

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: May 28, 2013

Decision Subject: **APPROVAL OF THE HENRY'S WOOD FARM ILLEGAL DISPOSAL SITE CLEANUP PROJECT, FACILITY NO. 07-AA-0057, CONTRA COSTA COUNTY, SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM (SOLID WASTE DISPOSAL TRUST FUND, FY 2012/2013)**

Action By: June 4, 2013

Summary of Request:

On March 29, 2012, the Contra Costa County Solid Waste Local Enforcement Agency/ Environmental Health Division (LEA) requested the Department of Resources Recycling and Recovery's (Department) assistance for the Department-managed cleanup of the Henry's Wood Farm Disposal Site (site). This request is for the approval of the remediation of the site at an estimated cost of \$310,000.

Recommendation:

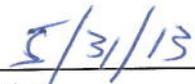
Department staff have completed the evaluation and recommend the approval of the Department-managed cleanup of the Henry's Wood Farm Disposal Site.

Deputy Director Action:

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.



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



Date

Background:

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 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.

Project Scope:

Site Location/Description: The approximately 4-acre site is located at 1000 Central Avenue in Martinez, California (Assessor's Parcel Number 380-030-034). The site was operated by Mr. Harry Henry as a green material composting (chipping and grinding) facility with an Enforcement Agency Notification issued on March 9, 2000. Mr. Henry passed away in 2001 and his widow, Ms. Norma Henry, became the sole owner of the site and continued operations at the site with her daughter Ms. Melanie Hasenpusch. Subsequently, Ms. Hasenpusch passed away and Ms. Henry became the sole operator of the site.

A fire occurred at the site on November 23, 2005, and burned for four days. A second fire occurred at the site on June 19, 2006, which burned for three days. A third fire occurred at the site on September 15, 2007, and burned for 13 hours.

In a July 3, 2006, letter to Ms. Melanie Hasenpusch the Contra Costa County Fire Protection District (District) ordered the owner to cease operations until an inspection is conducted and the requirements of the District-issued permit is met. On October 23, 2007, the District sent a letter to the owner and advised the owner that the site posed a fire safety hazard and outlined an action plan to achieve a fire safe environment.

On December 7, 2007, the LEA inspected the site and issued an Inspection Report citing the following violations:

- 17868.5(a)-Load Checking / Sorting
- 17868.5(d)-Personnel Training (1 percent Conc.)

17867(a)(3)-Random Load Checks
17867(a)(5)-Unauthorized Access
17867(a)(8)-Fire Prevention, Protection and Control
17867.5-Personal Training
17869(a)-Inspection of Records
17869(b)-Special Occurrences
17869(c)-Public Complaints
17869(d)-Feedstock and Compost
17869(e)-Load Checking
17869(g)-Record of Serious Injuries
17869(h)-Training Records

On December 17, 2007, the Contra Costa County Zoning Administrator revoked the site's land use permit. On September 29, 2008, Ms. Henry notified the LEA that the site had closed and the site would be undergoing restoration. A subsequent inspection by the LEA on January 22, 2009, showed that the site had been abandoned and no cleanup or site restoration had been implemented.

Enforcement Actions:

Since the site operation was deemed abandoned by the LEA in January 2009, the LEA has been inspecting the site on a monthly basis and has documented numerous recurring violations, including the failure to remove the remaining wood waste from the site, failure to conduct temperature monitoring of wood chip piles, and failure to provide adequate water supply for fire suppression. On March 1, 2013, the LEA issued a Notice and Order (N&O) to Ms. Henry to bring the site into compliance by removing all wood debris and other solid wastes from the site by April 30, 2013. To date the owner has failed to comply with the N&O. As a result of the owner's continued non-compliance with the requirements of the N&O, the LEA will obtain an abatement warrant from Superior Court for CalRecycle to access the site to perform the necessary cleanup.

Proposed Remediation Project: The Program's contractor will remove the solid waste debris to appropriate facilities. Wood waste will be hauled either to the landfill or to a recycling facility. Residual wood chips mixed with soil will be evenly spread across the site to a depth of less than one inch to eliminate the fire threat. The LEA and the County Department of Conservation and Development have indicated that spreading the residual wood chips on site at the proposed rate is acceptable.

Fiscal Impacts:

Cost Estimate: The Solid Waste Disposal and Codisposal Site Cleanup Program's (Program) contractor has conducted a site visit with Program staff and developed a work plan with a preliminary cost estimate of \$310,000. 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, the required timeframes for cleanup, and competitive bids from subcontractors.

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Funding: The Department-managed project will be performed on a time-and-materials basis under the Program's Northern California remediation contract (number DRR12034), which derives its funding from previously encumbered funds from the Solid Waste Disposal Trust Fund. The contract currently has \$1,500,000 in available funds from the Solid Waste Disposal Trust Fund 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 possible. Expended funds may be recoverable from the property owners and other responsible parties in a civil action brought by the Department [Public Resources Code Section 48023(c)] and/or by imposing a lien upon the real property owned by the property owners that is subject to the remedial action [Public Resources Code Section 48023.5(a)]. A lien will be placed on the remediated property and a civil action for cost recovery may be pursued against Ms. Norma Henry, in her individual capacity as Operator and in her capacity as Trustee of The Henry Trust, Owner, to the extent practicable.

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.