

REQUEST FOR APPROVAL

To: Mark De Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division

From: Wes Mindermann
Supervising Waste Management Engineer
Engineering Support Branch

Reviewed By: Steve Levine, Legal Office

Request Date: April 10, 2015

Decision Subject: **APPROVAL OF THE RANCHO CARPETA TRUST ILLEGAL DISPOSAL SITE CLEANUP PROJECT, TEHAMA COUNTY, SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM (SOLID WASTE DISPOSAL TRUST FUND, FY 2014/2015)**

Action By: April 16, 2015

Summary of Request:

The Solid Waste Disposal and Codisposal Site Cleanup Program (Program) requests approval to implement a Department-managed cleanup project of the Rancho Carpeta Trust Illegal Disposal Site pursuant to the Program's requirements at an estimated cost of \$90,000.

Recommendation:

Program staff recommends approval of the cleanup of the Rancho Carpeta Trust Illegal Disposal Site.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve this project under the Solid Waste Disposal and Codisposal Site Cleanup Program.



Mark De Bie, Deputy Director
Waste Permitting, Compliance, and Mitigation Division

4/16/15
Date

BACKGROUND

Site Location/Description: The Rancho Carpeta Trust Illegal Disposal Site (site) is located approximately 15 miles east of Corning in Western Tehama County at 19990 No Name Road (Assessor Parcel Number 061-380-08-1). The 20-acre property is zoned for residential use and has been used to illegally accumulate and store solid waste.

Enforcement Actions: On July 30, 2013, staff from the Tehama County Department of Health, acting as the Solid Waste Local Enforcement Agency (LEA), CalRecycle and Tehama County Code Enforcement performed an inspection in the presence of one of the property owners at the time, Alfred Souza, regarding the accumulation of waste carpet materials after hearing about bales of post-consumer carpet that ignited in June 2013. The fire partially consumed a wall of carpet bales that was 8 feet tall and 500 feet long, producing smoke that was visible from several miles away. The agencies observed waste carpet baled in 4 foot by 6 foot by 6 foot cubes stacked up to 4 cubes high throughout the 20-acre parcel; unbaled piles of carpet; large rolls of wire; one abandoned mobile home; waste tires; and other waste materials. It was determined by the agencies that all the waste materials were not properly disposed and thereby constituted illegal disposal of solid waste per Public Resources Code section 44002(a)(1), as well as also potentially constituting violations of the County's codes. Mr. Souza was advised at that time to remove all the waste materials.

On August 25, 2013, the property owners, Alfred and Yuri Souza, conveyed the property for nominal consideration to the Rancho Carpeta Trust (trust), an apparently otherwise assetless entity set up by Ronald Robert Dunn. When the LEA and CalRecycle inquired into the transaction, Mr. Dunn alleged that he was unaware of the extent of the cleanup liability, yet nevertheless refused to attempt to overturn the transaction, thus leaving the property in the hands of an apparently otherwise assetless trust rather than in the hands of the Souzas.

On October 16, 2013, Tehama County Code Enforcement, unaware that the property had been conveyed to the trust, issued a *Notice of Violation and Proposed Administrative Penalty* (NOV) to Alfred and Yuri Souza, noting the violations observed from the inspection on July 30, 2013, and required the Souzas to correct the violations by October 28, 2013. However, since the Souza were no longer the property owners, the NOV had no force or effect. As such, Tehama County Code Enforcement issued a *Notice to Abate Public Nuisance and Administrative Order to Show Cause* (Notice to Abate) dated June 4, 2014, to the current property owner, the Rancho Carpeta Trust (as well as to Mr. Dunn, the Souzas and a third party, to which the Order apparently has no force or effect), requiring removal of all waste materials and bringing the property into compliance with Tehama County Code by June 14, 2014. The property owner failed to comply with the Notice to Abate. On June 19, 2014, the Tehama County Board of Supervisors approved the motion ordering the abatement of the property and directing an itemized accounting of costs incurred in abating the public nuisance. The costs may be made a special assessment added to the County assessment roll and become a lien on the real property or be placed on the unsecured tax roll.

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 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.

Public Resources Code section 48021(c)(1) allows CalRecycle to expend a portion of the appropriated funds to abate illegal disposal sites. Tehama County Code Enforcement declared this site to be in violation of Tehama County Codes, as well as noting that it was an illegal disposal site in the Notice to Abate dated June 4, 2014. The owner, the Rancho Carpeta Trust, has been unwilling to abate the threat required by the Notice to Abate. If the carpet materials remain on site, it continues to be a fire hazard which constitutes a public health and safety and environmental concern as demonstrated by the 2013 fire.

PROJECT SCOPE

Proposed Cleanup: Program will remove and dispose of all the waste carpet, large rolls of wire, one abandoned derelict mobile home, waste tires, and other waste materials as cost effectively as possible.

California Environmental Quality Act (CEQA): Program staff has reviewed the proposed project and determined that it is categorically exempt per the Class 8 exemption (Title 14, California Code of Regulations Section 15038: Actions by regulatory agencies to assure restoration and protection of the environment). A Notice of Exemption will be filed with State Clearinghouse upon project approval.

FISCAL INFORMATION

Cost Estimate: The Department-managed project will be performed on a time-and-materials basis under the Program's Northern California remediation contract number DRR12034. The Program's contractor has conducted a site visit with Program and Tehama County staff and developed a work plan with a preliminary cost estimate of \$90,000, which includes a 25 percent contingency.

Funding: Funds from the Solid Waste Disposal Trust Fund will be used for the project through the Program's existing contract number DRR12034. The contract currently has \$100,000 available and is adequately funded to complete this project.

Cost Recovery: Public Resources Code section 48023 directs the Department to seek reimbursement for monies expended under the Program to the extent practicable. On June 19, 2014, the Tehama County Board of Supervisors approved the motion ordering the abatement of the property and directing an itemized accounting of costs incurred to be made a special assessment added to the County assessment roll and become a lien on the real property or be placed on the unsecured tax roll. The County has agreed that as a condition of our proceeding with this project: (a) the aforementioned accounting of costs shall include CalRecycle's costs in remediating the property; (b) said costs shall be made a special assessment added to the County

assessment roll and become a lien on the real property; (c) CalRecycle shall be named as a third party beneficiary of any and all recoveries under the assessment and/or the lien, up to the full amount of said costs as specified in the accounting, which shall have priority over any County costs in said accounting; (d) CalRecycle shall be named in the lien document, along with the County, as a party to receive notice of any and all payoff demands and/or other notices relating to the lien; and (e) a draft of the lien document shall be submitted to CalRecycle prior to issuance, and said document must reflect the above requirements to CalRecycle's satisfaction before issuance. Moreover, CalRecycle will notify Alfred Souza, Yuri Souza, and Ronald Robert Dunn that at the completion of the remediation, CalRecycle may refer this matter to the Attorney General's Office for consideration as to whether the actions of the Souzas and Mr. Dunn pertaining to the conveyance of the property for nominal consideration to an apparently otherwise assetless trust gives rise to the personal liability of the Souzas and Mr. Dunn for cost recovery.

SUPPORT

Program staff has not received any written support at the time this document was submitted for approval.

OPPOSITION

Program staff has not received any written opposition at the time this document was submitted for approval.