

SACRAMENTO COUNTY LEA

MULTIPLE ACTIVITIES
MULTIPLE PERMITS

TO GIVE OR NOT TO GIVE, NOW THAT IS THE QUESTION

MULTIPLE PERMITS

LEA ADVISORY #39

- Regulatory Permitting Tiers
 - Full Permit
 - Standardized Permit
 - Registration Permit
 - EA Notification (Not A Permit)
- 3 Scenarios
 - More Than One Full Permit
 - Full Permit & One Or More Tiered Permits
 - More Than One Tiered Permit
- Multiple Operators

LEA ADVISORY 39

- Multiple permits can be issued
- Questions to ask
 - Significant change for existing permitted activity?
 - Change in permit terms or conditions? May need to revise existing SWFP or RFI
 - Isolated activities?
 - Separate waste streams, equipment, storage areas, personnel, records?
 - Adequate design, space?
 - Cumulative environmental impacts?
- Can the LEA require one umbrella permit?

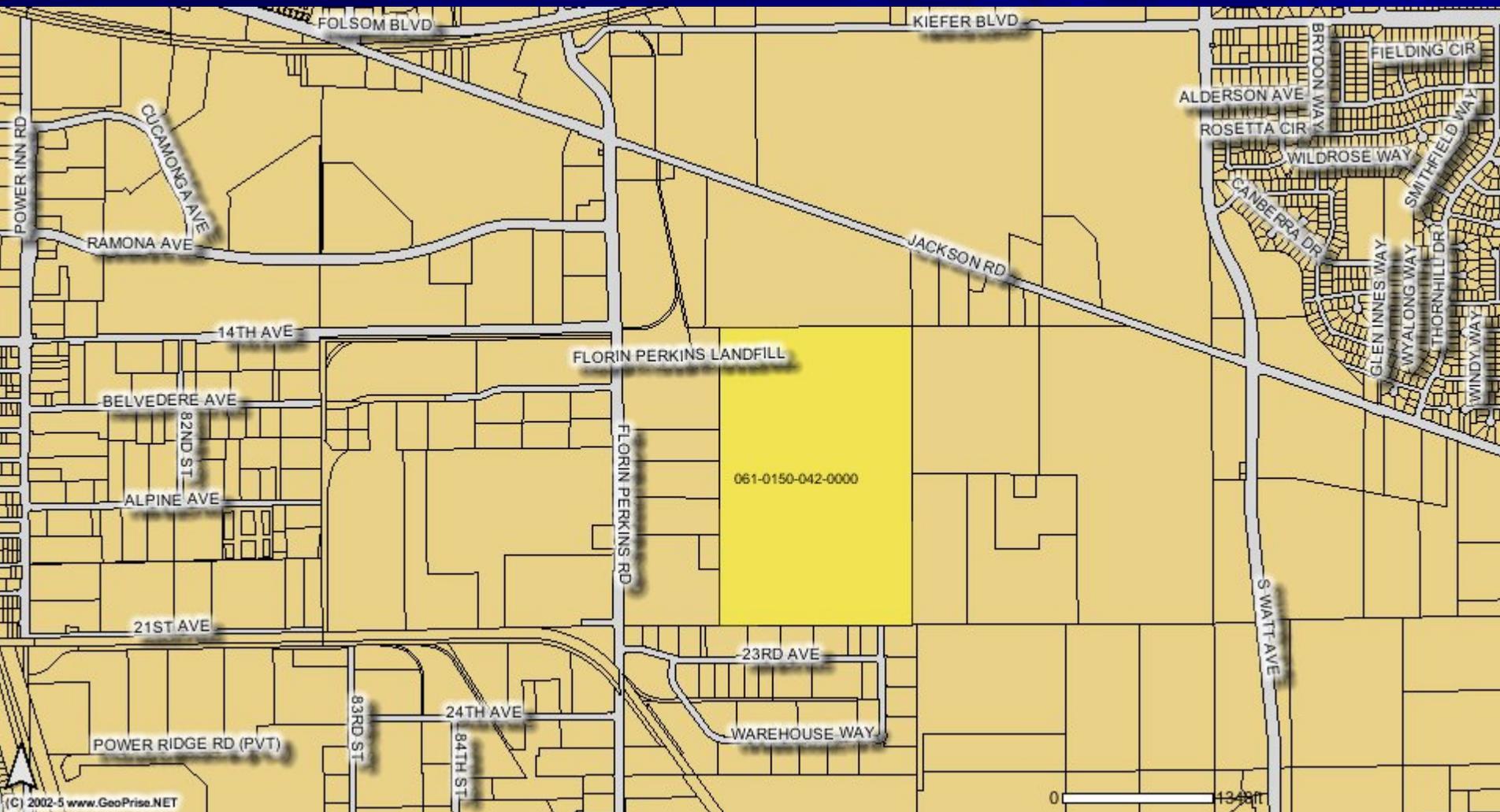
FLORIN PERKINS LANDFILL AND TRANSFER STATION



FLORIN PERKINS SITE

- 160 Acres, Urban/Industrial Zone, Leased Property
- Inert Landfill
- Large Volume Transfer Station
- Large Volume Chip/Grind and Compost
- Sheetrock Recycling
- Concrete Recycling
- Salvage Yard
- Waste Hauling and Bin Business
- Maintenance Shop- Major Auto Repair, Body Work, and Auto Painting

FLORIN PERKINS SITE



FLORIN PERKINS SITE



FLORIN PERKINS LANDFILL

BELVEDERE AVE

FLORIN PERKINS RD

SAFeway DISTRIBUTION DW (PVT)

0 447ft

(C) 2002-5 www.GeoPrise.NET

April 2004

INERT LANDFILL

- 1992 LEA issues Conditional Permit Exemption (27 CCR 20565)
 - 160 acre site, 106 acres for landfill
 - 100 tons per day
 - 50 trucks per day
 - Inert fill only, load-checking, scales, WDRs, recordkeeping, annual review
- 1997 LEA issues Revised Conditional Permit Exemption
 - Increase to 2000 tons per day
 - Increase to 300 trucks per day

INERT LANDFILL

- Jul 2000: N&O, Notice to revoke exemption, requires a SWFP, Operator requests appeal
- Sep 2000: LEA agrees to mediation in lieu of PRC Hearing process
- Nov/Dec 2000: LEA and Sacramento City enter joint mediation with Operator

INERT LANDFILL

- Jul 2001: Mediation continues, \$36,000 in penalties
- Oct 2001: Additional daily penalties
