

REQUEST FOR APPROVAL

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

From: Steve Santa Croce
Senior Waste Management Engineer
Solid Waste and Waste Tire Cleanup Programs Unit
Engineering Support Branch

Reviewed By: Steve Levine, Legal Office

Request Date: January 8, 2016

Decision Subject: **Approval of the Mono Way Sullivan Creek Bridge Illegal Disposal Site Cleanup (Solid Waste Disposal Trust Fund, FY 2015/16)**

Action By: January 11, 2016

Summary of Request:

Department of Resources Recycling and Recovery (CalRecycle) staff have completed an evaluation and recommend approval of the CalRecycle-managed cleanup of the Mono Way Sullivan Creek Bridge Illegal Disposal Site (site) pursuant to the requirements of the Solid Waste Disposal and Codisposal Site Cleanup Program (Program).

Recommendation:

Staff recommend the approval of the CalRecycle-managed remediation of the site.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval, 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

Dated: 1/11/16

Background Information, Analysis, and Findings:

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 CalRecycle-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 bridge over Sullivan Creek on Mono Way is in the City of Sonora in Tuolumne County (County). Mono Way is the old State Highway through the area that was relinquished to the County when the Highway 108 Bypass was completed. The County is responsible for the maintaining the roadway and right-of-way and discovered an illegal homeless encampment after responding to a fire under the Sullivan Creek bridge on Mono Way in October 2015, and disbanded the encampment. The illegal campers left refuse spilling into Sullivan Creek that poses a threat to public safety and the environment. Sullivan Creek feeds directly into Lake Don Pedro, which supplies irrigation and drinking water to the Central Valley communities. There are no impacts to the adjacent private properties or the Sierra Railroad trestle, tracks, and right-of-way. County staff are concerned that winter runoff will further spread the solid waste downstream and the County does not have the operating budget and resources to fully fund the immediate cleanup of the site.

Proposed Remediation Project: The County will provide equipment and labor to remove and load the debris into debris bins. Labor will be provided through the use of a County prisoner crew available for the project until January 15, 2016. The County has also negotiated access to the site across the adjacent landowner's property and has enlisted the Sheriff's Office to provide additional patrols in the area to prevent the homeless from reoccupying the site. The Program's remediation contractor will provide debris bins and transport and dispose of the aforementioned solid waste at the nearest permitted facility.

Site Prioritization: The site is rated as an environment priority of A2. Priority A2 is a known 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 one mile of the site.

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 Program staff.

Fiscal Impacts:

Cost Estimate: The CalRecycle-managed project will be performed on a time-and-materials basis utilizing the Program's Northern California remediation contract number DRR12034. The contractor has conducted a site visit with Program and County staff and developed a work plan to provide bins for waste disposal, transport, and disposal at an estimated cost of \$5,000, which includes a 20 percent contingency.

Funding: Funding for the project will be derived from previously encumbered funds from the Solid Waste Disposal Trust Fund in the Program's Northern California remediation contract number DRR12034. The contract currently has approximately \$1,200,000 in available funds and is adequately funded to complete this project.

Cost Recovery: Public Resources Code (PRC) Section 48023 directs CalRecycle to seek reimbursement for monies expended under the Program to the extent feasible. The property owner, Tuolumne County, is a public agency in California. Pursuant to Title 14, California Code of Regulations (14 CCR) Section 18929(b), in considering the extent of cost recovery, CalRecycle may take into consideration factors present here, such as publicly owned sites maintained in the public benefit and use, where the owner did not cause the disposal of waste and will not gain a benefit due to the condition of the property. As the County owns and maintains the property for the public benefit, and did not cause the disposal of the waste, the County would have been eligible for a grant from CalRecycle to abate the conditions at this site pursuant to PRC Section 48021(c). As a grant is a bestowal of funds, cost recovery would have been inapplicable as to the County. However, the County has requested a CalRecycle -managed cleanup in lieu of a grant, on the grounds that the County does not have sufficient financial and staff resources to implement this project in a timely manner. CalRecycle may grant such a request in accordance with PRC Section 48021(b)(2), which authorizes the Department to expend funds directly for the cleanup of a publicly owned site based upon a CalRecycle determination that the public entity lacks resources or expertise to timely manage the cleanup itself. For these reasons, waiver of cost recovery is recommended for this project; however, the County will provide "in-kind" equipment and labor during the remediation.

Support:

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

Opposition:

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

