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ENVIRONMENTAL
HEALTH

December 22, 2015

Elizabeth Pozzebon, Director
San Diego Local Enforcement Agency
5500 Overland Drive, Suite 110
San Diego, CA 92123

Re: Request For Hearing -- Solid Waste Facility Permit 37-AA-0032

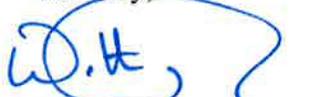
Dear Ms. Pozzebon:

Pursuant to Public Resources Code Sections 44307 and 44310(a)(1)(B), on behalf of our client, the Pala Band of Mission Indians, we hereby request that the San Diego County Local Enforcement Agency ("LEA") schedule a hearing before the San Diego County Solid Waste Hearing Panel to review the LEA's decision that (1) the solid waste facility permit ("SWFP") for the proposed Gregory Canyon landfill identified above does not require compliance with Conditions 17(i), 17(m), 17(n) and 17(o) of the SWFP prior to the removal/demolition of buildings and other facilities on the landfill property and that (2) the LEA has no authority to regulate activities on all of the 1783 acres identified in the "Description of Facility" in Block 12 of the SWFP. The LEA's position on these issues was provided in an e-mail from the LEA's counsel that is Exhibit A to the Statement of Issues enclosed with this request for Hearing.

State law requires that the LEA provide us with written notice of the date, time, and place of the hearing within 15 days of this request and that the hearing be held within 30 days of this request. Given that it is the end of the year and a holiday season, we are willing to waive those requirements and grant the LEA 30 days to schedule the hearing and for the hearing to be held within 30 days after the expiration of that 30-day period.

Thank you for your attention to this matter.

Sincerely,



Walter E. Rusinek

Enclosure

cc: Robert H. Smith, Chairman, Pala Band of Mission Indians

Ms. Elizabeth Pozzebon
December 22, 2015
Page 2

Ms. Shasta Gaughen, Director, Pala Environmental Services
Mr. Scott Smithline, Director, CalRecycle
Mr. David Gibson, Executive Officer, San Diego Regional Water Quality Control Board
Ms. Maureen Stapelton, General Manager, San Diego County Water Authority
Mr. Jim Wood, Mayor, City of Oceanside
Board of Directors, San Luis Rey Municipal Water District
Damon Nagami, Esq., Natural Resources Defense Council
Everett L. DeLano III, Esq., Counsel for RiverWatch

**STATEMENT OF THE ISSUES AS SUBMITTED BY THE PALA BAND OF
MISSION INDIANS CONCERNING THE LEA’S ENFORCEMENT OF THE
SOLID WASTE FACILITY PERMIT FOR THE PROPOSED GREGORY
CANYON LANDFILL**

Pursuant to Public Resources Code Sections 44310(a)(1) and 44307, the Pala Band of Mission Indians provides the following Statement of Issues challenging the interpretation of certain provisions of the solid waste facilities permit for the proposed Gregory Canyon Landfill (“Permit”) by the San Diego County Solid Waste Local Enforcement Agency (“LEA”). Specifically, the Pala Band challenges the LEA’s position reflected in the e-mail from the LEA’s legal counsel attached as Exhibit A that: (1) the Permit does not require that the permittee comply with Conditions 17(i), 17(m), 17(n) and 17(o) prior to beginning the removal/demolition of buildings and facilities on the property for the proposed landfill and that (2) the LEA has no authority to regulate activities on all 1783 acres of the proposed landfill property even though those 1783 acres are identified as the “facility” in the “Description of Facility” in Block 12 of the Permit.

I. The Permit and the Documents Supporting the Permit Define the Term “Construction” to Include the Demolition of Existing Buildings and Facilities

The Permit for the proposed landfill (No. 37-AA-0032), which is attached to the e-mail attached as Exhibit A, includes a number of Findings and Conditions that describe and define the requirements of the Permit and the terms used in the Permit. For example, Finding 13(c) states that the LEA has reviewed and considered information contained in the documents listed in that Finding. The documents listed in Finding 13(c) were prepared under the California Environmental Quality Act (“CEQA”) and include the 2002 Final Environmental Impact Report (“FEIR”), the Revised FEIR, and the three Addenda issued after that. Finding 13(c) states that the LEA has determined that the Permit “is consistent with and supported by” the FEIR and the other listed CEQA documents.

Block 15 of the Permit confirms the importance of the CEQA documents to the scope and meaning of the Permit. Block 15 states that, in addition to the Permit, the documents listed “describe the operation of this facility.” Again, the FEIR and the other CEQA documents mentioned in the Findings are listed in Block 15.

The Permit “Conditions” in Block 17 contain specific requirements for the permittee. For example, Condition 17(g) states that the “operator shall comply with all Mitigation Measures contained in the Mitigation Monitoring and Reporting Program (MMRP) and all other mitigation measures” that are found in the CEQA documents and incorporated by reference into the Permit.

At issue here are those “Conditions” in Block 17 of the Permit that require that the permittee take certain actions before beginning construction or operation of the proposed landfill. The relevant provisions for this Request state the following, with emphasis added:

Condition 17(i): “Prior to commencement of landfill construction the owner/operator shall commit to participation in a Community Facility District or a Developer Agreement to address fire service.”

Condition 17(m): “The owner/operator shall reach a contractual agreement with the County Water Authority (CWA) concerning pipeline protection or relocation prior to the start of construction. For purposes of the required agreement with the CWA, relevant construction includes construction of the bridge over the San Luis Rey River.”

Condition 17(n): “The operator shall offer to implement noise mitigation measures at residences located along SR 76 . . . in writing just prior to the commencement of construction”

Condition 17(o): “Prior to commencement of landfill construction, the operator shall provide the LEA a copy of the insurance policy it obtains to satisfy the insurance requirements contained in Section 9 of the First Supplement to the Water Supply

Mitigation Agreement between the owner/operator and the San Luis Rey Municipal Water District.”

In a November 20, 2015, e-mail to the LEA and other regulatory agencies, which is included as Exhibit B, the Pala Band raised concerns about potential removal/demolition activities on the proposed landfill property and the fact that compliance with the Conditions of the Permit listed above was required before any such removal/demolition activities could take place. Included as attachments to that e-mail were two pages from the FEIR, a page from the Stormwater Pollution Prevention Plan (“SWPPP”), and one page from the draft environmental impact statement (“DEIS”) for the proposed landfill. All of those documents defined the term “initial construction phase” as including the “removal of existing dairy buildings and residences on the site” as well as the “construction of the access road and bridge” and other activities. All of these documents had been prepared by the permittee or its predecessor and had been accepted by the LEA and other regulatory agencies. Here is what the documents provided with the Pala Band’s November 20, 2015, e-mail state:

- From Section 3.3.1 of the FEIR: “Several activities, which are considered the initial construction phase, are necessary to prepare the site and the landfill for operation. The initial construction of the project includes: Removal of the existing dairy buildings and residences on the site.”
- From Page 4.1-3 of the FEIR: “Twenty-five residences associated with the two dairies exist on site.”
- From Page 3-37 of the DEIS: “Several activities, which are considered the initial construction phase, are necessary to prepare the site and the landfill for operation. The initial construction of the Applicant’s Proposed Alternative includes: Removal of the existing unoccupied dairy buildings and residences on the site.”

- From Section 3.4.1 of the SWPPP: “The initial construction period for Phase I will be approximately eighteen months in duration and will include the following: Removal of the existing dairy buildings and residences on the site.”

Although the quoted language from each of these documents clearly identifies the demolition/removal of the numerous buildings (25 or more) on the property as an integral part of the initial phase of construction of the proposed landfill, the LEA ignored that clear language in its response. In an e-mail dated November 25, 2015, counsel for the LEA responded to the Pala band’s e-mail by stating that “[n]otwithstanding the language in the secondary documents that you cite, the LEA does not consider the demolition of the old buildings on the larger property to constitute ‘commencement of landfill construction.’” But the language speaks for itself, notwithstanding the LEA counsel’s tortured interpretation of these clear statements.

In addition, as shown in the documents attached as Exhibit C, the Revised CEQA Findings (with attachments) approved by the Director of the LEA when the Permit was issued further confirm what the documents previously provided and discussed above show. Item 24 in Table 1 of the Revised CEQA Findings at page B-76 discusses the continued use of the on-site storage yard “for temporary storage of construction materials and equipment” as being a new activity that was not addressed in the FEIR. Item 24 is discussed more fully at page B-83 of the Revised CEQA Findings where the LEA states that the temporary storage yard “would be used during the initial construction of the landfill” and that the “[m]aterials and equipment to be placed at the temporary storage yard include concrete and asphalt excavated as part of the demolition of the existing dairy facilities” These statements confirm that the initial construction phase would include demolition/removal activities.

That conclusion is further supported by the language from the “Project Design Features” attached to the Findings. Specifically, the page in Exhibit C (Bates Stamp No.

000265) states under the heading “4.9 Biological Resources” that “[d]airy removal will occur as part of the initial construction phase”

This removal/demolition work is described further in the more-recent DEIS. As stated in the excerpts from the DEIS included in Exhibit D, “[c]oncrete removed as part of the demolition of the abandoned structures and dairy facilities would be crushed on site and stored” in the temporary storage yard described above. Our position is that the “crushing and/or storing” of materials generated by the removal/demolition of structures on the property for future use is – by definition - initial construction of the proposed landfill. Similarly, in discussing the potential hazards that could be generated by the existing structures, the DEIS confirms that the “existing structures would be demolished as part of landfill construction and therefore, would not pose risk to future site population through occupation.”

For all these reasons, there is no support for the LEA’s argument that the demolition/removal of the existing buildings/facilities on the site would not constitute “construction” under the Permit. The LEA cannot simply ignore the language of the CEQA documents that it and the permittee created. The LEA should confirm that the permittee must comply with Conditions 17(i), 17(m), and 17(o) before undertaking any construction work.

II. The SWFP Describes the “Facility” Subject to Regulation by the LEA as the Entire 1783 Acres

The November 25, 2015, e-mail from the LEA’s counsel also took the position that the LEA has no ability to regulate removal/demolition activities “for work or activities on the larger site property that are not directly related to the SWFP (including the MMRP) [Mitigation Monitoring and Reporting Plan].” But, Block 12 of the Permit, titled “Description of Facility,” identifies the “facility” by referring to “section B.1.3 and Figures 6 and 6A of the Joint Technical Document (JTD), dated September 2010, updated January 2011.”

Section B.1.3 of JTD referred to in Block 12 of the Permit simply states the following:

The proposed GCLF is located in northern San Diego County approximately three miles east of Interstate 15 (I-15) and two miles southwest of the community of Pala (Figure 6). The site is adjacent to SR 76, the San Luis Rey River and lies along the western slope of Gregory Mountain. The GCLF is located on SR 76, approximately 1300 feet east of the intersection of Couser Canyon Road and SR 76 in Pala, California 92059. The street address is 9708 Pala Road, Pala, California 92059. The GCLF property occupies portions of Sections 4 and 5 of Township 10 South and Sections 32 and 33 of Township 9 South, Range 2 West of USGS 7.5' Pala Quadrangle.

That very general description of the site includes all of the 1783-acre property identified in the CEQA documents as the landfill property. Similarly, Figures 6 and 6A of the JTD referred to in Block 12 of the Permit, especially Figure 6A, identify the entire 1783 acres as the “facility” under the Permit. Those two figures from the JTD are attached as Exhibit E.

CalRecycle rules state that a “Site Plan” in a JTD must identify the “facility boundary of the site (clearly illuminating parcels owned by the operator and/or any parcels leased), the total permitted acreage of the site, the acreage of the disposal area . . . the extent of any buffer zones between the disposal area and the permitted property boundaries provided by the facility lay out, and the vertical limits of the site.” (27 C.C.R. § 21600(b)(1)(B).) CalRecycle has issued guidance explaining how an LEA can comply with that rule when drafting the information required in Block 12 of a solid waste facility permit. (See Exhibit F). CalRecycle states on page 4 of that document that Block 12 of the SWFP should provide a “Legal Description of Facility-Site Boundaries” and that the “site boundary should include all areas that will be governed by the permit.” The CalRecycle guidance allows that the “boundaries may be described in parcels, as long as they are whole parcels.” If that is not possible, an “engineered survey” is required.

