



Del Norte Solid Waste Management Authority

1700 State Street, Crescent City, CA 95531

Phone (707) 465-1100 Fax (707) 465-1300

October 19, 2011

Catherine Kuhlman, Executive Officer
Regional Water Quality Control Board, North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403-1072

RE: Appeal of Crescent City Landfill Threat and Complexity Rating

Dear Ms. Kuhlman:

On December 13, 2010, the Del Norte Solid Waste Management Authority ("Authority"), which oversees the post-closure maintenance of the Crescent City Landfill, submitted a written appeal of the Board's determination of the Crescent City Landfill's threat and complexity rating. Included with this appeal was payment of assessed WDR fee in the amount of \$38,719. It has been 10 months since the Authority submitted the appeal and we have yet to receive an official response from the Board. This lack of response is concerning to the Authority for many reasons.

Fee Increase

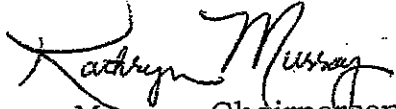
It has come to the Authority's attention that the State Board recently approved a fee increase of 24% for this year. The estimated new annual fee for the Crescent City Landfill, with its current 1A rating, is \$48,125. The Authority did not have adequate notice of last year's \$38,719 fee or the proposed \$10,000 increase for this year in time to budget for those expenses. The financial impact on a small public agency serving a county with a population of less than 30,000 is significant.

Appeal Process

The only guidance the Authority has been provided on the appeal process, was to submit a written appeal along with the WDR fee. The Authority did so, in a

of the next invoice for WDR Fees. Should you have any questions or require additional information concerning the appeal, please contact Kevin Hendrick, Authority Director, at 707-465-1100.

On behalf of the Board of Commissioners,



Kathryn Murray, Chairperson
Del Norte Solid Waste Management Authority

Enc.: December 13, 2010 Appeal

cc: Thomas Howard, SWRCB Executive Director
Lisa Babcock, SWRCB – Division of Water Quality
State Senator Doug LaMalfa
State Assemblymember Wes Chesbro
Larry Sweetser, Environmental Services JPA of the Regional Council for
Rural Counties



Del Norte Solid Waste Management Authority
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www.recycledelnorte.ca.gov

13 December 2010

Attn: Ms. Gina Morrison
Regional Water Quality Control Board, North Coast Region
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403-1072

SUBJECT: DISPUTE OF WDR FEE FOR THE CRESCENT CITY LANDFILL

Dear Ms. Morrison:

This letter is an appeal for re-evaluation of the ratings for the closed Crescent City Landfill for Threat to Water Quality (TTWQ) and Complexity (CPLX) which directly relate to the amount of the annual WDR Fee on Invoice WD-0044350, in the amount of \$38,719 received by our office on 01 December 2010.

The Fee Schedule detailed in the California Code of Regulations Title 23, Div. 3, Ch. 9, Article 1, Section 2200, includes the following definitions:

THREAT TO WATER QUALITY

Category "1" – Those discharges of waste that could cause the long-term loss of a designated beneficial use of the receiving water. Examples of long-term loss of a beneficial use include the loss of drinking water supply, the closure of an area used for water contact recreation, or the posting of an area used for spawning or growth of aquatic resources, including shellfish and migratory fish.

Category "2" – Those discharges of waste that could impair the designated beneficial uses of the receiving water, cause short-term violations of water quality objectives, cause secondary drinking water standards to be violated, or cause a nuisance.

Category "3" – Those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses as compared with Category 1 and Category 2.

COMPLEXITY

Category "A" – Any discharge of toxic wastes, any small volume discharge containing toxic waste or having numerous discharge points or ground water monitoring, or any Class 1 waste management unit.

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ranking. Without a quantifiable criteria or some open public process to compare Threat/Complexity ratings recommended by each RWQCB, WDR fees may be inequitably applied across the State.

The '1A' ranking implies both that the closed Crescent City Landfill is among the worst dozen landfills posing threats to water quality in California, and compared to all other closed landfills; it poses the greatest single threat to water quality in the State. Authority staff invite any person reading this letter with knowledge of closed California landfills to come visit the Crescent City landfill and review our historical water quality monitoring reports, as we believe that such review would demonstrate the injustice and inaccuracy of such a 'worst of the worst' assessment.

The following table is an excerpt from the listing issued by the SWRCB of the Threat/Complexity ratings of landfills throughout California and includes all those listed as '1A,' and another closed landfill more comparable to the size of the Crescent City Landfill. It demonstrates that every one of the other landfills given a '1A' Threat/Complexity rating are between 589% and 8240% greater in volume than the Crescent City Landfill (CCLF).

