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BEFORE THE

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC HEALTH

ENVIRONMENTAL HEALTH SERVICES

007-A

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In the Matter of SAN FRANCISCO SOLID WASTE TRANSFER AND RECYCLING CENTER OPERATOR: SANITARY FILL COMPANY Facility No. 38-AA-001	STIPULATED AGREEMENT No. PUBLIC RESOURCES CODE §45011(a)

The San Francisco Department of Public Health, Environmental Health Services, acting as Local Enforcement Agency ("LEA") for San Francisco County, hereby enters into a stipulated agreement with Sanitary Fill Company ("Operator") to temporarily waive specified terms and conditions of the Solid Waste Facility Permit ("SWFP") for the San Francisco Solid Waste Transfer and Recycling Center ("Facility"). This document is a binding agreement between and LEA and the Operator and is supported by the facts and statutory authority outlined below.

I. STIPULATED STATEMENT OF FACTS:

WHEREAS,

1. Pursuant to Section 43209 of the Public Resources Code, the Department of Public Health is the LEA for the City and County of San Francisco;
2. The California Integrated Waste Management Act of 1989, known generally as AB 939, requires cities and counties in California to reduce the amount of waste disposed in landfills by 50 percent by the year 2000;
3. The Facility is a solid waste transfer/processing facility located at 501 Tunnel Avenue, San Francisco, CA 94134;

The LEA issued a SWFP to the Facility on November 1, 1993 ("1993 SWFP"), which authorizes the operation of a construction and demolition ("C & D") debris sort line at the Facility's outdoor Recycling Pad;

. The 1993 SWFP permits the Operator to process C & D waste in the C & D debris sort line between the hours of 6:00 a.m. to 2:30 p.m. to divert waste from landfill disposal;

The impacts of the C & D debris sort line were analyzed pursuant to the California Environmental Quality Act in a Mitigated Negative Declaration ("MND");

7. In August of 1996, the Operator requested and the LEA granted a revision to the 1993 SWFP which allows it to extend the operating hours of the C & D debris sort line from 2:30 p.m. to 6:00 p.m.;

In November of 1998, the LEA conducted a review of the facility's operation and identified a number of inconsistencies between the 1993 SWFP and the existing operation. The LEA required the Operator to submit an application to revised the 1993 SWFP;

. The Operator submitted an application to revised the 1993 SWFP, which, among other things, proposed to increase the operating hours of the C & D debris sort line to 24 hours per day and to enclose the C & D debris sort line by the construction of a building ("iMRF");

10. On August 24, 2000, the San Francisco Department of City Planning approved the MND for the proposed revision to the 1993 SWFP;

11. Subsequent to the approval of the MND, the Operator requested a further revision of the 1993 SWFP to relocate the Facility's Public Disposal and Recycling Area ("PDRA") to the existing Total Urban Recycling Facility ("TURF") building, which requires a revision to the SWFP boundary because the PDRA, unlike the TURF, is regulated under the terms of the SWFP, and to install a second C & D debris sort line to process additional C & D waste;

12. The impacts of the second C & D debris sort line and revision to the SWFP boundary to include the TURF and to operate the PDRA in the TURF building were analyzed in an Addendum to the approved MND;

August of 2001, the San Francisco Department of City Planning issued an amended MND concluding that installation of a second C & D debris sort line, revision to the SWFP

boundary to include the TURF building, and operation of the PDRA in the TURF building would not cause a significant environmental impact or pose a threat to public health and safety;

