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.

**PERMITTEE:**

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**GENERAL 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 the Permit.
4. This Permit conveys no title to land or water, does not constitute State recognition or acknowledgement 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 any order from the Department.
6. 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 or 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 credential 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 the conditions of the Permit;

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- (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.

Reasonable time may depend on the nature of the concern being investigated.

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 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 Sections 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. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.
11. This Permit is transferable only upon Department approval in accordance with

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Rules 62-4.120 and 62-730.300, F.A.C, as applicable. The Permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department.

12. This Permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This Permit also constitutes:
  - (a) Determination of Best Available Control Technology (BACT)
  - (b) Determination of Prevention of Significant Deterioration (PSD)
  - (c) Certification of compliance with State Water Quality Standards (Section 401, PL 92-500)
  - (d) Compliance with New Source Performance Standards
14. 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 instrumentation) required by this Permit, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit.
  - (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.

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15. 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. The facility shall be operated in accordance with the approved application and supporting data.
2. A copy of the Operation Plan from the Permit application package, approved by the Department, shall be kept at or near the facility and shall be accessible to facility operators.
3. This Operation Permit is valid for operation of the Waste-to-Energy Incinerator Plant and Transfer Station.
4. Operation and maintenance of the site shall be under the direction of a qualified and trained operator.
5. Signs indicating operating authority, hours of operation, traffic flow, user charges and other pertinent information shall be posted at the entrance to the facility. A sign indicating that the facility does not accept hazardous and/or infectious waste shall also be posted at the landfill entrance.
6. Stormwater Management system shall be operated and maintained as necessary to meet applicable standards of F.A.C. Chapters 62-25 and 62-302. The Permittee must comply with all necessary permits/approvals from the South Florida Management District, Department of Environmental Protection, and all other applicable state and local agencies.
7. At least one trained operator shall be present at the facility when waste is received. Signs and an employee shall be present at the facility during all hours of operation to direct the incoming waste stream to the proper tipping area.
8. The operator shall weigh all solid waste as it is received and record in tons per day by waste type. Waste records shall be compiled monthly and copies shall be provided to

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the Department quarterly. An example disposal/recycling tonnage report is attached for your perusal.

9. At least one trained inspector/spotter shall be present at the tipping area at all times when waste is received to detect unauthorized waste.
10. If hazardous waste is received/detected in the waste stream, the Permittee shall immediately inform the Department's branch office in Marathon at (305) 289-2310 and/or the District office in Fort Myers at (239) 332-6975 during normal business hours; for other hours, the Permittee shall contact the Department by calling toll free 1-800-320-0519 or (850) 413-9911 and follow the instructions from the Department. If hazardous waste received at the site is sent to a hazardous waste disposal facility, copies of receipts from the hazardous waste disposal facility documenting proper disposal shall be sent to the Department within five (5) days of their receipt. All hazardous waste shall be handled in accordance with Department regulations.
11. Pesticides used to control rodents, flies, and other insects shall be as specified by the Florida Department of Agriculture and Consumer Services (Chapter 5E-2, Florida Administrative Code), and be available on site for use as necessary.
12. Uncontrolled and unauthorized scavenging shall not be permitted at the facility. Controlled salvaging may be permitted by the local authority responsible for the facility.
13. The solid waste control facility and the immediate area thereof shall be maintained in a clean condition.
14. If Department inspections validate off-site objectionable odor complaints at the facility, an odor monitoring program shall be implemented in accordance with F.A.C. Rule 62-701.530(3)(b)1. If the monitoring program confirms the existence of objectionable odors, or off-site objectionable odors are confirmed during three consecutive Department inspections, an odor remediation plan shall be submitted to the Department in accordance with F.A.C. Rule 62-701.530(3)(b)2.
15. The facility shall be easily accessible by trucks and cars, with all-weather access roads maintained with commonly used practices to minimize dust.
16. Adequate fire control capabilities shall be available at all times.

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17. Leachate (liquids and the quench water along with the ash) shall be controlled to prevent mixing with stormwater and to minimize the presence of standing liquid to the extent practicable. Any stormwater that mixes with leachate shall be handled as leachate. Under no circumstances shall leachate be intentionally discharged to the on-site percolation pond. If leachate is discharged outside of the leachate control system, for any reason, the Department shall be notified immediately, and the following actions shall be taken:
- The cause of the discharge shall be identified;
  - Corrective actions used to stop the discharge shall be identified;
  - Actions proposed to prevent the recurrence of any future discharge shall be submitted to the Department; and
  - Sampling of the discharge or ground affected by the discharge shall be in accordance with F.A.C. Rule 62-701.510(8)(c) and (d). Results shall be submitted to the Department within thirty (30) days of receipt from the laboratory.
18. a) The proposed leachate storage tank (aboveground 15,000-gallon capacity) shall be constructed with a secondary containment structure (1.1 times 15,000-gallon capacity) within six (6) months of the date of issuance of this Permit.
- b) The Permittee shall submit a Certificate of Construction Completion (C.C.C.) on DEP Form No. 62-701.900(2) (enclosed) within thirty (30) days of the construction completion, with drawings and necessary information (location, plan, sections, dimensions, capacity, etc.).
19. All records and data relating to the operation of the facility shall be made available for inspection by DEP staff in the offices of the Permittee. The facility shall be open for inspection by Department employees during normal hours of operation.
20. a) The Transfer Station shall be operated in accordance with all applicable rules of F.A.C. 62-701.710.
- b) The Permittee shall submit a closure cost estimate (recalculated or inflation adjusted) with respect to the Transfer Station only (for solid waste, including ash residue on the site) to this office between July 1 and September 1, each year. The costs shall be estimated and certified by a professional engineer for

