



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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December 1, 2010

Ms. Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee
Integrated Waste Management Task Force
P.O. Box 1460
Alhambra, CA 91802-1460

Subject: Sunshine Canyon City/County Landfill

Dear Ms. Clark:

I am responding to your letter of September 29, 2010 on behalf of CalRecycle Director Margo Reid Brown. In your letter you ask that CalRecycle clarify the roles and responsibilities that the Sunshine Canyon Landfill Local Enforcement Agency ("SCL-LEA") and CalRecycle have respecting the enforcement of certain mitigation measures adopted in the Mitigation Monitoring and Reporting Programs ("MMRPs") adopted when the environmental impact reports ("EIRs") for the Sunshine Canyon Landfill ("Landfill") were certified and the projects approved. I understand from your letter that you are interested in the enforcement of mitigation measures adopted to reduce the impacts of odors from the Landfill and to reduce the Landfill's aesthetic impacts through the revegetation of permanent slopes and other areas.

As you know, the California Environmental Quality Act ("CEQA") requires the Lead Agency to adopt a Mitigation Monitoring or Reporting Program when an EIR containing mitigation measures has been certified (See Public Resources Code § 21081.6 and CEQA Guidelines § 15097). The City of Los Angeles and the County of Los Angeles were the Lead Agencies on this project, having approved the land use entitlements for the Landfill. Both certified EIRs for their portions of the Landfill and adopted MMRPs. When it considered the proposed solid waste facilities permit ("SWFP") for the consolidated Landfill in 2008, CalRecycle was a Responsible Agency under CEQA. As a Responsible Agency, CalRecycle relied on the environmental documents adopted by the City and County. CalRecycle did not impose any mitigation measures on the SWFP for the Landfill, so did not adopt its own separate MMRP.

All of the agencies involved as Lead Agencies, Responsible Agencies or as public agencies identified as monitoring/enforcement agencies in the MMRPs are responsible for fulfilling their obligations under the MMRPs. It should be noted, however, that the ultimate responsibility for mitigation lies with the Lead Agencies. See CEQA Guidelines § 15097(a). Mitigation measures adopted in an MMRP must be enforceable. A common way for Lead Agencies to insure that mitigation measures are enforceable is to include them as conditions in the entitlements they grant or in other approvals they make. I believe that the City and County imposed conditions on the land use entitlements for the Landfill that they can use to enforce the mitigation measures in the MMRP.¹ Since the Lead Agencies have the primary

¹ We have not confirmed this with either the City or the County. I suggest that is something the Task Force might want to undertake.



responsibility for enforcing their own conditions of approval, it would seem they would have the initial and principal responsibility for requiring the Landfill to satisfy the conditions the City and County imposed.

When CalRecycle issued the Landfill SWFP², it also adopted conditions to assure the mitigation measures would be enforceable. Condition 17(A)(2) of the Landfill SWFP requires the Landfill operator to comply with all mitigation measures within the LEA's authority that are specified in an MMRP. Both of the sets of mitigations that are of particular interest to the Task Force are within the scope of an LEA's authority. An LEA has authority to require a landfill operator to control nuisances, such as odor (although, as discussed below, the local air pollution control district or air quality management district has lead responsibility for regulating odors from landfills), 27 California Code of Regulations ("CCR"), § 20760. An LEA also has the ability to insure that the design and operation of a landfill comply with state minimum standards and the mitigation measures that are only within its authority. CEQA does not grant additional authority to regulatory agencies. Consistent with 27 CCR §§, 21663, the LEA shall include conditions in the permit necessary to specify design and operation to control adverse impacts to the environment. The inclusion of condition 17(A)(2) complies with this requirement. Thus, condition 17(A)(2) which references mitigations within the LEA's authority, and by operation of the state regulations, the SCL-LEA has authority to require compliance with mitigations in both areas in which you have expressed interest. The SCL-LEA is now the local enforcement agency for the Landfill, having succeeded CalRecycle. As the responsible local enforcement agency for the Landfill, the SCL-LEA has authority to enforce condition 17(A)(2).

More specifically, the City's MMRP requires certain mitigation measures to control odors from the Landfill; the MMRP identifies the City's Local Enforcement Agency (now SCL-LEA) and the South Coast Air Quality Management District ("SCAQMD") as the public agencies responsible for monitoring/enforcing the odor mitigation measures. After the City and County themselves, SCAQMD has the primary responsibility to regulate emissions to the air from the Landfill, including those which are odorous. SCAQMD, for example, is responsible for determining whether the Landfill is causing odors that violate the District's standards. If it does emit such odors, SCAQMD should take appropriate enforcement action. However, the SCL-LEA also has some responsibility in this area, if the local governments and SCAQMD refuse or are unable to act. In such a case, it is our view that SCL-LEA should attempt to coordinate with SCAQMD if the Landfill causes odor impacts in violation of the MMRPs, for example, by requesting evaluation of the odor and appropriate action by SCAQMD. We emphasize that many of the mitigations refer directly to SCAQMD requirements, and that the SCL-LEA must therefore rely on the SCAQMD to determine compliance with the requirements that are entirely within SCAQMD's authority. Regarding trees and vegetation, CalRecycle and the City Planning Department are designated as enforcement agencies for certain mitigation measures and CalRecycle and the City LEA (that is, SCL-LEA) for other measures relating to trees and revegetation. Some of these mitigations refer to a City and Building Department approved revegetation plan. CalRecycle and the SC-LEA would need to rely on the City Department in making determinations of compliance with their approved revegetation plan.

