

**REQUEST FOR APPROVAL**

**To:** Howard Levenson  
Deputy Director, Materials Management and Local Assistance Division

**From:** Shirley Willd-Wagner  
Branch Chief, Financial Resources Management Branch

**Request Date:** May 2, 2013

**Decision Subject:** Awards for the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program (Farm and Ranch Cleanup Account, FY 2012/13)

**Action By:** May 14, 2013

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**Summary of Request:**

Staff requests approval of grant awards for the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program (Program), Fiscal Year (FY) 2012/13 (third cycle). CalRecycle received three eligible applications requesting a total of \$25,475 for this competitive grant program.

**Recommendation:**

Staff recommends approval of three grant awards, as listed in Table 1 below, for \$25,475.

**Table 1. Farm and Ranch Solid Waste Cleanup and Abatement Grant Program Recommended Award List**

Applicant	Award
Fall River Resource Conservation District	\$3,672
Placer County	\$5,105
Resource Conservation District of Greater San Diego County	\$16,698
<b>Total</b>	<b>\$25,475</b>

**Funding:**

Upon appropriation from the annual Budget Act, funds are transferred into the Farm and Ranch Cleanup Account from the Integrated Waste Management Account, Tire Recycling Management Fund, and Used Oil Recycling Fund. Funds are not to exceed \$1,000,000 annually for this Program.

Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
Farm and Ranch Cleanup Account (FY 2012/13)	\$587,897	\$25,475	\$562,422	Grants

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**Deputy Director Action:** On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant awards for the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program as listed in Table 1 for the third cycle of FY 2012/13. Each proposed grantee's award is conditional upon:

1. The full payment by June 17, 2013, of all outstanding debt(s) or scheduled payment(s) owed by the proposed grantee to CalRecycle;

2. The return by the proposed grantee of a completed and executed Grant Agreement by June 17, 2013; and

#### **Condition Subsequent**

After the Grant Agreement has been executed by both parties, the Grant will be subject to the following condition subsequent: The Grantee may not file for protection under Chapter 9 of the U.S. Bankruptcy Code or declare a fiscal emergency any time within the Grant Performance Period.

Dated: 5/2/13



Howard Levenson  
Deputy Director

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#### **Background and Findings:**

##### Statutory Authority

Public Resources Code (PRC) Section 48100 authorizes CalRecycle to award grants to public entities and Native American tribes for the purposes of cleaning up and abating the effects of illegally disposed waste on farm and ranch property owned by innocent parties. The grants are awarded to eligible entities on behalf of the property owner. PRC Section 48100 specifies that annual funding for the Farm and Ranch Grant Program not exceed \$1,000,000. PRC Section 48103(e) and 14 CCR 17992.2(a) allow an owner to receive reimbursement for solid waste cleanup and/or abatement costs under the Program.

##### Program Background

Properties eligible for grants include those involving a broad range of agricultural activities (e.g., farms, ranches, horticulture activities, and silviculture activities) where the property owner is not responsible for the illegal disposal or dumping based on a determination by the city or county. The Program's funding is primarily used to pay for the removal and proper disposal of small nuisance illegal dump sites containing non-hazardous solid waste, including, but not limited to, tires and incidental amounts of household hazardous materials, and for site security measures to prevent recurrence of illegal disposal after the projects are completed.

##### Criteria and Process

The Scoring Criteria was discussed at the April 17, 2012, CalRecycle Public Meeting and subsequently approved by the Deputy Director. Eligible applicants include cities, counties, federally recognized Native American tribes and Resource Conservation Districts. Eligible applicants may apply for up to \$200,000 per fiscal year and each eligible site shall not exceed \$50,000. Grantees may not expend more than seven percent of the grant for administrative costs.