The Permit defines the facility “that will be governed by the permit” as the 1783 acres. Consequently, the position taken by the LEA in its November 25, 2015, e-mail that the SWFP does not include all 1783 acres and that the LEA cannot regulate the removal/demolition activities is simply wrong. If the area to be governed by the Permit is smaller than the 1783 acres identified in Block 12 of the Permit, the Permit must identify that area in accordance with CalRecycle rules and guidance.

III. Conclusion

The law and the facts described above clearly show that the LEA has taken positions at odds with the clear language of the Permit and that it has chosen not to act as required by law or regulation. The LEA should agree that it will require the permittee to comply with the Conditions 17(i), 17(m), 17(n) and 17(o) of the permit before any removal/demolition activities can occur on the site.

EXHIBIT A

Rusinek, Walter E.

From: Lorang, Rodney F <Rodney.Lorang@sdcounty.ca.gov>
Sent: Wednesday, November 25, 2015 10:37 AM
To: Rusinek, Walter E.
Cc: Serrano, Ricardo; Lafreniere, Rebecca; Forbis, Paula; Witt, William
Subject: RE: Activity on the Gregory Canyon property
Attachments: GCL Permit Highlighted.pdf

Mr. Rusinek,

Thank you for your email. Representatives of GCL, LLC (landowner) and Gregory Canyon, Ltd ("GCL") (SWFP holder) provided verbal courtesy notifications to the LEA and to County Counsel before GCL, LLC began the activity noted in your email. We agreed that the proposed removal of trash and overgrown vegetation, and filling a swimming pool that was being used by trespassing skateboarders, would not require any formal notice to the LEA or any LEA or County permit or approval. The LEA subsequently observed these activities during a routine monthly inspection on 11/17/15 and confirmed that no demolition had begun.

GCL, LLC representatives also told us that demolition of the old houses and dairy buildings is planned, but no schedule has been provided to the LEA. As you requested, the LEA will provide information to you regarding what work is proposed to be conducted on the site, the schedule for that work, and the approvals that have been received for that work soon after the LEA receives such information. However, the LEA does not have the authority to require GCL, LLC or GCL to provide notification and schedules to the LEA for work or activities on the larger site property that are not directly related to the SWFP (including the MMRP).

We have also been informed (verbally) that asbestos surveys are underway or have been completed to support future demolition work, and that the presence of some asbestos has been confirmed. GCL, LLC understands that permits are likely required through the County Planning and Development Services (PDS) for any demolition. GCL, LLC is also aware of APCD requirements related to the asbestos demolition NESHAP. Legal counsel for PDS and the APCD are copied on this response.

In response to the second part of your e-mail, the "LEA Conditions" in Block 17 of the face pages of the SWFP (highlighted copy of the SWFP attached) specify the triggers for the mitigation measures called out in your e-mail. Those measures are triggered "prior to commencement of operation" or "prior to commencement of landfill construction." Notwithstanding the language in secondary documents that you cite, the LEA does not consider the demolition of the old buildings on the larger property to constitute "commencement of landfill construction."

Mitigation measures outlined in the CEQA document will be implemented as specified in the Block 17 permit conditions. Where a triggering event is not specified, mitigation will be implemented prior to or concurrent with the action that has the potential to cause the impact to be mitigated.

Regards,
Rod Lorang

Rodney F. Lorang, Senior Deputy
Office of County Counsel
5570 Overland Avenue, Suite 102 (MS 0565)
San Diego, CA 92123
E-Mail: rodney.lorang@sdcounty.ca.gov
Phone: (858) 694-3204; Fax: (858) 571-4268

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From: Rusinek, Walter E. [mailto:walter.rusinek@procopio.com]

Sent: Friday, November 20, 2015 1:46 PM

To: Henderson, Jim; 'Shanti.A.Santulli@usace.army.mil'; Moore, Steve; Karen_goebel@fws.gov; Mike Porter (mporter@waterboards.ca.gov); Lorang, Rodney F; elizabeth.felix@calrecycle.ca.gov; lpurcell@sdewa.org; 'rmitchell@waterboards.ca.gov'

Cc: Shasta Gaughen (sgaughen@palatribe.com); Damon Nagami (dnagami@nrdc.org); Everett DeLano (everett@delanoanddelano.com)

Subject: Activity on the Gregory Canyon property

Attached are some pictures taken today from SR 76 showing that construction fencing has been installed near old residences and dairy buildings on the proposed landfill property. At this time, it appears that vegetation removal is occurring on the property.

This e-mail is to alert you of this activity and to request information on (1) the scope of the work proposed to be done at the site, and (2) the permits that have been issued approving the work. The extent of the vegetation removal is unknown and, in the past, the former owners posted signs indicating that demolition of buildings on the property was to begin. It also is not clear if demolition work is included in the scope of the intended work.

If demolition is to occur, certain permits most likely would be required from the County and other agencies. In addition, as you are aware, the 2011 solid waste facility permit requires that "prior to commencement of landfill construction" the owner/operator must (1) commit to participation in a Community Facility District or a Developer Agreement to address fire service; (2) reach a contractual agreement with the County Water Authority concerning pipeline protection or relocation; and (3) provide the LEA with a copy of the insurance policy required under the agreement with the San Luis Rey Municipal Water District. As the attachment to the e-mail indicates, the DEIS, FEIR and the SWPPP (among other documents) clearly identify the removal of dairy buildings and residences on the site as being part of the "initial construction phase" for the project. Consequently, those permit conditions also would need to be satisfied before any such construction work could commence.

Because we have no information on what work is proposed to be conducted, we request that information be provided to us regarding what work is proposed to be conducted on the site, the schedule for that work, and the approvals that have been received for that work.

Thank you.

Walter E. Rusinek

Senior Counsel

 **Procopio**

Procopio, Cory, Hargreaves & Savitch LLP

525 B Street, Suite 2200

San Diego, CA 92101

direct dial: (619) 525-3812

SOLID WASTE FACILITY PERMIT

1. Facility/Permit Number:

37-AA-0032

2. Name and Street Address of Facility:

**Gregory Canyon Landfill
9708 Pala Road
Pala, CA 92059**

3. Name and Mailing Address of Operator:

**Gregory Canyon Limited
160 Industrial Street, Ste 200
San Marcos, CA 92078
760-471-2365**

4. Name and Address of Owner:

**Gregory Canyon Limited
160 Industrial Street, Ste 200
San Marcos, CA 92078
760-471-2365**

5. Specifications:

a. Permitted Operation:

Solid Waste Landfill

b. Permitted Days and Hours of Waste Receipt:

**Monday - Friday, 7:00 am to 6:00pm
Saturday, 8:00 am to 5:00 pm**

c. Maximum Permitted Tonnages:

**5,000 tons per day
1,000,000 tons per year**

d. Maximum Permitted Traffic Volume:

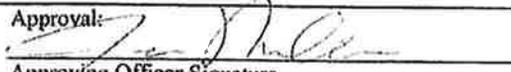
675 vehicle arrivals per day

e. Key Design Parameters:

Total Permitted Site	308 Acres
Permitted Disposal Area	183 Acres
Remaining Capacity	57,000,000 Cubic Yards
Max. Height (MSL)	1,100 Feet
Max. Depth (MSL)	380 Feet
Estimated Closure Date	December 2040

Upon significant change in design or operation from that described herein, this permit is subject to revocation or suspension. The attached permit findings and conditions are integral parts of this permit.

6. Approval:


 Approving Officer Signature
JACK MILLER, Director
 Name/Title

7. Enforcement Agency Name and Address:

**San Diego County
Department of Environmental Health
5500 Overland Ave, Ste 110
San Diego, CA 92123**

8. Received by CalRecycle:

MAY 16 2011

9. CalRecycle Concurrence Date:

JUL 15 2011

10. Permit Review Due Date:

AUG 1, 2016

11. Permit Issued Date:

AUG 1, 2011

12. Description of Facility:

Assessor Parcel Numbers and Legal Description: Refer to section B.1.3 and Figures 6 and 6A of the Joint Technical Document (JTD), dated September 2010, updated January 2011.

SOLID WASTE FACILITY PERMIT

1. Facility/Permit Number:

37-AA-0032**13. Findings:**

- a) This permit is consistent with standards adopted by the Department of Resources Recycling and Recovery (CalRecycle), (Public Resources Code, Section 44010.)
- b) Pursuant to Public Resources Code §50001 (a)(1), this facility is a solid waste disposal facility identified and described on pages SE 44 – SE 46 in the county-wide siting element, which has been approved pursuant to Public Resources Code § 41721. (The 2005 5 Year Revision of the Countywide Integrated Waste Management Plan (CIWMP) was approved by the California Integrated Waste Management Board on September 20-21, 2005). A five year Review Report of the CIWMP was completed on March 23, 2011.
- c) The LEA has reviewed and considered the information, including the environmental effects of issuing this Solid Waste Facility Permit (SWFP) and finds the SWFP is consistent with and supported by the 2002 Final Environmental Impact Report (SCH#1995061007) , 2007 Revised Final Environmental Impact Report, 2008 Water Supply Addendum, 2009 Additional Sources of Water Addendum, and 2010 United States Army Corps of Engineers updated jurisdictional determination Addendum.
- d) The LEA has determined that the design and planned operation of the facility is in compliance with the State Minimum Standards for Solid Waste Handling and Disposal, based on a review of the updated January 2011 Joint Technical Document.
- e) Facility shall be maintained in compliance with the flammable clearance provisions of Chapter 5, commencing with Section 4371, of Part 2 of Division 4 as enforced by the San Diego County Fire Authority. (PRC Section 44151).

14. Prohibitions:

The permittee is prohibited from accepting any liquid waste that is less than 50% solid by weight, designated waste, or hazardous waste unless such waste is specifically listed below, and unless the acceptance of such waste is authorized by all applicable permits:

Decontaminated bio-hazardous wastes, dead animals, altered waste tires, agricultural wastes, industrial waste, sewage sludge, and construction/demolition and inert debris (as specified in conditions contained in the most current Waste Discharge Requirements).

