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BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

FILED
FEB 19 2025
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

In the Matter of the
AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Docket No. 3747

**STIPULATED AMENDMENT TO ORDER
OF ABATEMENT FOR BERKELEY
LANDFILL**

Complainant,
vs.
BERKELEY LANDFILL
Respondent.

Hearing Date: February 18, 2025
Time: 9:30 am
Place: Hearing Board
Bay Area Air Quality Mgt Dist
375 Beale Street, 1st Fl.
San Francisco, CA 94105

In the Order of Abatement for Berkeley Landfill entered on February 16, 2024, the Hearing Board hereby replaces the following original Paragraph A on p. 10:19-23 of the Order of Abatement with the new Paragraph A below it.

The original Paragraph A on p. 10:19-23 to be replaced provided:

“A. The Hearing Board shall retain jurisdiction over this matter until February 5, 2025 or until Respondent Berkeley Landfill has met all the Compliance Action Conditions and Increments of Progress set forth in Sections 1 through 11, whichever occurs first, unless this Order is amended or modified.”

The new Paragraph A on p. 10:19-23 to replace the one above provides:

“A. The Hearing Board shall retain jurisdiction over this matter until Respondent Berkeley Landfill has met all the Compliance Action

1 Conditions and Increments of Progress set forth in Sections 1
2 through 11, unless this Order is amended or modified.”

3 The effect of this amendment shall be retroactive to February 5, 2025.

4 All other terms and conditions of the Order of Abatement shall remain the
5 same.

6 IT IS SO ORDERED.

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9 Dated: February 18, 2025

By: 
Valerie J. Armento, Esq.
Hearing Board Chair
Bay Area Air Quality Management District

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BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the

AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

vs.

BERKELEY LANDFILL

Docket No: 3747

CERTIFICATE OF SERVICE

FILED

FEB 19 2025

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

STATE OF CALIFORNIA

City and County of San Francisco

ss.

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:
That I am a citizen of the United States, over the age of 18 years and not a party to the above-entitled action; that I served a true copy of the attached **Stipulated Amendment to Order of Abatement** on:

Marc Shapp, Deputy City Attorney
City of Berkeley
2180 Milvia St., Ste. 4
Berkeley, CA, 94704
mshapp@berkeleyca.gov

via email and USPS Certified Mail on February 19, 2025, and on:

Joel Freid, Esq., Assistant Counsel
Bay Area Air Quality Management District
375 Beale Street, 6th Floor
San Francisco, California 94105
jfreid@baaqmd.gov

via email on February 19, 2025

DATED: February 19, 2025



Marcy Hiratzka
Clerk of the Boards

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BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA



In the Matter of the
AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Docket No. 3747

**FINDINGS AND DECISION FOR
ORDER OF ABATEMENT**

DISTRICT REGULATION 8-34-301.1

Complainant,
vs.
BERKELEY LANDFILL
Respondent.

Hearing Date: January 23, 2024 and
February 6, 2024
Time: 9:30 am
Place: Hearing Board
Bay Area Air Quality Mgt Dist
375 Beale Street
San Francisco, CA 94105

15 The Request of Complainant the Air Pollution Control Officer (hereinafter, the
16 “APCO”) of the Bay Area Air Quality Management District (the “Air District”) for an Order of
17 Abatement was heard on January 23 and February 6, 2024, in accordance with the provisions of
18 California Health and Safety Code (“HSC”) § 40823 and Air District Hearing Board Rule §
19 6.2. The following Members of the Hearing Board were present: Chair Valerie Armento and
20 Members Amelia Timbers, Danny Cullenward, and Rajiv Dabir. Respondent Berkeley Landfill
21 was represented by Marc Shapp, Deputy City Attorney, City of Berkeley. Complainant APCO
22 of the Air District was represented by Joel Freid, Assistant Counsel II, Air District. The public
23 was given the opportunity to testify, evidence was received, and the matter was submitted.
24

1 Testimony from the hearing on Respondent’s application for a regular variance, Case No. 3741,
2 was incorporated, without objection, into the record.

3 The Hearing Board finds and decides as follows:

4 **FINDINGS OF FACT**

5 1. The Air District is the governmental agency charged with the primary
6 responsibility in the San Francisco Bay Area for controlling air pollution from all sources other
7 than motor vehicles, for enforcing laws relating to air pollution, and for maintaining healthy air
8 quality. The Air District is organized pursuant to the HSC Division 26, Part 3, Chapter 11.

