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8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11

12 **The CALIFORNIA DEPARTMENT OF**
13 **TOXIC SUBSTANCES CONTROL et**
14 **al.,**
Plaintiffs,
15 **v.**
16 **AMERICAN HONDA MOTOR CO.,**
17 **INC., et al.,**
Defendants.

NO. CV05-7746 CAS (JWJx)
DECLARATION OF MARILEE
HANSON IN SUPPORT OF
MOTION FOR JUDICIAL
APPROVAL OF AMENDED
CONSENT DECREE RE BKK
HAZARDOUS WASTE
FACILITY
Date: March 6, 2006
Time: 10:00 a.m.
Judge: Honorable Christina A.
Snyder
Place: Courtroom 5

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20
21 I, Marilee Hanson, declare:

22 1. I am employed by the California Department of Toxic Substances
23 Control (“DTSC”) as a staff counsel. I represent DTSC with respect to the
24 BKK Hazardous Waste facility located at 2210 South Azusa Avenue, West
25 Covina, County of Los Angeles, California (“the Facility”), owned and operated
26 by the BKK Corporation (“BKK”). I have firsthand knowledge of the facts set
27 forth in this Declaration and if called as a witness I would and could
28

1 competently testify to these facts. In Paragraph 2 of this Declaration, I
2 summarize certain allegations that DTSC has made with respect to the Facility,
3 and I am informed and believe that these allegations are true.

4 2. DTSC has made the following allegations with respect to the BKK
5 Hazardous Waste Facility:

6 (A) Home Savings owned the Facility from 1962 to 1976 and
7 was an owner and operator of the Class I (hazardous waste
8 landfill) until 1976, when the Facility was sold to BKK. In
9 the late 1980's, BKK closed the Class I landfill under a
10 Closure Plan approved by the California Department of
11 Health Services (the predecessor agency to DTSC) and the
12 United States Environmental Protection Agency. DTSC
13 continues to regulate the post-closure care of the Class I
14 Landfill. The Facility currently also includes an operating
15 leachate treatment plant (LTP) located at the Class I landfill,
16 and a Class III (municipal waste) landfill, which is in the
17 process of closing. On June 30, 2004, DTSC issued a
18 consolidated Hazardous Waste Facilities Permit for Leachate
19 Treatment Plant Operation and Class I Landfill Post-Closure
20 Care, which BKK appealed. BKK is required to conduct
21 post-closure operation, monitoring, and maintenance of the
22 Class I landfill pursuant to its Interim Status Document and
23 the Post-closure/Operation Plan until DTSC notifies BKK
24 otherwise and BKK is required to continue to operate the
25 LTP pursuant to the LTP Permit issued in 1987.

26 (B) During its operating life, the Class I landfill accepted waste
27 containing hazardous substances. From 1972 to 1984, the
28 Class I landfill accepted approximately 3.4 million tons of

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liquid and solid hazardous wastes, together with large amounts of other wastes.

(C) The landfills have an integrated gas collection system. Collected landfill leachate, gas condensate, and contaminated groundwater are commingled and treated at the LTP. Groundwater and landfill leachate at the Facility contains hazardous substances. The gas collection system must be maintained and operated 24 hours per day to prevent releases of hazardous substances from the site. Releases of methane and vinyl chloride from these systems are of particular concern. Groundwater/leachate extraction wells must also be operated to prevent further migration of hazardous substances from the site.

(D) The LTP must be maintained and kept operational to process liquids coming from gas collection, leachate extraction, and groundwater extraction wells. There is a potential for release of hazardous substances to the environment if the Class I landfill cover deteriorates and allows hazardous substances to migrate.

(E) In October 2004, BKK notified DTSC that it was not financially able to perform further required post-closure care of the Class I landfill, including operation of the LTP, after November 17, 2004.

(F) As a result, DTSC hired a contractor to conduct emergency response activities at the Facility. These activities are necessary to ensure continuous maintenance, monitoring, and operation of systems that are essential to protect public health, safety and the environment.

1 *Register*. (*California Regulatory Notice Register 2005*, Vol. No. 45-Z, p. 1592,
2 available at <http://www.oal.ca.gov/Notice Register>). True and correct copies of
3 the cover pages of Vol. No. 45-Z of the Register and the pages containing the
4 notice with respect to the present matter are attached hereto as Exhibit "A."

5 The notice invited public comments on the Consent Decree, and asked that
6 comments be submitted by December 13, 2005. On November 14, 2005, DTSC
7 provided a fact sheet to the neighboring community. True and correct copies of
8 this fact sheet are attached hereto as Exhibit "B." On December 13, 2005, at the
9 request of BKK, DTSC granted an extension until December 20, 2005 for
10 comments. On December 20, 2005, DTSC granted an extension to December
11 30, 2005. On December 30, DTSC granted an additional extension until January
12 6, 2006. On January 6, 2006, DTSC granted a final extension until January 13,
13 2006. The public comment period terminated on January 13, 2006.

14 7. During the public comment period, DTSC received three comment
15 letters. A true and correct copy of each letter is attached hereto as Exhibit "C".
16 A true and correct copy of DTSC's response to each of these comment letters is
17 attached hereto as Exhibit "D". I have provided the Settling Defendants'
18 counsel with copies of the comments and DTSC's responses. A true and
19 correct copy of my transmittal letter is attached hereto as Exhibit "E".

20 8. During the comment period, BKK raised concerns about the terms
21 of the Consent Decree as they affected the post-closure insurance
22 reimbursement policy for the Class I landfill. BKK sought a portion of the
23 insurance proceeds from this policy, which covers post-closure care of the
24 Class I landfill. To resolve this issue, DTSC has entered into a settlement
25 agreement with BKK wherein it agrees that BKK may be reimbursed from the
26 policy of up to \$120,000 for costs BKK incurs after the effective date of the
27 Consent Decree and during the 2005-6 and 2006-7 annual terms of the
28 insurance policy; BKK may also make a pro rata claim against the policy after

1 the end of the 2006-7 annual term of the policy. A true and correct copy of the
2 settlement agreement is attached hereto as Exhibit "F". Based on the concerns
3 raised by BKK, DTSC also agreed to modify Paragraph 5.1.1 of the Consent
4 Decree.