15. In addition to the terms of this SWFP, the following documents describe the operation of this facility:

	Date		Date
Joint Technical Document	<u>January 2011</u>	Waste Discharge Requirements	<u>pending</u>
Preliminary Closure/Post Closure Plan	<u>January 2011</u>	Operating Liability	<u>June 2010</u>
Final Environmental Impact Report (SCH #1995061007)	<u>December 2002</u>	Closure Financial Assurance	<u>October 2010</u>
Revised Final Environmental Impact Report	<u>March 2007</u>		
Addendums (3)	<u>July 2008</u> <u>December 2009</u> <u>May 2010</u>		

16. Self Monitoring:

Results of all self-monitoring programs will be reported as follows:

SOLID WASTE FACILITY PERMIT

1. Facility/Permit Number:

37-AA-0032

Program	Reporting Frequency	Agency Reported To
TONNAGE RECORDS: The operator shall maintain, and keep current, all records used to determine daily tonnage.	QUARTERLY	LEA
TRAFFIC RECORDS: The operator shall maintain, and keep current, a daily record of all vehicles using the facility.	QUARTERLY	LEA
REMAINING CAPACITY: The operator shall prepare and submit report regarding remaining capacity at the site.	ANNUALLY	LEA
LANDFILL GAS: The operator shall submit report identifying landfill gas monitoring results (surface and subsurface perimeter migration).	QUARTERLY	LEA

17. LEA Conditions:

- a) Without prior written or verbal approval from the LEA to allow otherwise, waste may be accepted only during the hours described in the most current Joint Technical Document (JTD).
- b) All quarterly self monitoring reports for the specified reporting periods shall be submitted to the LEA on the following due dates: January through March, due May 1; April through June, due August 1; July through September, due November 1; and October through December, due February 1.
- c) The operator shall prepare and submit annually (due September 1) a report regarding remaining capacity at the site.
- d) Inspections of facility are random, unannounced and may occur before the start of or after the end of waste disposition activities.
- e) The operator shall maintain a copy of this Solid Waste Facility Permit and Joint Technical Document at the site at all times.
- f) The operator may utilize alternative daily cover as outlined in the most current JTD.
- g) The operator shall comply with all Mitigation Measures contained in the Mitigation Monitoring and Reporting Program (MMRP) and all other mitigation measures and project design features included as attachments to the permit application or described in the JTD. The operator may propose minor modifications to these Mitigation Measures/Conditions of Approval or project design features as allowed in Title 27, C.C.R. Article 3 (CIWMB-Enforcement Agency Requirements), including but not limited to Section 21665 (Processing Proposed Changes at Solid Waste Facility), and subject to the limitations contained in the California Environmental Quality Act (CEQA) with respect to changes that would necessitate supplemental environmental review [Pub. Resources Code, Section 21166, Title 14 C.C.R., Section 14000 et seq. (CEQA Guidelines), Sections 15162, 15163, 15164].
- h) **Prior to commencement of operation**, the owner/operator shall establish an Interim **Citizen Environmental Review Panel** (Panel). Establishment of the Panel shall not be conditioned by the execution of waste supply agreements as set forth in Proposition C (November, 2004). Participation on the Panel shall be open to any city or other governmental entity that notifies the owner/operator of its desire to participate, and each participating entity shall appoint its representative to the Panel. The Panel will meet at least annually, and more often as determined necessary by the Panel. The owner/operator shall provide qualified personnel to attend the Panel meetings, and shall provide accommodations for the Panel meetings. When two or more cities or other governmental entities agree to supply waste to the project, the Panel shall cease to exist and shall be replaced by a Citizen Environmental Review Board as required by and as set forth in Proposition C and in MM4.1.C5Q.
- i) **Prior to commencement of landfill construction** the owner/operator shall commit to participation in a **Community Facility District** or a **Developer Agreement** to address fire service.
- j) The construction-related mitigation measures for protecting biological resources (MM 4.9-5a, 4.9-5b and 4.9-12a) is

SOLID WASTE FACILITY PERMIT

I. Facility/Permit Number:

37-AA-0032

required for the temporary storage yard used for landfill construction.

- k) If CalTrans does not timely proceed with the traffic mitigation project at the I-15 and SR-76 interface described in MMRP measure 4.5-5, then prior to commencement of operations the owner/operator shall make an irrevocable offer to CalTrans to make a fair share payment toward the cost of any alternative traffic mitigation project CalTrans implements at that interface.
- l) **Prior to commencement of operation** and continuing thereafter, and subject to acceptance by CalTrans, the owner/operator shall provide such funds to CalTrans, as CalTrans is willing to accept, up to \$1,000,000 for traffic safety-related projects in the vicinity of Gregory Canyon. CalTrans will determine specific projects. The owner/operator shall allow CalTrans to draw these funds in increments over time if CalTrans so determines. This requirement is in addition to all other road-related and traffic-related mitigation.
- m) **The owner/operator shall reach a contractual agreement with the County Water Authority (CWA) concerning pipeline protection or relocation prior to the start of construction.** For purposes of the required agreement with the CWA, relevant construction includes construction of the bridge over the San Luis Rey River.
- n) The operator shall offer to implement noise mitigation measures at residences located along SR 76 that are likely to experience an increase in noise of 0.1 dBA CNEL or more from project-generated traffic if the occupants of those residences are exposed to noise levels from traffic without the project that exceeds the County's standard of 60 dBA CNEL. These offers shall be made to each residence owner in writing just prior to the commencement of construction and if that offer is declined again between one and two years after the first acceptance of wastes at the facility. If an owner accepts the offer of mitigation and provides site access for construction, the project applicant shall install noise mitigation measures (e.g. sound walls, vegetative screens, sound-attenuating windows and doors, etc.) acceptable to the residence owner that are at least sufficient to offset the incremental noise impacts of project-related traffic, unless the residence owner will only consent to measures that are less effective.
- o) **Prior to commencement of landfill construction, the operator shall provide the LEA a copy of the insurance policy it obtains to satisfy the insurance requirements contained in Section 9 of the First Supplement to the Water Supply Mitigation Agreement between the owner/operator and the San Luis Rey Municipal Water District.**
- p) No significant change in design or operation of this facility shall be taken without prior application to and approval by the LEA (Public Resources Code §44004).
- q) Additional information related to compliance with this permit or information concerning the design and operation of this facility shall be furnished to LEA upon request.
- r) The Solid Waste Facility Permit is subject to review by the LEA and may be suspended, revoked or modified at any time for sufficient cause.

EXHIBIT B

Rusinek, Walter E.

From: Rusinek, Walter E.
Sent: Friday, November 20, 2015 1:46 PM
To: Jim Henderson (Jim.Henderson@sdcounty.ca.gov); 'Shanti.A.Santulli@usace.army.mil'; 'steve.moore@sdcounty.ca.gov'; Karen_goebel@fws.gov; Mike Porter (mporter@waterboards.ca.gov); Lorang, Rodney F; elizabeth.felix@calrecycle.ca.gov; lpurcell@sdcwa.org; 'rmitchell@waterboards.ca.gov'
Cc: Shasta Gaughen (sgaughen@palatribe.com); Damon Nagami (dnagami@nrdc.org); Everett DeLano (everett@delanoanddelano.com)
Subject: Activity on the Gregory Canyon property
Attachments: IMG_9423.jpg; IMG_9420.jpg; IMG_9418.jpg; 677051.pdf

Attached are some pictures taken today from SR 76 showing that construction fencing has been installed near old residences and dairy buildings on the proposed landfill property. At this time, it appears that vegetation removal is occurring on the property.

This e-mail is to alert you of this activity and to request information on (1) the scope of the work proposed to be done at the site, and (2) the permits that have been issued approving the work. The extent of the vegetation removal is unknown and, in the past, the former owners posted signs indicating that demolition of buildings on the property was to begin. It also is not clear if demolition work is included in the scope of the intended work.

If demolition is to occur, certain permits most likely would be required from the County and other agencies. In addition, as you are aware, the 2011 solid waste facility permit requires that "prior to commencement of landfill construction" the owner/operator must (1) commit to participation in a Community Facility District or a Developer Agreement to address fire service; (2) reach a contractual agreement with the County Water Authority concerning pipeline protection or relocation; and (3) provide the LEA with a copy of the insurance policy required under the agreement with the San Luis Rey Municipal Water District. As the attachment to the e-mail indicates, the DEIS, FEIR and the SWPPP (among other documents) clearly identify the removal of dairy buildings and residences on the site as being part of the "initial construction phase" for the project. Consequently, those permit conditions also would need to be satisfied before any such construction work could commence.

Because we have no information on what work is proposed to be conducted, we request that information be provided to us regarding what work is proposed to be conducted on the site, the schedule for that work, and the approvals that have been received for that work.

Thank you.

Walter E. Rusinek
Senior Counsel

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provide DEH with a copy of the executed agreement with SDCWA providing for the protection and/or relocation of the San Diego Aqueduct pipelines.

The applicant, San Luis Rey Municipal Water District (SLRMWD), and several private landowners located downstream of the site entered into the Gregory Canyon Landfill Agreement in 1996 (Appendix C). The agreement was supplemented in 2004. The purpose of the agreement is to ensure that the construction, operation, and closure of the landfill are carried out in a manner that would protect the Pala Basin of the San Luis Rey River and the water quality of downgradient basin areas. Provisions outlined in the landfill agreement include stipulations, which address the protection of water supply, water rights, groundwater monitoring, liability, and closure. A RO system for the treatment of collected waters is also included in the ancillary facilities area in accordance with this agreement. (Please see subsection 3.2.1.4.1 for a description of the RO system.)

3.1.4 Construction

Unlike many development projects, construction of a landfill has many phases and construction is generally ongoing throughout portions of the life of the project, and for purposes of closure after receipt of waste has ceased. Nonetheless, there is initial construction to install the necessary components to make the site useable to begin to accept waste, such as the access road, ancillary facilities area, desilting basin(s), and storage tanks, as well as excavation of the footprint and installation of the liner and systems for the first phase of the operation. The construction necessary to commence operation of the landfill is defined as "initial construction" for purposes of this EIS. The construction that occurs in various phases to open new cells of the landfill is defined as "periodic construction" for purposes of this EIS. This section describes the initial construction phase as well as the periodic construction activities.

The nature of ongoing construction at the site would require temporary storage of building materials. An inactive construction storage yard is located on the eastern end of the site on the north side of the river (see Figure 3-4.) The material located in the storage yard generally consists of materials that could be used for initial construction of the landfill/ancillary facilities. Removal of other materials from the storage yard has been ongoing. The removal of remaining material not suitable for use for initial construction of the landfill would be completed at the commencement of initial landfill construction. Over time, the construction storage yard would be removed and the area would become part of the habitat restoration area. (See subsection 3.1.3.5 of this EIS for a description of the HRRMP.) The temporary construction storage area would become progressively smaller and would shift toward the east as the habitat restoration is implemented. As the temporary storage yard is phased out, materials would be shifted and new deliveries of material would be made directly to inactive portions of the landfill footprint.

3.1.4.1 Initial Construction

Several activities, which are considered the initial construction phase, are necessary to prepare the site and the landfill for operation. The initial construction of the Applicant's Proposed Alternative includes:

- Removal of the existing unoccupied dairy buildings and residences on the site;
- Removal of any remaining manure from the dairy operation;
- Construction of the access road and bridge;

environmental analysis assumes the pipelines remain in their current location, which represents the worst case environmental analysis. However, because of the ongoing negotiations, a project option, which is the relocation of a portion of the First San Diego Aqueduct to the west of the current location (Exhibit 3-11), is analyzed in each section of Chapter 4.0 of this EIR. Since Section 3G of Proposition C requires the protection of the San Diego Aqueduct pipelines, a condition of the SWFP and a mitigation measure will require that prior to any construction work related to the landfill, the applicant shall provide DEH with a copy of the executed agreement with SDCWA providing for the relocation and protection of the San Diego Aqueduct pipelines.

As a separate matter, Metropolitan Water District (MWD) and SDCWA have a joint future water project, the Pipeline No. 6, which will run north-south through the project site. The 1993 Metropolitan Water District (MWD) Final Environmental Impact Report for Pipeline No. 6 analyzed a one-mile wide corridor through the site. The preferred alignment would locate Pipeline No. 6 to the west of the First San Diego Aqueduct. Analysis of the construction and location of Pipeline No. 6 has been included in Chapter 5.0, Cumulative Impacts of this EIR.

In 1996, the Gregory Canyon Landfill Agreement was executed by the proponents of the Gregory Canyon Landfill, San Luis Rey Municipal Water District (SLRMWD), and several private landowners located downstream of the landfill project (Appendix C). The purpose of the agreement is to ensure that the construction, operation, and closure of the Gregory Canyon Landfill project are carried out in a manner that will protect the Pala Basin of the San Luis Rey River and the water quality downgradient basin areas. Provisions outlined in the landfill agreement include stipulations, which address the protection of water supply, water rights, groundwater monitoring, liability, and closure. A reverse osmosis (RO) system for the treatment of collected waters is also included in the ancillary facilities area in accordance with this agreement. (Please see Section 3.5.2.3 for a description of the RO system.)

3.3 CONSTRUCTION

This section describes the initial construction phase as well as other construction activities that could occur during initial construction as well as after initial construction is complete and the landfill is operational.