9 2. The Complainant Air Pollution Control Officer (“APCO”) is appointed by the
10 Bay Area Air Quality Management District Board of Directors to enforce all orders, rules and
11 regulations prescribed by the Air District Board. (HSC § 40750 *et seq.*) The APCO is
12 authorized to request that the Hearing Board issue an Order of Abatement in accordance with
13 HSC Section 42451(a).

14 3. Respondent Berkeley Landfill (“Landfill” or “Facility”) is owned by the City of
15 Berkeley (the “City”), operated by SCS Engineers (“SCS”), and subject to the jurisdiction of
16 the Air District. Respondent owns the Landfill located at Cesar Chavez Park, at 11 Spinnaker
17 Way, Berkeley, Alameda County, California.

18 4. Air District Regulation (“Reg.”) 8-34-301.1, California Code of Regulations
19 (“CCR”) Title 17, Section 95464(b)(1)(A), a part of 17 CCR Sections 95460-94476, the State
20 Landfill Methane Rule (“State LMR”), and the Landfill’s Permit Condition (“P/C”) 1826, Part
21 3, each require continuous operation of the Landfill’s landfill Gas Collection and Control
22 System (“GCCS”).

23 5. The Facility is located within the Air District’s jurisdiction and subject to the
24 Air District’s regulations. The Landfill is a closed landfill owned by the City and currently

1 developed as Cesar Chavez Park. The City also owns the land in the Berkeley Marina adjacent
2 to Cesar Chavez Park, including the site of an operating hotel, collects gases including Methane
3 offsite, meaning off of Cesar Chavez Park, and feeds those gases to the City's flare in the Park
4 for abatement.

5 6. The Landfill has been closed, i.e. not accepting any new solid waste, since 1983.
6 As part of required post-closure operations, the Landfill operates a GCCS, which collects
7 landfill gas from the decomposing material in the Landfill and combusts it in an enclosed flare.
8 The Landfill has contracted with SCS for the operation and maintenance of the Landfill and its
9 GCCS and for compliance monitoring and measures necessary to comply with Air District and
10 CA State Regulations.

11 7. Landfill Gas ("LFG") is comprised of Methane which is a potent greenhouse
12 gas, Carbon Dioxide ("CO₂"), Carbon Monoxide ("CO"), Non-methane Organic Compounds
13 ("NMOCs"), Toxic Air Contaminants ("TACs"), and other compounds which can be emitted
14 when the Gas Collection System ("GCS") and flare are not operated continuously and when
15 there are leaks of landfill gas from the landfill surface and/or from GCCS components.

16 8. Methane is a potent greenhouse gas more effective than CO₂ at trapping heat in
17 the atmosphere.

18 9. LFG is extracted from the Landfill using a series of vertical landfill gas
19 collection wells, lateral piping, and a vacuum system that comprise the GCS which feeds the
20 collected LFG to a flare where the landfill gas is burned and thereby abated, as required by
21 Regulation 8, Rule 34 ("Reg. 8-34") and the State LMR. The Landfill is required by its Air
22 District permit to operate a GCS consisting of 42 vertical wells, 2 horizontal collectors, and 14
23 trench collectors.

1 10. A landfill subject to Reg. 8-34 is required to continuously operate a Gas
2 Collection System and flare (or other abatement or control system) unless Less Than
3 Continuous Operation (“LTCO”) is approved by the Air District. The state LMR also requires
4 continuous operation of the GCS unless the Air District approves an alternative compliance
5 option. Landfills that are granted approval for LTCO are required to request approval of the
6 LTCO allowance from the Air District every 3 years, and the Air District has the authority to
7 approve, reject, or modify terms of LTCO.

8 11. The Air District has issued 15 Notices of Violation (“NOVs”) to the Landfill
9 since November 22, 2021 for noncontinuous operation of its GCCS, in violation of Reg. 8-34-
10 301.1, the State Landfill Methane Rule CCR Title 17 Section 95464(b)(1)(A), and the
11 Landfill’s P/C 1826, Part 3, among 5 other violations. Berkeley Landfill is not operating its
12 GCCS continuously.

