

**REQUEST FOR ACTION**

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

**From:** Wes Mindermann  
Supervising Waste Management Engineer  
Engineering Support Branch

**Reviewed By:** Elliot Block, Legal Office

**Request Date:** October 8, 2014

**Decision Subject:** **APPROVAL OF THE UTILIZATION OF DEPARTMENT RESOURCES PERSUANT TO EXECUTIVE ORDER ACTING UNDER THE SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM FOR THE BOLES FIRE DEBRIS REMOVAL PROJECT IN THE CITY OF WEED (SOLID WASTE DISPOSAL TRUST FUND, FY 2014/2015)**

**Action By:** October 8, 2014

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**Summary of Request:**

The California Office of Emergency Services (CalOES) has requested technical and remediation assistance for debris removal from the Boles Fire in the City of Weed. Consistent with the CalOES request and the Governor's Executive Order B-27-14, the Solid Waste Disposal and Codisposal Site Cleanup Program (Program) requests approval to implement a Department-managed remediation project for the Boles Fire Debris Removal at an estimated cost of \$4,000,000.

**Recommendation:**

Program staff recommends approval of the Boles Fire Debris Removal project.

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**Deputy Director Action:**

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

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

Dated: 10/8/14

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## **BACKGROUND:**

Boles Fire: On September 15, 2014, the Boles Fire destroyed approximately 150 homes and other structures within the City of Weed (City). Shortly thereafter, CalRecycle staff visited the City and performed a preliminary assessment of the project. The individual home sites and other structures vary in debris composition as some contain just foundations, chimneys, ash and metal debris, while others are partially burned and have remaining structural components. A potential 35,000 tons of waste and debris have been identified for removal from the impacted sites.

Request for Assistance: On September 17, 2014, the Governor's Office issued a Proclamation of a State of Emergency, thereby ordering state agencies to respond to the emergency and utilize resources at the direction of CalOES. On September 22, 2014, CalOES requested CalRecycle to take the lead on a coordinated debris removal project for the Boles Fire.

Authority: On October 6, 2014, the Governor issued Executive Order B-27-14 (Attachment 1), to protect public health and safety and, among other things, ordered the following:

1. The Office of Emergency Services provide local government assistance, as appropriate, under the authority of the California Disaster Assistance Act, California Government Code section 8680 et seq. and California Code of Regulations, Title 19, section 2900 et seq.
2. State statutes, rules, regulations and requirements are hereby suspended to the extent they apply to the following activities: (a) removal, storage, transportation, and disposal of hazardous and non-hazardous solid waste and debris resulting from the wildfires that have burned and continue to burn in Siskiyou County and that are subject to the jurisdiction of agencies within the California Environmental Protection Agency and the California Natural Resources Agency; and (b) necessary restoration and rehabilitation of timberland, streams, rivers, and other waterways. Such statutes, rules, regulations and requirements are hereby suspended only to the extent necessary for expediting the removal and cleanup of debris from the fires, and for implementing any restoration plan by Siskiyou County. Individuals who desire to conduct activities under this suspension of statutes, rules, regulations, and requirements shall first request that the appropriate Agency Secretary, or his delegate, make a determination that the proposed activities are eligible to be conducted under this suspension. The Secretary for the California Environmental Protection Agency and the Secretary for the California Natural Resources Agency shall use sound discretion in applying this Executive Order to ensure that the suspension serves the purpose of accelerating cleanup and recovery, while at the same time protecting public health and the environment. This order shall apply to, but is not necessarily limited to: solid waste facility permits, waste discharge requirements for storage and disposal; emergency timber harvesting; emergency construction activities; and waste discharge requirements and/or Water Quality Certification for discharges of fill material or pollutants. To the extent it is within their administrative authority, the boards, departments and offices within the California Environmental Protection Agency and the California Natural Resources Agency shall expedite the granting of other authorizations, waivers or permits necessary for the removal, storage, transportation and disposal of hazardous and non-hazardous debris resulting from the fires, and for other actions necessary for the protection of public health and the environment.

3. As necessary to assist local governments and for the protection of public health and the environment, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services necessary to quickly remove dangerous debris, repair damaged resources, and restore and protect the impacted watershed. Because strict compliance with the provisions of the Government Code and the Public Contract Code applicable to state contracts would prevent, hinder, or delay these efforts, applicable provisions of those statutes, including but not limited to travel, advertising and competitive bidding requirements, are suspended to the extent necessary to address the effects of the fires.

4. State agencies and departments within my administration shall work with local officials to assist them in establishing and implementing a comprehensive structural debris removal plan.