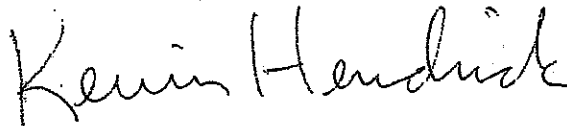
Threat/ CPLX	Status	Region	Bill Name	Facility Name	Disposal	Max capacity	% larger than CCLF
					Acreage	Cubic yards	
					Acres	Cubic yards	
1A	CLOSED	1	DEL NORTE SOLID WASTE AUTHORITY SONOMA COUNTY DEPT. PUB. WORKS	DEL NORTE CO SWDS, CRESCENT CI	23	1689354	0%
1A	OPEN	1	KELLER CANYON LANDFILL CO	SONOMA CO CENTRAL SWDS	172	19779250	1071%
1A	OPEN	2	Browning-Ferris Industries Inc Los Angeles County San Dist Waste Management of Calif.	KELLER CANYON LANDFILL Sunshine Canyon Landfill City/County Landfill Calabasas Landfill No 5	244	75018280	4341%
1A	OPEN	4			363	1.41E+08	8240%
1A	OPEN	4			416	69300000	4002%
1A	OPEN	4		Simi Valley Landfill	185.6	43500000	2475%
1A	OPEN	5F	KERN COUNTY WASTE MGMT DEPT	SHAFTER-WASCO SANITARY LANDFIL	135	11635500	589%
1A	OPEN	5S	Sacramento Cnty DPW	Kiefer Road - Class III SWDS	660	1.17E+08	6849%
1A	OPEN	5S	STANISLAUS COUNTY DPW	FINK ROAD LANDFILL	164	14500000	758%
1A	OPEN	5S	NORCAL WASTE SYSTEMS HAY RD LF	NORCAL WASTE SYSTEMS HAY RD LF	256	37000000	2090%
1A	OPEN	5S	MANAGEMENT OF ALAMEDA CO	ALTAMONT LF/RESOURCE RECOVERY	472	62000000	3570%
1A	OPEN	5S	FORWARD INC.	FORWARD LANDFILL	354.5	51040000	2921%
1B	CLOSED		NEVADA CNTY SANITATION DISTRICT	MCCOURTNEY ROAD LANDFILL	38	2300000	36%

the other landfills given a similar Threat/Complexity rating. If the Threat rating was intended to address the differences in the magnitude of threat associated with the volume or toxicity of a potential or actual release, it has not been applied to the Crescent City landfill in a way that actually makes such a distinction. Furthermore, the annual fee is equivalent to a \$1.30 charge for every man, woman and child in Del Norte County. An equivalent annual per capita fee for Sonoma County would be over \$616,000 for a single closed landfill!

6. **The appeal process is not clearly defined.** Having this appeal process, which does not appear to be defined under statute or regulation, be the only process to achieve a more equitable fee assessments on similar facilities in different regions also places an undue burden on local agencies (e.g. comparing Threat/Complexity ratings for similar facilities in other regions). Because the arguments that this appeal might consider are not defined, this appeal covers all aspects of this fee assessment that seem to be inequitable. Furthermore, it appears that the same RWQCB staff that originally recommended the Threat/Complexity rating will have a pivotal role in the consideration of this appeal. In most legal procedures, appeals are most appropriately evaluated by different entities than those that issued the initial judgment.
7. **The assessed WDR fees are disconnected from required regulatory efforts and demands on RWQCB and SWRCB staff.** In monitoring and regulating the potential impact of landfills to water quality, significant RWQCB staff efforts are associated with reviewing landfill expansion plans, closure and postclosure maintenance plans, analysis of water quality data and corrective action plans, and developing and adopting new or revised WDRs. The fee schedule does not enable RWQCB or the SWRCB to collect adequate revenues for these relatively intense efforts of staff, as the Threat and Complexity ratings do not consider the status of the landfill expansion or closure plan process, corrective action plans, or other activities that place greater demands on RWQCB or SWRCB staff. For the Crescent City Landfill, the result is that our agency is asked to pay the maximum possible annual fee, though during the past two years many other landfills within our region have placed more substantial demands on RWQCB staff time. In addition, the highest level of "annual fee" is not justified once initial testing and plans are in place, as ongoing monitoring, maintenance, and reporting activities that do not warrant the level of staff effort implied by the maximum annual fee.
8. **The GAMA surcharge is not adequately justified in these times when local agency budgets are extremely tight.** Our agency has dwindling cash reserves, and has no alternative but to borrow from employee's retirement benefits to pay the WDR fee. The GAMA surcharge enables the SWRCB to have a 9% 'reserve fund,' leaving the

Thank you in advance for your consideration of this appeal. We await your notification of the next steps in this appeal. Please feel free to contact our Program Manager Tedd Ward or myself at 707-465-1100 if you need more information.

Sincerely,



Kevin Hendrick, Director
Del Norte Solid Waste Management Authority

cc: Lisa Babcock, State Water Resources Control Board
Robert Black and Martha Rice, Authority's legal counsel
California State Senator Doug LaMalfa, 4th District
California State Assemblymember Wes Chesbro, 1st District

TW:tw

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