13 12. The Air District issued 14 NOVs to the Landfill over the past year, and 21
14 NOVs since 2019, including the 10 NOVs issued for noncontinuous operation of the GCCS in
15 2023. The cited violations include not operating required landfill gas collection wells, leaks of
16 landfill gas in violation of applicable regulations, improper maintenance of the flare, the flare
17 exceeding its 57.6 MMBTU/day limit in violation of Reg. 2-1-307 and P/C 1826, Part 2, late
18 source test report submittal, and noncontinuous operation of its GCCS.

19 13. As part of its application for a Regular Variance, Respondent acknowledged and
20 presented evidence to support a finding that the Landfill is operating in violation of Reg. 8-34-
21 301.1 and P/C 1826, Part 3.

22 14. Because the Landfill closed before 1987 it is exempt under Reg. 8-34-119 from
23 the 5% oxygen content limit of Reg. 8-34-305.4. Whether or not this limit applies, high oxygen
24 readings indicate ambient air is being drawn into the GCS. In this case, oxygen readings of 20%

1 have been recorded, indicating that ambient air is being drawn into the GCS. The Air District
2 believes that this oxygen intrusion is due to poor maintenance and disrepair of the Landfill's
3 GCS.

4 15. When LFG is not collected adequately, it builds up pressure within the Landfill
5 and can move offsite, outside the Landfill boundary, where the LFG can become a safety
6 hazard, as well as eventually being emitted to the atmosphere. Monitoring probes offsite
7 near Cesar Chavez Park now situated upon the former the Landfill have detected methane. The
8 Air District and CalRecycle, the Landfill's Local Enforcement Agency ("LEA") have met to
9 discuss and develop the chemical fingerprinting methodology in Sections 4, 4.1, and 4.2 of the
10 Order of Abatement below aimed to determine whether the methane measured offsite of Cesar
11 Chavez Park is originating from the Landfill.

12 16. On May 18, 2022, the Landfill petitioned the Air District for approval of an
13 LTCO allowance for the Landfill's new smaller flare under Reg. 8-34-404. The Landfill
14 claimed that it was not producing enough LFG to operate even the new smaller flare on a
15 continuous basis.

16 17. At the end of 2022, Air District Engineering Staff met with CalRecycle,
17 Berkeley LEA, SCS, and the City staff to discuss investigation into the offsite methane
18 detections, and SCS/the City agreed to investigate. The City has been requested by CalRecycle
19 to submit a work plan to conduct the investigation into the offsite methane detections by
20 February 23, 2024.

21 18. On March 21, 2023, the City's Landfill and its consultant, SCS, withdrew the
22 application seeking LTCO for the new flare after the Air District expressed concerns about
23 poor landfill gas collection, ambient levels of oxygen being captured by the GCS, and possible
24 offsite landfill gas migration, and stated that if system adjustments and repairs could not be

1 completed within 60 days to ensure that all vertical extraction wells reported oxygen
2 concentrations below 5% then the LTCO petition would be denied..

3 19. The Landfill is in a well-populated area. Cesar Chavez Park, which is used by
4 the public, is located on top of the Landfill and with an adjacent hotel. Accordingly, there is a
5 strong public interest in bringing the Landfill into compliance with continuous operation
6 requirements and in determining whether or not landfill gas is migrating off of the Landfill site.

7 **CONCLUSION**

8 20. The Landfill is in violation of Reg.8-34-301.1, 2-1-307, State LMR Section
9 95464(b)(1)(A), and its P/C 1826, Part 3.

10 21. It is reasonable to require the Landfill to comply with District rules and its
11 permit. Reg. 8-34 that applies in this case is a federally enforceable requirement.

12 22. The issuance of this Order of Abatement upon a noticed hearing does not
13 constitute a taking of property without due process of law.

14 23. The Order of Abatement is not intended to act as a variance.

