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California Integrated Waste Management Board

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Arnold Schwarzenegger
Governor

July 25, 2005

Ms. Amy Brownell
Mr. Henry Louie
City of San Francisco
Department of Public Health
Occupational and Environmental Health
1390 Market Street, Suite 210
San Francisco, California 94102

APPLICABILITY OF POSTCLOSURE LAND USE STANDARDS

Dear Ms. Brownell:

This letter is in response to your July 5, 2005, letter requesting a determination by the California Integrated Waste Management Board (CIWMB) on the applicability of state regulations to development on the former Hunter's Point Shipyard Parcel A. Parcel A, formerly owned by the United States Department of the Navy (Navy), was transferred to the San Francisco Redevelopment Agency (SFRA). The SFRA has subsequently transferred portions of Parcel A to Lenore/BVHP (Lenore), the master developer for Parcel A. Parcel A is in close proximity to the Navy's landfill on Parcel E-2 which is also located on the former Shipyard and presumably accommodated the disposal needs of the Shipyard. However, it is our understanding that Parcel A is a separately defined parcel from Parcel E-2 (i.e., separate assessor parcel numbers, akin to a lot split). Furthermore, it is also our understanding that no portion of the landfill footprint is (or ever has been) located within Parcel A.

Moreover, CIWMB staff has been informed that the City of San Francisco (City) has adopted Article 31 of the Health Code to ensure that redevelopment process at the former Hunter's Point Shipyard is done in a safe manner. CIWMB staff applauds the City on their foresight.

As you are aware, landfill gas has been detected from monitoring probes located at the landfill property boundary. Pursuant to Title 27, California Code of Regulations (27 CCR), the concentration of landfill gas at the compliance probes is required to be kept under the regulatory threshold of 5% methane by volume (27 CCR 20921[a][2]). Furthermore, trace gases shall also be controlled from migrating off site in concentrations that would cause acute or chronic exposure (27 CCR 20921[a][3]).

Current CIWMB regulations prescribe development standards for onsite postclosure land uses within 1,000 feet of a landfill footprint (27 CCR 21190). These regulations do not prohibit development but contain standards that are designed primarily to prevent damage to the environmental control systems at the closed landfill and to protect the public health and safety from landfill gas migration. However, while these regulations ideally would apply regardless of ownership status, enforcement at present is applicable to the extent of development within the present property boundary of the disposal site, rather than development on what have essentially become adjacent parcels. Therefore, since no portion of the landfill footprint is contained within Parcel A, and Parcel A is a separately defined parcel, the CIWMB regulations regarding postclosure land use would presently not be enforced with respect to development on Parcel A.

California Environmental Protection Agency

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While the disposal site operator is required to control landfill gas from migrating off site at concentrations potentially dangerous to public health and safety, landfill gas control measures are not always 100% effective. Therefore, in general, CIWMB staff usually recommends that the property boundary of any landfill include a 1,000-foot buffer zone around the landfill footprint. However, we realize that because of development potential, especially in urban areas, this is not often a likely scenario. Therefore, as an additional (backup) safety measure, CIWMB staff normally recommends that as a condition of development, any proposed future development within 1,000 feet of landfill footprints be required to comply with the standards similar to those contained in 27 CCR 21190. This recommendation is often accomplished by including the compliance requirement as part of the institutional controls (deed restrictions) developed for landfill closures or by including the requirement in local planning approvals or ordinances. The City's adoption of Article 31 of the Health Code eloquently satisfies this recommendation.

Thank you for your inquiry regarding the applicability of state regulations. Should you have any questions concerning the above matter, please contact Gino Yekta of my staff at (916) 341-6354 or me at (916) 341-6318.

Sincerely;

Michael B. Wochnick, P.E., Manager
Closure and Technical Services