

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: March 5, 2015

Decision Subject: **AWARDS FOR THE SOLID WASTE DISPOSAL AND
CODISPOSAL SITE CLEANUP PROGRAM GRANTS (SOLID
WASTE DISPOSAL TRUST FUND, FY 2014/15)**

Action By: March 17, 2015

Summary of Request:

Staff requests the approval of grant awards for Cycles 1 and 2 under the Solid Waste Disposal and Codisposal Site Cleanup Program (Program). As indicated in Tables 1 and 2, CalRecycle staff recommends awarding two grants in the Legacy Disposal Site Abatement Partial Grant Program and three grants in the Illegal Disposal Site Abatement Grant Program. Detailed project information for the recommended grants are located in the attachments.

Recommendation:

Staff recommends approval of five grant awards, as listed in Tables 1 and 2 below totaling \$1,539,074.

Table 1. Legacy Disposal Site Abatement Partial Grants

Applicant (Cycle)	Total Award
Riverside County Waste Management District (Cycle 1)	\$110,544
Imperial County (Cycle 1)	\$750,000

Table 2. Illegal Disposal Site Abatement Grants

Applicant (Cycle)	Total Award
City of Blythe (Cycle 1)	\$150,000
City of South Lake Tahoe (Cycle 1)	\$100,000
City of Lancaster (Cycle 2)	\$428,530

Funding:

The Program typically allocates \$1,500,000 per year to the Legacy Disposal Site Abatement Partial Grant Program, with a maximum award of \$750,000 for individual grants. Illegal Disposal Site Abatement Grant Program is allocated \$1,000,000 per year with a maximum award of \$500,000 for individual grants. The amount remaining in each grant program after this award action is listed in Table 3.

Table 3. Solid Waste Grant Funding after Cycle 2

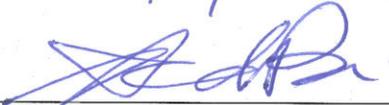
Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
SWDTF (FY 2014/15)	\$1,500,000	\$860,544	\$639,456	Legacy Disposal Site Abatement Partial Grants
SWDTF (FY 2014/15)	\$1,000,000	\$678,530	\$321,470	Illegal Disposal Site Abatement Grants

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant awards from the Solid Waste Disposal and Codisposal Site Cleanup Grant Program (Solid Waste Disposal Trust Fund, FY 2014/15) as listed in Tables 1 and 2. Each proposed grantee's award is conditional upon:

1. The full payment within 60 (sixty) days of the date of this grant award of all outstanding debt(s) or scheduled payment(s) owed by the proposed grantee to CalRecycle.
2. The return by the proposed grantee of a completed and executed Grant Agreement within 60 (sixty) days from the date that CalRecycle staff mails the Grant Agreement.
3. After the Grant Agreement has been executed by both parties, the Grantee may not file for protection under Chapter 9 of the U.S. Bankruptcy Code or declare a fiscal emergency any time within the Grant Performance Period.

Dated: 3/17/15



Mark de Bie
Deputy Director

Background and Findings:

Statutory Authority

Public Resources Code (PRC) §48020 et seq. authorizes CalRecycle to expend funds from the Solid Waste Cleanup Trust Fund directly for cleanup, to provide loans to responsible parties who demonstrate the ability to repay, to provide matching grants to public entities for site cleanups, and to provide full grants to public entities for the abatement of illegal disposal sites.

Program Background

The CalRecycle Solid Waste Disposal and Codisposal Site Cleanup Program (Program) addresses the 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 contracts, grants, and loans. Under the Program, local agencies can finance a wide range of projects through Legacy Disposal Site Abatement Partial Grants and Illegal Disposal Site Abatement Grants.

Typically, Program grants are awarded over three cycles during the fiscal year. However, grant cycle awards were suspended for the first two FY 2014/15 cycles to provide Program funds temporarily to the Boles Fire debris removal project in the City of Weed. Reimbursement funding has been received from that project and CalRecycle is resuming program activities by awarding grants according to staff's evaluations, scoring, and rankings.

For Cycle 1, applications were due July 17, 2014, with a secondary due date of August 5, 2014, for Resolution submission. Six applications were received. Two illegal disposal site abatement applications did not meet the minimum score required to award a grant.