## **PROJECT SCOPE:**

### Structural Debris Management

Department staff have developed an Operational Debris Management Plan, which estimates the volume of debris for removal; specifies the methods for waste characterization; identifies a mechanism to collect and transport the debris for disposal; and coordinates with individual homeowners. The key for the success of a coordinated State-managed clean-up is the cooperation of the individual landowners and the insurance companies. To this end, the City has developed a release for homeowners to voluntarily sign that addresses access removal of materials; hold harmless for the State and its contractors for liability; and reimbursement of costs.

Other related environmental restoration activities are being evaluated including, but not limited to, burned timber harvesting and removal, erosion control, and timberland restoration.

### Solid Waste Disposal and Codisposal Site Cleanup Program

In administering the Program, the Department is authorized to expend funds directly for cleanup [PRC Section 48021(b)]. Department-managed remediations are currently accomplished through the use of two environmental services contracts, Contract DRR12033 with Sukut Construction, and Contract DRR12034 with Pacific States Engineering Contractors, that perform a variety of tasks relating to remediations at solid waste disposal sites. In addition, the Program utilizes an engineering services contract, Contract DRR13017 with Geo-Logic Associates, to support the Program in all phases of the site investigation and remediation.

While any assistance provided by the Department under authority of the Executive Order does not and need not constitute a project under the Program, as the City, using California Disaster Assistance Act (CDAA) funds, is providing direct reimbursement of Program costs (see Legal Issues below), the general scope of work for the assistance to the City would be to utilize the Department's Program staff, contractors, and funding and other available Department resources to assist with the management of the structural debris and ash resulting from the Boles Fire as authorized under Executive Order B-27-14, in the same manner as if this were a Program project. Because time is of the essence in this project, the Executive Director, or her designee, would

have delegated authority to utilize available Program resources and other Department resources to the extent appropriate and/or possible.

Environmental Issues:

The purpose of this project is to ensure the protection of public health, safety and the environment through the expeditious removal and proper disposal of structural debris and ash. The Governor's Executive Order gives the Department and other State agencies the direction to act and waives permitting, contracting and other administrative processes toward this greater environmental goal. Based on available information, staff is not aware of any environmental review issues (i.e., CEQA compliance) related to this item.

Legal Issues:

As previously noted, any assistance provided by the Department under authority of the Executive Order does not and need not constitute a project under the Program, as the City is providing direct reimbursement of Program costs. Generally the Solid Waste Trust Fund may only be used for eligible projects under the Program. (See Public Resources Code Section 48027(a)(2): "... the maintenance of the trust fund is of the utmost importance to the state and that it is essential that any money in the trust fund be used solely for the purposes authorized in this article and not be used, loaned, or transferred for any other purpose.") Here, however, this assistance project proposes to use only available funds and not funds being utilized for other Department-approved projects, and the City has committed to reimbursing the Trust Fund through an MOU with their receipt of CDAA funds. Thus there would appear to be negligible impact to Program operations, which appears to satisfy the Legislative intent of the above statute.

**FISCAL INFORMATION:**

Funding and Reimbursement:

Under the CalOES CDAA, a local agency may get reimbursement for the costs for debris removal, emergency protective measures, and permanent restoration costs for disaster-damaged facilities. The CDAA funds are being made available to the City on a reimbursement basis for many activities, including the removal of fire related structural debris and ash. The City has entered into a Memorandum of Understanding (MOU) with the Department, dated October 6, 2014, (Attachment 2) for the Department to remove fire related structural debris for the City on a reimbursement basis. Department funds and resources are being utilized to perform work and will be reimbursed later as the Department is able to invoice the City for work performed.

At the time this agenda item was prepared the amount available in the Solid Waste Trust Fund for Fiscal Year (FY) 2014/15 was approximately \$5,100,000. An additional \$2,845,000 is available in Contract DRR12033 and \$1,394,000 in Contract DRR12034 for remediation projects. An additional \$536,000 is available in Contract DRR13017 for engineering consulting services. If necessary, available funds may be allocated or reallocated from other contracts and/or the Solid Waste Trust Fund and/or other available Department funding sources, as deemed necessary by the Executive Director or her designee. The Department will use the contracting exemptions from the Executive Order to augment the contracts in an amount adequate to restore the available balances to pre-project levels, thereby allowing the Program to

complete planned projects for 2014 and 2015. Short-term fiscal impacts are unknown due to the developing nature of the scope of the assistance. Long-term fiscal impacts are anticipated to be negligible due the proposed reimbursement of expended funds.

**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.