3.3.1 INITIAL CONSTRUCTION

Several activities, which are considered the initial construction phase, are necessary to prepare the site and the landfill for operation. The initial construction of the project includes:

- Removal of the existing dairy buildings and residences on the site
- Removal of the manure to minimize or eliminate odors and/or potential impacts to water quality
- Construction of the access road and bridge
- Improvements to SR 76 at the access road
- Excavation of the river channel
- Construction of the ancillary facilities, including the scalehouses, maintenance building, water tank, and desilting basins
- Installation of the leachate and subdrain water storage tanks and the reverse osmosis system
- Excavation of approximately 25 acres of Phase I of the landfill footprint, including the excavation of rock and crushing with a portable crusher. (Please see Section 3.3.2 for a

The Verboom Dairy, which includes feedlots, pastures, farm outbuildings and orchards, is expected to close at the time of project construction. The purchase option agreement on the Verboom parcels indicates that the former owner may reside there for a period of up to one year after the final purchase payment.

Twenty-five residences associated with the two dairies exist on the site. Fourteen dwelling units exist on the vacated Lucio dairy property. The Verboom family and their employees occupy eleven residences on the Verboom dairy. All of these dwellings are leased from the property owner and would be vacated at the time of project initiation.

A pair of electrical transmission lines located within a 300-foot wide easement, crosses the site in a north-south direction along the eastern wall of Gregory Canyon. Thirteen acres of the site within the transmission corridor are owned by SDG&E (rather than in an easement). The 230- and 69-kilovolt (kV) transmission lines, owned and maintained by SDG&E, are part of the Escondido-Talega and Pala-Lilac electrical transmission network. SDG&E maintains access to the transmission lines along unimproved dirt roads within the corridor/easement.

Pipelines 1 and 2, which are located in a 150-foot-wide easement, cross the site in a north-south direction on the western side of Gregory Canyon. The two 48-inch steel and pre-cast concrete pipelines are buried approximately 15 feet below ground surface. The San Diego County Water Authority (SDCWA) holds the southerly portion of the easement, and the Metropolitan Water District holds the northerly portion. Each agency owns, operates, and maintains the pipelines in its portion of the easement. The easement runs in a southerly direction through the portion of the site that lies north of SR 76, across SR 76, under the fields and feedlots of the Verboom dairy, under the San Luis Rey River, and climbs the western slope of Gregory Canyon. The pipelines continue to the south offsite. The aqueduct is discussed in more detail in Section 4.15, Public Services and Utilities.

The San Diego County Water Authority (SDCWA) and Metropolitan Water District have plans for the future Pipeline No. 6 through the proposed project site. Pipeline No. 6 consists of 24 miles of a 9- to 10-foot diameter pipeline and 6.5 miles of a 9-foot diameter tunnel. The location of the Mount Olympus Tunnel portal site is planned to be in the small canyon north of and adjacent to SR 76 within the project site. The portal site will be the tunnel contractor's main base of operations for up to five years, and will remain as a permanent access point for operation and maintenance of the tunnel. (See Chapter 5.0, Cumulative Impacts, for a more detailed discussion of Pipeline No. 6.)

Gregory Mountain, which forms the eastern portion of the site, is considered to be a sacred site by the Pala Indian Tribe and others in the Native American community. Part of the mountain (the top and western slope) is located within the project site, while the remainder (eastern slope) is located on the Pala Indian Reservation, which is immediately east of the site. For more detailed information about the cultural and ethnographic background of the Tribe and the site, see Section 4.12, Ethnohistory and Native American Interests.

Surrounding Land Uses

Land south of the project site generally consists of agricultural estate-density residential development, with avocado and citrus estates typically located on lots varying from two to eight acres. (Please see the subsection entitled Community Planning—Land Use Designations and Exhibit 4.1-2 for a discussion and graphic of the General Plan designations of the site and the surrounding area. Please see the subsection entitled Zoning and Exhibit 4.1-4 for a discussion

- Leachate and subdrain storage tanks
- Site facilities area
 - Scales/Fee Booths
 - Recyclable goods center
 - Groundwater treatment facility
 - Administration/Visitor Center
 - Maintenance building
 - Household hazardous waste storage area
- Main access and haul roads
- Equipment and storage area

3.4 PROJECT CONSTRUCTION & WATER POLLUTION CONTROL IMPLEMENTATION SEQUENCING AND SCHEDULE

3.4.1 Initial Construction

The initial construction period for Phase I will be approximately eighteen months in duration and will include the following:

- Removal of the existing dairy buildings and residences on the site
- Removal of the manure to minimize or eliminate odors and/or potential impacts to water quality
- Construction of the access road and bridge
- Improvements to SR 76 at the access road
- Construction of the site facilities, including the scalehouses, maintenance building, water tank, and desilting basins
- Installation of the leachate and subdrain water storage tanks and the reverse osmosis system
- Excavation of approximately 25 acres of Phase I of the landfill footprint
- Installation of the subdrain system, leachate collection and removal system (LCRS) and composite liner within the excavated area
- Preparation of the Borrow/Stockpile Area A
- Clearance and grading of turnouts along the internal haul road between Borrow/Stockpile Area A and the landfill footprint
- Installation of additional monitoring wells (if required by RWQCB) or repair of existing monitoring wells

EXHIBIT C

ATTACHMENT B REVISED CEQA FINDINGS

A. Background.

The purpose of this document is to revise prior findings made on June 2, 2004 (2004 CEQA Findings) in accordance with California Environmental Quality Act (CEQA) Guidelines (14 Cal. Code Regs. §§ 15000 *et seq.*) Section 15091 by the County of San Diego, Department of Environmental Health, designated as the Local Enforcement Agency (LEA) regarding the Gregory Canyon Landfill project, and to adopt these revised findings (Revised CEQA Findings). The Revised CEQA Findings incorporate additional information regarding impacts, mitigation measures or economic, social or other considerations disclosed as the result of the preparation of a Revised Final Environmental Impact Report (RFEIR), the 2008 Addendum to the Certified Final Environmental Report (2008 Addendum), the 2009 Addendum to the Certified Final Environmental Report (2009 Addendum), and the 2010 Addendum to the Certified Final Environmental Report (2010 Addendum) (collectively, the "CEQA Documents") for the project.

The Final Environmental Impact Report (FEIR) for the Gregory Canyon Landfill was certified and approved on February 6, 2003. The adequacy of the FEIR was subsequently challenged in a case entitled Riverwatch, et al. v. County of San Diego Department of Environmental Health, et al.; San Diego County Superior Court Case No. GIN038227 (CEQA Litigation). On October 3, 2005, the Court issued a final minute order finding most of the FEIR adequate and in compliance with CEQA but indicating that revisions to the FEIR were required:

- To evaluate new traffic information contained in a 2003 County tribal traffic study known as the 2003 Traffic Needs Assessment Study;
- To identify the sources of water necessary to construct and operate the landfill and to analyze the impacts of obtaining that water; and
- To assure that biological mitigations for the project were consistent with Section 5R of Proposition C.

On January 20, 2006, the Court issued a writ of mandate ordering decertification of the FEIR and requiring additional environmental review to address the three areas noted by the Court in its October 2, 2005 minute order.

Petitioners appealed the January 20, 2006 decision of the trial court, asserting that the FEIR was deficient in other respects. The Court of Appeal affirmed the order of the trial court on June 12, 2009. Riverwatch, et al. v. County of San Diego Department of Environmental Health, et al., 4th Appellate District, Div. 1, Case No. D048259.

In addition to revising the FEIR to address the matters contained in the Court's order, the RFEIR included other discussions and analyses. The project description was revised to

reflect the fact the project will include a double composite liner with an additional drainage layer and an additional high-density polyethylene (HDPE) geomembrane and to describe recycled water facilities that will be included in the facilities area. A discussion was added to the land use section discussing the Countywide Siting Element adopted by the California Integrated Waste Management Board in September 2005, and analyzing the project's consistency with this new Siting Element. The traffic section was revised to discuss a new traffic study that was completed in 2006. The noise section was updated based upon new traffic and noise studies completed in 2006. The biological resources section was updated to reevaluate impacts of the project to upland habitat for the arroyo toad, to reanalyze project impacts to vegetation communities, to reevaluate project traffic noise to sensitive habitat, and to revise mitigation measures. The archaeology and cultural resources section and the ethnohistory and Native American interests section were revised to include a discussion of project impacts associated with the potential future nomination of Gregory Mountain and Medicine Rock as historic resources eligible for inclusion in the National Register of Historic Places.

The RFEIR was certified by the Director of the LEA on May 31, 2007. The RFEIR consists of the FEIR, a Revised Partial Final Environmental Impact Report (which includes public comments and recommendations on the Revised Partial Draft EIR, and LEA responses to significant environmental points raised in those public comments and recommendations), and supporting technical documentation.

On June 1, 2007, the LEA filed a motion to discharge the writ of mandate, which was granted in part and denied in part in a minute order dated February 11, 2008. The court ruled that the analysis provided in the RFEIR satisfied the requirements of the writ of mandate, with the exception that additional analysis was required with respect to impacts on current users of the identified source of recycled water.

The 2008 Addendum was drafted to respond to the court's minute order, and was adopted by the Director of the LEA on August 8, 2008. On August 14, 2008, a second motion was filed to discharge the writ of mandate, which was granted by the trial court in a minute order dated November 20, 2008.

Petitioners appealed this ruling, and challenged both the February 11, 2008 minute order and the November 20, 2008 minute order. The Court of Appeal affirmed the orders of the trial court on March 30, 2010. Riverwatch, et al. v. County of San Diego Department of Environmental Health, et al., 4th Appellate District, Div. 1, Case No. D054471.

While the above motions and appellate matters were pending, Petitioners filed a separate action, Riverwatch, et al. v. Olivenhain Municipal Water District, San Diego County Superior Court Case No. GIN054668, challenging one of the water sources identified in the RFEIR, a contract for delivery of recycled water from the Olivenhain Municipal Water District (OMWD). The trial court upheld the recycled water contract, but the Court of Appeal issued a decision overturning the trial court on January 9, 2009. Riverwatch, et al. v. Olivenhain Municipal Water District, 4th Appellate District, Div. 1, Case No. D052237. Subsequent to the Court of Appeal decision, OMWD determined that it would no longer proceed with a recycled water contract.

As a result, the 2009 Addendum was prepared to identify alternative sources of water for the project and to evaluate potential environmental impacts from the use of those sources. The Director of the LEA adopted the 2009 Addendum on January 7, 2010.

The identified sources of water for the landfill include on-site riparian water and percolating groundwater, and trucked recycled water from the San Gabriel Valley Water Company (SGVWC).

On January 13, 2010, the U.S. Army Corps of Engineers issued a new jurisdictional determination for the project, finding that the landfill site included more waters of the U.S. than was previously determined in 2004. The 2010 Addendum was prepared to ensure that the project's environmental review was consistent with the 2010 jurisdictional determination, and to analyze whether there were any environmental impacts associated with the updated jurisdictional determination. The LEA adopted the 2010 Addendum on May 7, 2010.

The Court's January 20, 2006 writ of mandate set aside the 2004 CEQA Findings and remanded those findings to the LEA for reconsideration. The LEA has now reconsidered the 2004 CEQA Findings in light of the subsequent events described above, and made revisions where appropriate. The LEA hereby adopts the Revised CEQA Findings. These Revised CEQA Findings incorporate the 2004 CEQA Findings by reference, which are included as Attachment B-1 to the Revised CEQA Findings.

B. Format for the Revised CEQA Findings.

The Revised CEQA Findings indicate the revisions to the June 2, 2004 CEQA Findings as follows: (1) new text is underlined, (2) where a paragraph or portion thereof includes substantive new and deleted text, the entire paragraph or portion thereof is underlined, and (3) where no changes have been made, that will be noted.

Because a large majority of the FEIR was not overturned by the Court or included in its writ of mandate, these Revised CEQA Findings do not address many of the matters included in the 2004 CEQA Findings. A copy of the 2004 CEQA Findings is attached.