5 9. DTSC has identified certain maintenance tasks at the Facility as
6 high priority and because BKK no longer would perform this work, DTSC has
7 been handling these repairs on an emergency basis. The Settling Defendants
8 prefer to finish this work in order to reduce coordination issues and to ensure a
9 smoother transition of employees. These tasks involve repairs to the flare
10 station and the LTP. The Parties have now agreed that this work will be
11 completed by the Settling Defendants. The value of this work has been
12 estimated at approximately \$750,000. In return, DTSC has agreed that the
13 Settling Defendants will only be required to make Interim Response Costs for a
14 period of sixty days, for a total of \$1,000,000, instead of making payments for
15 105 days, as was envisioned in the original Consent Decree. This change in the
16 agreement between the parties has resulted in changes to paragraph 4.7 of the
17 Consent Decree and in Exhibit "D," attached to the Consent Decree. In
18 addition, because of the time needed to resolve these issues, DTSC and the
19 Settling Defendants have agreed to modify the Consent Decree to extend
20 Settling Defendant's obligations under the Consent Decree from January 14,
21 2008 until March 15, 2008, or two years from the date the Settling Defendants
22 fully commence the Essential Activities and Critical Tasks and other work
23 pursuant to Section IV herein, whichever is later.

24 I declare under penalty of perjury under the laws of the United States that
25 the foregoing is true and correct.

26 Dated: February 7, 2006

//original signed by//

28 Marilee Hanson

Declaration of Marilee Hanson
in Support of Motion for Judicial Approval
of Amended Consent Decree re BKK Hazardous Waste Facility

EXHIBIT A



California Regulatory Notice Register

REGISTER 2005, NO. 45-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 11, 2005

PROPOSED ACTION ON REGULATIONS

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Diaprepes Abbreviatus Eradication Area—Notice File No. Z05-1101-07 1583

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Obsolete Reimbursement Regulations—Notice File No. Z05-1101-10 1584

GENERAL PUBLIC INTEREST

BOARD OF BARBERING AND COSMETOLOGY

Preapplication of Apprentices 1587

BUREAU OF AUTOMOTIVE REPAIR

Errata Notice Concerning the Official Automotive Repair Dealer’s Sign..... 1587

DEPARTMENT OF FISH AND GAME

CESA Consistency Determination for L2 Fillmore—The Townhouse Project, Ventura County 1587

DEPARTMENT OF FISH AND GAME

CESA Consistency Determination for Lockheed Martin Potrero Creek and Laborde Canyon Investigations, Riverside County..... 1588

DEPARTMENT OF FISH AND GAME

CESA Consistency Determination for Lower Northwest Interceptor Project, Sacramento and Yolo Counties 1588

DEPARTMENT OF FISH AND GAME

CESA Consistency Determination for Recycled Water Pipeline, Reservoir and Pump Station Project, Cities of San Diego and Chula Vista and an Unincorporated Portion of the County of San Diego..... 1589

DEPARTMENT OF HEALTH SERVICES

Medi-Cal Hospital Reimbursement 1592

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Notice of Consent Decree, BKK Landfills Facility, West Covina, California 1593

(Continued on next page)

Time-Dated Material

STATE PERSONNEL BOARD
Notice of Modification of Proposed Regulations and Public Hearing Regarding Discovery in Evidentiary Hearings 1594

STATE PERSONNEL BOARD
Notice of Modification of Proposed Regulations and Public Hearing Regarding Whistleblower Retaliation Complaint Procedure..... 1599

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION
Regarding Petitioner George W. Vetter 1608

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State..... 1610
 Sections Filed, June 8, 2005 to November 2, 2005..... 1612

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order or make changes to current subscriptions, please call (916) 445-5353 or (916) 445-5386. For outside of the Sacramento area, call (800) 963-7860. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Mass Mail/Addressing Services, Sacramento, CA 95814-0212. The Register can also be accessed at <http://www.oal.ca.gov>.

There will be no public hearing on this matter. Anyone wishing to comment on the impact of section 32 on a non-contract hospital's reimbursement for services provided in SFY 2004/2005 may submit comments in writing no later than December 31, 2005 to:

Gary Wong, Audit Supervisor
 Department of Health Services
 Audit Review and Analysis Section
 P.O. Box 997413—MS 2109
 Sacramento, California 95899-7413

**DEPARTMENT OF TOXIC
 SUBSTANCES CONTROL**

**NOTICE OF CONSENT DECREE
 BKK LANDFILLS FACILITY
 WEST COVINA, CALIFORNIA**

Public Comment Period November 14, 2005
 through December 13, 2005

The Department of Toxic Substances Control ("DTSC"), pursuant to the authority vested in DTSC under Section 107 of CERCLA, 42 U.S.C. § 9607 and California Health and Safety Code section 25358.3(e), proposes to finalize a Consent Decree regarding the BKK Landfills Facility located at 2210 South Azusa Avenue, West Covina, California.

On October 31, 2005, DTSC filed a complaint in United States District Court, Central District of California, Docket No. CV05-7746 CAS against a number of defendants under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.* and the California Health and Safety Code section 25358.3 (e). The Consent Decree is intended to resolve the liability of the defendants for: certain DTSC past and future response costs; and for oversight costs that DTSC will incur during the time that the defendants' conduct site activities. The Consent Decree obligates the defendants to conduct certain work at the BKK Landfills Facility for slightly less than two (2) years. The Consent Decree provides covenants not to sue and contribution protection for these costs and work, and provides for standstills and tolling of enforcement activity and litigation among the parties.

DTSC is holding a 30-day comment period on the Consent Decree. Written comments on the proposed Consent Decree must be submitted on or before 5:00 p.m. December 13, 2005. DTSC may modify or withdraw its consent to the Consent Decree if such comments disclose facts or considerations that indicate the proposed Consent Decree is inappropriate, improper or inadequate.

Comments should be addressed to:

Marilee Hanson (mhanson@dtsc.ca.gov)
 Department of Toxic Substances Control
 Office of Legal Counsel
 P.O. Box 806
 Sacramento, California 95812-0806

With copy to:

Jim Dragna (jim.dragna@bingham.com)
 Bingham McCutchen
 355 South Grand Avenue
 Los Angeles, California 90071-3106

Any comments sent electronically should also be sent by mail. Comments should refer to the BKK Landfills Facility Consent Decree.

During the public comment period, the Consent Decree may be examined on the DTSC Internet Web site at:

www.dtsc.ca.gov under "Hot Topics."
 Scroll down to "Local Projects"
 Click on "BKK Corporation Landfill"
 Scroll down to "Project Related Documents"
 Click on "Consent Decree-2005" and "Consent Decree Exhibits-2005"

The Consent Decree may also be examined at the following location:

DTSC headquarters office at 1001 I Street, Sacramento, California 95812-0806. Please contact Ms. Nancy Aquino at (916) 323-4911 (phone) or (916) 323-5542 (fax) or naquino@dtsc.ca.gov for an appointment.