14. Pursuant to the May, 30 2001 rate order approved by the San Francisco Rate Board, the Operator is required to construct the iMRF and install a second C & D debris sort line by September 2002;
15. The existing C & D debris sort line will be temporarily inoperable during construction of the iMRF required by the July 2001 rate order;
16. The Operator attempted to locate other facilities in the Bay Area to accommodate the waste currently processed by the existing C & D debris sort line during construction of the building;
17. An unforeseeable consequence of other city and county compliance with AB 939 has resulted in insufficient C & D debris sort line capacity at other facilities in the Bay Area to accommodate the 170 tons/day of waste currently being processed by the Facility's existing sort line;
18. The Operator has requested a waiver of certain terms of the 1993 SWFP to temporarily install and operate a portable C & D debris sort line in the TURF building to avoid landfill disposal of waste currently diverted by the existing C & D debris sort line;
19. The Operator believes that the operation of a C & D debris sort line in the TURF building requires the following waiver/modifications to the terms and conditions of the Facility's 1993 SWFP:
    a. An increase in the permitted area of the Facility to include the TURF building;
    b. Authorization to operate the C & D debris sort line in the TURF;
    c. An increase in the hours of operation of the C & D debris sort line from 12 hours/day, 6 days/week to 19 hours/day Monday - Friday and 10.5 hours on Saturday;

Pursuant to section 45011 of the Public Resource Code and section 17211.4 of Title 14 of the California Code of Regulations ("CCR"), the LEA has the authority to enter into a stipulated agreement that provides a temporary waiver of specified terms and conditions of a SWFP;

. The Operator requests a waiver would which would allow it to process 270 tons/day of waste that otherwise would be disposed of in landfills;

The potential environmental and health and safety impacts of operating the C & D debris sort line in the TURF building are similar to those associated with operating the PDRA in the TURF building, which the Addendum to the MND concluded would not be significant;

The Operator proposes hours of operation for the C & D debris sort line to be from 4:00 a.m. to 11:00 p.m. Monday through Friday and 6:00 a.m. to 4:30 p.m. Saturday which is consistent with the current TURF hours of operation;

Operation of the C & D debris sort line in the TURF is temporary, pending the expected completion of the iMRF in September 2002;

FINDINGS OF THE LEA:

On the basis of the above-stipulated statement of facts, the LEA makes the following to title 14 CCR Section 17211.4:

1. The 1993 SWFP for the Facility is valid and in full force and effect;

The Operator is in compliance and has at all times demonstrated good faith in maintaining compliance with state minimum standards and the terms and conditions of the 1993 SWFP;

Waiver of certain terms of the 1993 SWFP is necessary to allow the Operator to process C & D waste during the construction of the iMRF allowing the City and County to comply with the diversion requirements of AB939;

Failure to waive the terms of the Facility's 1993 SWFP will undermine the City and County of San Francisco's compliance with AB 939 by causing unnecessarily disposal of waste in landfills.

The potential for unnecessary disposal of waste into landfills and the lack of capacity to process C & D waste at other facilities in the Bay Area during the construction of the iMRF constitutes an unforeseeable circumstance associated with construction of the iMRF;

The LEA finds insufficient facts to justify increasing the operating hours of the C & D debris sort line, the LEA believes that it would be inappropriate to increase the operating hours as requested by the Operator. Therefore, the operating hours of the C & D debris sort line will remain the same as that specified in the 1993 SWFP, as modified, from 6 a.m. to 6 p.m. Monday through Saturday. In addition, the maximum amount of C & D waste processed under this Stipulated Agreement shall be the existing processing rate of 170 tons/day;

7. The requested waiver will not extend beyond the time within which construction of the iMRF is completed, and is therefore temporary; and

8. Operation of the Facility under the terms of this Stipulated Agreement is in the best interest of the environment and will not cause, contribute to or threaten to contribute to any harm to the public health and safety.

III. ON THE BASIS OF THE FOREGOING, THE LEA AND THE OPERATOR STIPULATE AND AGREE AS FOLLOWS:

1. For the duration of this Stipulated Agreement, the following terms and conditions of the 1993 SWFP are modified and waived:

   a. the boundaries of the SWFP are modified to include the TURF building;

   b. a temporary C & D debris sort line is permitted to process 170 tons/day of C & D waste in the TURF;

   c. the hours of operation of the C & D debris sort line shall be as provided for in the 1993 SWFP, as amended, 12 hours/day (Monday – Saturday) from 6 a.m. to 6 p.m.