For Cycle 2, applications were due September 17, 2014, with a secondary due date of November 5, 2014, for Resolution submission. Two applications were received. One illegal disposal site abatement application did not submit a complete package.

Staff reviewed the applications in accordance with the approved evaluation and scoring criteria and recommends award of five grants as listed in Tables 1 and 2.

As these are grants, any applicant's need for the funds is to be considered. Each grant application has a section for applicants to substantiate the need for the grant funds that is evaluated by staff as part of the General Scoring Criteria. In all cases, the applicants have expressed that their current funding is inadequate to complete the project. In addition, there is also a section for the substantiation of the threat to public health and safety and/or the environment, which is also evaluated by staff as part of the General Scoring Criteria. Based on the evaluations, the need for funding and threat being remediated are quantified and included in the grant's overall score and subsequent prioritization.

Title 14, California Code of Regulations (14 CCR), §18904 specifically lists eligible and ineligible remedial actions under the Program and allows CalRecycle to consider approval of any other remedial actions not specified as ineligible. Unless otherwise noted, specific actions proposed for each project are specifically eligible pursuant to the regulations.

Attachment A
Riverside County Waste Management Department

Grant Program: Legacy Disposal Site Abatement Partial Grant

Estimated Project Costs: \$275,544

Requested Amount: \$110,544

Recommended Amount: \$110,544

Project Information: The Mira Loma Disposal Site (site), Facility No. 33-CR-0012, is located in Riverside County northeast of the intersection of Granite Hill Drive and Country Village Road in Jurupa Valley, California. The approximately 5.3 acre site is located on the west-facing slope of a small hill adjacent to County Village Road.

The Mira Loma Disposal Site is a burn dump that was operated from 1947 to 1956 by the Riverside County Road Department. In 1986 the Riverside County Waste Management Department was formed to manage solid waste in Riverside County and assumed responsibility for the site. A June 2013 site investigation by CalRecycle's Closed, Illegal, and Abandoned Sites Program found little to no final cover over waste. The exposed waste was found to contain elevated levels of heavy metals. The Local Enforcement Agency (LEA) has issued Notices of Violation since 2011 for the drainage and erosion control violations [27 CCR §20820(a)(3)].

Riverside County has limited funding available for the remediation of the site; however, the County has made a significant commitment to the project by completing the necessary CEQA compliance documentation and preparing engineering plans and specifications as in-kind services and is funding the balance of the project cost.

With respect to Legacy Disposal Site Abatement Partial Grants, CalRecycle may award partial grants to public entities to clean up, among other sites, publicly operated solid waste disposal and codisposal sites that have always operated as public facilities. As a grant is essentially a bestowal of funds, cost recovery is not an issue in those cases, even though the public entity grantee is the “responsible party” for the cleanup. Therefore, this applicant is not subject to cost recovery by CalRecycle.

With respect to Illegal Disposal Site Abatement Grants, cost recovery is not applicable when the grants involve the cleanup of public land maintained for public benefit and use and the entity did not cause or gain a benefit from the disposal of the waste. A grant is appropriate and cost recovery is not applicable as to the public entity. Where grant funds will be used to clean up private parcels, the grantee has agreed to pursue cost recovery on behalf of CalRecycle.

Criteria and Process

The Program’s grant eligibility, scoring criteria, and evaluation process were available for discussion at the CalRecycle meeting on June 17, 2014. The FY 2014/15 Notice of Funds Available (NOFA) was placed on the CalRecycle web site on June 5, 2014.

Attachment B
Imperial County

Grant Program: Legacy Disposal Site Abatement Partial Grant

Estimated Project Costs: \$3,600,000

Requested Amount: \$750,000

Recommended Amount: \$750,000

Project Information: The Cruickshank Road Disposal Site (site) is located approximately one half mile west of State Highway 111 and approximately 1,100 feet north of Cruickshank Road in El Centro, California. The site consists of two parcels, a northern, triangle-shaped, twenty acre parcel owned by Imperial County (Facility No. 13-CR-0025) and a southern, square-shaped, forty-one acre parcel owned by the City of El Centro (Facility No. 13-AA-0020).