- May 2002: Settlement Agreement, \$58,500 penalties
- Nov 2002: LEA issues N&O, Operator requests appeal
- Dec 2003: LEA issues N&O, Operator appeals



11 14 02





Feb 2003





2003



A LANDFILL EH? WHAT ELSE IS GOING ON?

TRANSFER STATION

- Feb 1996: SWFP issued
 - 10 acres w/in 106 acre footprint of Inert LF
 - 250 tons per day
 - 233 vehicles per day
 - Cannot operate prior to LEA approval of site improvements (Final Construction)
- Mar 1997: LEA issues NOV for receipt of waste, no LEA approval to commence
- Sep 1998: N&O to Cease & Desist.
- Jun 1999: LEA approval to start

TRANSFER STATION

- Aug 1999: N&O, Compliance
- Jul 2000: N&O, Operator requests appeal
- Sep 2000: Mediation
- Jul 2001: Draft Settlement, Penalties
- Oct 2001 Additional daily penalties,
County Haz Mat issues NOV

TRANSFER STATION

- Dec 2001 CIWMB issues Notice of Intent (NOI) to list site
- May 2002: Settlement Agreement, \$58,500 in penalties.
- Nov 2002: Revised SWFP
- Mar 2003: N&O, Operator appeal, complies
- Sep/Dec 2003: N&O, Operator appeal, CIWMB NOI



2002





2003





ANYTHING ELSE?

CHIP/GRIND

- Apr 2000: Large stockpile of C&D recyclable material,
- Jun 2000: Operator notified Chip/Grind is subject to Compost Regs.
- Jul 2000: State demolition project, demo sent to Flrn Pkns Transfer Station, stockpiled

CHIP/GRIND

- Sep 2000: Large fire in “C&D recyclables”,
- Oct 2001: LEA requests “Operation Plan”
- Feb 2002: Another large fire, stockpile burned and soaked.
- Nov 2002: N&O for illegal disposal

CHIP/GRIND

- Jan/Feb 2003: stockpile temperatures exceed 122 degrees – composting
- Mar 2003: New N&O, Cease/Desist, Obtain Compost SWFP
- Apr 2003: Revised Compost Regs
- Sep 2003: New N&O related to new Regs, Cease/Desist, Obtain Compost SWFP



We now interrupt this
program, for a very
important message



CRIPPEN SITE FIRE

- Jan 2003
- 2.5 acres
- 100,000 cy of CDI Waste
- Emergency Operations, State OES
- Millions to clean up
 - \$3 million for emergency response
 - \$3 million for site remediation
- State Audit of CIWMB

Crippen Site



**JUNE 2003
CIWMB PHOTO**

Now, back to the story ...