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a third party performing the work, without using the material, equipment and employees of the owner of the facility.

- c) Financial assurance documents (e.g., escrow account audit report, etc.) corresponding to the District-approved closure cost estimate shall be submitted to FDEP Tallahassee office at the following address:

Solid Waste Financial Coordinator  
Department of Environmental Protection  
2600 Blair Stone Road MS 4565  
Tallahassee, Florida 32399-2400

21. Closure Schedule: The Permittee shall, at least 180 days prior to the projected date when wastes will no longer be accepted at the facility, provide written notice to the Department's District office with a schedule for cessation of waste acceptance and facility closure in accordance with guidelines set forth in F.A.C. Chapter 62-701.320(7)(e)1.
22. Closure Plan Submittal: The Permittee shall submit a closure plan (engineering drawing sheets and a narrative, revised to include any changes) to the Department for approval no less than ninety (90) days prior to the scheduled closing day.
23. Ash residue sampling and analysis shall be performed in accordance with Section 5, Quality Assurance/Quality Control Plan of the Ash Residue Management Plan of Permit No. 0137929-001-SO/09, issued 05/13/98, and the Department's *"Quality Assurance Standard Operating Procedures Manual for Sampling of Ash Residue from Solid Waste Combustors"* dated December 1993.

As required by F.A.C. Rule 62-702.570, ash residue shall be analyzed every three months (quarterly) for priority pollutant metals listed below:

Antimony	Mercury	Beryllium	Cadmium	Silver	Copper	Zinc
Arsenic	Nickel	Chromium	Selenium	Thallium	Lead	

A composite sample of the ash residue (combined fly ash, bottom ash, and scrubber residue) shall be collected from the ash residue, either at the conveyance mechanism or in the ash load-out building. The composite ash residue sampling procedure, identified in Section 5 of the Quality Assurance/Quality Control Plan referenced

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above, shall be followed for samples to be analyzed for the priority pollutant metals listed above.

The results of ash analyses shall be submitted annually to the Department in a report that presents and summarizes the data pursuant to F.A.C. Rule 62-702.570. The report shall be submitted no later than thirty (30) days following the end of the fourth quarter of ash sampling.

Leachate sampling is not required at the facility since all leachate generated is used as make-up water in the ash quench tank. The demand for quench water exceeds the quantity of leachate generated.

24. In the event the Permittee is temporarily unable to comply with any of the conditions of this Permit, he/she shall notify the District office of the DEP immediately. Notification shall include pertinent information as to the cause of the problem and what corrective measures are being taken to prevent its reoccurrence.
25. These conditions do not exempt the Permittee from complying with requirements of other state, municipal, county or regional pollution control rules, regulations, ordinances or codes.

This Permit is issued for a period of **five (5) years** and expires **February 12, 2009**. If a renewal is desired, the Permittee shall apply for a renewal by submitting the appropriate application form along with the appropriate fee, **sixty (60) days** prior to the expiration date.

**Should you need further information regarding the above, please call Ghous Minhaj, Solid Waste Permitting Engineer, at (239) 332-6975, extension 185.**

**Note: In the event of an emergency, the Permittee shall contact the Department by calling (850) 413-9911 or toll free at (800) 320-0519. During normal business hours, the Permittee shall call (239) 332-6975.**

Sincerely,

---

Jon M. Iglehart  
Acting Director of  
District Management

Enclosure  
JMI/GAM/se

**Exhibit 3**  
**Documentation re: Conversion of SWEF from Waste-to-Energy Facility  
to Temporary Transfer Station**

From: Minhaj, Ghousuddin [Ghousuddin.Minhaj@dep.state.fl.us]  
Sent: Tuesday, March 15, 2005 9:42 AM  
To: Bejnar, Tor; Wick, Fred  
Cc: Barbaccia, Phil; R.B. Havens  
Subject: The City of Key West Southernmost Waste-to-Energy  
Facility(SWTE), Permit No.0127929-002-SO

Importance: High

Phil Barbaccia, Administrator Waste Management, South District received a letter dated March 3, 2005 from the City of Key West notifying the District that the City has surrendered its Title V Permit to the Department and did not apply for the permit renewal, however, the City has been operating the facility as a Class I Transfer Station since April 6, 2004 when the combustion process was shut down. The letter also informs, "The City will not be storing waste at the Transfer Station for more than seven days at any given time and is therefore exempt from the requirement to provide financial assurance." (i.e., for closure).