The Consent Decree may also be examined at the DTSC regional office:

Department of Toxic Substances Control,
 1011 North Glenview Avenue
 Glendale, California 91201-2205
 Please contact Ms. Jone Barrio, Regional Records Coordinator at (818) 551-2886 (phone) or (818) 551-2976 (fax) for an appointment.

A copy of the Consent Decree may also be obtained by mail from the DTSC Office of Legal Counsel at P.O. Box 806, Sacramento, California 95812-0806, or by faxing or e-mailing a request to Nancy Aquino (naquino@dtsc.ca.gov), fax no. (916) 323-5542, phone confirmation number (916) 323-4911. If requesting a copy from DTSC, the cost for reproductions is \$0.15 (15 cents) per page. Please make your check or money order payable to the Department of Toxic Substances Control and mail it to Ms. Aquino in DTSC headquarters at the address shown above.

EXHIBIT B

Public Involvement

FACT SHEET, November 2005

BKK Landfills Facility Consent Decree

*Preventing environmental
damage from hazardous
wastes, and restoring
contaminated sites for all
Californians*

If you would like to request a copy of this fact sheet translated into Mandarin, Spanish, or Tagalog please contact Kim Rhodes (916) 255-3651.

如您需要一份中文說明簡訊或有任何疑問，請電 714-484-5406 與黃則忠先生或 714-484-5485 與張寧武先生聯絡。

Kung nais ninyong makakuha ng kopya nitong "fact sheet" sa Tagalog o kung kayo ay may katanungan, paki-tawagan si Jose Marcos sa (714) 484-5492.

Si usted desea una copia de este aviso en español o tiene preguntas, por favor comuniquen con Jesus Sotelo (916) 255-6670.



State of
California



Department of
Toxic Substances
Control



Public Involvement

FACT SHEET, November 2005

BKK Landfills Facility Consent Decree

*Preventing environmental
damage from hazardous
wastes, and restoring
contaminated sites for all
Californians*

The BKK Corporation (BKK), owner and operator of the BKK Landfills Facility (Facility), notified the Department of Toxic Substances Control (DTSC) in October 2004 that BKK did not have sufficient funds to continue operating and maintaining the closed Class I Landfill (hazardous waste) and leachate treatment plant beyond mid-November 2004. DTSC began an emergency response action in November 2004 to ensure the continued essential day-to-day maintenance activities of the Facility. The Facility is located at 2210 South Azusa Avenue in the City of West Coving.

DTSC issued an order in December 2004 to 51 companies and public agencies, called "responsible parties." Most of these parties disposed of hazardous waste at the Class I Landfill. Over the past year, DTSC has met with the largest group of responsible parties, composed of 27 companies and one public agency, to negotiate financial support, day-to-day operations, and maintenance and monitoring activities at the Facility. Recently, DTSC and this group of responsible parties reached an agreement called a consent decree. A consent decree is a judicial order that is negotiated and agreed to by the parties and submitted to the court for approval. After it is approved and finalized, it has the force of a court order. The California Attorney General's Office on behalf of DTSC, filed the BKK Consent Decree (Decree) with the Federal District Court, Central District of California, on October 31, 2005.

BKK Consent Decree Summary

The BKK Consent Decree is an interim agreement for almost two years that allows the parties to develop a longer-term solution for conditions at the Facility. The Decree requires the 27 responsible parties to perform essential maintenance work at the Facility shortly after the Decree becomes effective or an earlier date if the responsible parties want to begin work sooner. The Decree also requires them to fund a portion of DTSC's activities at the site and it includes a number of other legal terms and conditions. The Decree can be viewed at www.dtsc.ca.gov. (Click on "BKK Corporation Landfill" listed under "Hot Topics," then click on "Consent Decree 2005" and "Consent Decree Exhibits 2005.") The Decree can also be viewed at the information repositories listed on the back of this fact sheet.

DTSC will take public comments on the Decree through December 13, 2005. After the comment period ends, DTSC and the Attorney General's Office will review and develop responses to all comments received during the public comment period and submit them to the District Court. If the comments disclose



State of
California



Department of
Toxic Substances
Control



facts or considerations that indicate the Decree is inappropriate, improper, or inadequate, DTSC may withhold its consent or modify the Consent Decree. The Court will make the final approval decision. If approved, the Decree will become a legally binding order of the Court.

DTSC Involvement will Continue

DTSC will continue to oversee maintenance of the Facility until the responsible parties begin work. Before the responsible parties start work, they will submit work plans to DTSC and work side-by-side with DTSC's staff and contractor to learn the details about running various systems at the Facility. The responsible party's project manager is already collaborating with DTSC and the responsible parties have chosen a contractor with significant landfill experience to manage the site on a daily basis. After the responsible parties assume the essential management functions, DTSC will oversee their work. Additionally, DTSC's contractors may conduct other work at DTSC's direction.

Additional Information

If you would like to submit comments on the Decree, they must be in writing in order to be considered. All comments must be submitted on or before 5:00 P.M. on December 13, 2005. Any comments sent electronically should also be sent by mail. Comments must refer to the BKK Landfills Facility Consent Decree and should be mailed to the following individuals:

Marilee Hanson
Department of Toxic Substances Control
Office of Legal Counsel
P. O. Box 806
Sacramento, CA 95812-0806
E-mail: mhanson@dtsc.ca.gov

With a copy to:

Jim Dragna
Bingham McCutchen
355 South Grand Avenue
Los Angeles, CA 90071-3106
E-mail: jim.dragna@bingham.com

FOR MORE INFORMATION

If you have questions about the BKK Landfills Facility, please visit our website at www.dtsc.ca.gov or contact:

DTSC Public Participation Specialist
Kim Rhodes
8800 Cal Center Drive
Sacramento, CA 95826
(916) 255-3651
krhodes1@dtsc.ca.gov

DTSC Public Information Officer
Jeanne Garcia
1011 North Grandview Avenue
Glendale, CA 91201
(818) 551-2176
lgarcia@dtsc.ca.gov

You may also call our toll-free number at (866) 284-0721 and leave us a voice message.

