



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

March 17, 2016

Chiquita Canyon
Attention: Mike Dean, Division Vice President
29201 Henry Mayo Drive
Castaic, CA 91384

Dear Mr. Dean:

I am in receipt of your letter dated November 19, 2015, concerning the Chiquita Canyon Landfill at located 29201 Henry Mayo Drive in the unincorporated community of Val Verde. In your letter you request that the Los Angeles County Zoning Ordinance Section 22.04.110 be waived to avoid temporary closure of the Chiquita Canyon Landfill in the event the landfill reaches the total maximum capacity before the Department of Regional Planning (DRP) can complete the environmental review and public hearing process for a new Conditional Use Permit (CUP).

The landfill filed and Department of Regional Planning (DRP) is currently processing CUP application No. 2004-00042) which seeks, in part, to expand the capacity of the landfill, including, but not limited to, an increase in disposal tonnage and an expansion of the horizontal and vertical "envelope" within the landfill in which waste would be deposited. Currently, the landfill is operating pursuant to CUP No. 89-081 approved in 1997, which authorized a total capacity of 23 million tons within a defined disposal "envelope."

Your letter states the landfill may reach its total capacity of 23 million tons before the processing of the pending CUP application is complete and that existing space within the approved disposal "envelope" will remain available for waste disposal beyond 23 million tons. You also indicated in your letter that closure of the landfill during the processing of the current CUP application would result in hardships to waste haulers and local communities, including price increases. Accordingly, you request that Los Angeles County Code ("County Code") section 22.04.110 be waived.

Section 22.04.110 provides in pertinent part:

No application required pursuant to this [Title 22] shall be accepted for processing or approved where an existing land use, not previously authorized by any statute or ordinance, is being maintained or operated in violation of any applicable provision of this title, or any condition of approval of a land use permit.

However, this same section provides that the prohibition may be waived "[w]here in his sole discretion the director, whose determination shall be final, determines that the use in question is consistent with the objectives, goals and policies of the General Plan, or that the continuation of said use is essential or desirable to the public convenience or welfare...."

We have reviewed the circumstances that relate to your request. We have also reviewed and considered the certified final environmental impact report (FEIR) associated with CUP No. 89-081, along with the Addendum to the FEIR prepared pursuant to California Environmental Quality Act (CEQA) Guidelines section 15164. Based on our review, we find that no circumstances requiring the preparation of a subsequent environmental impact report set forth in CEQA Guidelines section 15162 exist, and grant a limited waiver request as set forth more fully below.

Status of Current CUP Application

Based on projections and estimates at this time, we understand there may be a short time period during which the landfill will have reached capacity but the public hearing/appeal process would not have yet concluded.

We understand from waste disposal information provided by the Department of Public Works that the landfill may reach 23 million tons of capacity by November 2016; we further understand that this is an estimate only, and that capacity could be reached sooner or later than November 2016.

With respect to the landfill's current CUP application (CUP No. 2004-00042), although a draft environmental impact report has been circulated to the public, no hearing before the Regional Planning Commission has been scheduled at this time. Furthermore, if, in its sole discretion and after conducting one or more public hearing sessions on the project, the Regional Planning Commission approves the CUP, we anticipate the approval will be appealed to the Board of Supervisors for consideration, which would hold one or more public hearing sessions to consider the appeal. Based on our experience, this public hearing/appeal process may not conclude before the landfill reaches 23 million tons of capacity.

Environmental Analysis

In connection with the Board of Supervisors' approval of the CUP for the landfill in 1997, a draft environmental impact report (DEIR) was prepared by the Department which analyzed, among other things, the environmental impacts associated with disposal of a maximum of 29.4 million tons of waste in the landfill, including the vertical and horizontal expansion of the landfill required to accommodate 29.4 million tons of waste disposal.

Ultimately, the Board of Supervisors elected to limit waste disposal in the landfill to 23 million tons within a defined disposal envelope. This alternative was disclosed in the FEIR in the "Board of Supervisors Preferred Alternative," which analyzed:

- Weekly average waste disposal of 5,000 tons per day;
- 23 million ton disposal limit;
- Vertical expansion within the landfill of 78.3 acres;
- Horizontal expansion within the landfill of 103 acres; and
- A maximum permit duration of 22 years.

The Board ultimately approved the Board of Supervisors Preferred Alternative, as reflected in CUP No. 89-801.

The Addendum prepared in connection with your request discloses that, although the landfill is approaching its 23 million ton capacity, operational efficiencies have left space within the vertical and horizontal envelope analyzed and approved as part of the Board of Supervisors Preferred Alternative.