Ghous



March 3, 2005

**THE CITY OF KEY WEST**

P. O. BOX 1409  
KEY WEST, FLORIDA 33041-1409  
www.keywestcity.com

Mr. Phil Barbacia  
FDEP Ft. Meyers  
2295 Victoria Avenue  
Ft. Meyers, Florida 33902

RECEIVED

MAR 10 2005

D.E.P. - SOUTH DISTRICT

Re: Southernmost **Waste to Energy Facility**  
Permit No. **0870047-001 AV**  
**0127929-002-SO/09**

Dear Mr. Barbacia:

The City of Key West (City) submitted a Final Control Plan for the Southernmost Waste-to-Energy Facility (SWTE) to the FDEP on September 26, 2001. The compliance date requested submitted was March 1, 2004. We have since sent a letter to the FDEP dated September 17, 2002 to request a change of the final compliance date to October 30, 2005. The reasons for that request are outlined in the September 17<sup>th</sup> letter.

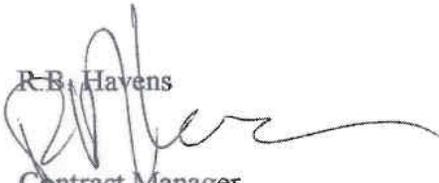
At the January 14, 2004 City Commission meeting, a resolution was passed requiring the closure of the facility in favor of a transfer station operation. Due to this decision, the City decided to modify its Final Control Plan.

The Title V permit that the facility currently operated under was due to expire May 13, 2004. The City did not submit an application for renewal and surrendered the Title V permit to the department. The City has been operating the facility as a Class I transfer station since April 6, 2004 when the combustion process was shut down.

As per our phone conversation on February 25, 2005 and in accordance with Rule 62-701.630, the City will not be storing waste at the transfer station for more than seven days at any given time and is therefore exempt from the requirement to provide financial assurance.

The City would like to thank the department for its understanding and cooperation in this matter. Please contact my office if you have any questions or need any further information.

R.B. Havens



Contract Manager  
Utilities Department  
(305) 293-6410  
[rbhaven@keywestcity.com](mailto:rbhaven@keywestcity.com)

cc: Ghaus Minhaj, FDEP Fort Meyers  
Jim Edds, FDEP Marathon  
E. David Fernandez, Utilities Director  
File

**Exhibit 4**  
**Consent Order OGC No. 09-0114-44-SW**



# Florida Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

March 5, 2009

CERTIFIED MAIL NO. 7008 0500 0000 7775 6905  
RETURN RECEIPT REQUESTED



Gary Bowman, Director of General Services  
City of Key West  
525 Angela Street  
Key West, Florida 33040

Re: Monroe County - SW  
OGC No. 09-0114-44-SW  
WACS ID No. 79637  
5701 College Road, Stock Island

Dear Mr. Bowman:

Attached is the signed and entered Consent Order to resolve the above-referenced case. This copy is for your records. Please note that all compliance dates begin from the date of entry of this Order, which is on the last page of this Consent Order.

Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

If you have any questions, please contact **Barbara Nevins or Ed Russell at (305) 289-2310**. Your cooperation in this matter is appreciated.

Sincerely,

---

Jon M. Iglehart  
Director of District Management

Attachment  
JMI/BK/JAL/rcd

cc: Lea Crandall, OGC  
Barbara Nevins, FDEP



# Florida Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

February 16, 2009

CERTIFIED MAIL NO. 7008 0150 0003 1456 9069  
RETURN RECEIPT REQUESTED

Gary Bowman, Director of General Services  
City of Key West  
525 Angela Street  
Key West, Florida 33040

Re: Monroe County - SW  
OGC File No. 09-0114-44-SW  
5701 College Road, Stock Island

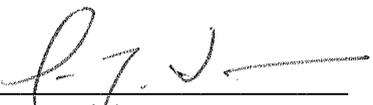
Dear Mr. Bowman:

Attached is the final copy of Consent Order OGC Case No. 09-0114-44-SW to resolve violations on your property.

Please sign the original and return it to this office within twenty (20) days of receipt of the Consent Order. After it has been executed by the Department ("DEP"), a copy will be returned to you. If you do not sign and return this Consent Order to this office within the specified time frame, the case will be referred to our Office of General Counsel. A recommendation will be made that further enforcement action be taken against you. Please return this entire document, including attachments, to the Department. A complete copy of this document will be forwarded to you upon execution of the Order.