Imperial County, being rural and sparsely populated, initially had little to no solid waste management infrastructure. As a result, this site was made available as a community dump with little or no oversight. A solid waste infrastructure was subsequently developed, and the site was no longer available as a dump site. Due to the lack of an adequate security, the site became an attractive nuisance and illegal dumping continued until 1994, when lockable gates and barriers were installed at the site that prevented further dumping.

A July 2011 site investigation by CalRecycle's Closed, Illegal, and Abandoned Sites Program found little to no final cover over waste. The Local Enforcement Agency (LEA) has issued Notices of Violation for the exposed waste and lack of litter control every year since 2009 [27 CCR §21140 and §20830].

After conducting a feasibility study that analyzed remediation alternatives, including cover in place, consolidate and cover, and clean closure, the clean closure alternative was selected as the most cost-effective alternative. Both Imperial County and the City of El Cerrito are providing the balance of the funding for the project.

Attachment C
City of Blythe

Grant Program: Illegal Disposal Site Abatement Grant

Estimated Project Costs: \$150,000

Requested Amount: \$150,000

Recommended Amount: \$150,000

Project Information: The City of Blythe (City) is seeking a \$150,000 illegal disposal site abatement grant to clean up two private properties within its jurisdiction where the responsible party has proven to be unwilling to clean up their property.

The first site is the Guzman Property located at 402 N. Carlton Avenue. City staff issued notices and notification letters to remove trash and overgrown vegetation and demolish a substandard, burned-out structure starting 2008 up until the deaths of the property owners. The family members claim no responsibility to the property, although to date there apparently has been no judicially decreed disclaimer of interest and, if no such decree is timely obtained, then the estate and/or the heirs will need to be served with an abatement proceeding.

The second site is owned by Alp II Investments and is located at 1159 Broadway. City staff have issued numerous notices to remove overgrown vegetation and a collapsed structure since 2002. The property is owned by a corporation, who has not acknowledged the issued notices.

The work plan for each property is to restore both blighted properties to acceptable and lawful community standards by removing illegally deposited material and structures that are a threat to public health and safety and the environment. Because of the property owner's failure to respond to the notices, it is anticipated that a portion of the grant will be used to obtain abatement warrants as a vehicle to effect clean-up and removal the debris to an approved landfill. For each property, Blythe will institute abatement proceedings (unless the Guzman heirs obtain a disclaimer decree) in order to attempt to compel the owners to abate or, if they fail to do so, obtain an access order to remediate the site and seek grant reimbursement from CalRecycle. Blythe has agreed that as a condition of the grant for these projects: (a) the accounting of costs in the abatement proceedings shall include CalRecycle's grant costs in remediating the property; (b) said costs shall be made special assessments added to the County assessment roll and become a lien on the real properties; (c) CalRecycle shall be named as a third party beneficiary of any and all recoveries under the assessments and/or the lien, up to the full amount of said costs as specified in the accounting, which shall have priority over any city costs in said accounting; (d) CalRecycle shall be named in the lien document, along with the city, as a party to receive notice of any and all payoff demands and/or other notices relating to the lien; and (e) a draft of the lien document shall be submitted to CalRecycle prior to issuance, and said document must reflect the above requirements to CalRecycle's satisfaction before issuance.

Attachment D
City of South Lake Tahoe

Grant Program: Illegal Disposal Site Abatement Grant

Estimated Project Costs: \$100,000

Requested Amount: \$100,000

Recommended Amount: \$100,000

Project Information: The City of South Lake Tahoe (City) is located on the southern shore of Lake Tahoe and is bounded by the California/Nevada border to the east. The City is seeking a \$100,000 illegal disposal site abatement grant to cleanup two private properties within its jurisdiction where the responsible parties have proven to be recalcitrant in the cleanup of their property.

The first property is owned by Edre Peter Darvas located on 1328 Pioneer Trail. Mr. Darvas owns a vacant lot where he has accumulated thousands of pounds of trash, debris, appliances, abandoned vehicles and boats, and various other refuse since 2009. From September 2009 through April 2014, the City issued several citations to Mr. Darvas. He has failed to respond to these citation and the City Attorney obtained an Order for Abatement on June 25, 2014.