As explained in the Addendum, the landfill seeks only to continue to dispose waste within the existing approved envelope on a temporary basis during the current CUP application process, and in conformance with all other conditions of CUP No. 89-081. The Addendum appropriately updates the analysis of the DEIR and FEIR with respect to the current request. After considering the Addendum along with the FEIR for the project, we conclude the Addendum is the appropriate environmental document pursuant to CEQA, and that none of the circumstances requiring a subsequent environmental impact report identified in CEQA Guidelines section 15162 have occurred or are present here.

Interim Continuation of Landfill Operations Is Consistent with the General Plan

We find that the interim continuation of landfill operations is consistent with General Plan Policy PS/F 5.1, which states "Maintain an efficient, safe and responsive waste management system that reduces waste while protecting the health and safety of the public." Although there are no geographic constraints on the sources of waste collected by the landfill, it predominately serves the Santa Clarita Valley and surrounding communities, such as portions of the San Fernando Valley. If the landfill is forced to close during the processing of CUP No. 2004-00042, waste from these communities will need to be diverted to other landfills located further away, which will increase transportation distances. Increased transportation distances will create traffic and regional air quality impacts, increase greenhouse gas emissions, and increase costs that will be passed down to County residents. In addition, other landfills may impose out-of-area surcharges, further increasing costs; for example, the Simi Valley Landfill imposes a surcharge on waste from outside Ventura County and the Lancaster Landfill imposes a surcharge on waste from outside the Antelope Valley. Overall, closure of the landfill during the processing of CUP No. 2004-00042 will result in inefficiencies in the County's waste management system, which is inconsistent with General Plan Policy PS/F 5.1. As set forth more fully below, this limited waiver is granted subject to the landfill's ongoing compliance with the operating conditions of CUP No. 89-081, except with respect to the 23 million ton maximum set forth

in that CUP, which will protect the health and safety of the public, consistent with General Plan Policy PS/F 5.1.

Interim Continuation of Landfill Operations Is Consistent with the Santa Clarita Valley Area Plan

We find that the interim continuation of landfill operations is consistent with the Land Use Element of the Santa Clarita Valley Area Plan, a component of the General Plan. The landfill is located within the Community Serving land use designation, which allows landfills.

Interim Continuation of Landfill Operations Serves the Public Convenience and Welfare

For the reasons explained above with respect to General Plan consistency, we find that the interim continuation of landfill operations serves the public convenience and welfare. Denial of this waiver request may result in temporary closure of the landfill, which will result in increased traffic and regional air quality impacts; increased greenhouse gas emissions; and increase costs that will be passed down to County residents. County residents served by the landfill will also no longer have convenient access to waste disposal services and will no longer benefit from competitive pricing for those services. The landfill's ongoing compliance with the operating conditions of CUP No. 89-081, except with respect to the 23 million ton maximum set forth in the CUP, ensures the landfill is operated in a manner that protects the health, safety, and welfare of County residents.

Terms of This Waiver

The Department is charged with balancing not only hardships which may accrue to the landfill operator and local communities if the landfill should be forced to close during the processing of CUP No. 2004-00042, but also with ensuring that interim operation of the landfill results in minimal impacts to the surrounding Val Verde community. We believe the operating conditions of CUP No. 89-081 strike the appropriate balance between landfill operations and the local community, and further believe some additional terms and limitations are necessary to maintain this balance and to ensure the above General Plan and public convenience and welfare findings continue to be met.

Therefore, the Department is granting you a limited waiver, subject to the following:

1. This waiver shall not be effective for any purpose unless and until: (a) the landfill reaches its 23 million ton capacity; and (b) the landfill operator/applicant and the owner of the subject property, if other than the landfill operator/applicant, have filed with the Department an affidavit stating they are aware of, and agree to accept, the terms and limitations of this approval. The affidavit must be filed within 30 days of the date of this letter.
2. During the effective period of this waiver, the provisions of County Code section 22.04.110 shall not preclude DRP from processing the pending CUP application despite the landfill's accepting of waste in excess of the 23 million ton maximum set

forth in Conditions Nos. 9(g) and 46 contained in CUP No. 89-081, provided the applicant/landfill operator complies with all of the following terms and limitations:

- (a) The landfill must be operated in compliance with all applicable provisions of the County Code, and with applicable State and federal laws and regulations;
 - (b) Except with respect to the 23 million ton maximum set forth in Conditions Nos. 9(g) and 46 of CUP No. 89-081, the landfill must comply with all conditions of CUP No. 89-081, including but not limited to the daily and weekly net tonnage restrictions;
 - (c) Waste disposal in the landfill must take place only within the horizontal and vertical footprint (the waste disposal envelope with the maximum elevation of 1,430 feet) depicted on the approved Exhibit "A" to CUP No. 89-081, and in no event shall exceed 29.4 million tons as analyzed in the FEIR for CUP No. 89-081;
 - (d) The applicant/landfill operator must not carry out or cause to be carried out any activity on the landfill site which would result in a new environmental impact or a substantial increase in the severity of an environmental impact previously identified in the FEIR for CUP No. 89-081;
 - (d) The applicant/landfill operator must cooperate fully and expeditiously with the Department in the processing of the pending CUP application (CUP No. 2004-00042), including but not limited to promptly responding to requests for information by Department staff;
 - (e) The applicant/landfill operator must provide the Department with weekly reports detailing, to the satisfaction of the Director, the daily disposal rates within the preceding week, the total amount in tons of waste disposed within the landfill, and the remaining capacity within the approved waste disposal envelope; and
 - (f) The applicant/landfill operator must cooperate with the Department's Zoning Enforcement staff in addressing any ongoing concerns related to the operation of the landfill. The applicant/landfill operator must respond to any request for information from staff in an expeditious manner. Any inspection by the Department, which in the sole discretion of the Director is required to monitor compliance with the terms and limitations of this waiver, must be paid by the applicant/landfill operator at the rate of \$200 per inspection. The applicant/landfill operator shall reimburse any other County department for any inspection required by that department to monitor compliance with the terms and limitations of this waiver.
3. This waiver shall cease to be effective for any purpose upon the earlier of the following:

- (a) The pending CUP application (CUP No. 2004-00042) is withdrawn, approved, or denied, and such withdrawal, approval, or denial becomes final; or
 - (b) July 31, 2017; or
 - (c) This approval is revoked by the Director.
 4. If this waiver ceases to become effective for any purpose, and the landfill has accepted waste in excess of 23 million tons, the landfill operator shall initiate the landfill closure process as required by CUP No. 89-081.
 5. The applicant shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this approval. The County shall promptly notify the permittee of any such claim, action, or proceeding and the County shall reasonably cooperate in the defense.
 6. In the event that any claim, action, or proceeding as described above is filed against the County, the applicant shall within ten days of the filing pay Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, attorneys' fees and expenses, including but not limited to County Counsel fees and expenses, and other assistance to the applicant or the applicant's counsel. The applicant shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - (a) If during the litigation process, actual costs incurred reach 80 percent of the amount of the initial deposit, the applicant shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - (b) At the sole discretion of the applicant, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.
- The cost for collection and duplication of records and other related documents shall be paid by the applicant in accordance with County Code Section 2.170.010.
7. This waiver, and compliance with the terms and limitations hereof, shall not form the basis for establishing any vested right to use the site or any structure at the site for any use or activity which requires a discretionary approval by the County of Los Angeles. Compliance with the terms of this waiver shall not be construed as an indication or assurance that the Regional Planning Commission or the Board of Supervisors will approve the pending CUP application (CUP No. 2004-00042), or

Chiquita Canyon
Mike Dean
March 17, 2016

Page 7

that any particular conditions will be acceptable to the Regional Planning Commission or the Board of Supervisors.

8. This waiver does not run with the land and may not be transferred.
9. Notwithstanding anything set forth herein, the terms and provisions of Items 4, 5, 6, 7, and 8, above, shall become immediately effective upon the issuance of this letter and shall survive the effectiveness of this waiver.

If the Department finds the landfill has failed to comply with any of the above terms and limitations, this waiver will be automatically revoked, without prior notice, and the provisions of County Code section 22.04.110 will immediately apply.

The Director, in his sole discretion, may also revoke this waiver if he finds that use of the subject property pursuant to this waiver no longer meets the findings required by County Code section 22.04.110. In such case, we will provide you with 14 days' notice that this approval will be revoked, and revocation will be effective on the 15th day following the date of the notice.

I trust the waiver is acceptable to the landfill. If you have any questions, please contact Mr. Oscar A. Gomez of my staff at 213-974-6483, Monday through Thursday between 7:30 a.m. and 6:00 p.m. or ogomez@planning.lacounty.gov.

Sincerely,



Richard J. Bruckner
Director of Planning

for
RSB

RB:JS:SA:OG:RG: rg

Attachment