Information Repositories

Documents regarding the BKK Landfills Facility can be reviewed at the following locations:

West Covina Public Library
1601 West Covina Parkway
West Covina, California 91790

Walnut Public Library
21155 La Puente Road
Walnut, California 91789

Department of Toxic Substances
Control
1011 North Grandview Avenue
Glendale, California 91201

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Marilee Hanson
Department of Toxic Substances Control
Office of Legal Counsel
P. O. Box 806
Sacramento, CA 95812-0806
E-mail: mhanson@dtsc.ca.gov

With a copy to:

Jim Dragna
Bingham McCutchen
355 South Grand Avenue
Los Angeles, CA 90071-3106
E-mail: jim.dragna@bingham.com

FOR MORE INFORMATION

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krhodes1@dtsc.ca.gov

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kgarcia@dtsc.ca.gov

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Walnut Public Library
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Walnut, California 91789

Department of Toxic Substances
Control
1011 North Grandview Avenue
Glendale, California 91201

EXHIBIT C



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

December 13, 2005

Ms. Marilee Hanson
Department of Toxic Substances Control
Office of Legal Counsel
P.O. Box 806
Sacramento, California 95812-0806

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

BKK Landfills Facility Consent Decree (Public Comment Period: 11/14/05 – 12/13/05)

Dear Ms. Hanson:

This letter provides comments on the review of the proposed BKK West Covina Consent Decree issued for public comment through December 13, 2005. The County of Los Angeles (County) has undertaken this review of the proposed BKK West Covina Consent Decree issued by the Department of Toxic Substances Control (DTSC) as an interested party.

The County requests that the following statements be added to the BKK West Covina Consent Order:

- A clarification that the BKK West Covina Consent Order is limited to the BKK West Covina site and does not relieve BKK of any responsibility in regards to any other facility owned or operated by BKK.
- A clarification to the BKK West Covina Consent Order regarding the scope of the other facilities known to be owned or operated by BKK, particularly in the County of Los Angeles.

Additionally, the County of Los Angeles requests that DTSC take possession of all BKK files in the interest of protecting public health and the environment, until such time as the files can be reviewed.

Should there be any questions or concerns regarding these comments, please contact Jan Takata at (213) 974-1360.

Sincerely,

DAVID E. JANSSEN
Chief Administrative Officer

//original signed by//

John S. Edmisten
Acting Assistant Administrative Officer
Financial and Asset Management Branch

c: Jim Dragna, Bingham McCutchen

14

12.05.05

to whom it may concern:

As a concerned citizen of West Covina, I am responding to the BKK landfill's facility consent Decree. I have no objection to the appropriate response action of DSTC to all responsible parties concerned. A consent Decree that maybe established thru a courts' finality is a very left noble goal and good idea for the sake of those affected by this landfill like ourselves, being a resident of West Covina since 1983. We have gone all through these difficult times since then including the passing away of my wife last 2001 due to cancer.

Hoping that DSTC will never fail to continue its vigilance and monitoring process of all landfills that may affect public environment like West Covina.

Sincerely yours,
Atfredo V. Kamata

December 30, 2005

VIA ELECTRONIC MAIL AND FACSIMILE

Ms. Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1001 "T" Street, 23rd Floor
Sacramento, CA 95812-0806
E-mail: mhanson@dtsc.ca.gov

Re: *Public Comment*
Notice of Consent Decree
BKK Landfills Facility

Dear Ms. Hanson:

On or about December 1, 2005 our client, Steadfast Insurance Company, first learned of the pending Consent Decree which purports to resolve certain disputes between the DTSC and certain potentially responsible parties as set forth in your Complaint in matter no. CV05-7746 CAS filed October 31, 2005 in United States District Court, Central District of California. On behalf of Steadfast Insurance Company, we provide the following comments to the Consent Decree.

Steadfast objects to the Consent Decree to the extent that it purports to assign, or has the actual legal effect of assigning, the benefits of Steadfast Policy No. PLC 7969053-04 (the "Policy") to any non-parties to that agreement without Steadfast's consent. Steadfast likewise objects to the Consent Decree to the extent that it purports to alter the terms and conditions of the Policy without Steadfast's consent.

SANFRANCISCO/170004.1

Ms. Marilee Hanson
December 30, 2005
Page 2

Steadfast also objects to the proposed Consent Decree to the extent that it prejudices the rights of any of Steadfast's actual policyholders under the Policy.

Very truly yours,

//original signed by//

Ethan A. Miller

EAM/sld

cc: James J. Dragna, Esq. (Via Electronic Mail and Facsimile)
Peter H. Weiner, Esq. (Via Electronic Mail and Facsimile)

Our File: 64351.2

EXHIBIT D



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

February 3, 2006

Mr. Al Kamatoy
1924 Lainie Street
West Covina, California 91792

RESPONSE TO COMMENT ON CONSENT DECREE FOR BKK LANDFILLS FACILITY IN WEST COVINA, CALIFORNIA

Dear Mr. Kamatoy:

Thank you for your December 5, 2005 letter with comments on the Consent Decree for the BKK Landfills Facility in West Covina. In your letter, you stated that this Consent Decree, which must be approved by a court, is a lofty and noble goal and a good idea for the sake of the community affected by the BKK Landfills Facility. You also expressed your hope that the Department of Toxic Substances Control (DTSC) will never fail to continue its vigilance and monitoring of all landfills that affect the environment.

DTSC appreciates your support for the Consent Decree. Also, as you requested, DTSC will try to remain vigilant and continue the monitoring process for all landfills that we regulate.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

cc: See next page.

Mr. Al Kamatoy
February 3, 2006
Page 2

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Ms. Barbara Coler
Division Chief
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
700 Heinz Avenue, Building F, Suite 200
Berkeley, California 94710

Mr. Donald Plain, Chief
Emergency Response and Special Projects Branch
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826

Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

February 3, 2006

Mr. John S. Edmisten
Acting Assistant Administrative Officer
Financial and Asset Management Branch
County of Los Angeles
Chief Administrative Office
713 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

RESPONSE TO COMMENT ON BKK LANDFILLS FACILITY CONSENT DECREE

Dear Mr. Edmisten:

This responds to comments filed by the County of Los Angeles (the County) on the BKK Landfills Facility Consent Decree. The Consent Decree was entered into by the Department of Toxic Substances Control (DTSC) and 27 other parties (collectively, the Parties). We have considered your comments carefully and take them very seriously. For the reasons discussed below, we have determined that it is not necessary to modify the Consent Decree to address your concerns.

The County's first comment requested the Parties to add language to the Consent Decree that clarifies that the Decree is limited to the BKK West Covina site and does not relieve the BKK Corporation (BKK) of any responsibility regarding any other facility owned or operated by BKK. Regarding the site at issue in the Consent Decree, Paragraph 2.1 of the Consent Decree states that the Consent Decree relates to the 583-acre site located at 2210 South Azusa Avenue, West Covina, California, and a map and legal description of the site are provided in Exhibits A-1 and A-2. We think the Consent Decree is clearly limited only to BKK's West Covina facility. Regarding BKK's liability, BKK is not a party to the Consent Decree and the Decree does not relieve BKK of *any* liability for its West Covina facility. Furthermore, the Consent Decree does not relieve BKK or any of the Parties from any liability associated with any other sites.

