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JUN 12 2008

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Lisa Harper
Clerk, Hearing Board
Bay Area Air Quality
Management District

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

In the Matter of the Application of)	
)	
West County Landfill, Inc; West Contra)	No. 3552
Costa Sanitary Landfill)	
)	<u>ORDER GRANTING VARIANCE</u>
For a Variance from Regulation 8, Rule 34,)	
Sections 113.2, 301.2, 301.3, 303,)	
Regulation 2, Rule 1, Section 307,)	
Regulation 2, Rule 2, Section 112, and)	
Permit Condition 17547, subsections (1),)	
(2)(a), (2)(b), (2)(c).)	
_____)	

The above-entitled Application for a Regular (Long Term) Variance from the provisions of Regulation 2, Rule1, Permit Condition 17821-5; Regulation 8, Rule 34, Section 303, Regulation 2, Rule 1, Section 301.2, Regulation 8, Rule 34, Section 414; Regulation 8, Rule 34, Section 415; Regulation 8, 34, Section 416, came on regularly for hearing on May 22, 2008 before the Hearing Board of the Bay Area Air Quality Management District.

Scott W. Gordon, Esq., appeared on behalf of West County Landfill, Inc. and West Contra Costa Sanitary Landfill (“WCCSL” or “Applicant”).

Adan Schwartz, Senior Assistant Counsel, appeared as counsel for the Air Pollution Control Officer (“APCO” or “the District”).

1 The Clerk of the Hearing Board provided notice of this hearing on the Application for
2 Variance in accordance with the requirements of the California Health and Safety Code.

3 The Variance application requests relief for the period March 20, 2008 through September
4 30, 2008.

5 The Hearing Board provided the public an opportunity to testify at the hearing, as required
6 by the California Health and Safety Code. No member of the public offered testimony. The
7 Hearing Board heard evidence and argument from the Applicant and the District. The APCO
8 initially took an opposed position on the Variance, but during the course of the hearing the
9 Applicant proposed a narrower scope of relief to which the District supported in part and opposed
10 in part as is more fully set forth herein.

11 After the Applicant presented its case, the Hearing Board voted to grant the variance, as set
12 forth in more detail below:

13 BACKGROUND

14 Applicant owns and operates an inactive solid waste landfill located at Foot of Parr Blvd,
15 Richmond, California. ("the Facility"). The Facility is subject to a Waste Discharge Requirements
16 Order from the Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB"),
17 requiring closure of the Facility landfill to be completed by September 30, 2008. The Facility has
18 City and County Use Permits to be operated as a bulk materials processing facility for handling
19 recyclables and compostable materials, and also is permitted to operate a solid waste transfer
20 station. The transfer station is currently operating at the Facility, and portions of the Facility are
21 currently used for bulk materials processing. Emissions from the landfill are abated by flares and
22 IC engines. Applicant is not considered a small business as described by California Health and
23 Safety Code Section 42352.5(b)(2) and emits more than 10 tons per year of air contaminants.

24 The Application states that the Facility is in the final stages of closure construction, and
25 that the RWQCB has required completion of final placement of cap for closure by September 30,
26 2008. The Application and testimony of Mr. Larry A. Burch, P.E. on behalf of the applicant

1 established that as leachate has been extracted from the landfill on the order of 500,000 gallons per
2 month consistent with orders of the RWQCB, space has been created within the landfill mass that
3 has been filled by landfill gas, which in turn is finding paths of least resistance to the ambient air.
4 In addition, significant settlement is occurring at the Facility, including differential settlement. The
5 Facility landfill is located on soft bay mud, and contains an accumulation of leachate that is being
6 removed. The un-seasonable dry wet weather season has resulted in unpredictable and irregularly
7 occurring incidences of surficial cracks forming around the well casings where they protrude out
8 of the landfill cover soil. According to the evidence, these pathways include leachate wellheads
9 and joints, landfill gas wells, as well as the surface of the landfill in areas that have not yet been
10 capped. Mr. Burch testified in accordance with the Application that, after implementation of
11 interim modifications by the end of May connecting three leachate sump wellheads and six
12 dormant landfill gas wells (the "06 Wells"), the remaining abatement of these surface emissions
13 can only be accomplished after final capping of the uncapped areas of the Facility occurs and the
14 final expanded gas collection system can be installed without interfering with capping activities.

15 At the Interim Variance hearing held on May 1, 2008, Mr. Burch, an engineer with
16 substantial solid waste experience and who has worked for the Applicant for a number of years,
17 described the current status of closure activities at the Facility, the lack of timely approval from the
18 California Integrated Waste Management Board ("CIWMB") to complete capping activities for the
19 uncapped areas of the landfill, and the plan to install a new system of gas collection wells and a
20 new gas collection piping network after capping is complete. Mr. Burch also described a proposed
21 interim plan, to be completed within approximately 30 days, that would connect to the existing gas
22 collection system certain leachate sump wells located in areas where surface emissions are known
23 to be occurring, together with connection of the six dormant landfill gas extraction wells (06
24 wells).

25 Mr. Burch stated his opinion that abating surface emissions consistent with District
26 Regulation 8-34 will necessitate expanding the gas collection system into the uncapped areas of

1 the landfill, which is part of the final design for the completion of the closure plan. He further
2 opined that the cost of expanding the system in the near term and then removing it so that capping
3 can be completed would be on the order of \$600,000, with a potential range of \$300,000 to
4 \$600,000. The range was established based on Hearing Board member questions about
5 assumptions underlying the cost estimates and to what extent certain costs would be incurred
6 regardless of the removal of the interim system.

