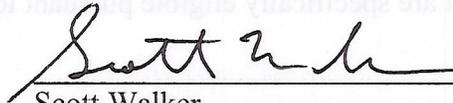


Ted Rauh  
April 22, 2010  
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**PROGRAM DIRECTOR ACTION REQUEST**

**To:** Ted Rauh, Program Director  
Waste Compliance and Mitigation Program

**From:**



Scott Walker  
Acting Division Chief  
Cleanup, Closure and Financial Assurances Division

**Prepared By:** Wes Mindermann  
Senior Waste Management Engineer

**Reviewed By:** Steve Levine, Legal Office

**Prepared On:** April 22, 2010

**Subject:** APPROVAL OF THE MOCKINGBIRD CANYON ILLEGAL DISPOSAL SITE, RIVERSIDE COUNTY, SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM (SOLID WASTE DISPOSAL TRUST FUND, FY 2009/10)

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**Summary:** Department of Resources Recycling and Recovery (Department) staff have completed an evaluation and recommend approval of the Department-managed cleanup of the Mockingbird Canyon Illegal Disposal Site (IDS) pursuant to the Solid Waste Disposal and Codisposal Site Cleanup Program (Program).

**Time Factor:** Decision required no later than May 9, 2010.

**Options:** The Program Manager may decide to:

1. Approve the proposed project;
2. Disapprove the project; or
3. Direct staff to provide additional information and bring the project back for future consideration.

**Recommendation:** Staff recommend Option 1.

**Program Eligibility:** The Program addresses cleanup of solid waste disposal and codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for a timely remediation and where cleanup is needed to protect public health and safety or the

environment. Cleanup projects are implemented through Department-managed contracts, grants, and loans. Staff uses adopted regulations and policies in determining site eligibility. Unless otherwise noted, actions proposed for this project are specifically eligible pursuant to the regulations.

Site Location/Description: The approximately 2.9 acre site (Assessor Parcel Numbers 273-230-020 and 273-230-030) is located at 17110 Mockingbird Canyon Road in Riverside. The absentee owner is the Bea M. Cox Family Trust (the Trust), a personal trust whose beneficiaries are apparently Beulah M. Cox, who is reportedly mentally incapacitated, and her son Michael Cox, who is reportedly terminally ill. Both Beulah and Michael Cox reside in Utah. Michael Cox apparently used the property as storage for goods and materials for his out-of-state business and initially allowed some landscape waste to be deposited at the site, presumably for property enhancement. However, as the property was predominantly vacant, over the past few years illegal dumpers (likely landscape companies) have broken the lock at the site and dumped thousands of additional cubic yards of landscape waste on the property. The County has advised that it has been unable to identify these illegal dumpers. In total there is now an estimated 15,000 cubic yards of landscape waste at the site. The illegally disposed green waste has been used by Mr. Cox to fill and level areas of the lot to an estimated depth of 10 to 20 feet in areas. Dumping has also occurred on small portions of adjacent privately-owned properties. The site has multiple local code violations, including unpermitted structures and excessive outside storage of various building materials and machinery associated with the owner's business.

The Solid Waste Local Enforcement Agency (LEA) is primarily concerned with: (1) fire danger presented by the illegally accumulated landscape waste and (2) the danger presented by a partially constructed swimming pool. In addition to the above mentioned concerns, Riverside County has initiated enforcement on the multiple local code violations that include large quantities of materials/waste that may be determined by the Court to be solid waste and, as such, subject to removal by the Program.

Proposed Remediation Project: The Program will remove for proper disposal and/or recycling the illegally stockpiled landscape waste and the proper destruction and removal of the unpermitted, partially constructed swimming pool following County guidelines. If deemed as solid waste by the Court, Cleanup Program funds may be used for the destruction of unpermitted structures, the removal of structures' contents, and/or the removal of materials that are stored outside of structures in violation of County codes and ordinances. Following these activities, appropriate erosion control devices will be installed.