The County's second comment requested that we add a clarification to the Consent Decree regarding "the scope of the other facilities known to be owned or operated by BKK, particularly in the County of Los Angeles." As mentioned above, BKK is not a party to the Consent Decree and the Consent Decree is not intended to address BKK's liability at the West Covina site or any other sites it has owned or operated. Therefore,

Mr. John S. Edmisten
February 3, 2006
Page 2

we do not think it is appropriate to modify this particular Consent Decree to address the County's concerns about other sites. However, DTSC is very willing to make any of its public documents available to you that provide information on BKK's ownership and operation of other sites. DTSC shares your interest in BKK's liability for its West Covina facility as well as other sites.

Regarding the County's request that DTSC take possession of all BKK files, DTSC has arranged to take control of the waste-in documents for the BKK Landfills Facility in West Covina. Please understand however that this has been accomplished as part of a different settlement process that DTSC conducted directly with BKK, which was separate from the Consent Decree. Retention of BKK's documents is not a specific subject in the Consent Decree because the Consent Decree does not address BKK's responsibilities. Regarding BKK documents concerning other facilities, I recently spoke with the County's attorney about this issue and DTSC is exploring options to ensure that the County and other interested parties have access to those documents. Please feel free to contact me at (916) 327-0979 for additional information on this matter.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Mr. John S. Edmisten
February 3, 2006
Page 3

Ms. Barbara Coler
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Permitting and Corrective Action Division
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Permitting and Corrective Action Division
Hazardous Waste Management
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1011 N. Grandview Avenue
Glendale, California 91201



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

February 3, 2006

Mr. Ethan A. Miller
Squire, Sanders and Dempsey LLP
One Maritime Plaza, Suite 300
San Francisco, California 94111-3492

RESPONSE TO COMMENT ON BKK LANDFILLS FACILITY CONSENT DECREE

Dear Mr. Miller:

This responds to comments filed with the Department of Toxic Substances Control (DTSC) on December 30, 2005 on behalf of Steadfast Insurance Company (Steadfast) concerning the BKK Landfills Facility Consent Decree. Steadfast's comments concerned the post-closure insurance policy (the Policy) that Steadfast has issued for post-closure care of the BKK Class I landfill. In its comments, Steadfast objected to the Decree to the extent it purported to assign benefits of the Policy without Steadfast's consent, and to the extent that it altered terms and conditions of that Policy without Steadfast's consent. It also objected to the Decree to the extent it prejudiced any of Steadfast's policy holders under the Policy.

As we discussed on January 17, 2006, DTSC entered into a settlement agreement with the BKK Corporation (BKK), Steadfast's policy holder, on January 13, 2006 that resolves BKK's concerns about reimbursements from the post-closure insurance policy for the BKK Class I landfill while the Settling Defendants conduct post-closure care at that landfill pursuant to the Consent Decree. DTSC and the Settling Defendants believe Steadfast's concerns have been addressed through the BKK/DTSC settlement agreement.

In a second conversation on February 2, 2006, you indicated that Steadfast had decided, in light of the BKK settlement, that it no longer had concerns about the Decree prejudicing policy holders. However, you also stated that Steadfast was not withdrawing its other objections. With respect to these remaining objections, the Consent Decree does not assign the policy to a successor owner or operator, nor does

Mr. Ethan Miller
February 3, 2006
Page 2

it alter the policy's terms, therefore DTSC and the Settling Defendants do not believe that Steadfast's consent is necessary for implementation of the Decree.

Please always feel free to call me at (916) 327-0979 with questions or comments.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Mr. Donald Plain
Emergency Response and Special Projects
Emergency Response and Statewide Operations Division
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826

Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

EXHIBIT E



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

February 3, 2006

Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue
Los Angeles, California 90071-3106

COMMENTS AND RESPONSES CONCERNING BKK LANDFILLS FACILITY CONSENT DECREE

Dear Mr. Dragna:

Enclosed please find the three comment letters filed on the BKK Landfills Facility Consent Decree and responses from the Department of Toxic Substances Control. Please feel free to call me with questions or comments at (916) 327-0979.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

Enclosures

cc: Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Mr. James J. Dragna
February 3, 2006
Page 2

Mr. Donald Plain
Emergency Response and Special Projects
Emergency Response and Statewide Operations Division
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Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 North Grandview Avenue
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County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION - LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

December 13, 2005

Ms. Marilee Hanson
Department of Toxic Substances Control
Office of Legal Counsel
P.O. Box 806
Sacramento, California 95812-0806

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

BKK Landfills Facility Consent Decree (Public Comment Period: 11/14/05 – 12/13/05)

Dear Ms. Hanson:

This letter provides comments on the review of the proposed BKK West Covina Consent Decree issued for public comment through December 13, 2005. The County of Los Angeles (County) has undertaken this review of the proposed BKK West Covina Consent Decree issued by the Department of Toxic Substances Control (DTSC) as an interested party.

The County requests that the following statements be added to the BKK West Covina Consent Order:

- A clarification that the BKK West Covina Consent Order is limited to the BKK West Covina site and does not relieve BKK of any responsibility in regards to any other facility owned or operated by BKK.
- A clarification to the BKK West Covina Consent Order regarding the scope of the other facilities known to be owned or operated by BKK, particularly in the County of Los Angeles.

Additionally, the County of Los Angeles requests that DTSC take possession of all BKK files in the interest of protecting public health and the environment, until such time as the files can be reviewed.

Should there be any questions or concerns regarding these comments, please contact Jan Takata at (213) 974-1360.

Sincerely,

DAVID E. JANSSEN
Chief Administrative Officer

//original signed by//

John S. Edmiston
Acting Assistant Administrative Officer
Financial and Asset Management Branch

c: Jim Dragna, Bingham McCutchen

27



Department of Toxic Substances Control

Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Arnold Schwarzenegger
Governor

February 3, 2006

Mr. John S. Edmisten
Acting Assistant Administrative Officer
Financial and Asset Management Branch
County of Los Angeles
Chief Administrative Office
713 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

RESPONSE TO COMMENT ON BKK LANDFILLS FACILITY CONSENT DECREE

Dear Mr. Edmisten:

This responds to comments filed by the County of Los Angeles (the County) on the BKK Landfills Facility Consent Decree. The Consent Decree was entered into by the Department of Toxic Substances Control (DTSC) and 27 other parties (collectively, the Parties). We have considered your comments carefully and take them very seriously. For the reasons discussed below, we have determined that it is not necessary to modify the Consent Decree to address your concerns.