15 **ORDER OF ABATEMENT**

16 Based on the aforesaid statements and good cause appearing, the Hearing Board hereby
17 orders Respondent to immediately cease and desist from operating Respondent's closed
18 Landfill in a manner that violates Air District Reg. 8-34-301.1 or that violates the Landfill's
19 P/C 1826, which require both the continuous operation of its landfill gas (LFG) collection
20 system, consisting of 42 vertical wells, 2 horizontal collectors, 14 trench collectors, and the
21 proper maintenance of and continuous operation of Flare A-4 combusting the collected LFG at
22 a temperature of at least 1,400 degrees Fahrenheit, unless and until the Air District determines
23 that all of the following compliance action conditions and increments of progress 1 through 11
24

1 have been met.

2 **COMPLIANCE ACTION CONDITIONS AND INCREMENTS OF PROGRESS:**

3 1. Subject to Section 2 of this Abatement Order, locate all required vertical LFG
4 collection wells pursuant to the BAAQMD Permit to Operate, Permit Condition 1826, Part 4
5 and on the attached Landfill Gas System Plan topographical site map. (Reg. 8-34-301).
6 Complete within 30 business days of issuance of this Abatement Order.

7 2. Once Wells 14, 29, 33, 34, and 35 are located, immediately monitor each located
8 well to confirm operation, measure well gas in accordance with Regulation 8-34-604, and
9 measure pressure in accordance with Regulation 8-34-608. Adjust each well as needed to
10 collect LFG. Submit the monitoring results and description of adjustments to the Air District
11 within 5 business days. If any of these wells cannot be located, repaired, or brought into
12 compliance with section 3, then submit an application to the Air District proposing an alteration
13 to the LFG collection system to address the missing, unrepairable, or non-compliant wells.
14 (Reg. 8-34-301, Permit Condition 1826). Complete within 30 business days of completion of
15 the requirements of Section 1.

16 3. To the extent necessary to achieve the performance criteria herein, repair the
17 LFG collection system such that, subsequent to inspection, repairs, or modifications as
18 described in subsections 3.1, 3.2, 3.3, 3.4, and 3.5, all vertical LFG extraction wells, horizontal
19 collectors, and trench collectors are optimally collecting LFG and limiting air intrusion to 5
20 percent oxygen by volume, except as otherwise provided in subsections 3.4 and 3.5, and ensure
21 that each wellhead operates under a vacuum/negative pressure and LFG in each wellhead less
22 than 55° C (131° F), and ensure all system components comply with all applicable
23 requirements in Reg. 8-34-301.2, and ensure the gas collection system and landfill gas flare
24 operate continuously as specified in Reg. 8-34-301.1 and meet the destruction efficiency
requirement in Reg. 8-34-301.3. Complete the actions set forth in subsections 3.3, 3.4, and 3.5
on an as-needed basis. (Reg. 8-34-301, Permit Condition 1826).

3.1 Within 90 business days of issuance of this Abatement Order, complete
an inspection of the integrity of each vertical LFG extraction well, LFG horizontal collector,
LFG trench collector, LFG collection system lateral, and piping, including physical inspection,
total depth and liquid level sounding, video camera inspection, and any other method(s)
necessary to demonstrate that there are no blockages due to damage or from liquid. Submit
inspection results to the Air District within 30 business days of the completion of the
inspection, including a timeline for any repairs that are necessary based on the inspection. If
LFG collection system component replacements are needed, an application to the Air District
proposing an alteration to the LFG collection system to replace unrepairable LFG collection
system components shall also be submitted with the inspection results. (Reg. 8-34-301, Permit
Condition 1826).

3.2 Within 90 business days of issuance of this Abatement Order, at all
vertical LFG extraction wells, replace existing near surface bentonite well bore seal and install
additional well bore HDPE liner boot seals. (Reg. 8-34-301, Permit Condition 1826).

1 3.3 As needed, install additional supplemental LFG collection system below
2 grade pipelines to maintain vacuum distribution in the wellfield. Submit an application to the
3 Air District if the installation(s) are not allowed by the current permit to operate. If any
4 additional supplemental LFG collection system below grade pipelines are needed under this
5 subsection 3.3, the City of Berkeley shall install those pipelines within 120 business days of
6 issuance of this Abatement Order or any approvals required from the District, whichever is
7 later. (Reg. 8-34-301, Permit Condition 1826).

