

**WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF
ACTION REQUEST**

To: Georgianne Turner, Branch Chief
Waste Evaluation and Enforcement Branch



From: _____
Paulina Lawrence, Section Manager
Solid Waste Enforcement Section

Prepared By: Jon Whitehill and Anthony VanderSchaaf, Solid Waste Enforcement Section

Request Date: July 23, 2015

Action By: August 7, 2015

Decision Subject: Consideration of a Second Extension to the Final Compliance Schedule Due Date for a Facility included on the Inventory of Facilities that Violate State Minimum Standards (Inventory), South Coast Solid Waste Disposal Site, SWIS No. 23-AA-0018, Mendocino County.

SUMMARY

The South Coast Solid Waste Site is owned and operated by the County of Mendocino, Public Works Department. The facility is located at 40855 Fish Rock Road in Gualala in Mendocino County. This site ceased accepting waste for disposal in 2001. To date, the landfill does not yet have an approved Final Closure Plan closed in accordance to Title 27, California Code of Regulations (CCR).

On May 24, 2012, the South Coast Solid Waste Disposal Site was placed on the Inventory for ongoing violations of Title 27 CCR, Section 21110 –Time Frames for Closure.

On March 10, 2014, CalRecycle amended the May 24, 2012 Inventory listing to include the ongoing following violations of Title 27, CCR, Section 20921 – Gas Monitoring and Control, and Title 27, CCR, Section 20937 – Reporting and Control of Excessive Gas Concentrations.

The Mendocino County LEA issued a Compliance Schedule (CS) to the operator on June 25, 2012, directing the operator to commence closure construction by July 15, 2013 and to complete closure construction by May 24, 2014. The LEA subsequently granted a one year extension, with CalRecycle’s approval, until May 24, 2015.

On June 6, 2015, the operator notified the LEA that they will be unable to meet the final compliance date specified in the extended Compliance Schedule, due to delays in receiving comments and approvals from various oversight agencies. Therefore, the operator is asking for a second one year extension and is proposing

WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF ACTION REQUEST

to begin final closure construction by May 16, 2016 after all agencies have approved the Final Closure and Post Closure Maintenance Plans (CPCMP).

OPTIONS

1. Approve the one year extension for the final compliance until May 24, 2016.
2. Conditionally approve the extension for a period less than one year, with the option to extend the compliance due date, if the owner and operator are adequately meeting a schedule as outlined in a CS.
3. Deny the extension to the final compliance due date. Direct the LEA to take specific further enforcement action.

BACKGROUND

Summary of key milestones, submittals, enforcement orders, and other actions listed below:

- In 2001, the South Coast Solid Waste Site stopped disposal activities (ceased accepting waste for disposal). Since the landfill did not have an approved closure plan, the operator did not implement closure within thirty (30) days of the final shipment of waste.
- On February 9, 2001 the LEA issued a Stipulated Notice and Order (N&O) (completed) for 27 CCR 21780- Closure Plan. The LEA later cleared the violation and the N&O when the operator submitted the first draft of the final closure plan in 2003.
- (2003-2008) CalRecycle (formerly the CIWMB) staff reviewed proposed Final CPCMP, dated September 2003, and provided comments to the operator on March 10, 2004. The North Coast Regional Water Quality Control Board (NCRWQCB) also provided comments on the plan. At this time the facility was thought to be closing and CalRecycle's 18-month inspections were suspended. However, in 2008, it became apparent the site had not obtained an approval of its Final CPCMP as required. As a result, the Solid Waste Enforcement Section resumed its 18-month inspections and began citing closure standards on its inspection reports and encouraged the LEA to compel the operator to obtain approval of a Final CPCMP and close the site.
- Beginning in November 2011, the LEA began consistently citing violations for both 27 CCR 21110 – Time Frames for Closure and 27 CCR 21780 – Submittal of Closure Plans. *Note: From August 2009 to April 2010 the LEA only cited 27CCR 21780 – Submittal of Closure Plans, which is not a "State Minimum Standard" for purposes of including a facility on the Inventory.*
- On August 12, 2011, LEA issued a Compliance Schedule (CS) (since superseded) for both 27 CCR 21780 - Submittal of Closure Plans *and* 27 CCR 20921 - Gas Monitoring and Control. The CS required submittal of final plans by November 16, 2012 and installation of new perimeter gas monitoring wells by June 15, 2012.
- **On May 24, 2012, the facility was listed on the Inventory (active) for 27 CCR 21110 - Timeframe for Closure.**
- On June 11, 2012, the operator installed three new perimeter landfill gas monitoring probes in order to come into compliance with the 1000 foot spacing requirement of Title 27, 20921. However, the first quarterly monitoring of the new wells detected greater than 5% methane in probe P2.
- June 25, 2012, the LEA issued a revised CS to the County of Mendocino requiring complete closure by May 24, 2014. *Note: The June 25, 2012 Compliance Schedule supersedes the Compliance Schedule issued August 12, 2011.*
- CalRecycle received the updated Final CPCMP on February 22, 2013, and provided additional comments on July 7, 2014. The LEA provided comments on August 6, 2014. The Regional Water Quality Control Board has not yet provided comments on the updated Final CPCMP.
- On March 23, 2013 the operator requested a one year extension to the construction start date until May 15, 2015. The LEA sent a letter to CalRecycle on August 2, 2013 stating the good "good faith efforts" of the operator and the extension.

WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF ACTION REQUEST

- **On March 10, 2014: The site Inventory listing was amended to additionally include ongoing violations for both 27 CCR 20921 - Gas Monitoring and Control and 27 CCR 20937 - Reporting of Excessive Gas Concentrations.**
- On February 25 and April 8, 2014 the operator and LEA submitted requests for a one year extension to the proposed closure construction start date until May 15, 2015. CalRecycle approved the request on October 12, 2014. *Note: The extension request was approved with a compliance date of May 24, 2015 to more closely align with the date of May 24, 2012 when the site was originally placed onto the Inventory List.*
- On May 19, 2015, the operator requested an additional one year extension to provide additional time for the RWQCB to review and comment on the final closure plans. The request explains that the on-going landfill gas violation will be remediated by implementation of the final CPCMP.
- On May 28, 2015 the operator's consultant, SWT Engineering, sent an email to the RWQCB inquiring about the status of the review of the final CPCMP and preparation of new Waste Discharge Requirements (WDR) for the closure. The email referenced numerous attempts to gain comment on the documents. To date, CalRecycle has not received information that the RWQCB has provided the necessary comments to either the county or consultant.
- On June 18, 2015 CalRecycle conducted an 18 month inspection of the site. The facility was observed to be overall well maintained at the time of inspection.

ANALYSIS

The LEA may grant a one-year extension beyond two years upon approval by CalRecycle's Executive Director or his/her delegate. CalRecycle approval is based upon a finding that the LEA is taking "appropriate enforcement action" using the criteria of Title 14 Section 18084(d) which takes into account timely progress by the operator in addition to demonstrations of "good faith effort" and documentation of "extenuating circumstances". The following findings support the staff recommendation for a second one-year extension request:

- As stated in the previous extension request, the operator submitted a revised Final CPCMP in 2013, including updated cost estimates, financial assurance information, and amendments that address the final cover design and landfill gas monitoring and control concerns.
- CalRecycle and the LEA have commented on the revised Plans. However, the operator is still awaiting written comments from the RWQCB. The operator cannot commence final closure until the Plans are reviewed and approved by all oversight agencies.
- Therefore, on May 19, 2015, the operator requested a second extension for the following reason: the Final CPCMP and Report of Waste Discharge are under concurrent multi-agency review and have not been approved by all agencies. The operator cannot commence final closure until the Final CPCMP's have been approved.
- On June 6, 2015, the non-water corrective action plan was received by the CalRecycle. On June 9, 2015, the LEA requested Option 2 Technical Review Deferral for Specific Non-Water Release CAP to CalRecycle.
- The operator continues to urge the RWQCB to provide timely review and comments.
- The operator continues to maintain the site while awaiting approval of the final closure plans.

FINDINGS

The owner and operator have demonstrated a good faith effort by submitting revised final closure and post-closure maintenance plans as required by the CS and responding to comments from various agencies. However, the RWQCB has not yet reviewed or commented on the latest draft of the final CPCMP. Implementation of closure cannot commence until all agencies have approved the plan. The next critical compliance dates are contingent upon other agencies and are temporarily outside the operator's control.

**WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF
ACTION REQUEST**

In the letter dated June 6, 2015, the LEA has determined that the operator has continued to act in their good faith effort to comply with the CS and that there is no immediate public health and safety threat. In addition, the operator has provided adequate supervision and maintenance during the period of inactivity while awaiting closure.

RECOMMENDATION

Due to recent actions by the operator described above, including the submittal of revised final closure and post-closure maintenance plans and the fact that the RWQCBs review is outside the operators control, CalRecycle staff recommends the operator be granted a second one-year extension, until March 24, 2016. CalRecycle staff has reviewed the operator's extension request, including documentation of good faith effort and extenuating circumstances, and agree with the LEA's determination that it is reasonable to extend the compliance date, allowing the operator time to receive comments from the RWQCB, obtain final approval from all agencies, and begin closure construction.

BRANCH CHIEF ACTION:

On the basis of the information in this Request for Action, I hereby issue, pursuant to 14 CCR, Section 18365(b), approval of a second one-year extension to the owner and operator of the South Coast Solid Waste Disposal Site (23-AA-0018) to May 24, 2016.

Dated: August, 14, 2015



Georgianne Turner
Branch Chief
Waste Evaluation and Enforcement Branch

Attachment:
LEA Extension Request June 6, 2015

Cc: Philips Chou, Mendocino County LEA
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