

**DIRECTOR REQUEST FOR APPROVAL**

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

**From:**

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

**Prepared On:** September 7, 2012

**Subject:** **APPROVAL OF EXPENDITURE FOR THE BONZI LANDFILL SITE PROJECT, FACILITY NO. 50-AA-0003, STANISLAUS COUNTY, SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM (SOLID WASTE DISPOSAL TRUST FUND, FY 2012/13)**

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**REQUESTED ACTION:**

Department of Resources Recycling and Recovery (Department) staff recommend approval of an expenditure from the Solid Waste Disposal Trust Fund for a previously approved Department-managed remediation project at the Bonzi Landfill Site pursuant to the Solid Waste Disposal and Codisposal Site Cleanup Program (Program). This project had previously been approved on July 26, 2012, during a mediation proceeding arising out of a pending court action between the Department and the California Regional Water Quality Control Board, Central Valley Region on the one hand, and the owners/operators of the Bonzi Landfill on the other hand.

Time Factor: Decision required no later than September 7, 2012.

Options: The Deputy Director may decide to:

1. Approve the expenditure for the proposed project;

2. Disapprove the expenditure for the project if there has been a change of circumstance with respect to the prior approval of the project or a funding prioritization issue arising out of use of the Solid Waste Disposal Trust Fund; or
3. Direct staff to provide additional information and bring the expenditure request back for future consideration.

Recommendation: Staff recommend Option 1.

### **PROJECT SCOPE:**

Site Location/Description: The Bonzi Landfill is a 128-acre private landfill owned by the Ma-Ru Holding Company and operated by Bonzi Sanitation Landfill. The site consists of two parcels, APNs 017-41-11 and 017-41-36, located in unincorporated Stanislaus County on Hatch Road, 5 miles west of State Route 99, which is approximately 3 miles southwest of the City of Modesto. The landfill has been operated as a solid waste facility since 1967 under Solid Waste Facility Permit No. 50-AA-003 and Waste Discharge Requirements Order No. R5-2007-0148. The landfill is comprised of four Waste Management Units (WMUs), WMUs I through IV. WMU I was formally closed in 1998 with a final cover system. WMUs II, III, and IV have not been closed and do not have a final cover system. The Bonzi Landfill ceased accepting waste in November 2009.

Enforcement Actions: There have been numerous enforcement actions at this site since 1984 related to groundwater contamination, inadequate maintenance, the acceptance of unauthorized waste, and failure to comply with permit conditions, including the failure to fully fund the financial assurance mechanism. Notices of Violation issued by the RWQCB for the site specifically list inadequate cover and the relocation of inert debris that is outside of the permitted footprint to the current WMUs.

Intermediate Cover: WMUs II, III, and IV are approximately 50 acres in size, do not have a final cover system, and have an inadequate intermediate cover. In many places, exposed refuse is visible and during routine maintenance activities, the cover is observed to be very thin. The cover does not shed water well, allowing rainfall infiltration into the unlined refuse cells below, likely exacerbating the groundwater contamination. The thin cover also hinders the effective operation of the landfill gas collection system to control lateral landfill gas migration.

Proposed Remediation Project: The Program's contractor will construct an intermediate cover of 24" using soil from the designated borrow source immediately adjacent to the landfill and will relocate inert materials from outside the refuse footprint into current WMUs. The contractor will also modify the landfill gas collection system and site drainage systems to accommodate the intermediate cover. Disturbed soil areas will be protected with appropriate erosion control

measures and hydroseeded. Construction activities will be limited to permitted landfill site until a settlement agreement is fully executed, which will allow site access onto the adjacent Whitmore property. After the settlement agreement is in place, construction activities will be extended onto the Whitmore property.

### **FISCAL IMPACTS:**

Cost Estimate: The Department-managed project will be performed on a time-and-materials basis under the Program's Southern California remediation contract number DRR10009. Program staff has developed a preliminary cost estimate of \$1.9 million, which includes a 10 percent contingency. If the expenditure is approved, staff would conduct a site visit with the program's contractor to develop a work plan and cost estimate. Actual costs may vary depending on a variety of factors including, but not limited to the quantities and/or types of materials encountered, the required timeframes for remediation, and competitive bids from subcontractors.

Funding: 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 number DRR10009. The contract currently has \$3.1 million in available funds from the Solid Waste Disposal Trust Fund and is adequately funded to complete this project. The Northern California remediation contract is fully utilized at this time.

### **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. Throughout the Program's history there have been rare cases where, as here, a permitted facility's failure to comply with an order to implement a corrective action at its site constitutes an emergency situation under PRC Section 48020(c), threatening the health and safety of adjoining residents and thus necessitating consideration of a Department expenditure under the Program to perform the action. In such cases consideration is given to calling for the surrender and/or revocation of the permit. However, where as here the facility is at the stage where it has ceased accepting waste, which is the primary benefit of the permit, the public interest is better served by continuing to hold the operator to the burdens of the permit for the duration of the closure and post-closure period, to the extent practicable.

Funding and Litigation: Once the Bonzi Landfill ceased accepting waste in November 2009, the financial assurances were required to be fully funded to cover all closure, postclosure maintenance, and corrective action costs. Based upon the most recent cost estimates, the total financial assurances funds available were deficient. RWQCB initiated litigation in 2009 (in which the Department subsequently intervened) to, among other matters, compel the owners and operators to fund the deficiency. That litigation is still pending.

In March 2010, the owner and operator notified CalRecycle and the RWQCB that they were financially unable to continue critical operations and maintenance activities at the site. The landfill owner, operator, and agencies entered into a Stipulation and Agreement to continue to fund critical operations and maintenance activities at the landfill using the financial assurances funds and those activities are currently being performed.

Public Resources Code Section 48023 directs the Department to seek reimbursement for monies expended under the Program to the extent possible. As addressed above, the State is pursuing the current operators and owners of the landfill in court in an attempt to assure that sufficient funds are available to complete the closure of the site as well as to fund the post-closure maintenance and corrective action activities which will need to be performed in the future. The current remediation being performed by the Department will increase the likelihood that the recovery we obtain from responsible parties will be sufficient to cover these intermediate and long-term costs. In the event there are funds remaining after all long-term activities have been completed and the landfill no longer poses any threats, then the Department will apply such funds towards the costs of this remediation.

Site Prioritization: The site is rated as an environmental 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 one mile of the site. The site has known groundwater contamination and is located within 100' of a residential subdivision and within 1000' of the Tuolumne River.

California Environmental Quality Act (CEQA): Previous CEQA documents prepared for the landfill site operations address the impacts of placing cover at the site. Removing cover soil from the adjacent property will require CEQA and program staff have 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: The Regional Water Quality Control Board supports this project.

Opposition: Staff has 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.

  
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Mark De Bie  
Deputy Director  
Waste Compliance and Mitigation Program

9/7/12  
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Date