

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

John Smith Road Landfill, Class I
Area (owned by City of Hollister)
2650 John Smith Road
Hollister, California

ID No. (CAD990665432)

Respondent.

Docket HWCA 20167275

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and the City of Hollister (Respondent) (collectively the Parties) enter into this Consent Order and agree as follows:

1. The John Smith Road Landfill consists of a Class III Area and a Class I Area which occupies approximately 95.47 acres. The Class III Area is an operating municipal solid waste landfill which encompasses approximately 90.36 acres. The Class I Area encompasses approximately 5.11 acres and includes two inactive and closed hazardous waste disposal surface impoundments each measuring less than a half-acre in size. The closure of the Class I Area included the construction of a cover system. Respondent is responsible for post-closure care for the Class I Area of the John Smith Road Landfill located at 2650 John Smith Road in Hollister, California (Site). Since the closure of the Class 1 Area, Respondent has no record of a release of hazardous waste occurring at the Site.

1.1 Authorization Status: Under the California Hazardous Waste Control

Law (HWCL) (Health and Safety Code, section 25100 *et seq.*) Respondent is authorized under a Hazardous Waste Facility Post Closure Permit (Permit) to conduct post-closure activities for the closed Class I Area of the John Smith Road Landfill. The Department issued the Permit on December 8, 2003 and approved the renewal of Respondent's Permit on August 30, 2017. The 2003 Permit incorporates the Part B Permit Application (2003 Operations Plan) dated May 1, 2003. Part III-4 of the 2003 Permit indicates groundwater monitoring requirements are described in the March 2003 Site-Specific Water Quality Monitoring Plan (SSWQMP). The SSWQMP is included in Appendix F-2 of the 2003 Operations Plan and incorporated by reference in the 2003 Permit. The 2003 Permit is the operative permit at the time the violations alleged in Paragraph 3 occurred.

2. The Department conducted a non-financial record review of the Site on March 1, 2017.

3. The Department alleges the following violations of the 2003 Permit:

3.1. Respondent violated Health and Safety Code section 25202(a), Part III-4 of the 2003 Permit, and the SSWQMP by reducing the groundwater sampling frequency for routine monitoring parameters from annually to once every five years. Section 2.1.1 of the SSWQMP states Respondent shall collect groundwater samples annually from compliance monitoring wells E-3, E-9, and E-17 for routine monitoring parameters. Table 4 of the SSWQMP indicates routine monitoring parameters include the following: volatile organic compounds, chlorophenoxy herbicides, quaternary ammonium herbicides, phenols, and parameters measured in the field such as dissolved oxygen, pH, temperature, electrical conductivity, and turbidity. Respondent failed to sample the compliance monitoring wells for routine

monitoring parameters with the required frequency (annually) from 2007 to 2014. Respondent complied with required groundwater sampling frequency for routine monitoring parameters in 2015, 2016, and 2017.

3.2. Respondent violated Health and Safety Code section 25202(a), Part III-4 of the 2003 Permit, and the SSWQMP by reducing the frequency of groundwater level measurements from quarterly to semi-annually. The SSWQMP indicates water level surveys will be conducted quarterly in wells E-1, E2, E-3, E-8, E-9, E-12, E-13, E-14, E-17, and G-24. Respondent measured groundwater levels in these wells twice a year from 2008 to 2014 instead of four times a year as required in the SSWQMP. Respondent measured groundwater levels in these wells three times a year in 2015.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above but does not limit the Department from taking enforcement action concerning other violations.

8. Respondent admits to following its monitoring and reporting obligations in Waste Discharge Requirements #R3-2002-0001 and Waste Discharge Requirements #R3-2010-0021 and Waste Discharge Requirements #R3-2013-0047 instead of the SSWQMP included in the Permit which resulted in the violations described in paragraph 3 above.

SCHEDULE FOR COMPLIANCE

9. The violations described above have been corrected.

PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of twenty-six thousand dollars (\$26,000) in administrative penalties. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Rick Robison
Senior Environmental Scientist (Supervisory)
Enforcement and Emergency Response Division
Department of Toxics Substances Control
700 Heinz Avenue
Berkeley, California 94710

Stephanie Lai
Office of Legal Counsel
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

12. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

13. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 20, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party

to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

14. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

15. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

16. Reservation of Authority: The Department reserves its authority under the Hazardous Waste Control Law to: 1) enforce the Consent Order: 2) use all violations alleged in this Consent Order and admitted by Respondent in paragraph 8, to seek enhanced penalties in any subsequent administrative or civil action to show a pattern or course of conduct, or a history of noncompliance: and 3) use all violations alleged in this Consent Order and admitted by Respondent in paragraph 8, and Respondent's admissions to those violations in any future Department permit decision, proceeding, or process.

17. Waiver: If the Department seeks to use the violations alleged in this Consent Order, admitted by Respondent in paragraph 8, for any of the purposes of paragraph 16, Respondent will not assert any defenses based on the passage of time, including, but not limited to, laches, estoppel, and statute of limitations.

18. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions except to the extent provided in this Consent Order.

19. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

20. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

21. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

22. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

23. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board to the extent such conditions are not less stringent than any requirements or limitations set forth in the Permit .

24. Authority to Enter into Stipulation and Order: Each signatory to this Consent Order certifies that he or she is fully authorized by the Party he or she represents to enter into this Consent Order, to execute it on behalf of the Party.

25. Counterparts: This Consent Order may be executed and delivered in one or more counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

(Original signed by William Avera

Dated: 10/17/19

William Avera
City Manager
City of Hollister
Respondent

Original signed by Rick Robison

Dated: 10/23/19

Rick Robison
Senior Environmental Scientist
(Supervisory)
Enforcement and Emergency Response
Division
Department of Toxic Substances Control