

ITEM: 17

SUBJECT: Nancy C. Cleavinger et al., Jackson Road Landfill, Sacramento County

BOARD ACTION: *Consideration of a Cease and Desist Order*

BACKGROUND: The Jackson Road landfill was originally a gravel pit, which was then filled as a landfill. The landfill operated between 1979 and 1994 under waste discharge requirements issued by the Central Valley Water Board, and was permitted to accept inert, non-hazardous waste such as construction and demolition debris.

The landfill ceased operations in February 1994. Later that year, the Central Valley Water Board adopted closure WDRs Order 94-261, which prohibited the discharge of additional waste to the landfill and required closure by November 1995. The Discharger did not comply with the closure schedule in the WDRs.

In 2003, the Central Valley Water Board adopted WDRs Order R5-2003-0075 to provide a new time schedule for closure of the landfill. The WDRs required the Discharger to monitor for landfill gas and to close the landfill by 1 November 2004. The landfill did not close by this deadline, and the Central Valley Water Board subsequently issued Cease and Desist Order R5-2004-0138, which required closure activities to be completed by 15 December 2006.

After the landfill operator, Florin Perkins Landfill, Inc., did not comply with the CDO R5-2004-0138, the Central Valley Water Board issued a \$650,000 ACL Order against the operator for its role in failing to close the landfill. Between 2004 and 2006, the landfill owners undertook legal proceedings to evict Florin Perkins Landfill, Inc. and another tenant. The landfill owners regained control of the landfill site in November 2006.

Revised closure plans were submitted in 2006 and early 2008. The second revision stated that closure activities would begin in 2008. However, closure activities did not begin, and additional revisions to the closure plan were submitted through January 2010.

ISSUES: The landfill will be closed with a soil cover, and the Discharger (the current property owners) must import the majority of the soil. During negotiations over this CDO, the Discharger requested that it be allowed two years to import the soil to cover the landfill. The Board's Prosecution Team has revised the proposed Order to accommodate the Discharger's request, and has required two additional reports to ensure that the Discharger is importing the soil at a rate that will ensure compliance with the Order.

The Revised Final Closure Plan is a reiteration of the previously approved plans, with minor adjustments to the closure design and schedule. The closure construction will take place in two phases over two construction seasons, with a completion date of October 2012.

The Dischargers have stated that they did not have control over the landfill between 1994 and 2005, because their contract with Florin Perkins Landfill, Inc. gave the operator full control over regulatory compliance. The proposed Order has been revised to reflect this. Other findings have also been modified in response to comments by the Discharger.

The draft Order required that the Discharger complete additional activities to characterize the landfill gas. The Discharger has now completed those activities, so these requirements have been removed from the proposed Order.

The neighboring landowner (Teichert Land Company) is concerned about drainage issues and has met with the Discharger to express its concern. In response, the Discharger has revised the location of the stormwater detention basin. However, Teichert still has concerns about some of the drainage design. Staff agree that three of these concerns are valid, and have revised the draft Order to address them.

The Discharger and Teichert Land Company have both submitted letters stating that they are in agreement with the revisions and will not contest the Order.

RECOMMENDATION: Prosecution staff recommends that the Board issue the Cease and Desist Order as proposed in the Agenda Package.

Mgmt. Review _____
Legal Review PEP

10 December 2010
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670