

Item 11- LATE ADDITION

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF MARCH 11-12, 2015
SOUTH LAKE TAHOE, CALIFORNIA**

**RESOLUTION APPROVING RENEWAL OF AN EMERGENCY CONDITIONAL WAIVER
OF STATUTORY REQUIREMENTS TO FILE A REPORT OF WASTE DISCHARGE AND
TO ADOPT WASTE DISCHARGE REQUIREMENTS FOR MANAGEMENT AND
DISPOSAL OF SOLID WASTE FROM WILDFIRES**

Please add the attached comment letter from the Mono County Department Of Public Works Solid Waste Division, to Item 11 after Bates page 11-26.



**MONO COUNTY
DEPARTMENT OF PUBLIC WORKS
SOLID WASTE DIVISION**

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March 5, 2015

Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Patty Z. Kouyoumdjian, Executive Officer

Honorable Board Members: Amy Horne, PhD; Kimberly Cox; Don Jardine; Peter C. Pumphrey; Eric Sandel; Keith Dyas

RE: RESOLUTION APPROVING RENEWAL OF AN EMERGENCY CONDITIONAL WAIVER OF STATUTORY REQUIREMENTS TO FILE A REPORT OF WASTE DISCHARGE AND TO ADOPT WASTE DISCHARGE REQUIREMENTS FOR MANAGEMENT AND DISPOSAL OF SOLID WASTE FROM WILDFIRES

Dear Sirs and Madams:

Consideration of this waiver comes at an apropos time for Mono County, where we are currently dealing with the impacts of the County's worst wildfire incident in recent history. On Friday, February 6th, a rare windstorm triggered severe impacts across the County that included simultaneous wildfires in four separate locations. The southernmost incident, the Round Fire out of Bishop, CA, started at approximately 2:00 p.m. and by the time rain began falling ten hours later, 40 homes and several outbuildings had been destroyed.

Within days of the incident, we began receiving questions about whether debris would be accepted for disposal at our regional Benton Crossing Landfill. Since there was no known regulatory prohibition on landfilling residential fire debris, it appeared at first that it would be accepted. Staff checked with the Local Enforcement Agency (LEA) to receive confirmation and explore the possibility of receiving a waiver of daily volume limits based on the expectation that we would exceed the limits during debris removal.

The LEA contacted CalRecycle and the Department of Toxic Substance Control (DTSC), and found that residential fire debris is not considered hazardous waste by either of these agencies, and is thereby permitted for disposal. In checking with Lahontan, the LEA was told that the waste could not be landfilled at Benton Crossing. That determination was handed down to our staff, who took immediate steps to inform the public and Solid Waste staff that debris would not be accepted for disposal, and none has been accepted.

Within days of that determination, staff received a copy R6V-2010-0009 (the same Waiver being considered today) from Lahontan staff, and had questions about its applicability because it referred specifically to Governor-proclaimed emergencies, which we had not yet received. Specifically, the Order stated:

THEREFORE BE IT ORDERED THAT, pursuant to Water Code, section 13269, the Lahontan Water Board waives the requirements to submit a report of waste discharge (Water Code, sections 13260, subdivisions (a) and (b) and 13264, subdivision [a]) and establish waste discharge requirements (Water Code, section 13263, subdivision [a]) for the discharges of solid wastes derived from cleanup of burned areas as a result of wildfires, provided that the conditions set forth below are met. The conditions set forth in this Resolution are applicable only to the Class III MSW landfills identified in Finding No. 5, above, and to any dischargers who have established a temporary waste management unit to temporarily store and segregate waste from the cleanup of burned areas. **These conditions do not apply to fire debris generated during non-state-of-emergency periods. Solid waste generated by "normal fires," such as those that regularly occur in urban and suburban areas during non-state-of-emergencies, may continue to be disposed at Class III landfills with approved waste load checking programs permitted by the Lahontan Water Board.**

This seemed to contradict the determination that we could not landfill waste at Benton Crossing, so staff requested clarification from Lahontan on the meaning of the phrase "normal fire"-- If a state-of-emergency was not established, is that "normal?" Our staff was told that despite the lack of a state-of-emergency, that this incident was not considered "normal" and that the waste was not permitted to be disposed in Benton Crossing Landfill.

In subsequent days, staff began working up plans for accepting and processing recyclable material from the fire, and for hauling the mixed burned debris from the site. The closest options were an unlined landfill in Hawthorne, NV at over 100 miles away, or 220 miles to a lined landfill in Lancaster, CA. The cost of hauling the mixed burned debris and soil such distances quickly became astronomical, and the lack of available trucking contractors ensured it would not proceed quickly.

Prior to the Governor's Emergency Declaration on February 26th, Mono County struggled to identify resources that would assist residents in removing this debris, knowing that debris removal and related hauling would far exceed insurance reimbursements. Fortunately the declaration was made and a CalRecycle debris removal team is headed to Mono County, funded through California Disaster Assistance Act (CDAA) funds.

As a result, the debris removal process for this particular incident now appears to be under control, but only because significant CDAA resources have been brought to bear. Future incidents of varying significance will unfortunately occur, and within the current regulatory environment Mono County will undoubtedly struggle to provide adequate resources to address these situations.

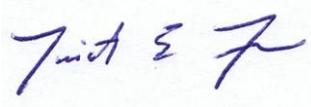
The County hopes that our experience over the last few weeks may inform policy that could provide future relief, and respectfully requests the Board to address the challenges encountered in this process:

1. Lack of consistency in agency determination—CalRecycle, DTSC do not consider the waste hazardous but Lahontan will not let it be landfilled.
2. "Normal Fires" should be defined. A tonnage limit, per incident, would be a simple way to address this.
3. Transportation to facilities over 200 miles away creates other environmental impacts, including greenhouse gas generation, lengthening the cleanup process (thereby exposing the community and local watersheds to additional risk) as well as severe financial hardship.

4. If there were standards developed for 'emergency cells' at unlined landfills, having such an area in place would be something rural landfill operators could consider and implement as a contingency. Unfortunately, such areas cannot be engineered and developed during an emergency response and clean-up.

Thank you for your consideration of these issues that we have faced since February 6th and continue to work through today.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy E. Fesko". The signature is written in a cursive style with a large initial 'T' and 'F'.

Timothy E Fesko, Chair
Mono County Board of Supervisors