8 3.4 After measures set forth in subsections 3.1, 3.2, and 3.3 have been
9 completed, if any well gas data from vertical wells, horizontal collectors, and trench wells
10 (collectively and individually, the Well Gas Data) show oxygen concentrations greater than 5
11 percent by volume, submit to the Air District for approval a proposed Work Plan (WP) within
12 60 business days of the last GCS repair done under subsections 3.2 or 3.3 for a site-wide drone
13 survey across the landfill and nearby areas that could be pathways of LFG migration to the
14 offsite probes with methane detections per EPA approved Other Test Method 51 (OTM-51) –
15 Unmanned Aerial Systems (UAS) Application for Surface Emissions Monitoring of Landfills.
16 City of Berkeley staff shall seek approval from the Berkeley City Council for any drone survey
17 under this subsection 3.4, if Council approval be needed under the Acquisition and Use of
18 Surveillance Technology Ordinance, Berkeley Municipal Code Ch. 2.99. Upon the Air
19 District’s approval of the drone survey WP, which shall not be unreasonably withheld, within
20 30 business days complete the drone survey. At any identified location(s) of landfill gas
21 leak(s), locate the GCS damage causing the leak(s) and identify new GCS component(s) needed
22 to eliminate the leak(s). Submit an application to the Air District proposing an alteration to the
23 LFG collection system to replace piping, replace landfill gas wells, horizontal collectors, trench
24 wells, and/or install new landfill gas collection system components within 60 business days of
completing the survey. (Reg. 8-34-301, Permit Condition 1826).

 3.5 If, after repairs of the GCS, the Well Gas Data at any well or collector
continue to show an oxygen concentration greater than 5 percent by volume, develop a probe
monitoring plan to measure LFG content in the area surrounding such well(s) or collector(s).
Submit the probe monitoring plan, which shall include notice to the Air District to allow Air
District personnel to attend the probe monitoring activity, to the Air District within 60 business
days of the last GCS repair done under subsections 3.2, 3.3, or 3.4, for review, comment, and
approval by the Air District. Complete the probe monitoring survey within 30business days of
Air District approval of the probe monitoring plan, which shall not be unreasonably withheld,
and submit the probe monitoring survey results report to the Air District within 7 business days
of Berkeley Landfill’s receipt of the report and no later than 60 business days of District
approval of the probe monitoring plan. If any such well(s) or collector(s) are determined by the
Air District to be collecting gas that is not representative of the LFG in the surrounding waste
mass, locate the GCS damage causing the leak(s) and identify new GCS component(s) needed
to eliminate the leak(s). Submit an application to the Air District proposing an alteration to the
LFG collection system to replace piping, replace landfill gas wells, replace collectors, and/or
install new landfill gas components, in accordance with direction by the Air District, within 60
business days of receiving such direction by the Air District. (Reg. 8-34-301, Permit Condition
1826).

1 4. Within 60 business days of issuance of this Abatement Order submit to the Air
2 District for approval, which shall not be unreasonably withheld, a proposed Work Plan (WP)
3 for the collection of gas and laboratory analysis meeting all requirements of, and containing all,
4 the information specified in subsections 4.1 and 4.2 below. (Reg. 8-34-301, Permit Condition
5 1826). The WP will include details for:

6 4.1 Screening, collection, and testing gas at all existing permanent
7 monitoring probes offsite of Cesar Chavez Park: Screening method to determine if methane is
8 present and measure methane content. For locations at which methane is detected, a collection
9 and test plan, including the number and size of representative gas samples collected and test
10 methods to establish the source of the methane. The WP shall include at a minimum: collection
11 protocols, advance notice to Air District of sampling to allow for Air District staff being
12 present, type of approved-container, chain of custody, and deadlines for laboratory submittal;
13 analysis of gas content, including methane, other gas fractions, and specific volatile organic
14 compound (VOC) and toxic air contaminant (TAC) compounds by Methods ASTM D1946 and
15 TO-15, and any other methods necessary to identify indicators of the source of methane gas.
16 For locations at which methane is not detected, a follow up monitoring schedule, including
17 frequency and duration; methane-containing gas from follow up monitoring shall be collected
18 and submitted for testing. Deadlines for submittal of the initial field investigation report, results
19 of ongoing monitoring, and laboratory analysis to the Air District. (Reg. 8-34-301, Permit
20 Condition 1826).

