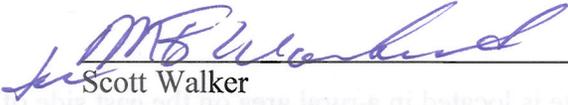


Tel: 805
June 17, 2010
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PROGRAM DIRECTOR ACTION REQUEST

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: June 17, 2010

Subject: APPROVAL OF THE CRESTON ILLEGAL DISPOSAL SITE, FACILITY
NO. 40-CR-0012, SAN LUIS OBISPO COUNTY, SOLID WASTE
DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM (SOLID
WASTE DISPOSAL TRUST FUND, FY 2010/11)

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

Time Factor: Decision required no later than July 14, 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 two-acre site is located in a rural area on the east side of Highway 229, approximately 3 miles south of the town of Creston. The site was operated as a disposal site serving the small, rural town of Creston from 1957 through 1969. Site operations were periodic in nature and conducted by San Luis Obispo County road crews. The site appears to have been primarily a trench and cover disposal operation of residential trash/garbage.

CalRecycle's Compliance Evaluation and Enforcement Division (CEED) is the Enforcement Agency (EA) for the site and has noted violations for grading and drainage control during inspections of the site. In addition, metal debris, glass, and other materials are exposed on the surface of the disposal area.

Proposed Remediation Project: The Program will focus efforts on the removal of surface debris and placement of a 2 foot thick soil cap over the disposal site with grading to provide proper drainage. Following these activities, affected areas will be hydro-seeded to promote re-vegetation and 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 \$350,000. 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.

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). As of June 17, 2010, the contract currently has \$818,000 in available funds from the Solid Waste Disposal Trust Fund and is adequately funded to complete this project.

Enforcement Actions and Cost Recovery: CalRecycle's Compliance Evaluation and Enforcement Division (CEED) is the Enforcement Agency (EA) for the site and has noted violations for grading and drainage control during inspections of the site.

Public Resources Code Section 48023 directs the Department to seek reimbursement for monies expended under the Program to the extent possible. The present violations at the site are the result of a lack of monitoring and maintenance of the site by the most recent owner, Alice

Schade, who is now deceased, as well as possibly prior owners. While the San Luis Obispo Real Property Tax Assessor Records indicate that the present owners of the site are the "Heirs of Alice Schade", review of court records appear to establish that the totality of heirs whom could have potentially acquired the property under the Will of Alice M. Schade and/or the laws of intestate succession have each relinquished all interest in the property through the filing of a "Disclaimer of Interests" in a judicial action. Therefore the site has been determined to be an abandoned site (unclaimed property). To ensure recovery of expended funds to the extent possible from the future sale of the property, staff recommend a lien be placed on the property for the amount expended by the Department to remediate the site.

With respect to the former owner/operator of the site, staff recommend cost recovery not be pursued against San Luis Obispo County. Under Program cost recovery regulations the Department may decide not to pursue cost recovery based on factors including, but not limited to: property owner did not and will not gain a benefit due to condition of the property. At the time of the disposal operation, San Luis Obispo County was the property owner operating a free disposal site for the public benefit of the community of Creston and thus did not benefit financially from its operations at the site. In addition, after disposal operations ceased, the County apparently closed the site in accordance with the laws at the time and deeded the property to a private owner in 1972. As previously addressed the present violations at the site are the result of a lack of monitoring and maintenance of the site by the most recent owner and possibly prior owners who acquired the site after it was properly closed by the County. San Luis Obispo County had no direct possession, custody or control of the site during this period nor did they have predominant enforcement authority over the site, as the State is the EA. Thus this is not a case where the prior owner/operator financially benefitted from operations and subsequent violations at the site were a direct consequence of operations (i.e., where decomposed solid waste generates methane gas or the burning of solid waste resulted in the deposition of burn ash). San Luis Obispo County has also committed to providing long term grading and erosion control for the soil cap until a new owner takes possession of the property and to monitor and maintain plants during the re-establishment period at an estimates average annual cost of \$2,500 per year.

Site Prioritization: Based upon the exposed solid waste, poor surface drainage, and the site's proximity to an ephemeral stream, the site 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. In addition, other factors included in making the site a priority for the Program are having no identified property owner, the ability of the Department to remediate the site with available funds, and the amount of in-kind services from local government.

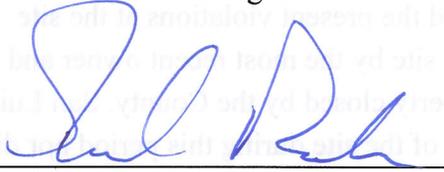
California Environmental Quality Act (CEQA): Program staff has reviewed the proposed project and determined that it is categorically exempt per the Class 8 exemption (14 CCR §15308: Actions by Regulatory Agencies for Protection of the Environment). Compliance with CEQA requirements will be made with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

Support: Staff received a request for cleanup assistance from the CEED and is working with the cooperation and assistance of the San Luis Obispo County Department of Public Works.

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

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

7/2/2010
Date