CHIP/GRIND

- Jan/Feb 2003: stockpile temperatures exceed 122 degrees – composting
- Mar 2003: New N&O, Cease/Desist, Obtain Compost SWFP
- Apr 2003: Revised Compost Regs
- Sep 2003: New N&O related to new Regs, Cease/Desist, Obtain Compost SWFP

◀ 1200 ft ▶



Florin Perkins Chip/Grind
Panorama Nov 2002



2000



2002



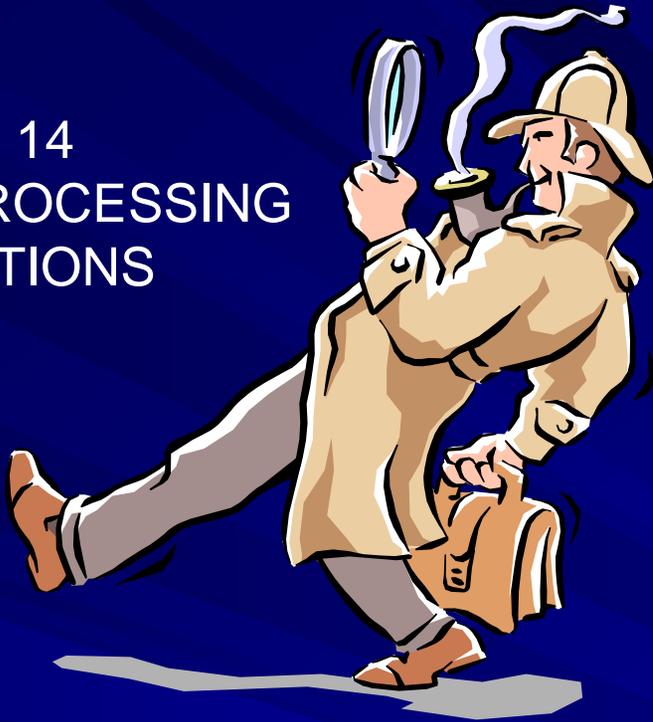
Dec 2002



Dec 2002



TITLE 14
TRANSFER/PROCESSING
REGULATIONS



TITLE 27
DISPOSAL
REGULATIONS



TITLE 14
COMPOSTABLE
MATERIALS REGULATIONS

TITLE 14
CONSTRUCTION/DEMOLITION
AND INERT (CDI)
TRANSFER/PROCESSING
REGULATIONS



TITLE 14
CDI DISPOSAL
REGULATIONS

SO FAR

- **Nov 2002: N&O Inert Landfill Appeal Pending**
 - Accepting decomposable waste
 - Lack of grading, ponding
 - Unapproved salvaging
 - Inadequate supervision, records, maint
- **Mar 2003: N&O Chip And Grind Appeal Pending**
 - Composting without permit (old compost regs)
 - Fire hazard
- **Mar 2003: N&O Transfer Station Compliance**
 - Permitted tons exceeded
 - Drainage system not functional

- **Sep 2003: N&O Chip/Grind
Appeal Pending**
 - Composting without permit (new compost regs)
 - Nuisance odors
 - Fire hazard

- **Sep 2003: N&O Transfer Station
Appeal Pending**
 - Loading ramp made of waste (48 hours exceeded)
 - Drainage system not functional

- **Dec 2003: N&O Inert Landfill
Appeal Pending**
 - Accepting decomposable waste (composting within LF footprint)
 - Unapproved salvaging
 - Inadequate supervision, records
 - Significant changes, requires revised RDSI

PUBLIC RESOURCE CODE (PRC) APPEAL HEARINGS

- Appeal hearing must be provided upon written request from the following (PRC 44310)
 - A person subject to an enforcement action by the LEA.
 - Any person who feels the LEA has failed to act as required by law or regulation.
- LEA must have a hearing panel (PRC 44308)
 - The governing body or
 - An independent hearing panel appointed by the governing body meeting specific criteria
 - Sacramento County LEA provides an administrative law judge (ALJ) to the panel to provide legal guidance