21 4.2 Collection and testing of LFG from the Berkeley Landfill: Collection and
22 test plan, including the number and size of representative LFG samples collected and well
23 locations in proximity to each offsite probe. The plan shall include at a minimum: collection
24 protocols, advance notice to the Air District of sampling to allow for Air District staff to be
present, type of approved container, chain of custody, and deadlines for laboratory submittal;
analysis of gas content, including methane, other gas fractions, and specific VOC and TAC
compounds by Methods ASTM D1946 and TO-15, and any other methods necessary to
establish a fingerprint of the landfill gas. Deadlines for submittal of the field investigation
report and laboratory analysis to the Air District. (Reg. 8-34-301, Permit Condition 1826).

5. Perform the sampling and collection of gas and initiate laboratory analysis in
accordance with the approved WP. (Reg. 8-34-301, Permit Condition 1826). Complete within
60 business days of receiving Air District approval of the WP.

6. Submit laboratory analyses and field investigation report(s) to the Air District
for the gases collected from the offsite monitoring probes and from the Berkeley Landfill by
the deadlines specified within the approved WP. The field investigation report(s) shall contain
all the information required in the approved WP. (Reg. 8-34-301, Permit Condition 1826).

7. Schedule a full inspection and servicing of the onsite flare by the flare
manufacturer. (Reg. 8-34-301, Permit Condition 1826). Complete within 60 business days of
issuance of this Abatement Order.

8. Submit results of flare inspection and details of the servicing to the Air District
within 30 business days of the inspection and servicing, including all details of the flare's

1 compliance and/or non-compliance with regulatory requirements. (Reg. 8-34-301, Permit
2 Condition 1826). Complete within 90 business days of issuance of this Abatement Order.

3 9. For a period of at least 3 months following any repair or replacement of any
4 component of the LFG collection system required under subsections 2, 3, 3.1, 3.2, and 3.3 and
5 until the Well Gas Data oxygen content at every well and collector has remained no more than
6 5 percent by volume for at least 3 months, and for a period of at least 3 months following
7 installation of all GCS components required by subsections 3.4 and 3.5, perform weekly
8 monitoring of well gas at all vertical wells, horizontal collectors, and trench wells in
9 accordance with Regulation 8-34-604, determine wellhead pressure in accordance with
10 Regulation 8-34-608, and adjust or repair the wells and collectors as necessary to optimize gas
11 recovery and minimize air intrusion. For a period of at least 6 months after weekly monitoring
has ceased, perform monthly wellhead monitoring and continue to adjust wells and collectors to
optimize gas recovery and minimize air intrusion. If the oxygen content exceeds 5 percent by
volume at any well or collector, perform repairs and maintenance at those components to
reduce oxygen content and revert to the weekly monitoring schedule. When all of Berkeley
Landfill's Well Gas Data demonstrate 6 months of continuous oxygen concentrations that do
not exceed 5 percent by volume, Berkeley Landfill may revert to the monitoring requirements
in Regulation 8-34. Submit the monitoring results to the Air District within 5 business days
following each monitoring event. (Regs. 8-34-301 and 8-34-303).

12 10. For the duration of the activities required under Section 9, perform monthly
13 monitoring for landfill gas leaks at all components containing landfill gas and for landfill
14 surface leaks in accordance with the procedures in Regulation 8-34-602 and 8-34-607.
Immediately address and repair any leaks in excess of 8-34-301.2 and 8-34-303 standards and
submit the results of the monitoring and repairs to the Air District within 2 weeks of the
monitoring event. (Regs. 8-34-301 and 8-34-303).

15 11. Any downtime of the LFG collection and control system that is reasonable in the
16 determination of the Air District and required to conduct the actions specified under this
17 Abatement Order shall not constitute a violation of Reg. 8-34-301.1, provided the City of
18 Berkeley provides documentation, if feasible in advance of the downtime events, including start
19 and stop time, reason, and actions taken. Submit such documentation to the Air District, in
compliance with Regulation 8-34-118 and no later than 5 business days following each
downtime event if advance notice is not feasible. Nothing in this Section 11 exempts Permittee
Berkeley Landfill from the requirements of Regs. 2-1-301 and 2-1-302.

20 A. The Hearing Board shall retain jurisdiction over this matter until February 5,
21 2025 or until Respondent Berkeley Landfill has met all the Compliance Action Conditions and
22 Increments of Progress set forth in Sections 1 through 11, whichever occurs first, unless this
23 Order is amended or modified.