The County's first comment requested the Parties to add language to the Consent Decree that clarifies that the Decree is limited to the BKK West Covina site and does not relieve the BKK Corporation (BKK) of any responsibility regarding any other facility owned or operated by BKK. Regarding the site at issue in the Consent Decree, Paragraph 2.1 of the Consent Decree states that the Consent Decree relates to the 583-acre site located at 2210 South Azusa Avenue, West Covina, California, and a map and legal description of the site are provided in Exhibits A-1 and A-2. We think the Consent Decree is clearly limited only to BKK's West Covina facility. Regarding BKK's liability, BKK is not a party to the Consent Decree and the Decree does not relieve BKK of any liability for its West Covina facility. Furthermore, the Consent Decree does not relieve BKK or any of the Parties from any liability associated with any other sites.

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Mr. John S. Edmisten
February 3, 2006
Page 2

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Regarding the County's request that DTSC take possession of all BKK files, DTSC has arranged to take control of the waste-in documents for the BKK Landfills Facility in West Covina. Please understand however that this has been accomplished as part of a different settlement process that DTSC conducted directly with BKK, which was separate from the Consent Decree. Retention of BKK's documents is not a specific subject in the Consent Decree because the Consent Decree does not address BKK's responsibilities. Regarding BKK documents concerning other facilities, I recently spoke with the County's attorney about this issue and DTSC is exploring options to ensure that the County and other interested parties have access to those documents. Please feel free to contact me at (916) 327-0979 for additional information on this matter.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Mr. John S. Edmisten
February 3, 2006
Page 3

Ms. Barbara Coler
Division Chief
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
700 Heinz Avenue, Building F, Suite 200
Berkeley, California 94710

Mr. Donald Plain, Chief
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Department of Toxic Substances Control
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Sacramento, California 95826

Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

December 30, 2005

VIA ELECTRONIC MAIL AND FACSIMILE

Ms. Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1001 "I" Street, 23rd Floor
Sacramento, CA 95812-0806
E-mail: mhanson@dtsc.ca.gov

Re: *Public Comment*
Notice of Consent Decree
BKK Landfills Facility

Dear Ms. Hanson:

On or about December 1, 2005 our client, Steadfast Insurance Company, first learned of the pending Consent Decree which purports to resolve certain disputes between the DTSC and certain potentially responsible parties as set forth in your Complaint in matter no. CV05-7746 CAS filed October 31, 2005 in United States District Court, Central District of California. On behalf of Steadfast Insurance Company, we provide the following comments to the Consent Decree.

Steadfast objects to the Consent Decree to the extent that it purports to assign, or has the actual legal effect of assigning, the benefits of Steadfast Policy No. PLC 7969053-04 (the "Policy") to any non-parties to that agreement without Steadfast's consent. Steadfast likewise objects to the Consent Decree to the extent that it purports to alter the terms and conditions of the Policy without Steadfast's consent.

SANFRANCISCO/170004.1

Ms. Marilee Hanson
December 30, 2005
Page 2

Steadfast also objects to the proposed Consent Decree to the extent that it prejudices the rights of any of Steadfast's actual policyholders under the Policy.

Very truly yours,

//original signed by//

EAM/sld

cc: James J. Dragna, Esq. (Via Electronic Mail and Facsimile)
Peter H. Weiner, Esq. (Via Electronic Mail and Facsimile)

Our File: 64351.2

SANFRANCISCO/170004.1



Alan C. Lloyd, Ph.D.
Agency Secretary
CalEPA



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

February 3, 2006

Mr. Ethan A. Miller
Squire, Sanders and Dempsey LLP
One Maritime Plaza, Suite 300
San Francisco, California 94111-3492

RESPONSE TO COMMENT ON BKK LANDFILLS FACILITY CONSENT DECREE

Dear Mr. Miller:

This responds to comments filed with the Department of Toxic Substances Control (DTSC) on December 30, 2005 on behalf of Steadfast Insurance Company (Steadfast) concerning the BKK Landfills Facility Consent Decree. Steadfast's comments concerned the post-closure insurance policy (the Policy) that Steadfast has issued for post-closure care of the BKK Class I landfill. In its comments, Steadfast objected to the Decree to the extent it purported to assign benefits of the Policy without Steadfast's consent, and to the extent that it altered terms and conditions of that Policy without Steadfast's consent. It also objected to the Decree to the extent it prejudiced any of Steadfast's policy holders under the Policy.

As we discussed on January 17, 2006, DTSC entered into a settlement agreement with the BKK Corporation (BKK), Steadfast's policy holder, on January 13, 2006 that resolves BKK's concerns about reimbursements from the post-closure insurance policy for the BKK Class I landfill while the Settling Defendants conduct post-closure care at that landfill pursuant to the Consent Decree. DTSC and the Settling Defendants believe Steadfast's concerns have been addressed through the BKK/DTSC settlement agreement.

In a second conversation on February 2, 2006, you indicated that Steadfast had decided, in light of the BKK settlement, that it no longer had concerns about the Decree prejudicing policy holders. However, you also stated that Steadfast was not withdrawing its other objections. With respect to these remaining objections, the Consent Decree does not assign the policy to a successor owner or operator, nor does

Mr. Ethan Miller
February 3, 2006
Page 2

it alter the policy's terms, therefore DTSC and the Settling Defendants do not believe that Steadfast's consent is necessary for implementation of the Decree.

Please always feel free to call me at (916) 327-0979 with questions or comments.

Sincerely,

//original signed by//

Senior Staff Counsel
Office of Legal Counsel

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Mr. Donald Plain
Emergency Response and Special Projects
Emergency Response and Statewide Operations Division
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826

Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

12.05.05

to whom it may concern:

As a concerned citizen of West Covina, I am responding to the BKK landfill's facility consent decree. I have no objection to the appropriate response action of DSTC to all responsible parties concerned. A consent decree that maybe established thru a court's finality is a very left noble goal and good idea for the sake of those affected by this landfill like ourselves, being a resident of West Covina since 1983. We have gone all through these difficult times since then including the passing away of my wife last 2001 due to cancer.

Hoping that DSTC will never fail to continue its vigilance and monitoring process of all landfills that may affect public environment like West Covina.

Sincerely yours,

Atfredo K. Kamatay



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

February 3, 2006

Mr. Al Kamatoy
1924 Lainie Street
West Covina, California 91792

RESPONSE TO COMMENT ON CONSENT DECREE FOR BKK LANDFILLS FACILITY IN WEST COVINA, CALIFORNIA

Dear Mr. Kamatoy:

Thank you for your December 5, 2005 letter with comments on the Consent Decree for the BKK Landfills Facility in West Covina. In your letter, you stated that this Consent Decree, which must be approved by a court, is a lofty and noble goal and a good idea for the sake of the community affected by the BKK Landfills Facility. You also expressed your hope that the Department of Toxic Substances Control (DTSC) will never fail to continue its vigilance and monitoring of all landfills that affect the environment.