HEARINGS

(CIRCA 2003/2004)

- Request for hearing must be written and timely
 - Enforcement case: 15d from N&O
 - Failure to act: 30d from discovery
 - PRC 45017 stays effect of N&O until appeal complete
- LEA must provide Notice of Hearing within 15d
- Appellant to provide statement of issues (SOI) 20d prior to hearing
- Failure to request hearing or supply SOI timely, hearing not required
- Hearing
- Hearing decision within 30d of hearing



APPEAL



- Nov 2002 N&O appealed
 - Hearing set for Jan 2003
 - Operator requests continuance --death in the family
 - Hearing rescheduled to Mar 2003
 - Operator requests continuance --LEA failed in providing discovery
 - Hearing rescheduled to May 2003
 - Pre-hearing conference in May 2003
 - Operator alleges panel member conflict of interest
 - ALJ rules against motion
 - Operator files appeal to ALJ ruling in superior court
 - Hearing canceled, to be continued

APPEAL

➤ Nov 2002 N&O

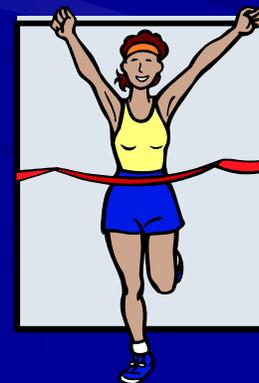
- Settlement conference scheduled for Jul 2003 (PRC 45011) no settlement
- Hearing scheduled for Oct 2003
- Hearing convened
 - Operator alleges panel member bias (juror bias, Gov't Code)
 - ALJ sends case to superior court along with previous appeal
 - Scheduled in superior court for Jan 2004
- Superior court rules that appeal is premature, administrative process must be completed prior to appealing to higher court

■ Mar 2003 N&O's

- Hearings scheduled to coincide with Nov 2002 N&O appeal, continuances, waiting for superior court decision

APPEAL

- Sep 2003 N&O's and Dec 2003 N&O
 - Scheduled for Feb 2004
 - Different ALJ, different panel
 - Transfer Stn viol corrected in Nov, Operator still wants appeal
 - Hearing rescheduled to allow for discovery, next available dates in Jun 2004
 - LEA requests case consolidation
- Case Consolidation
 - 5 pending appeals consolidated, hearing scheduled for Oct 2004
- Oct 2004 hearing
 - Operator withdraws appeal
 - N&O's FINAL AND ENFORCEABLE



NEW CDI REGULATIONS

- CDI Transfer/Processing Regs Aug 2003
- CDI Disposal Regs Feb 2004
- Inert landfill no longer eligible for permit exemption
- Owner refuses to apply for SWFP
- Another N&O, Jun 2004

LEGISLATIVE CHANGES NEEDED

- PRC 45017 allowed a stay unless imminent threat
- Operator has no incentive to complete appeal timely
- LEA has no ability to control timing of case once the lawyers, panel members, ALJ
- This case showcased the ability to abuse the hearing process
- CIWMB staff and CCDEH Solid Waste Policy Committee proposed change
- AB 2159

AB 2159

SIGNED INTO LAW SEP 2004, EFFECTIVE JAN 2005

- Request for hearing will not stay enforcement of Cease & Desist order for a site without a SWFP
- Stay still available for SWFP facilities, except imminent threat
- Hearing officer or Hearing Panel
- Clarify hearing procedure as informal
- Tightens timelines to proceed through hearing process
- LEA log of investigation activities must include non permitted sites

ADDITIONAL ENFORCEMENT ACTIVITIES

- Civil suit filed by LEA for unpaid inspection fees and penalties
- Cal OSHA investigation, worker death
- SMAQMD investigation, friable asbestos handling/disposal
- DTSC investigation, Haz Waste disposal
- FTB investigation, unpaid corporate taxes
- Sac County Solid Waste Authority, waste hauling without permits





Tammy Derby (916) 875-8573
Sr. Environmental Specialist

DerbyT@SacCounty.net

Sacramento County Environmental
Management Department
8475 Jackson Road
Sacramento, CA 95826