Applications were due April 1, 2013, with a "secondary" due date of May 1, 2013 for the Resolution. Applications for illegal disposal sites previously remediated by the property owner are eligible. One of the proposed grants for this cycle is for reimbursement. In the event a grant cycle is oversubscribed, illegal disposal sites which have not been remediated and pose the greatest threat to public health, safety and/or the environment have higher priority.

A signed affidavit was submitted by each of the property owners, or authorized agent for the property owner, for the eligible sites. The affidavits state that neither the property owner, nor any other person allowed on the property, directed, authorized, permitted or otherwise consented to the disposal of solid waste onto their property. Furthermore, each application includes a statement by the local government applicant that supports the property owner's affidavit.

Each of the projects described below extend the scope of the Program to a degree as to the types of properties eligible for award. The first two projects extend the scope by deeming eligible sites which have no current rangeland or agricultural activities and which are not zoned agricultural. In the past such inactive properties were deemed eligible only where they were zoned agricultural, or a similarly agrarian designation, on the basis that they were either considered fallow farm or ranch land and/or the owner had represented that there was to be a prospective eligible use. In the subject projects the primary zoning designation is not agricultural, but each County nevertheless provides that certain agricultural uses are permissible within the zone. Also, in the subject projects the owner has represented that there is to be a prospective eligible use, and such use has been determined to be permissible under the respective zoning ordinance. The third project extends the scope of the program by deeming eligible an apparent agricultural use not specifically identified in the regulations. The issue of how to determine eligibility in such a case has not previously arisen. However, the regulations are expansive with respect to defined uses (i.e., the agricultural activities are “not limited to” those identified therein). In the third project below, the apparent agricultural use is one explicitly identified as an agricultural use in the County zoning ordinance (though like the above projects, agriculture is a “secondary” use in a non-agriculturally zoned area). The County’s deeming the use as agricultural is a factor CalRecycle may take into account in determining whether in its discretion the use is an eligible activity under the regulations.

The projects recommended for funding this cycle include:

**Fall River Resource Conversation District**  
Grant Funds Recommended for Approval: \$3,672

Number of Sites: 1

On a vacant forested parcel owned by Sierra Pacific Industries in Shasta County, unknown people have dumped their unwanted household waste, appliances, tires and electronic waste. The dumping has been ongoing for many years and the site is still actively utilized for illegal dumping. The waste poses a threat to the people of the town of Burney, which is close by, and a nearby stream. While the property is zoned as Industrial, agricultural uses are allowed within the zoning description and there is a timber harvest plan to harvest in the future. A no dumping sign has been posted and surveillance will be increased after cleanup to help prevent future dumping.

**Placer County – Reimbursement Grant**  
Grant Funds Recommended for Approval: \$5,105

Number of Sites: 1

When the current owner purchased this 7 acre parcel in 2005 it was strewn with over 300 cubic yards of household waste, automotive debris, 25 appliances and over 1,000 tires. The owner performed the cleanup and is asking for reimbursement of a portion of his expenses. The land is zoned as residential –forest, which allows for agricultural use, including “animal raising and keeping” and “grazing.” After cleanup, the owner installed a heavy gate and with a more protective and watchful eye of the neighbors, dumping has finally ceased. The owner intends to build a house and live on the property in the near future, along with his horses and cows, and he further intends to fence the property. While the owner was aware of the waste at the time he purchased the property, the actual scope of the waste far exceeded his estimations and he has represented that he did not pay a reduced price due to the presence of the waste and/or purchase the property “as is.”

**Resource Conservation District of Greater San Diego County**  
Grant Funds Recommended for Approval: \$16,698

Number of Sites: 1

A large 25 acre community garden in the Tijuana River Valley has been blighted by illegal dumping. The property is owned by the county and leased and managed by the Resource Conservation District (RCD). While the site has been used as a community garden for the past ten years, the Open Space zoning allows for “separately regulated agriculture uses” which explicitly includes “community gardens” and the property was formerly an organic farm. The RCD plans to install a gate, signage and a security camera after cleanup to help prevent future dumping.