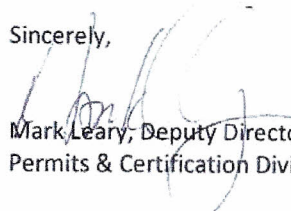
² CalRecycle (then constituted as the California Integrated Waste Management Board) served as the enforcement agency for the Landfill for a short time before SCL-LEA was created and certified. As the enforcement agency, CalRecycle issued the solid waste facilities permit to the Landfill operator on July 7, 2008. The SCL-LEA is now the local enforcement agency responsible for regulatory oversight and enforcement at the Landfill. CalRecycle provisionally certified SCL-LEA on July 22, 2008, and at that time transferred to SCL-LEA all of its rights and responsibilities as enforcement agency. Thus, SCL-LEA has primary responsibility for the Landfill with respect to solid waste matters, pursuant to the Integrated Waste Management Act.

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On these grounds, we believe the SCL-LEA has authority to enforce the mitigation measures in which the Task Force is interested. As noted, however, the City and County (and SCAQMD in the case of odors) have the primary responsibility.

I would be happy to have our staff discuss with you any questions you might have.

Sincerely,



Mark Leary, Deputy Director
Permits & Certification Division



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GAIL FARBER - CHAIR
MARGARET CLARK - VICE CHAIR

September 29, 2010

Ms. Margo Reid Brown, Director
Department of Resources Recycling and Recovery (CalRecycle)
801 K Street, MS 19-01
Sacramento, CA 95814

Dear Ms. Brown:

**SUNSHINE CANYON CITY/COUNTY LANDFILL – SWFP NO. 19-AA-2000
14747 SAN FERNANDO ROAD, SYLMAR**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) is requesting clarification regarding the roles of the California Department of Resources Recycling and Recovery (CalRecycle) and the Sunshine Canyon Landfill-Local Enforcement Agency (SCL-LEA) in enforcing the mitigation measures described in the environmental documents prepared for the Sunshine Canyon Landfill pursuant to the California Environmental Quality Act (CEQA).

The subject facility is currently operating under the Solid Waste Facility Permit Number 19-AA-2000 issued by the former California Integrated Waste Management Board (CIWMB) on June 17, 2008. As a "responsible" agency, the CIWMB considered the CEQA documents and their Mitigation Monitoring and Reporting Plans (MMRP) which were prepared and adopted by the "lead" agencies, City and County of Los Angeles (SCH No. 89071210, 92041053 and 1989071210). The MMRPs specify various mitigating measures that the lead and/or responsible agencies are required to monitor and enforce to ensure they are carried out by the Landfill owner/operator.

It has recently come to the Task Force's attention that communities adjacent to the Landfill have raised concerns regarding the Landfill, such as odor nuisance related to landfill operations and lack of vegetation on permanent slopes and other areas. Mitigating measures to address these concerns are specifically provided for in the adopted MMRPs. However, the SCL-LEA has indicated that these issues are beyond the State's minimum standards for solid waste landfills and therefore outside of the purview of the SCL-LEA.

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The Task Force respectfully requests clarification from CalRecycle as to the roles and responsibilities of the SCL-LEA and CalRecycle in enforcing the mitigation measures identified in the adopted CEQA/MMRP documents for the subject facility. When implemented, these measures would lessen or mitigate the potential negative environmental impacts of the project on the environment and surrounding communities.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (AB 939, as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of 10 million. Consistent with these responsibilities, and to ensure a coordinated and cost-effective and environmentally-sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, the County of Los Angeles Board of Supervisors, the City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

Thank for your prompt attention to this matter. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

Margaret Clark

Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste management Task Force and
Mayor, City of Rosemead

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cc: CalRecycle (Mark Leary, Ted Rauh)
Sunshine Canyon Landfill – Local Enforcement Agency
(Cindy Chen, Gerry Villalobos and Wayne Tsuda)
County of Los Angeles Department of Regional Planning
(Richard Bruckner, Maria Masis)
City of Los Angeles Department of City Planning (Michael LoGrande, Ly Lam)
County of Los Angeles Department of Public Works (Pat Proano)
Sunshine Canyon Landfill Community Advisory Committee
(Becky Bendikson, Wayde Hunter)
Members of the Los Angeles County Integrated Waste Management Task Force
and Facility & Plan Review Subcommittee