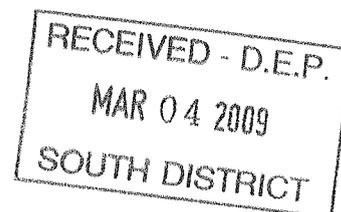
If you have any questions, please contact **Barbara Nevins at (305) 289-2310** or **Bill Krumbholz at (239) 332-6975**. Your cooperation in this matter is appreciated.

Sincerely,

  
\_\_\_\_\_  
Jon M. Iglehart  
Director of District Management

Attachment  
JMI/BN/BK/rcd

cc: Barbara Nevins, FDEP





# Florida Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

## BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE  
SOUTH DISTRICT

Complainant,

OGC FILE NO. 09-0114-44-SW

vs.

City of Key West,

Respondent.

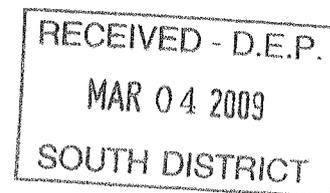
\_\_\_\_\_ /

### CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and the City of Key West ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of Chapter 403, Florida Statutes, and the rules promulgated thereunder, Title 62, Florida Administrative Code (F.A.C). The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section 403.031(5), Florida Statutes.



3. Respondent is the owner and operator of a solid waste transfer station facility ("facility"), known as Southernmost Waste to Energy (SWTE). The facility is located at 5701 College Road, Stock Island. Respondent operates the facility under Department permit No. 0127929-002-SO/09 which expires February 12, 2009.

4. Respondent has started construction of a new transfer station at another location to replace the facility. Completion of the new transfer station and abandonment of the facility will occur after the facility permit expires. During a meeting with the Department on January 15, 2009, Respondent agreed to enter into a Consent Order which would allow operation of the facility after the permit expires, for a limited time.

5. The Department finds that the following violations occurred:

6. ~~During an inspection of the facility on December 12, 2008, Department~~ staff observed that the leachate collection grates at both the Waste to Energy and the Ash Building tipping sheds were plugged with dirt and debris impeding leachate collection. Florida Administrative Code (F.A.C.) Rule 62-701.710(4)(b) requires all drains and leachate conveyances to be kept clean so that leachate flow is not impeded. Review of the facility file revealed that Respondent was previously notified of a similar finding by a Department letter dated July 20, 2007.

7. During the meeting referenced in Paragraph 4, above, Respondent provided the Department with photographs showing that the subject leachate grates and collection system drains were cleaned following the December 12, 2008, inspection.

Furthermore, Respondent provided a policy established for future maintenance of the leachate collection system to prevent a recurrence of the violation.

8. Having reached a resolution of the matters the Department and the Respondent mutually agree and it is,

ORDERED:

9. Respondent shall comply with the following corrective actions within the stated time periods:

a. The leachate collection systems for both tipping sheds shall be maintained to function as intended, including but not limited to maintenance of the grates and drains.

b. As soon as possible and no later than 180 days from the effective date of this order, Respondent shall cease receiving waste at the facility.

c. No more than 30 days after the last waste is received, facility closure shall be completed and the Department shall be notified in writing.

10. This Consent Order will be Respondent's authorization to operate the facility, for 180 days from the effective date of the Order. This authorization to operate shall continue until such time as the Respondent closes the facility or until 180 days from the effective date of this Order, whichever occurs first. During this authorization Respondent shall comply with all applicable rules in the Florida Administrative Code Chapter 62-701 and all requirements of this Order. If this authorization to operate the facility expires and no permit to operate the facility has been issued by the Department, then the facility shall cease receiving waste, and within 30 days of expiration of this

Order Respondent shall remove and properly dispose of all solid waste from the facility. Respondent shall operate the facility in compliance with the following Specific

Conditions:

- (a) The facility is allowed to receive and process Class 1 and Class III waste.
- (b) Waste shall be managed on a first in/first out basis and shall not be stored for more than seven days.
- (c) Waste shall be processed within the Waste to Energy and Ash Building tipping sheds. Yard trash, metals, and recyclable materials shall be stored in those locations shown on the facility plans previously approved by the Department as part of the most recent permit application.
- (d) Sign(s) indicating facility name, operating authority, hours of operation, and other pertinent information shall be posted at the entrance to the facility. A sign indicating the facility's functions.
- (e) Access to the facility shall be controlled during the active life of the facility by fencing or other effective barriers to prevent illegal dumping.
- (f) Reasonable precautions pursuant to F.A.C. Rule 62-296.320(4)(c) shall be taken to control fugitive particulate at the site from any activity including truck loading and unloading, truck traffic, and all material processing.