A summary table identifying information not previously disclosed or analyzed in the CEQA Documents, including a) changes to the project or b) changes in the circumstances under which the project is to be undertaken, is provided in Section VI of these Revised CEQA Findings, for purposes of the analysis required under CEQA Guidelines § 15162.

The information contained in the CEQA Documents along with material included in the Administrative Records of the CEQA Litigation, provides the basis for these Revised CEQA Findings. The RFEIR, the 2008 Addendum, the 2009 Addendum and the 2010 Addendum, along with material included in the Administrative Record of the CEQA Litigation, are hereby incorporated by reference in their entirety into these Revised CEQA Findings.

I. INTRODUCTION TO CEQA FINDINGS

[Changes to this section are underlined.]

CEQA Guidelines Section 15091 requires that, for each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of the three allowable conclusions. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR; or
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
3. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR.

The purpose of these findings is to systematically restate the significant effects of the project on the environment as identified in the CEQA Documents and based upon the analysis prior to adoption of these findings to determine the feasibility of mitigation measures and project alternatives identified in the CEQA Documents which would avoid or substantially lessen the significant effects.

The CEQA Guidelines recognize that the lead agency may still approve a project which will have significant effects on the environment if significant impacts have been eliminated or substantially lessened where feasible, alternatives capable of reducing one or more of the remaining significant impacts of the project are not feasible and the lead agency determines that any remaining unavoidable significant impacts are acceptable because the benefits of the project outweigh the remaining unavoidable adverse impacts. (CEQA Guidelines § 15092(b)(2); 15093). The Guidelines require the decision-maker to balance the benefits of a proposed project against this unavoidable environmental risk in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.' (CEQA Guidelines §15093(a)).

These findings summarize substantial evidence in the record that supports each of the findings made by the LEA. Evidence in support of these findings is included in the CEQA Documents and the Administrative Records in the CEQA Litigation. Prior to certifying the FEIR in 2003, the LEA retained outside consultants with expertise in landfills to evaluate the initial screen check EIR. Following review by these consultants, a ninety-page comment letter was provided on the initial screen check EIR. The DEIR was revised to address these comments. Prior to certification of the FEIR, a second independent review of the FEIR, all technical appendices, the comments and responses to comments was completed by County staff with expertise in each of the environmental impact areas. Following completion of this second independent review by County staff with expertise in the individual environmental fields, the LEA determined the FEIR was adequate and complied with CEQA. The environmental impacts of the project were re-evaluated by the LEA in May 2004, in conjunction with the issuance of a Notice of Determination for the project in June 2004. Based on the trial court decisions in 2006 and 2008, and the appellate court decisions in 2009 and 2010, the RFEIR, the 2008 Addendum, the 2009 Addendum and the 2010 Addendum were prepared and environmental impacts of the project were re-evaluated by the LEA in connection with the certification or adoption of each document. Each time, the LEA determined that the

RFEIR, the 2008 Addendum, the 2009 Addendum and the 2010 Addendum were adequate and complied with CEQA.

The 2004 CEQA findings used the phrase "project site" to refer to the 1,770 acre landfill property. However, in light of the proposed use of recycled water from the SGVWC, the geographic scope of the project now comprises both the approximate 1,770 acre landfill property and the SGVWC loading station in South El Monte, California. For these Revised CEQA Findings, where the text has not been changed from that appearing in the 2004 CEQA Findings (not underlined), depending on the context, the phrase "project site" may refer to either the 1,770 acre landfill property or the SGVWC loading station. Where the text of the Revised CEQA Findings has been changed from that appearing in the 2004 CEQA Findings (underlined), for purposes of clarification the phrases "landfill property" or "landfill site" have been used, respectively, to refer generally to the 1,770 acre landfill property as a whole or, more specifically, to refer to the 308 acre area of project activities within the landfill property. The phrase "project site" refers to the landfill site and the SGVWC loading station in the aggregate.

II. FINDINGS FOR SIGNIFICANT IMPACTS AND MITIGATION MEASURES (CEQA Guidelines Section 15091)

A. LAND USE IMPACTS.

1. Finding

[No change is made to this section.]

2. Facts in Support of Finding.

[Changes to this section are underlined.]

The proposed landfill project is consistent with the general plan and zoning designation on the project site. Proposition C designated the entire project site solid waste facility in the County General Plan and Zoning Ordinance. The zoning designation for the project site expressly permits a landfill on the project site "without the need for any permits from the County except a watercourse alteration permit, bridge permit, grading permit, and building permit". (Proposition "C", Section 7B). The proposed project is consistent with all elements, policies, and goals of the County's Adopted General Plan and all relevant sub-regional and community plans as indicated by the detailed general plan analysis contained in Appendix "E" of the FEIR which is incorporated herein by reference.

Existing and planned land uses within a 3-mile radius of the project site were examined to evaluate land use patterns in the area. Existing land uses in the area include a mixture of agricultural, residential, extractive, commercial, industrial, and infrastructure uses. The area is generally rural in character with pockets of intensive extractive, commercial, and infrastructure uses. The area west and south of the site consists of agricultural estate-density residential development, with single-family residences on parcels ranging from 4 to 20 acres. The residential community of Pala is located about 2.5 miles northeast of the project site.

Interspersed with the rural agricultural and residential uses are areas of intense extractive, commercial and infrastructure development. Directly north of the project site,

Table 1

Summary of Changes to Project or Circumstances Under Which the Project is Undertaken That Have Not Been Previously Disclosed or Analyzed in the CEQA Documents

<u>Item #</u>	<u>Current Project Feature/Description</u>	<u>Project Feature/Description Described in Previous CEQA Documents</u>
1	Potential 166.0 acres of habitat creation, 75.6 acres of enhancement of riparian areas	155.5 acres of habitat creation, 57.1 acres of enhancement of riparian areas
2	Approximately 30.8 million tons of refuse capacity	Approximately 33.43 million tons of refuse capacity
3	Initial temporary facilities, such as scales and structures, and sanitary facilities, will be replaced during later years of operation	No discussion of temporary vs. permanent facilities
4	A bridge, approximately 681 feet in length, supported by five large diameter piers.	A bridge, approximately 640 feet in length, with five sets of two piles each (for a total of ten piles).
5	Charge of specification of purchased clay liner material, to pre-conditioned at the clay mine to a specified moisture content.	Not included
6	Traffic Director/Spotter = 2; Recycled Water Supervisor = 1; Total = 22	Traffic Director/Spotter = 1; No Recycled Water Supervisor; Total = 20
7	The use of ADC has been shown to reduce refuse-to-daily/intermediate cover ratios from 4:1 to 7:1. The use of ADC has been shown to reduce refuse-to-daily cover ratios from 4:1 to at least 7.5:1.	The use of ADC has been shown to reduce refuse-to-daily cover ratios from 4:1 to 7:1.
8	Assuming a 4:1 cover ratio, approximately 11.4 million cubic yards (mcy) would be needed for daily operations during the life of the landfill. An additional 2.7 mcy of material will be necessary to provide for canyon shaping, the operations layer and final cover over for the site. The total anticipated soil requirement, including cover, would be 14.1 mcy. The proposed landfill development will include the excavation of approximately 7.9 mcy within the landfill footprint, of which approximately 4.9 mcy consists of topsoils, alluvium/colluvium, or weathered bedrock and rippable hard rock that would be suitable for cover material with limited processing required, primarily crushing of the rippable hard rock.	The quantity of excavated rock and soil material would be about 7.93 million cubic yards (mcy), of which 1.48 mcy would be used in the formation of the landfill bottom prior to placement of the containment system. This alternative would reduce total excavation for the project by approximately 3.5 mcy in comparison to the proposed project. Approximately 6.44 mcy of rock and soil material would be available from the refuse footprint area and 4.5 mcy would be available from the stockpile/borrow areas for use as final, intermediate and daily cover soil. The amount of cover material needed for daily, intermediate, and final cover is estimated at 12.7 mcy. The total soil requirement for daily, intermediate and final cover and, canyon shaping would be 12.7 mcy plus 1.48 mcy, or approximately 14.2 mcy. This does not include soil required for the operations layer.

24	<u>Continued use of existing Herzog storage yard on former Lucio Dairy for temporary storage of construction materials and equipment, until such time as habitat restoration is implemented on this area</u>	<u>Not included</u>
25	<u>Proposed implementation of compensation measures for loss of 16,069 feet (approximately 0.9 acres) of ephemeral drainages within the areas of disturbance, to provide 27,360 linear feet of ephemeral drainages including articulated block perimeter drain, Borrow/Stockpile Area A perimeter drain, Borrow/Stockpile Area B perimeter drain, and floodplain drainage swales (pending)</u>	<u>2010 Addendum indicated <0.6 acres of streams/drainages/ swales within the area of disturbance are waters of the state.</u>

Most of the changes were undertaken in connection with obtaining other permits or approvals for the project, or to comply with the requirements of other authorities having jurisdiction over the project. An evaluation of potential air quality, health risk and noise impacts from these changes was provided in Hagmann (2011), Air Quality, Health Risk and Noise Technical Memorandum (Addendum to the Certified Final Environmental Impact Report for Gregory Canyon Landfill). LEA has also evaluated other potential impacts, as appropriate.

Based on its analysis of each of the items identified in Table 1, LEA has determined that none of the conditions requiring the preparation of a Subsequent or Supplemental EIR have occurred, or would occur, and that there is no "new information of substantial importance," in accordance with the standards set forth in CEQA Guidelines § 15162.

The changes identified in Table 1 would not result in a significant new impact or an increase in a previously identified impact. In fact, with respect to virtually all of the items, this conclusion is readily apparent to LEA's technically qualified personnel, and detailed technical analysis is not required. More detailed technical analysis was prepared for Items 16 and 24. A discussion of each item follows below.

Item 1 – Habitat Restoration. Potential air quality, health risk and noise impacts related to habitat creation and enhancement of riparian areas were previously evaluated in the FEIR. The Biological Technical Report included as Appendix B of the RFEIR concluded that the increase in the extent of habitat creation or enhancement from 88.0 acres to 212.6 acres would not result in any secondary impacts (e.g., air quality, health risk and noise) to biological resources because the mitigation would continue to be implemented in accordance with the project biologist. Likewise, the relatively smaller increase from 212.6 acres to 241.6 acres would continue to be implemented in accordance with the project biologist. As noted in Appendix D of the RFEIR, the increase in acreage would not increase the amount or intensity of work on any construction day given the need to protect biological resources, but might extend the time required to complete the work.

Item 2 – Refuse Capacity. The reduction of refuse disposal capacity from 33.4 million tons analyzed in the FEIR to 30.8 million tons would result in a slight reduction in overall fugitive

Item 23 – HHW Diversion Program. LEA programs to divert household hazardous waste (HHW) prior to placement in waste receptacles reduces the potential for delivery of HHW to the landfill. While it is not easily quantifiable, the reduction of HHW to the landfill would potentially further reduce air toxic emissions released from the landfill. As a result, there would be no changes in the significance conclusions for air quality and health risk impacts identified in the FEIR. This program could result in fewer truck trips to and from the landfill, as there could be less need for truck trips related to proper handling and off-site disposal of these materials, and less vehicle noise.

Item 24 – Temporary Storage Yard. The continued use of the existing Herzog storage yard on the former Lucio dairy for temporary storage of construction materials and equipment was not considered in the CEQA Documents. This temporary storage would only be used until such time as habitat restoration is implemented on this area. The temporary construction storage yard would be used during initial construction of the landfill and during some of the liner construction activities. The temporary storage yard is a disturbed area that is currently being used as a storage yard located near the center of the GCLF property, north of Highway 76 and west of the access road. Materials and equipment to be placed at the temporary storage yard include concrete and asphalt excavated as part of demolition of the existing dairy facilities, synthetic liner material, piping, steel beams, wood forms, modular buildings, tanks and related construction materials, as well as limited vehicle parking. Activities at the yard will include delivery of materials, transport of materials to the construction areas, and crushing of asphalt and concrete and transport to landfill areas for use in wet weather decking and road base.