Fiscal Impacts: The Program-managed portion of the project will be performed on a time-and-materials basis, with a preliminary cost estimate of \$450,000. Actual costs may vary depending

on a variety of factors including, but not limited to the quantities and/or types of materials encountered, market forces, required timeframes for cleanup, and competitive bids from subcontractors. In addition, the site remediation will be difficult due to the limited access for more than a relatively few trucks from a narrow and winding rural road with high-speed traffic.

Funding for the project will be derived from previously encumbered funds from the Solid Waste Disposal Trust Fund in the Program's Southern California remediation contract (IWM07037). The contract currently has \$1,238,000 in available funds from the Solid Waste Disposal Trust Fund and is adequately funded to complete this project.

Enforcement Actions and Cost Recovery: As a result of the owner's continued non-compliance with Code Enforcement directives, the Riverside County Counsel appeared on a Motion for Preliminary Injunction and a Motion for Appointment of Receiver before the Court on March 30, 2010. At the continued hearing on April 13, 2010, the Court granted the motion for Preliminary Injunction and Appointment of Receiver. As of April 21, 2010, final Order language was being prepared for the Court.

Public Resources Code Section 48023 directs the Department to seek reimbursement for monies expended under the Program to the extent possible. Under the Program cost recovery policy (Resolution No. 1999-199), the Department may decide not to pursue cost recovery based on several factors. For this project, staff recommend that cost recovery from responsible parties be pursued to the extent practical by the Department and Riverside County. The Department is coordinating with the County and the Receiver with respect to a sale of the property after remediation, with the proceeds going to reimbursement of the Department. While there may remain a deficiency in reimbursement after sale, the County's research indicates that neither the owner Trust nor Michael Cox have sufficient remaining assets to make pursuit of further cost recovery practicable. The Department will coordinate with the County in an attempt to obtain asset declarations from the Trust and Mr. Cox to confirm the County's findings of the parties' limited assets. If there remains a deficiency after the Department receives the proceeds from the sale of the property, the Department will only pursue further cost recovery if the responsible parties are found to possess sufficient additional assets to make such pursuit practicable.

Site Prioritization: Based upon the site's proximity to several occupied residences, it is rated as an environment priority of A1. Priority A1 is a suspected condition of pollution or nuisance from solid waste based on comparison with state minimum standards with significant residential, industrial, park, recreation, or environmentally sensitive areas within 1,000 feet. The dry nature of the 15,000 cubic yards of landscape waste also poses a significant fire danger. In addition, other factors included in making the site a priority for the Program are the owner's inability and/or unwillingness to promptly and properly remediate the site without assistance, the ability

of the Department to remediate the site with available funds, and the enforcement efforts to obtain site access by Riverside County departments.

California Environmental Quality Act (CEQA): Program staff has reviewed the proposed project and determined that it is categorically exempt per the Class 8 exemption (14 CCR §15308: Actions by Regulatory Agencies for Protection of the Environment). Compliance with CEQA requirements will be made with a Notice of Exemption filed by the Program staff.

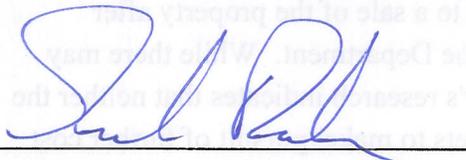
Support: Staff received a request for cleanup assistance from the LEA, Riverside County Code Enforcement Department, and Riverside Office of County Counsel.

Opposition: Staff have not received any written opposition at the time this document was submitted for approval.

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**Findings**: On the basis of the information and analysis in this Request for Action, the Department hereby approves this project under the Solid Waste Disposal and Codisposal Site Cleanup Program.

In addition, the Department directs staff to prepare and file a Notice of Exemption for the project with the State Clearinghouse.



Ted Rauh, Program Director  
Waste Compliance and Mitigation Program

APRIL 30, 2010

Date