- (g) The leachate control system shall be properly maintained to prevent the discharge of leachate and mixing of leachate with stormwater and to minimize the presence of standing water.
- (h) At least one trained operator shall be present at the facility whenever the facility is operating.
- (i) At least one trained operator or trained spotter shall be on duty at each tipping area to inspect the incoming waste at all times when waste is being received to detect unauthorized waste. All unauthorized waste that can be identified on the hauler's vehicles prior to tipping shall not be unloaded at the site. An equipment operator who has been trained as a spotter can serve as spotter. Waste must also be inspected after it is removed from the transport vehicle and prior to placement for recycling.
- (j) Training of operator(s) and of spotter(s) shall be in accordance with F.A.C. Rule 62-701.320(15).
- (k) Any unauthorized non-hazardous waste that is identified after tipping shall be reloaded on haulers' vehicles or shall be removed from the waste stream and placed into appropriate containers or secure areas for recycling or disposal at a facility authorized by the Department to receive such waste.
- (l) If any hazardous waste is identified before or after unloading, the operator shall notify the Department before

moving/redirecting/rejecting/reloading the waste and follow the instructions from the Department. The operator, whenever possible, shall record the name of the person responsible for shipping the waste to the facility, the generator of the waste, and particulars of transport vehicle. The area where the waste is unloaded shall immediately be cordoned off from public access. If the generator or hauler cannot be identified, the facility operator is responsible for cleanup, transportation, and disposal of the waste at a permitted hazardous waste management facility.

- (m) The facility shall be operated to control off-site objectionable odors in accordance with the methods described in the Operation Plan in compliance with F.A.C. Rule 62-701.710(4)(d).
- (n) A litter policing operation shall be employed to keep litter from leaving the working area of the facility. Litter outside the working area, but within the site boundaries, shall be picked up within 24 hours.
- (o) Non-recyclable materials shall not be disposed of in a Construction and Demolition Debris Disposal facility but in a Class I or Class III Landfill, as appropriate.
- (p) Fuels, solvents, lubricants, and other maintenance materials shall be stored in secure areas separate from sorting areas.
- (q) Adequate fire protection shall be available at all times.

- (r) **STORMWATER MANAGEMENT:** Stormwater management system shall be operated and maintained as necessary, in accordance with the Submerged Lands and Environmental Resource Program, Environmental Resource Permit (ERP) No. 44-0187860-002, to meet applicable standards of PART IV Chapter 373, Florida Statute (F.S.) and F.A.C. Chapter 62-302.
- (s) The owner or operator of the facility shall submit an annual report, as required by F.A.C. Rule 62-701.710(9)(b), to the Department's main office in Tallahassee on Form 62-701.900(7). The annual report for calendar year 2008 shall be submitted no later than April 1, 2009. Following facility closure an Annual Report shall be submitted no later than 30 days after all waste is removed from the facility and shall cover the period from January 1, 2009 through facility final closure date. These reports shall include a summary of the amounts and types of waste disposed of or recycled. The county of origin of materials, which are recycled, or a statement the county of origin is unknown, shall be included in the report. The Department's District office in Fort Myers shall receive a copy of the report.
- (t) Quarterly reports summarizing the amounts and types of waste disposed or recycled shall be submitted no later than the last day of the month following each calendar year quarter. These reports shall be submitted to the Department's District office and a copy submitted to

the Department's Marathon Branch office at 2796 Overseas Highway, Suite 221, Marathon, Florida 33050.

- (u) CLOSURE: At least **180 days from the effective date of this Order** wastes will no longer be accepted and the Respondent shall provide written notice to the Department. Closure of the facility must be completed within 30 days **after** receiving the final waste shipment. Closure will include removal of all waste and recovered materials from the site. When closure is completed, the Respondent shall certify in writing that the closure is complete.
- (v) All records and data relating to the physical operation of the facility shall be made available for inspection by the Department staff. The facility shall be open for inspection by Department employees during normal hours of operation.

The above Specific conditions and this Order do not exempt the Respondent from complying with requirements of other federal, state, municipal, county or regional pollution control rules, regulations, ordinances or codes.

11. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$4,500 in settlement of the matters addressed in this Consent Order. This amount includes \$500 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The civil penalties are apportioned as follows:

\$4,000 for violation of Rule 62-701.710(4)(b). Payment shall be made by cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund".

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$250.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 9 through 11 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". Payment shall be sent to the Department of Environmental Protection, Department of Environmental Protection, Post Office Box 2549, Fort Myers, Florida 33902. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 11 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be

foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

13. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances.

Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

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

The petition shall contain the following information:

- (a) The Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;

- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) A statement of all material facts disputed by petitioner, if any;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at

the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;

- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without

settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

15. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

16. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

17. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation and criminal penalties.

18. Respondent shall allow all authorized representatives of the Department access to the property and facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

19. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, Department of Environmental Protection, Post Office Box 2549, Fort Myers, Florida 33902.

20. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order, including but not limited to undisclosed releases, contamination or polluting conditions.

21. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

22. In the event of a sale or conveyance of the facility or of the property upon which the facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the facility, or the property upon which the facility is located shall not relieve the Respondent of the obligations imposed in this Consent Order.

23. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

24. Respondent shall use all reasonable efforts to obtain any necessary access for work to be performed in the implementation of this Consent Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within (5) business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Consent Order. The Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorneys fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access as is necessary to implement the terms of this Consent Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

25. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

**FOR THE RESPONDENTS:**

I, Gary Bowman on behalf of City of Key West, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: 

Date: 2-24-09

.....  
**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this 5<sup>th</sup> day of March  
~~February~~, 2009.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
Jon M. Iglehart  
Director of District Management

**FILING AND ACKNOWLEDGEMENT FILED** on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

  
\_\_\_\_\_  
Clerk

3/5/2009  
\_\_\_\_\_  
Date

Attachments  
JMI/BK/rcd

Copies furnished to:  
Lea Crandall, Agency Clerk  
Mail Station 35

**Exhibit 5**  
**Acknowledgement from FDEP that OGC No. 09-0114-44-SW Remained  
in Effect through SWEF Closure**



Jay Gewin  
Utilities Manager

(305) 809-3902  
FAX 809-3739  
jgewin@keywestcity.com

The City of Key West  
525 Angela St.  
Key West, FL 33040

December 8 2009

Ghous Minaj  
Florida Dept. of Environmental Protection  
South District Office  
PO Box 2549  
Ft. Myers, FL 33902-2549

Re: Closure of Southernmost Waste to Energy Transfer Station

Dear Mr. Minaj,

In accordance with Florida Administrative Code (F.A.C.) Section 62-701.710(6), this letter shall serve as the City of Key West's official notification to the Florida Department of Environmental Protection that the Southernmost Waste to Energy Transfer Station on College Road is officially closed and all solid waste and recycled materials have been removed from the site.

The City's new transfer station on Rockland Key opened on August 18<sup>th</sup>, 2009. The last day solid waste was accepted at the Southernmost Waste to Energy Transfer Station was August 22, 2009. All solid waste and recycled materials were removed from the College Road site by August 31, 2009.

If you have any additional comments, feel free to reach me at 305-809-3902 or via e-mail at [jgewin@keywestcity.com](mailto:jgewin@keywestcity.com)

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Gewin", is written over a faint, large watermark of the state of Florida.

Jay Gewin  
Utilities Manager

Cc: Barbara Nevins, FDEP-Marathon

**Exhibit 6**  
**FDEP Letter Acknowledging Closure of the SWEF**



# Florida Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, FL 33902-2549

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary



January 4, 2010

CERTIFIED MAIL NO. 7008 0500 0000 7774 1789  
RETURN RECEIPT REQUESTED

The City of Key West  
c/o Jay Gewin, Utilities Manager  
525 Angela Street  
Key West, Florida 33040

Re: Monroe County – SW  
Southernmost Waste to Energy Transfer Station  
Permit No. 0127929-002-SO/09, WACS ID No. 79636  
Consent Order No. 09-0114-44-SW  
Final Closure of Transfer Station

Dear Mr. Gewin:

The Department is in receipt of your letter, dated December 8, 2009 and received by the Department on December 30, 2009, notifying official final closure of the Southernmost Waste to Energy Transfer Station. The Department had conducted an inspection of the facility on September 24, 2009 to verify the closure.

The City of Key West is hereby advised that the Southernmost Waste to Energy Transfer Station is finally closed.