Potential air quality and health risk impacts were analyzed in Hagmann (2011). The AQIA for the Permit Application analyzed the worst-case combination of emissions and locations to yield the maximum off-site ambient air quality impact of all operations. The AQIA demonstrated that the ambient air quality standards would not be exceeded when the landfill was operated in the worst-case combination of emissions and locations. Since the operations that could cause emissions at the temporary storage yard (i.e., a few pieces of construction equipment and a very small amount of crushing and material handling) is much less than full scale landfill operations (less than one percent of the crushing and less than 0.2 percent of the amount of material moved for initial construction), and since the temporary storage yard is located relatively much further from the site boundary than the other major landfill operations, the temporary storage yard will not materially change the ambient impacts reported in the AQIA, and air quality and health risk impacts would be consistent with the finding in the FEIR.

The temporary storage yard would be used intermittently and would not be considered a substantial source of noise. In addition, the series of mitigation measures in the FEIR and REFEIR that reduce both direct and indirect (noise) impact to biological resources would be applicable to operations on the temporary storage yard.

Construction-related mitigation measures designed to reduce impacts to biological resources to a level of less than significant would also be implemented for the temporary storage area. Those would include arroyo toad exclusion fencing and surveys (MM. 4.9-5a and MM 4.9-5b), and noise monitoring in riparian habitat areas coupled with operational changes/barriers as required to meet the specified noise standard (MM 4.9-12a).

**PROJECT DESIGN FEATURES
EXCERPTED FROM FINAL EIR, REVISED FINAL EIR,
AND EIR APPENDICES**

The following is a summary of the project design features that are incorporated into the project. The section headings refer back to the sections in the CEQA documents.

4.2 Geology and Soils

- The engineered drainage system for the project includes desilting basins to control soil erosion and siltation.
- Reinforced slabs will be placed over the aqueduct easement so that earth-moving equipment places no weight on the pipelines while crossing the easement.
- A pre-blast survey will be conducted by a qualified geologist to identify areas of potential rockfall concern. Identified isolated rock masses will be removed as necessary if deemed insecure.
- Natural vegetation will be maintained to the maximum extent possible. Diversion structure(s) will be constructed within Basin 1 prior to the start of grading activities where debris flow risk is anticipated.

4.3 Hydrogeology

- A composite liner and leachate collection system will be installed and monitored as required by the RWQCB. The performance of the landfill will be monitored with the subdrain and groundwater monitoring systems. The subdrain system will be constructed to collect and control groundwater that intersects the subgrade surface. The subdrain system will serve to maintain the separation of five feet between the refuse and groundwater required by federal regulations (40 CFR, Subtitle D, Part 258). The subdrain system will be monitored for the presence of contamination in accordance with the WDR parameters. Monitoring procedures will also be designed consistent with the requirements of the RWQCB.
- The water quality monitoring system will include the installation of monitoring wells at both upgradient (background) and downgradient (point of compliance) locations to the landfill and surface water sampling points both upstream (background) and downstream of the landfill as required by Section 20415 (b) of the Title 27 CCR.
- The project incorporates a combination of engineering controls, (e.g., interim covering of the refuse, suitable slopes for efficient drainage, culverts), and a water quality monitoring program, to ensure that water quality is adequately protected.

- Traffic speeds of no more than ten mph will be maintained on all on-site unpaved road surfaces, to prevent excessive PM10 emissions.
- The landfill operator will apply water and/or plant temporary vegetation on intermediate soil cover areas.
- The landfill operator will plant and maintain a vegetative cover on completed fill and excavation slopes.
- The use of tarps on commercial vehicles will be required.
- Water spraying of dusty loads during tipping will be performed.
- Groundcover on areas disturbed by construction will be re-established through seeding and watering those areas that will not be disturbed for extended periods (e.g., two months or more).
- The landfill operator will apply cover soil or approved ADC to the working face of the landfill on a daily basis.
- Alternative daily cover (ADC), such as synthetic tarps and processed green material (PGM) may be used at the project site, as feasible.
- The project design includes the installation of a gas recovery and flaring system and incorporate BACT for NOX control.
- The landfill operator will utilize Best Available Dust Control Technology to reduce diesel particulate emissions from on-site diesel equipment.
- The landfill operator will utilize on-site diesel equipment that meets California certified (post-1996) off-road engine requirements.

4.9 Biological Resources

Construction Features

- Dairy removal will occur as part of the initial construction phase, which will enhance wildlife foraging opportunities, remove a significant cowbird attractant and reduce existing edge effects adjacent to the river.
- Borrow/Stockpile Area A will only be used during the initial construction period and then during landfill closure beginning in approximately year 25 and will be revegetated with native species between use periods and after final landfill closure.
- The haul road to Borrow/Stockpile Area A will only be used during the initial nine-construction period and at final landfill closure beginning in approximately year 25. No improvements to the internal haul road are required; the only grading would occur where turnouts are proposed on the site plan.
- The low-flow crossing will only be used during initial construction (and would be abandoned following completion of the bridge) during daylight hours.
- Access road and bridge construction will occur during daylight hours when wildlife movement by species such as mammals is less frequent.

EXHIBIT D

- Improvements to SR 76 at the access road;
- Construction of the ancillary facilities, including the scalehouses, maintenance building, water tank, and desilting basins;
- Installation of the RO system in the ancillary facilities area;
- Installation of leachate and subdrain storage tanks in the ancillary facilities area;
- Installation of water storage tanks (water and recycled water);
- Excavation of approximately 50 acres of Phase I of the landfill footprint, including the excavation of rock and crushing with a portable crusher. (Please see Section __ for a description of rock crushing.) Initial Construction may require controlled blasting to fracture the underlying rock structure and ease the removal of and access to final footprint elevations;
- Installation of the engineered base layer, subdrain system, leachate collection and removal system (LCRS) and double composite liner within approximately 34 acres of the excavated area;
- Installation of two desilting basins (eastern and western) and a temporary desilting basin within the landfill footprint;
- Installation of a portion of the perimeter storm drain channels;
- Preparation of Borrow/Stockpile Area A;
- Clearance and grading of turnouts along the internal haul road between Borrow/Stockpile Area A and the landfill footprint;
- Installation of monitoring wells;¹⁷ and
- Initiation of the HRRMP, including the western portion of the construction storage yard on the eastern portion of the site, which would be cleared and revegetated.

The initial construction period would be approximately nine to twelve months in duration. A pre-construction meeting involving construction personnel and a qualified biologist would occur so that the biologist can explain the access restrictions on site, the importance of remaining within construction zones, the sensitivity of the habitats and species on site, and the potential consequences of violating the access restrictions and impacting biological resources outside the construction zones. The applicant proposes that any accidental impacts to sensitive habitat that might occur outside the designated impact area would be mitigated at a 3:1 ratio.

Concrete removed as part of the demolition of the abandoned structures and dairy facilities would be crushed on site and stored within the eastern portion of the existing construction storage yard. The crushed concrete could be used for a variety of purposes, including foundation fill, stabilization of some internal roads, and stabilization of the working face during wet weather periods.

¹⁷ Of the 25 wells in the monitoring system, only well GLA-18 cannot be constructed prior to landfill operation because of the steep and currently inaccessible location. This well would be constructed following grading of the electrical utility pad as part of relocation of the transmission lines. See subsection 3.2.1.4 for a detailed discussion regarding monitoring wells.

vectors that carry threats to human health. The primary cause for fugitive litter would be winds passing across the landfill and carrying picked-up waste material. Litter could also be caused by open trucks if they were to convey waste to the landfill. As described in the design features above, a litter control program would be implemented. The main control for windblown litter would occur at the unloading area through the rapid spreading and compacting of refuse and placement of daily cover over exposed refuse at the end of each working day. All commercial loads would be required to be covered with a tarp and commercial unloading activities would be conducted at the toe of the working face, when practical, to afford some wind protection. Portable, temporary fencing would be used to control windblown papers at the working face. Disposal operations could be suspended during periods of high winds (when sustained winds of 40 miles per hour or greater, or gusts of 55 miles per hour or greater are expected to persist for one hour or longer.)

Further, off-site litter and dumping would be addressed on or adjacent to the landfill access road and along SR 76 between I-15 and the site. A team, consisting of one truck with a two-person crew would, inspect for and clean up all litter and illegal dumping. Litter inspection would be performed every day the landfill is open to accept refuse and litter would be cleaned up on the sixth day as determined necessary by the inspectors. With implementation of the litter control program, the Applicant's Proposed Alternative would not create a significant litter problem in the area.

Mitigation Measures

With implementation of design features and compliance with applicable regulations, the Applicant's Proposed Alternative would not create significant adverse health risk to the public due to the dispersion of contaminated waste materials that are associated with Class III landfills. No mitigation measures are proposed.

Impact Statement Gregory HHS-3: Existing hazardous materials on the alternative site would not have significant adverse effects on the health of on-site population.

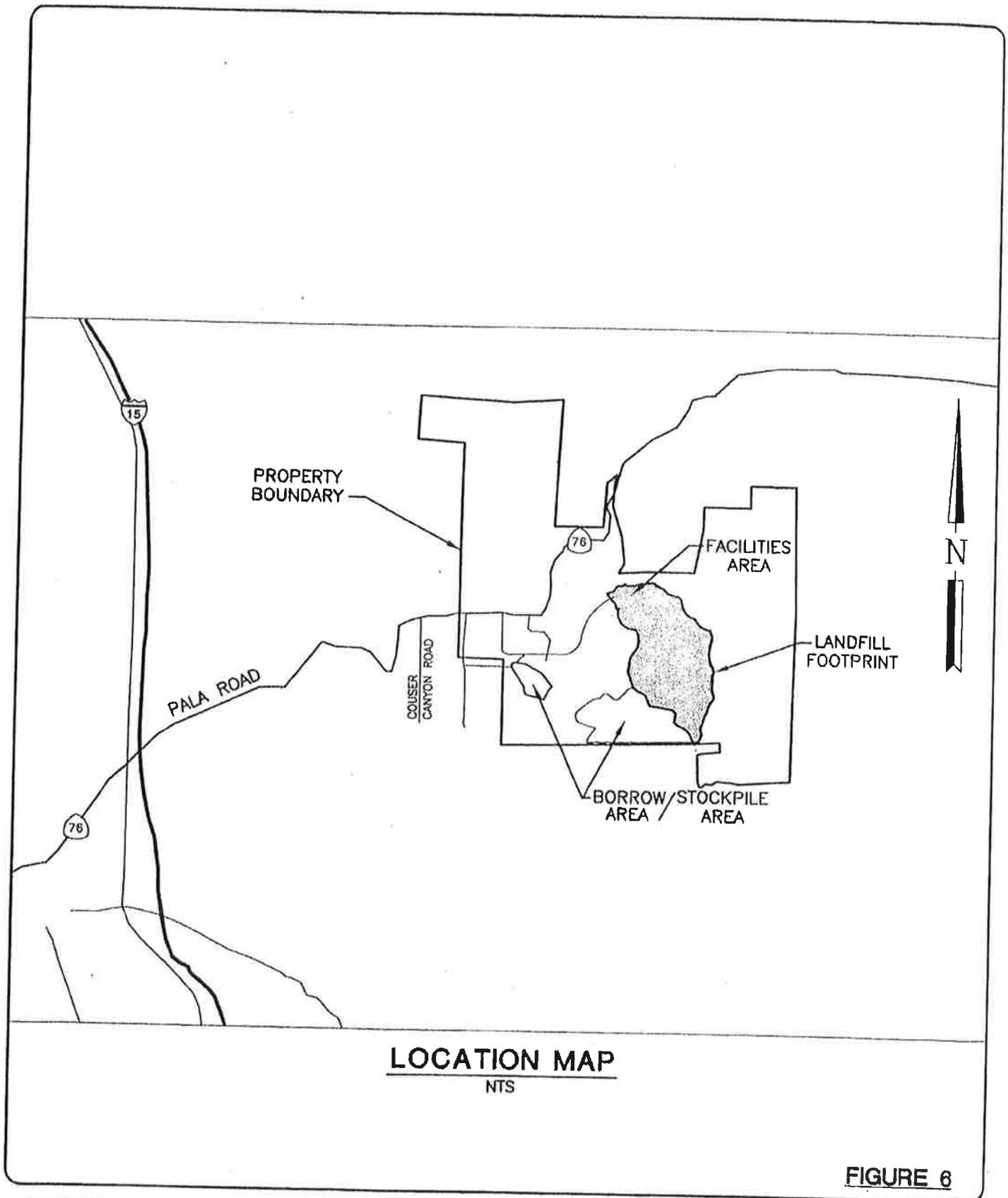
Existing Buildings

The alternative site contains several structures (vacant residences, dairy remnants, etc.), which because of their age, may contain LBP and/or ACM containing materials. These hazardous materials can pose health risks to human population. The existing structures would be demolished as part of landfill construction and therefore, would not pose risk to future site population through occupation. However, demolition activities could potentially expose construction workers to these contaminants should they be present. If the on-site structures are found to contain ACM or LBP, compliance with OSHA regulations and the demolition practices of NESHAP would be required to avoid adverse effects due to exposure. Thus, significant adverse effects to human health and safety would not occur.