. The Operator may commence operation of a C & D debris sort line as described in paragraph III.1 upon the installation of the portable C & D debris sort line in the TURF building.

Unless terminated pursuant to Paragraph III.6 or extended pursuant to Paragraph III.8, below, this Stipulated Agreement shall terminate 90 days after the effective date of this Stipulated Agreement.

Within 10 days after the execution of this agreement, the Operator shall submit to the LEA copies of the building plans for the iMRF building.

5. Within 45 days after the execution of this agreement, the Operator shall submit to the LEA a construction schedule for the iMRF, which shall include a schedule of the major milestones including, without limitation, the expected start date of the construction, the expected completion date, and the expected operational date of the C & D sort lines in the iMRF.

. Pursuant to 14 CCR Section 17211.2(g), the LEA may modify, cancel or revoke this Stipulated Agreement without advance notice if it determines that any of the following occurs:

a. The use of this Stipulated Agreement causes or contributes to, or threatens to cause or contribute to harm to public health and safety or the environment;

b. The terms of this Stipulated Agreement are not being used expressly to relieve the stated temporary unforeseeable circumstances, or are not in the best interest of public health and safety or the environment;

c. The 1993 SWFP is revised to include the terms and conditions that address the stated temporary unforeseeable circumstances;

d. The Operator failed to comply with the requirements of this Stipulated Agreement;

e. The Operator's failure to accomplish the milestones set forth in its submission to the LEA pursuant to Paragraph III.5 without a reasonable justification for such failure; or

f. The stated temporary unforeseeable circumstances no longer exist.

7. Pursuant to 14 CCR Section 17211.6, the Operator shall submit a written report to the LEA within 10 working days prior to the termination of this Stipulated Agreement and any extension thereof. Such report shall include the following:

a. Information regarding changes in operation or design that took place as a result of the Stipulated Agreement.

b. Information regarding the amount of C & D waste that are processed under this Stipulated Agreement.

c. The Operator's good faith effort to achieve the milestones set forth in the schedule submitted to the LEA pursuant to Paragraph III.5. If certain milestones were not achieved, an explanation as to why such milestones were not accomplished within the time stated and submission of a revised schedule, if needed.

d. A request to either discontinue this Stipulated Agreement on a date certain or a request to continue the Stipulated Agreement for another 90 days.

This Stipulated Agreement may be extended for an additional 90 days provided that the Operator is in compliance with the requirements of this Stipulated Agreement. However, no extension will be granted that would extend this Stipulated Agreement beyond the actual completion date of the iMRF.

The Operator shall reimburse the LEA for all costs associated with this Stipulated Agreement incurred including, without limitation, costs of notification required pursuant to 14 CCR Section 17211.7(f).

10. All terms and conditions of the 1993 SWFP that are not the subject of this Stipulated Agreement shall remain in effect.

11. Each undersigned representative of a party to this Stipulated Agreement certifies that he or she is fully authorized to enter into the terms and conditions of this Stipulated Agreement and to execute and legally bind such party to this document.

12. By executing this Stipulated Agreement, the Operator agrees to comply with all terms and conditions set forth herein.

13. Except as provided for in Paragraphs III.6 and III.14, this Stipulated Agreement constitutes the entire agreement between the Operator and the LEA and it is expressly understood and agreed that this Stipulated Agreement may not be altered, amended, modified, or otherwise change in any respect except by a written instrument duly executed by the Operator and the LEA or their authorized representatives.

14. Pursuant to 14 CCR Section 17211.9, this Stipulated Agreement is subject to the authority of the Executive Director of the California Integrated Waste Management Board to condition, limit, suspend, or terminate this Stipulated Agreement.

Effective Date

This Stipulated Agreement is effective as of the date the last executed below.

Maurice Quillen, General Manager — Date 12/10/01

Henry Louie — Date Dec. 11, 2001
City and County of San Francisco LEA
Environmental Health Services,
Department of Public Health