7 Mr. Burch further testified that between February 1, 2008 through May 5, 2008, the
8 Applicant had spent a total of approximately \$540,000 on efforts to control emissions, including
9 labor and equipment costs for soil hydration, well raising and repair of wells, repair of surface
10 areas, and fuel costs escalating during the period. Mr. Burch testified that as a result of being
11 unable to complete final capping due to the CIWMB withholding approval of the placement of
12 cap, the Facility landfill would spend approximately \$175,000.00 per month to control gas
13 emissions until closure was completed.

14 DISCUSSION

15 Applicant will likely be in violation of District Regulation 2, Rule 1, Permit Condition 17821-5;
16 Regulation 8, Rule 34, Section 303; Regulation 2, Rule 1, Section 301.2; Regulation 8, Rule 34,
17 Section 415.11; and Regulation 8, 34, Section 416. The testimony and evidence offered by
18 Applicant established that until the final cap is completed and installed, together with the
19 expanded gas collection system at the Facility, excess emissions will occur. After presenting
20 Applicant's testimony and other evidence to the Hearing Board prior to the District's presentation,
21 Applicant proposed a narrower scope of variance relief and requested that the variance sought be
22 limited to the following specific areas of the Facility and aspects of the Facility operations:
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24

- 25 1. Elimination of the Class I facility from the scope of the variance application dated March
26 20, 2008;

1 2. Limitation on the scope of requested relief for the Class II landfill facility to the following:

- 2 a. uncapped areas of the landfill as shown on Exhibit A-1, sheets 11 and 12, delineating
3 the east and western capped and uncapped areas of the Class II landfill;
- 4 b. a 100 foot band from the interior (closest to waste) edge of the perimeter road around
5 the Class II landfill inward to encompass the leachate wells and sumps within that 100
6 foot band. A detailed map delineating these areas would be drafted and attached to any
7 order granting variance relief.
- 8 c. Connection of the 2006 wells (the "06" wells)
- 9 d. Connection of sumps QR-22S, QR-24S, and later QR-21S in that order
- 10

11 District staff proposed support for variance relief only for the uncapped area described in
12 section 2.a. above, as follows:

- 13 1. relief from Reg. 2, Rule Permit condition 17821-5;
- 14 2. relief from Reg. 8, Rule 34-303
- 15 3. relief from Reg. 8, Rule 34-301.2
- 16 4. relief from Reg. 8, Rule 415.11
- 17 5. relief from Reg. 8, Rule 34-416
- 18

19 In addition, the District further specified that the Facility should conduct monthly monitoring
20 for surface emissions in the area of the variance, including monitoring around each protrusion
21 through the landfill surface, and that Applicant should follow through on its commitment to complete
22 the interim measures to connect the three leachate sump wells and the 2006 wells to the existing gas
23 collection system. The District further recommended that the Applicant provide a map to the District
24 staff and the Hearing Board that precisely delineates the area of the Class II landfill not covered with
25 final cap and demarcate any protrusion through the surface, including any gas collection wells.
26

1 applicable District Regulations until final capping and completion of the installation of the landfill
2 gas collection system is complete.

3 5. Applicant is reducing excess omissions to the maximum extent feasible by
4 implementation of the interim measures proposed by Applicant and supported by the District to
5 connect the 2006 Wells and to connect the leachate sumps to ensure that excess emissions are
6 reduced to the maximum extent feasible.

7
8 6. Applicant is required to conduct annual source tests on equipment at the Facility and
9 under the terms of Applicant's proposal and District's support, the Facility must monitor surface
10 emissions on a monthly basis within the variance area, and quarterly elsewhere on the landfill.

11 THEREFORE, THE HEARING BOARD ORDERS:

12 A variance from District Regulation 2, Rule 1, Permit Condition 17821-5; Regulation 8, Rule 34
13 Section 303, Regulation 2, Rule 1, Section 301.2; Regulation 8, Rule 34, Section 415.11; Regulation
14 8, 34, Section 416 of the District Rules and Regulations is hereby granted for the uncapped areas of
15 the Facility Class II landfill from March 20, 2008 through and including September 30, 2008, subject
16 to the following conditions:

- 17
18 1. The Facility shall conduct monthly monitoring for surface emissions in the area of the
19 variance, including monitoring around each protrusion through the landfill surface;
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21 2. Applicant shall follow through on its commitment to complete the interim measures to
22 connect the leachate sump wells and the 2006 wells to the existing gas collection system;
23
24 3. Applicant shall provide a map to the District staff and the Hearing Board that precisely
25 delineates the area of the Class II landfill not covered with final cap and demarcate any protrusion
26 through the surface, including any gas collection wells.

1 Moved by: Terry A. Trumbull, Esq.

2 Seconded by: Rolf Lindenhayn, Esq.

3 AYES: Rolf Lindenhayn, Esq., Julio Magalhães, Ph.D., Terry A. Trumbull, Esq., Melissa
4 Tumbleson, and P.E., Thomas M. Dailey, M.D.

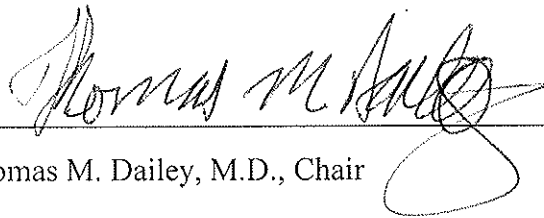
5 NAYES: None

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10 Thomas M. Dailey, M.D., Chair



11 Date

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