DTSC appreciates your support for the Consent Decree. Also, as you requested, DTSC will try to remain vigilant and continue the monitoring process for all landfills that we regulate.

Sincerely,

//original signed by//

Marilee Hanson
Senior Staff Counsel
Office of Legal Counsel

cc: See next page.

Mr. Al Kamatoy
February 3, 2006
Page 2

cc: Mr. James J. Dragna
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, California 90071-3106

Mr. Brian Hembacher
Deputy Attorney General
Office of the Attorney General
Department of Justice
300 South Spring Street, 11th Floor
Los Angeles, California 90013

Ms. Barbara Coler
Division Chief
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
700 Heinz Avenue, Building F, Suite 200
Berkeley, California 94710

Mr. Donald Plain, Chief
Emergency Response and Special Projects Branch
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826

Mr. Richard Allen
Permitting and Corrective Action Division
Hazardous Waste Management
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

EXHIBIT F

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into by and between BKK Corporation ("BKK"), a California corporation, and the Department of Toxic Substances Control ("DTSC") (collectively, the "Parties").

WHEREAS, DTSC has entered into a Consent Decree, lodged with the United States District Court for the Central District on October 31, 2005 (the "Consent Decree") with 27 parties who are potentially liable for response costs (the "Settling Defendants") at the BKK Class I Landfill Site in West Covina, California (the "Site").

WHEREAS, the Consent Decree provides that the Settling Defendants will pay certain amounts and perform certain work at the Site for two years following the Effective Date of the Consent Decree or until January 14, 2008, whichever is earlier.

WHEREAS, BKK is the owner and operator of the Site.

WHEREAS, BKK has agreed to perform a certain scope of work at the Site, as set forth in Exhibit "A", attached hereto (the "Scope of Work").

WHEREAS, BKK is a named insured on a postclosure insurance policy, obtained to provide financial insurance for postclosure care as required by California Code of Regulations, title 22, section 66265.145, that was issued by Steadfast Insurance Company ("the Class I Insurance Policy") to fund an annual reimbursement of approximately \$1.3 million in costs for ongoing postclosure activities at the Site. (The annual reimbursement amount shall hereafter be called the "Insurance Proceeds.")

WHEREAS, Paragraph 5.1.1 of the lodged Consent Decree stated that the Settling Defendants shall be entitled to all of the Insurance Proceeds on a first priority basis for the 2005-2006 and 2006-2007 insurance cycles. For work performed after May 30, 2007, Paragraph 5.1.1 stated that the Settling Defendants shall be entitled on a first priority basis to a monthly pro-rata share of the Insurance Proceeds based on the duration of the work they perform pursuant to the Consent Decree.

WHEREAS, DTSC and the Settling Defendants have agreed to modify Paragraph 5.1.1 of the Consent Decree to provide that the Settling Defendants shall-- on a first priority basis-- be entitled to the Insurance Proceeds minus up to \$120,000 per reimbursement cycle through May 31, 2007 and on a pro-rata basis thereafter.

WHEREAS, pursuant to this Agreement, BKK shall-- on a first priority basis -- be entitled to up to \$120,000 of the Insurance Proceeds per reimbursement cycle through May 31, 2007 and on a pro-rata basis thereafter, as described in Paragraph 2 below, on the condition that BKK performs the Scope of Work, submits a proper claim and complies with Paragraph 6 of this Agreement.

NOW, THEREFORE, in consideration of the promises contained herein, the Parties agree as follows:

1. BKK hereby agrees to perform the Scope of Work for the term of this Agreement, as defined in Paragraph 15 below.

2. Subject to limitations discussed below, DTSC hereby agrees that BKK shall have "first priority" to up to \$120,000 of the Insurance Proceeds per reimbursement cycle and on a monthly pro-rata basis after May 31, 2007, based on the duration of work performed, for expenditures made after the effective date of the Consent Decree for performing the Scope of Work. Reimbursement requests shall be subject to the reviews and approvals performed by DTSC, pursuant to California Code of Regulations, title 22, sections 66264.145(e) or 66265.145(d)(5), as applicable, to ensure that the costs of conducting the Scope of Work meet the requirements for reimbursement. BKK shall only be entitled to reimbursement of expenditures for work done after the Effective Date of the Consent Decree. BKK shall be entitled to submit a claim for reimbursement of costs associated with the Scope of Work by submitting itemized bills to DTSC pursuant to California Code of Regulations, title 22, sections 66264.145(e) or 66265.145(d), as applicable, and consistent with Exhibit F of the Consent Decree. Reimbursement for the 2005-2006 shall proceed as follows. BKK may only seek reimbursement for expenditures for work performed within one month prior to the Effective Date of the Consent Decree and for work performed after the Effective Date of the Consent Decree through May 31, 2006. BKK's reimbursement for the 2005-2006 cycle shall not exceed \$120,000.

3. BKK shall submit the reimbursement request at the close of each annual coverage cycle (May 31) and shall submit only one reimbursement request for each reimbursement cycle during the term of the Consent Decree.

4. After BKK submits its requests, DTSC hereby agrees that it will review each reimbursement request within sixty (60) days of submission and pursuant to the California Code of Regulations, title 22, sections 66264.145(e) and 66265.145(d), as applicable. DTSC will not unreasonably withhold approval of reimbursement of these expenditures if they meet the requirements of the regulations and this Agreement.

5. DTSC hereby agrees that it will not withhold its approval for reimbursement of these funds to BKK due to the existence of any other DTSC claim against BKK, provided that BKK performs the Scope of Work and submits a proper claim consistent with Exhibit F and pursuant to California Code of Regulations, title 22, sections 66264.145 (e) or 66265.145(d) (5), as applicable. Provided BKK performs the Scope of Work, submits a proper claim and remains in compliance with paragraph 6 of this Agreement, DTSC will take no action to prevent Steadfast Insurance Company from reimbursing BKK for costs of conducting the Scope of Work and will not divert the \$120,000 designated for reimbursement to BKK pursuant to this Agreement until this Agreement terminates. However, BKK agrees that if any portion of the \$120,000 of other Insurance Proceeds cannot be reimbursed to BKK for the 2005-2006 reimbursement cycle pursuant to the terms of Paragraph 2 above or for any particular reimbursement cycle because BKK has not complied with the Scope of Work, submitted a proper claim, or remained in compliance with paragraph 6 of this Agreement, the

Settling Defendants may seek additional reimbursement from those proceeds and DTSC may, in accordance with California Code of Regulations, title 22, section 66264.145(d)(5) or 66265.145(e), as applicable, and the modified Consent Decree, instruct the insurer to reimburse any proper claim. Similarly, DTSC agrees that if any portion of the the Insurance Proceeds minus \$120,000 over which the Settling Defendants have first priority cannot be reimbursed to the Settling Defendants for any particular reimbursement cycle because their claim or performance has not met the requirements of the Consent Decree, then BKK may seek additional reimbursement for only costs of performing the Scope of Work from those proceeds by submitting a claim that is consistent with Exhibit F and California Code of Regulations, title 22, section 66264.145(d)(5) or 66265.145(e), as applicable, and DTSC may, in accordance with California Code of Regulations, title 22, section 66264.145(d)(5) or 66264.145 (e), as applicable, instruct the insurer to reimburse any proper claim.