SDG&E Transmission Lines

SDG&E service in the vicinity of the Gregory Canyon site is provided, in part, by two transmission lines which are located on common structures within a 300-foot wide easement, which crosses the site in a north-south direction along the lower slopes of Gregory Mountain. The development of the landfill would include the

EXHIBIT E



LOCATION MAP
NTS

FIGURE 6



(909) 860-7777

BRYAN A. STIRRAT & ASSOCIATES
CIVIL AND ENVIRONMENTAL ENGINEERS
1300 VALLEY VISTA DRIVE DIAMOND BAR, CA 91765

GREGORY CANYON LANDFILL

LOCATION MAP

JOB NO.
97139-300

DATE
11-99

DRAWN BY
M.T.B

FILE NAME
178450B.DWG

GREGORY CANYON, LTD. PROPERTIES
 COUNTY OF SAN DIEGO, CALIFORNIA

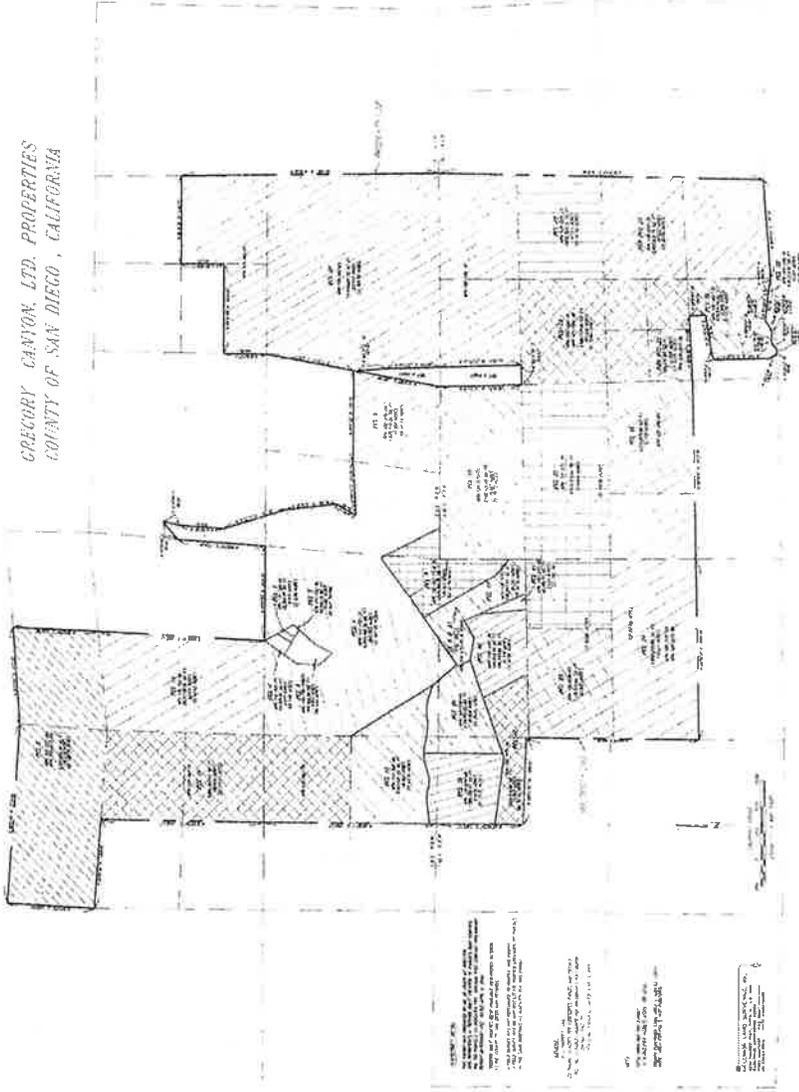


FIGURE 6A

GREGORY CANYON LANDFILL
 PARCEL MAP

DAS
 DESIGN AND SURVEYING
 1000 W. STREET, SUITE 100, SAN DIEGO, CA 92101
 (619) 594-1100
 WWW.DASDESIGN.COM

NO.	DATE	DESCRIPTION
1	01/15/2014	PRELIMINARY
2	02/10/2014	REVISED
3	03/05/2014	REVISED
4	04/01/2014	REVISED
5	05/01/2014	REVISED
6	06/01/2014	REVISED
7	07/01/2014	REVISED
8	08/01/2014	REVISED
9	09/01/2014	REVISED
10	10/01/2014	REVISED
11	11/01/2014	REVISED
12	12/01/2014	REVISED
13	01/01/2015	REVISED
14	02/01/2015	REVISED
15	03/01/2015	REVISED
16	04/01/2015	REVISED
17	05/01/2015	REVISED
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23	11/01/2015	REVISED
24	12/01/2015	REVISED
25	01/01/2016	REVISED
26	02/01/2016	REVISED
27	03/01/2016	REVISED
28	04/01/2016	REVISED
29	05/01/2016	REVISED
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36	12/01/2016	REVISED
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99	03/01/2022	REVISED
100	04/01/2022	REVISED

FOR DEED PURPOSES ONLY - NOT FOR CONSTRUCTION

EXHIBIT F



Permit Toolbox

Writing a Solid Waste Facility Permit

This web page has been developed in coordination with local enforcement agencies (LEA) and California Department of Resources Recycling and Recovery (CalRecycle) staff to provide guidance on how to write a solid waste facilities permit (SWFP) that is consistent with California Code of Regulation, Title 27 (27 CCR) and the Public Resources Code (PRC). This web page replaces LEA Advisory No. 57 and updates and clarifies information to reflect changes to the solid waste facilities permit application (CIWMB Form E-1-77) since the advisory was originally published in 1999.

This web page discusses the role of the LEA and CalRecycle staff in the permit process, the goals of the guidelines for writing a permit, including the contents and a boilerplate solid waste facilities permit (Word, 163 KB or PDF, 30 KB) that can be used as a template, if desired. LEAs are encouraged to use the solid waste facilities permit boilerplate cover page in order to accommodate changes in owner/operator and five-year review updates.

This web page is intended to provide guidance to LEAs in performing their duties. Guidance, for this purpose, was defined as providing explanation of CalRecycle's regulations and statutes, and recommendations how an LEA might satisfy program goals and objectives. This web page is not intended to impose substantive requirements on LEAs.

Roles of the LEA and CalRecycle Staff in the Permitting Process

The LEA has the primary responsibility in processing and enforcing the solid waste facilities permit. The LEAs review operator application packages to determine completeness and adequacy, and write permits that include conditions that protect public health, safety and the environment. Additionally, the LEA makes a discretionary action by issuing the permit, and therefore is responsible for ensuring compliance with the California Environmental Quality Act (CEQA). The LEA is the primary contact for the operator in the permitting process. CalRecycle staff's primary role is to assist the LEA in analyzing the solid waste facilities permit application package and to assist in writing the permits. This assistance can be accomplished by publishing advisories, telephone conversations, reviewing applications, training, attending meetings with operators and other types of technical assistance.

Goals and Function of the Solid Waste Facilities Permit

The primary goal/purpose of issuing or revising a solid waste facilities permit is to ensure protection of the public health and safety and prevention of environmental damage. The long-term protection of the environment is the guiding criterion (PRC 44012).

Statutory requirements for a solid waste facilities permit:

Authorize the operation of the solid waste facility in accordance with California law and regulations (PRC 44014 [b]).

Minimize overlap with other regulatory agencies (PRC 43100 et. seq.).

Specify limitations, prohibitions, terms and conditions that the enforcement agency determines to be appropriate for the design and operation of a solid waste facility (PRC 44001, 44002 and 44004).

Be consistent with the CEQA analysis for the project (PRC 44004, 27 CCR 21650).

Practical requirements for writing a solid waste facilities permit:

Be written to reasonably accommodate anticipated fluctuations to reflect at least a five-year plan of the facilities' activities and operations, thus minimizing the need for frequent revisions.

Specify limitations and prohibitions based on:

- a) The LEA's knowledge of past operating practices.
- b) The LEA's review of the facility design and operation.
- c) Local enactments and site specific conditions.

Guidelines for Writing a Solid Waste Facilities Permit

For additional information regarding writing and processing solid waste facilities permits; PRC 44009(a)(2), 44010 and 44014 (b).

The following information is organized by numbers that correspond to the permit boilerplate ([Word](#), 163 KB | [PDF](#), 30 KB).

The following items (1-13) are required information in the solid waste facilities permit:

Facility/Permit (Solid Waste Information System) Number and Local Enforcement Agency Number (if applicable)

A permit number assigned for each permit issued by an LEA appearing on all pages of the permit. The SWIS number, assigned by CalRecycle, is for State and local tracking purposes. The LEA can also include the local permit number, if applicable, on the permit.

1. Name and Street Address of Facility

The facility name and physical address, and/or other identifying description (no P.O. Box) to locate the site.

2. Name and Mailing Address of Operator

The name of the operator(s) and mailing address(es), which may differ from the site address, to identify the responsible party and provides a location to serve notice and to let the public where notice maybe sent. For multiple operators, the LEA may attach an additional page(s) to the permit. Generally, contract operators are not included on the permit since the operator and owner are responsible for the permit (14 CCR 18208 and 27 CCR 21663).

3. Name and Mailing Address of Land Owner

The name of the land owner(s) and mailing address(es), which provides a location to serve notice. For multiple owners or operators, the LEA may attach an additional page(s) to the permit.

4. Permitted Operations or Specifications

The type of facility, as defined in regulation and/or statute (landfills, transfer stations, green waste composting facilities, mixed composting facilities, processing facilities, transformation facilities, etc.), including a list of all operations that will be covered under the permit. Multiple activities under one permit will generally occur when combining an operation, which falls under the tiered permitting regulations with a full permit activity.

Facility Limitations include:

- Tonnage
- Elevation and excavation
- Disposal (footprint) area
- Hours of operation
- Traffic

If the LEA deems that these limits are not an integral part of the project description, the LEA should provide a rationale in a cover letter that accompanies the proposed permit and be prepared to present that rationale at the CalRecycle Waste Compliance and Mitigation Program Status Workshop or any subsequent public hearings where the permit is being considered. It is recommended that the LEA work with CalRecycle staff if any of these items are deleted from the Facility Limitations section of the permit to ensure a smoother package submittal during the 60-day review and concurrence timeframe.

The LEA should consider 27 CCR 21663 when determining the appropriate limits to put in the permit:

(a) Upon compliance with the CEQA and this article, and upon the concurrence of the CIWMB for new and revised solid waste facilities permits, and the Executive Director of the CIWMB for modified solid waste facilities permits, the EA shall issue the solid waste facilities permit as provided in Public Resources Code §44014. The solid waste facilities permit shall specify the person authorized to operate the facility and the boundaries of the facility. The solid waste facilities permit shall contain such conditions as are necessary to specify a design and operation for which the applicant has demonstrated in the proceedings before the EA the ability to control the adverse environmental effects of the facility.