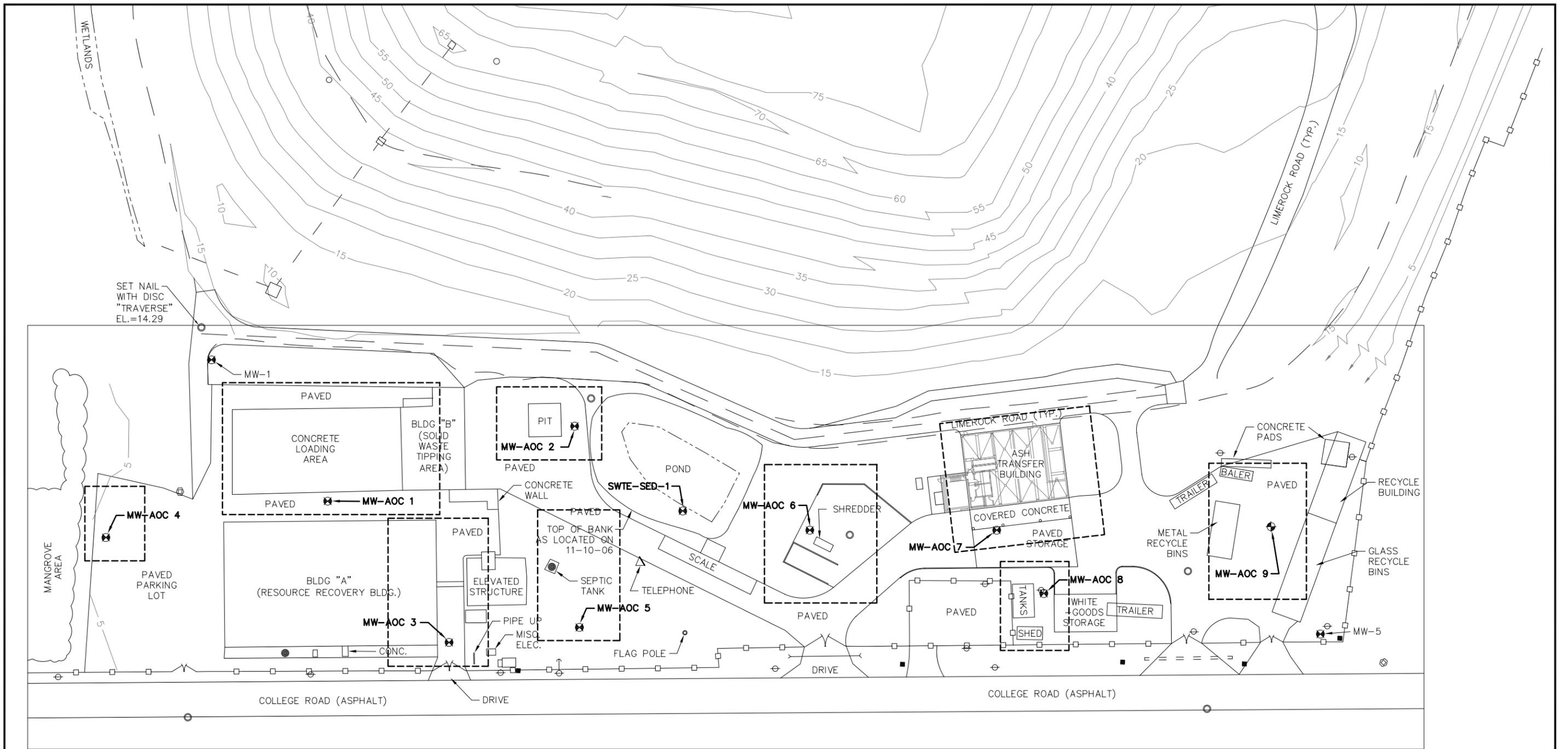
Should you need further information, please call Ghous Minhaj, Solid Waste Permitting Engineer, at (239) 332-6975, extension 185.

Sincerely,

Charles Emery III  
Environmental Administrator

E-mailed to: The Honorable Craig Cates, ccates@keywestcity.com  
Ed Russell, DEP Marathon, edward.russell@dep.state.fl.us  
Barbara Nevins, DEP Marathon, barbara.nevins@dep.state.fl.us  
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Frank Nemec, DEP Fort Myers, frank.nemec@dep.state.fl.us  
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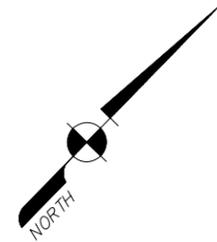
**Exhibit 7**  
**Location of Areas of Concern (AOCs)**



SET NAIL WITH DISC "TRAVERSE" EL.=14.29

LEGEND	
	WOOD UTILITY POLE
	CONCRETE UTILITY POLE
	MONITORING WELL
	MEASURED ELEVATION
	AOC IDENTIFICATION
	BENCH MARK
	FENCE LINE
	EXIST. MAINTENANCE RD.
	POWER OR SERVICE POLE
	CONTOURS

NOTE:  
EXISTING TOPO DATA TAKEN FROM SURVEY COMPLETED (JUNE 1992) BY CH2M HILL AND AVIROM & ASSOCIATES (OCTOBER 2006).