24 B. The Hearing Board may modify this Order without the stipulation of the parties

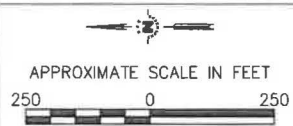
1 upon a showing of good cause, and upon making the findings required by HSC § 42451(a) and
2 Hearing Board Rule § 4.13.

3 C. This Order is not and does not act as a variance. Respondent Berkeley Landfill
4 is subject to all applicable rules and regulations of the Air District, and to all applicable
5 California law. Nothing herein shall be deemed or construed to limit the authority of the Air
6 District to issue Notices of Violation nor to seek civil or criminal penalties, or injunctive relief,
7 or to seek further orders of abatement or other administrative or legal relief.

8
9 Dated: February 16, 2024

By: 

10 Valerie J. Armento, Esq.
11 Hearing Board Chair
12 Bay Area Air Quality Management District
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APPROXIMATE LIMITS OF BERKELEY LANDFILL
(FACILITY NO. 01-AC-0001)

BLOWER/FLARE STATION

VERTICAL
EXTRACTION
WELLS
(TYP.)

SUMP/
IMPINGEMENT
(TYP. OF 8)

BERKELEY MARINA

LEGEND

- 40 GAS COLLECTION HEADER/LATERALS (BELOW GRADE)
- VERTICAL LFG GAS EXTRACTION WELL
- TW-4 HORIZONTAL TRENCH WELL (MARINA PROPERTY)
- HC-1 HORIZONTAL COLLECTOR PIPE (MARINA PROPERTY)
- Probe 5 LFG MONITORING WELL (MARINA PROPERTY)

SCS ENGINEERS
Environmental Consultants and Contractors
7081 Koll Center Parkway, Suite 135
Pleasanton, California 94566
(925) 426-0080 FAX: (925) 426-0707

DATE: 02/15/12	DRN. BY: JLM/ALC	CHK. BY: JLM/ALC	DATE: 02/15/12	DRN. BY: JLM/ALC	CHK. BY: JLM/ALC
DATE: 02/15/12	DRN. BY: JLM/ALC	CHK. BY: JLM/ALC	DATE: 02/15/12	DRN. BY: JLM/ALC	CHK. BY: JLM/ALC

NOTE:
ORIGINAL TOPOGRAPHY BY AERIAL METHODS
1992. BASE MAP PROVIDED BY CITY OF
BERKELEY.

SHEET TITLE	LANDFILL GAS SYSTEM PLAN
PROJECT TITLE	BERKELEY LANDFILL CITY OF BERKELEY

NO.	REVISION	DATE

DATE:	6/11/18
SCALE:	AS SHOWN
FIGURE NO.	1

1 BEFORE THE HEARING BOARD
2 OF THE
3 BAY AREA AIR QUALITY MANAGEMENT DISTRICT
4 STATE OF CALIFORNIA

4 In the Matter of the)
5 AIR POLLUTION CONTROL OFFICER of)
6 the BAY AREA AIR QUALITY)
7 MANAGEMENT DISTRICT)
8 vs.)
9 BERKELEY LANDFILL)

Docket No: 3747

CERTIFICATE OF SERVICE



9 STATE OF CALIFORNIA)
10 City and County of San Francisco) ss.

11 I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:
12 That I am a citizen of the United States, over the age of 18 years and not a party to the above-
13 entitled action; that I served a true copy of the attached **Findings and Decision for Order of**
14 **Abatement** on:

14 Marc Shapp, Deputy City Attorney
15 City of Berkeley
16 2180 Milvia St., Ste. 4
17 Berkeley, CA, 94704
18 mshapp@berkeleyca.gov

17 via email and USPS Certified Mail on February 16, 2024, and on:

18 Joel Freid, Esq., Assistant Counsel
19 Bay Area Air Quality Management District
20 375 Beale Street, 6th Floor
21 San Francisco, California 94105
22 jfreid@baaqmd.gov

23 via email on February 16, 2024

24 DATED: February 16, 2024

A handwritten signature in black ink, appearing to be "A" followed by a long horizontal stroke.

25 Marcy Hiratzka
26 Clerk of the Boards
27
28