(1) As used herein, "design" means the layout of the facility (including numbers and types of fixed structures), total volumetric capacity of a disposal site [or total throughput rate of a transfer/processing station, transformation facility, or composting facility] vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration.

(2) As used herein, "operation" means the procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment.

The LEAs also should keep in mind all the information available to them. The Note for 27 CCR 21650 provides guidance in this area:

When writing conditions pursuant to 21650(i) the EA shall take into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long-term protection of the environment. The EA may also take into consideration other permits, entitlements and approvals when writing terms and conditions (e.g., conditional use permit, zoning, Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Toxic Substances Control hazardous waste facility permit, Department of Fish and Game permits, Coastal Commission approvals, Army Corps of Engineers permit, Federal Aviation Administration notification, and other required local and county ordinances/permits).

When writing limits into the permit, it is important that they are written in a clear manner so as to be enforceable and unambiguous. For example, if an average tonnage is being used as a limit, the time over which this average is calculated should be included. (Note: Generally, averages are used as limits when CEQA has defined tonnage as an average. Sometimes an average and maximum are described in the CEQA document.)

Permit limitations are used to ensure compliance with State Minimum Standards, applicable parts of the CEQA document and local requirements as deemed necessary by the LEA. For more flexibility the numbers should be limits consistent with or lesser than delineated in CEQA documents and not necessarily what is currently occurring at the site. The LEAs, as parameters for setting any necessary conditions or monitoring requirements, may use these limits.

The limit should be complete and specific. For example, hours of operation could be interpreted as operating hours; hours open to the public, etc. LEAs should avoid ambiguous conditions similar to the above example. Be specific on the intent of the limit.

Proposals to exceed solid waste facilities permit limits may cause the LEA to change the permit's conditions, conduct additional CEQA analysis or require the operator to amend the report of facility information description of design and operations. In some cases, the LEA may determine that these limits may not be necessary. An example of this may be if the Report of Facility Information describes necessary measures for operating at night, the CEQA analysis has no limits on hours of operation. If there is no environmental, public health or nuisance reason to limit the hours of operation, then limiting the hours of operation in the permit may not be necessary. Keep in mind that if any limitation has been set in the CEQA documents the permit cannot exceed these limits.

Additionally, one limitation could supersede the need for another limit. For example, if the tonnage limit restricts the vehicle traffic enough to ensure that incoming and outgoing traffic will not impact the operator's ability to handle the permitted amount of waste or cause a hazard on public roads from vehicles stacking, then the traffic limit may not be necessary in the permit.

Any of these limits may be described in a manner the LEA determines is adequate for the appropriate level of public health and environmental protection and is consistent with the CEQA documents. When deciding if these limits are necessary, the LEA shall consider the location of the facility, proximity to homes and businesses or other sensitive receptors, special site conditions, the operator's compliance record, the CEQA analysis and the overall design of the facility. Any of these limitations may be excluded from the permit with a brief explanation of the LEA's reasoning. This reasoning may be given in the cover letter that accompanies the proposed permit.

The information contained in the solid waste facility permit application (CIWMB Form E-1-77) is just one of several sources of information that can be helpful in determining how to address maximum tonnage, acreage, capacity and other aspects of the facility design and operation when writing a permit. Other sources would include the CEQA record (the LEA must find the permit to be consistent with CEQA (27 CCR 21685 (b)(8))), other permits, site visits and inspections, as well as technical information provided in reports of facility information documents. There is no requirement to incorporate any specifics in a permit, such as daily tonnage, so long as the LEA has considered the requirements of PRC 44012 and found that specifics are not needed in the permit. Report of facility information documents include requirements for the receiving and handling of materials that can sometimes be used as effectively as specific conditions or limits in a permit, because construction of a facility or the operation of a facility in a manner that is inconsistent with these documents would not be authorized without LEA review and approval.

Design Parameter/Information includes:

- Total Airspace Capacity
- Design Capacity (for other than disposal facilities)
- Remaining Airspace Capacity as of a specific date
- Estimated Closure Year

Preceding the Design Information section with a statement indicating that this description is the design information at the time this permit is issued/written provides maximum flexibility for operators who make non-significant changes in design and operation, in order to meet AB 939 goals, to adapt to changing regulations and to efficiently run their solid waste facility while still having a meaningful project description in the permit to provide the LEA with a baseline for determining significant change. The LEA may allow changes through approved Report of Facility Information amendments, pursuant to 27 CCR 21665.

Information provided in this section of the permit is interlinked and a minor change in one set of the Design Information could lead to the change of other criteria. Site/permit changes should be reviewed on a case-by-case basis. If significant changes occur in the site design, this will, in most cases, change other parameters such as capacity and site life. Significant changes will require revision of the Solid Waste Facilities Permit and may require additional environmental review in order to comply with CEQA. However, it may also be appropriate to put these parameters as restrictions if the facility is limited by the CEQA analysis. A good example of this is a lateral expansion of a landfill (filling in a whole new area or unit) which, in almost all cases, would be a significant change because the landfill's footprint, acreage, capacity, closure year and closure plan would all change (PRC 44004(a)).

5. Approval

The name and title of the LEA's approving officer typed on the permit and a signature (at the time of issuance).

6. Enforcement Agency Name and Address

The Enforcement Agency's name and address.

7, 8 & 9. Date Received by CalRecycle, CalRecycle Concurrence Date and the Permit Issued Date

CalRecycle will stamp the date the permit was received, and the date it concurs with the permit. The LEA will stamp the date it issues the permit to the operator. (These dates are necessary for record keeping and tracking the permit through the process. In practice, these "stamps" may not appear on the same copy of the permit. However, the dates on the final permit must be the same as the stamped dates and the permit shall read the same as the permit that was acted on by CalRecycle.)

10. Permit Review Due Date

The date the next 5-Year Permit Review is due.

11. Owner/Operator Transfer Date

The date the LEA approves a transfer or change in operator or owner (land owner and/or business owner) and makes minor changes in the permit to reflect this change pursuant to PRC 44005. This is necessary for purposes of clarification, record keeping and tracking. If the LEA reissues the permit through a revision or modification, this is not necessary.

12. Legal Description of Facility-Site Boundary

The site boundary should include all areas that will be governed by the permit. The boundaries may be described in parcels, as long as they are whole parcels. If, for some reason, the boundaries cannot be described in whole parcels they may be described from the results of an engineered survey (a "metes and bounds" description). A map may be attached to the parcel description or "metes and bounds" description to clarify the permit boundaries and to define the location of the permitted acreage (14 CCR 18208 and 27 CCR 21663).

13. LEA Findings Pursuant to Public Resources Code 44009, 44010 and 44012

The findings can be as stated in the boilerplate permit or as deemed appropriate by the LEA. Note that these findings are made at the time the LEA proposes and issues the permit (Question? Made at the time the LEA proposes the permit OR when the LEA issues the permit?).

The following findings shall be made:

- The permit is consistent with the County Solid Waste Management Plan (CoSWMP) or the Countywide Integrated Solid Waste Management Plan (CIWMP) (PRC 50000 or 50001).
- Facility compliance with PRC 50000 or 50001. For a landfill permit where a Countywide Integrated Solid Waste Management Plan has not been approved, the authorized agent must have made a written finding that the facility is consistent with, and designated in, the applicable general plan(s). Additionally, the local governing body must make a written finding that the surrounding land use is compatible with the facility operation (PRC 50000.5 [a] and [b]). (Authorized agent means the body or person who has the authority to determine county and/or city General Plan conformance, which is usually a jurisdiction's Board of Supervisors or City Council.)
- The permit is consistent with standards adopted by CalRecycle (PRC 44010).
- The design and operation of the facility is consistent with the State Minimum Standards for solid waste handling and disposal as determined by the LEA.
- The environmental documentation (i.e., environmental impact report (EIR), negative declaration and/or exemption) is consistent with and supports the proposed permit and report of facility information (RFI). This finding should cite the environmental document(s), a document reference number and date, including amendments that enabled the LEA to make this finding.

14. Prohibitions

Items that the operator is prohibited from accepting, either by statute, regulation, local government restrictions, LEA requirements or environmental documentation limitations.

The following information is optional:

15. Additional Documents Reviewed at the time the Solid Waste Facilities Permit was Proposed that describe and/or restrict the operation of the facility

This should be a list of documents (i.e., permits, environmental documents, etc.); including the dates of the documents that were reviewed at the time the permit was issued. These documents describe and/or condition the operation and use of the facility, which were considered when the LEA wrote and issued this permit. The LEA considered these documents before making the above findings about the facility and permit and before determining the necessary conditions to incorporate into the permit to ensure the protection of public health and safety and the environment. These are not conditioning documents of the solid waste facilities permit and are not enforceable under this permit.

The LEA might include the following:

Environmental impact report or negative declaration (include State Clearinghouse number);*

Land use permits and conditional use permits;*

Preliminary closure plan or final closure and postclosure maintenance plan;*

Closure financial responsibility documentation;

Operating liability documentation;

Waste Discharge Requirements;

Local and county ordinances and rulings that regulate the facility; and

Air pollution permits and variances.

* Indicates documents that should be reviewed prior to writing the permit.

16. Self Monitoring-LEA Monitoring Requirements

This section should include those self-monitoring requirements that should be submitted to the LEA on a scheduled basis. The LEA should consider its authority and need for the documents. The LEA may require any reports that are necessary to monitor the facilities compliance with State Minimum Standards. The monitoring requirements may also be listed as LEA conditions if deemed to be more efficient.

17. LEA Conditions

The LEA may want to condition the operation of the facility. When considering what kind of conditions may be appropriate, the LEA should consider any past enforcement issues with the operator or any environmental impacts associated with the design and operations of the facility which may need mitigating. The LEA should not restate conditions from the permits issued by other agencies. Conditions that are more restrictive than the limits expressed in a Regional Water Quality Control Board or local air district permit or order should be solely for the purpose of protecting the public health and safety and the environment along with the citation of the authority which supports such condition.

The information contained in the report of facility information shall be used to determine whether a permit should be issued and to provide information to be included within the permit, if in the opinion of the LEA it is applicable. The report of facility information should be referenced in the "conditions" section of the permit, and the LEA may include as much of the report in the permit as deemed applicable pursuant to 27 CCR 21600 (a). It is suggested that language be crafted to allow for future amendments to the report of facility information.

The permit could contain prohibitions on the acceptance of any liquid waste sludge, non-hazardous waste requiring special handling, designated waste or hazardous waste.

Mitigation measures that are adopted as part of the CEQA analysis are often included in the LEA conditions. The LEA should only include those mitigation measures that it has the authority to enforce under the PRC, 14 CCR and 27 CCR.

Conclusion

A clear and concise permit, although not always easy to write, benefits the LEA, operator and CalRecycle. It is necessary to strive toward writing permit conditions that are explicit and indisputable. CalRecycle encourages LEAs to work closely with their Permitting and LEA Support representatives when preparing the permits. This helps to reduce potential problems and misinterpretations on or near the day of the hearing.

Lastly, the LEAs may incorporate other limits and conditions in the permit, as they deem necessary to protect the public health and safety and the environment and to ensure the facilities' ability to comply with State Minimum Standards for design and

operation with an authority citation. All limits or conditions should be within the LEA's authority. Proposed limits or conditions that may overlap with the Regional Water Quality Control Board or local air district limits should be established only after coordinating with the appropriate agency and operator and before the proposed limits are included in the permit, pursuant to 27 CCR 20005 and 20030 and PRC 43101 et seq.

If you have any questions or need additional information, please contact your Permitting and Certification representative.

Last updated: August 31, 2011

Permit Toolbox, <http://www.calrecycle.ca.gov/SWFacilities/Permitting/>

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