6. BKK agrees not to object to approval of the lodged Consent Decree as modified pursuant to the changes agreed to herein, in the litigation *California Department of Toxic Substances Control, et al. v. American Honda Motor Co., et al.* (United States District Court for the Central District of California, No. CV05-7746 (CAS)), not to intervene in said litigation or to seek status as an Amicus Curiae, nor seek to have any litigation consolidated with said litigation during the term of this Agreement.

7. Except as provided for in Paragraphs 2 and 5, above, BKK shall not be entitled to make any other claim for reimbursement from the insurance proceeds for expenditures made after May 31, 2005 through the term of this Agreement. In addition, BKK shall not contest the use of the Insurance Proceeds to reimburse the Settling Defendants for costs incurred pursuant to the Consent Decree during the term of this Agreement, as defined in Paragraph 15 below. The Parties reserve their rights with respect to any reimbursement of costs incurred after termination of the Consent Decree.

8. This Agreement does not limit DTSC's right to enforce this Agreement or assert a claim based on BKK's failure to meet a requirement of this Agreement. This Agreement does not pertain to any matters other than those expressly specified herein. BKK reserves, and this Agreement is without prejudice to, all rights against DTSC and other parties with respect to all other matters. DTSC reserves, and this Agreement is without prejudice to, all rights against BKK and other parties with respect to all other matters, including but not limited to (a) claims based on a failure of BKK to meet a requirement of this Agreement; (b) criminal liability; (c) liability for damages for injury to, destruction of, or loss of natural resources, and for costs of any natural resource damage assessment incurred by agencies; (d) liability for violations of local, state or federal law or regulations; (e) liability for performance of response actions and/or work; (f) liability for DTSC response costs; (g) any liability arising from past, present or future ownership, operation, disposal, release, or threat of release of hazardous substances, pollutants or contaminants, at other sites besides the Site; (h) liability based upon BKK's ownership or operation of the Site, or upon BKK's transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of any hazardous substances, pollutants or contaminants at or in connection with the Site; and (i)

claims associated with the Class I Insurance Policy concerning reimbursement cycles not specifically addressed in this Agreement.

9. Nothing herein shall limit the power and authority of DTSC or any other State agency to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at or from the Site. Further, nothing herein shall prevent DTSC from seeking legal or equitable relief to enforce the terms of this Agreement, from taking other legal or equitable actions as it deems appropriate and necessary, or from requiring BKK to perform additional activities pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Health and Safety Code, the California Code of Regulations, title 22, or any other applicable law. This Agreement does not relieve BKK of any existing obligations under law or regulation.

10. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

11. All of the rights and obligations of the parties hereunder shall inure to the benefit of the Parties, their respective successors, assigns, personal representatives and heirs.

12. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

13. The signatories represent and warrant that they have the right, power, and authority to execute this Agreement and to bind their clients to the terms of this Agreement.

14. This Agreement may be executed in multiple counterparts each of which shall be deemed an original. A facsimile copy of a signature shall be as effective as an original signature.



15. The term of this Agreement shall be as follows. This Agreement shall become effective on the date it is signed by DTSC. The end of its term shall be coterminous with the end of the lodged Consent Decree, which is two years following the Effective Date of the Consent Decree or until January 14, 2008, whichever is earlier.

FOR THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL

DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

//original signed by//

By: _____
Name: Meredith F. Gorsan
Title: Director
Date: 1-13-06

FOR THE BKK CORPORATION, a California Corporation

//original signed by//

By: _____
Name: W. H. K. (Kazarian)
Title: President
Date: 1-13-06

1 **DECLARATION OF SERVICE BY OVERNIGHT MAIL (UPS)**

2 **RE: California Department of Toxic Substances Control, et al. v. American**
3 **Honda Motor Co., Inc.**

4 **Case No.: CV05-7746 CAS (JWJx)**

5 **I, Aimee Lopez, declare:**

6 I am employed in the City of Los Angeles, County of Los Angeles, State of
7 California. I am over the age of 18 years and not a party to the within action. My
8 business address is 300 S. Spring Street, Suite 1702, Los Angeles, California
9 90013. On February 8, 2006, I served the documents named below on the parties
10 in this action as follows:

11 **DOCUMENT SERVED: DECLARATION OF MARILEE HANSON IN**
12 **SUPPORT OF MOTION FOR JUDICIAL**
13 **APPROVAL OF AMENDED CONSENT**
14 **DECREE RE BKK HAZARDOUS WASTE**
15 **FACILITY**

16 **SERVED UPON:**

17 **BY MAIL:** I caused each such envelope, with postage thereon fully
18 prepaid, to be placed in the United States mail at Los Angeles, California. I
19 am readily familiar with the practice of the Office of the Attorney General
20 for collection and processing of correspondence for mailing, said practice
21 being that in the ordinary course of business, mail is deposited in the United
22 States Postal Service the same day as it is placed for collection.

23 I hereby certify that I am employed in the office of a member of the Bar of
24 this Court at whose direction the service was made.

25 **XX BY OVERNIGHT MAIL:** I am readily familiar with the practice of the
26 Office of the Attorney General for collection and processing of
27 correspondence for overnight delivery and know that the document
28 described herein will be deposited in a box or other facility regularly
maintained by United Parcel Service for overnight delivery.

SEE ATTACHED SERVICE LIST

BY FACSIMILE: I caused to be transmitted the document described herein
via the following facsimile number:

I declare under penalty of perjury under the laws of the State of California
that the above is true and correct. Executed on February 8, 2006, at Los Angeles,
California.

Aimee Lopez

//original signed by//

Declarant

Signature

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SERVICE LIST

RE: *California Department of Toxic Substances Control, et al. v. American Honda Motor Co., Inc.*

Case No.: CV05-7746 CAS (JWJx)

James J. Dagna
Bingham McCutchen LLP
355 South Grand, Suite 4400
Los Angeles, CA 90071

Attorney for Defendants