The second property is owned by Thang D. Vu, and is located at 1348 Wildwood Avenue. Mr. Vu purchased property in 2002 that was the subject of a 1981 Deed entitled Grant of Open Space Easement with Covenants that the City had memorialized and recorded. A land use dispute between the City and the property owner led to the owner not responding to citations and abandoning the property. The work plan for the cleanup indicates that the solid waste, foundation, underground water, and power lines will be removed.

The City has faced financial hardships over the past few years and has eliminated 30 percent of its workforce. Due to budget cuts and unavailable funds, the City is unable to assume costs for the cleanup and the disposal of the waste that is creating a nuisance on the properties.

The City will fully cooperate with CalRecycle to recover costs for funds expended on these private properties to the fullest extent practicable. The City will repay CalRecycle any funds collected through cost recovery, sale of the lien property, special tax assessments or other methods of collection. For each property, the City will institute (or in the case of the Darvas site resume) abatement proceedings in order to attempt to compel the owners to abate or, if they fail to do so, obtain an access order to remediate the site and seek grant reimbursement from CalRecycle. The City has agreed that as a condition of the grant for these projects: (a) the accounting of costs in the abatement proceedings shall include CalRecycle's costs in remediating the property; (b) said costs shall be made special assessments added to the City assessment roll and become a lien on the real properties; (c) CalRecycle shall be named as a third party beneficiary of any and all recoveries under the assessments and/or the lien, up to the full amount of said costs as specified in the accounting, which shall have priority over any City costs in said accounting; (d) CalRecycle shall be named in the lien document, along with the City, as a party to receive notice of any and all payoff demands and/or other notices relating to the lien; and (e) a

draft of the lien document shall be submitted to CalRecycle prior to issuance, and said document must reflect the above requirements to CalRecycle's satisfaction before issuance.

Attachment E
City of Lancaster

Grant Program: Illegal Disposal Site Abatement Grant

Estimated Project Costs: \$428,530

Requested Amount: \$428,530

Recommended Amount: \$428,530

Project Information: The City of Lancaster (City) is located in northern Los Angeles County in the high desert. The City has a significant problem with illegal dumping. In FY 2013/14 the City cleaned up 855 tons of illegally disposed materials from 4,872 locations. The City has identified additional locations of illegal dumping, including 10 major sites, 700 substantial sites and numerous minor sites and proposes a grant project to clean up these sites using the following prioritization hierarchy:

1. Major sites; categorized as sites that contain over 30 cubic yards of materials to be disposed;
2. Substantial sites with 30 to 10 cubic yards of material; and
3. Minor sites categorized as sites with less than 10 cubic yards of material.

City streets, lots, sidewalks and alleyways will be cleaned up first, followed by vacant parcels and where the illegal disposal presents a public health and safety risk. Additionally, Waste Management, Inc. has agreed to waive all fees for the disposal of all the waste collected in City trucks for this grant. The City will also address illegal dumping prevention and enforcement by using a combination of public outreach, education, and targeted enforcement measures. Code enforcement officers will prosecute illegal dumpers using targeted enforcement actions and pursue cost recovery where possible.

With respect to sites being remediated which are on public easements or on public property where indiscriminate dumping has occurred, cost recovery would not apply based on the following: (1) the sites are publicly owned and maintained for public benefit and use, and (2) the City did not cause the disposal of waste.

With respect to parcels owned by private individuals or entities, the City will institute abatement proceedings to compel the owners to abate or, if they fail to do so, obtain an access order to remediate the site and seek grant reimbursement from CalRecycle. The City will remediate the sites using CalRecycle funds and such costs shall be made a special assessment added to the County assessment roll and become a lien on the real properties. Funds recovered from such assessments and/or liens, both during the grant period and thereafter in perpetuity, will be redirected back into the City's Illegal Disposal Site Program and will be utilized before seeking further reimbursement of grant funds.

Given the expansiveness and open-ended nature of the grant as to delineation of sites to be remediated and other use of grant funds, the grant agreement will be crafted with specificity,

including, but not limited to, delineating the nature of eligible activities and the mechanism for recovered funds to be reported to CalRecycle to assure that they are redirected back into the City's Illegal Disposal Site Program and will be utilized before seeking further reimbursement of grant funds.