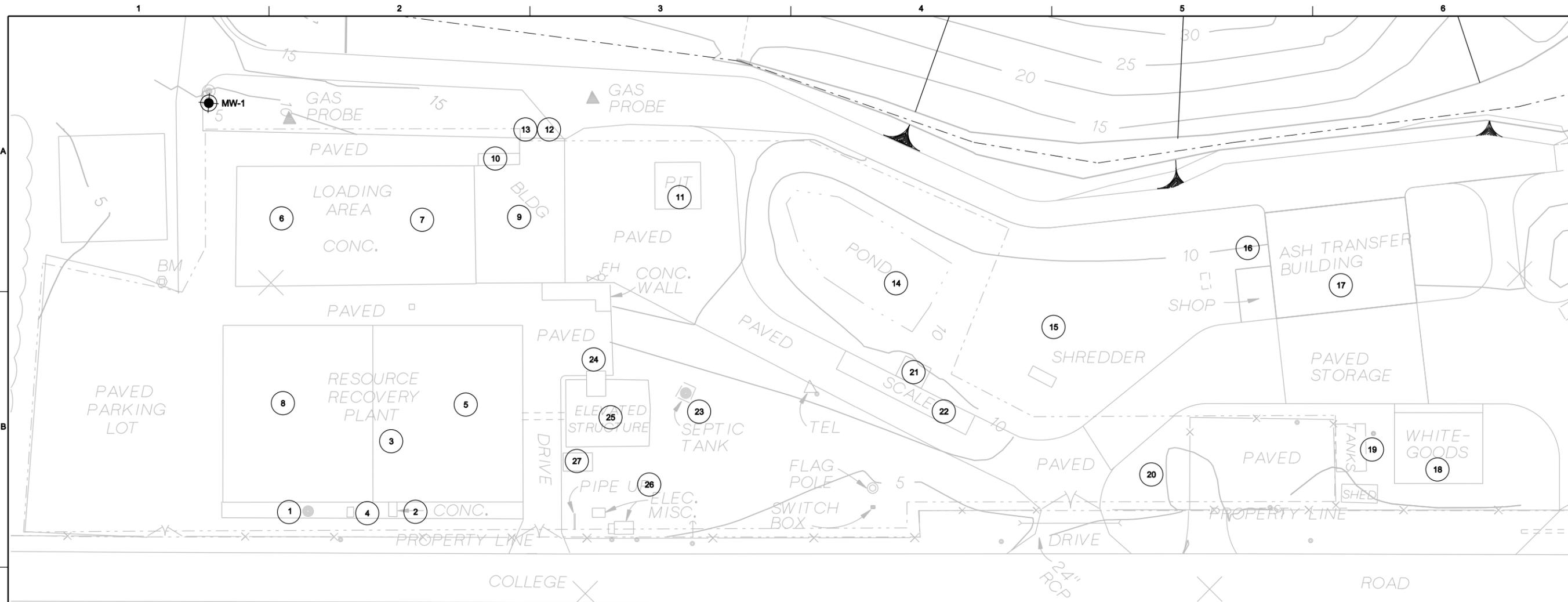


**CH2MHILL**  
9428 BAYMEADOWS RD SUITE 300  
JACKSONVILLE, FLORIDA 32256

SITE PLAN WITH IDENTIFIED AOC'S  
OCTOBER 2006  
SWTE, KEY WEST, FLORIDA

FIGURE  
1-1

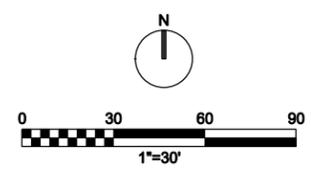
**Exhibit 8**  
**Demolition Site Plan**



**LEGEND**

- |  |                                |
|--|--------------------------------|
| 1 BURIED CISTERN TANK (30' x 10' x 6')                                     | 18 CONCRETE STORAGE W/ 3 WALLS |
| 2 REJECT RO TANK (8' x 8' x 6')  | 19 ABOVE GROUND FUEL TANK      |
| 3 CONCRETE MASONRY UNIT WALL (SEPARATING BUILDING)                         | 20 CONCRETE SLAB               |
| 4 ABOVE GROUND FUEL TANK AND CONDENSER                                     | 21 SCALE HOUSE                 |
| 5 EQUIPMENT: TREATED WATER TANK, TURBINE UNIT, ELECTRICAL GEAR, GENERATORS | 22 IN-GROUND TRUCK SCALE       |
| 6 CONCRETE BASE FOR INCINERATOR STACKS (4' TO 5' THICK)                    | 23 SEPTIC TANK AND LEACH FIELD |
| 7 CONCRETE PAD FOR INCINERATORS  | 24 CONCRETE PAD (2' THICK)     |
| 8 RESOURCE RECOVERY PLANT - PRE-ENGINEERED BUILDING                        | 25 ELEVATED CONDENSERS         |
| 9 CONCRETE AND PRE-ENGINEERED BUILDING W/OVERHEAD CRANES                   | 26 FIRE PUMP HOUSE             |
| 10 CONCRETE DRIVEWAY RAMP (1' THICK)                                       | 27 STORAGE BUILDING            |
| 11 BURIED CONCRETE TANK W/O TOP (12' DEEP W/16" WALLS)                     |                                |
| 12 STORMWATER TANK   |                                |
| 13 USED OIL TANK   |                                |
| 14 POND, PARTIALLY FILLED  |                                |
| 15 CONCRETE STORAGE W/ 3 WALLS   |                                |
| 16 TWO BURIED 5,000 GALLON TANKS   |                                |
| 17 ASH BUILDING - PRE-ENGINEERED BUILDING                                  |                                |

- NOTES:**
1. GAS PROBES TO REMAIN
  2. MW-1 TO REMAIN
  3. ALL ASPHALT TO BE REMOVED



NO.	DATE	REVISION	CHK	APVD	BY	APVD

3011 S.W. WILLISTON ROAD  
 GAINESVILLE, FLORIDA 32608  
 EB9000072 AAC001882

CITY OF KEY WEST  
 STOCK ISLAND LANDFILL AND  
 PUBLIC TRANSPORTATION FACILITY  
 KEY WEST, FL

**CH2MHILL**

CIVIL

**DEMOLITION SITE PLAN**

DATE	OCTOBER 2009
PROJ	393273
DWG	EXHIBIT 8
SHEET	

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