

REQUEST FOR ACTION

To: Mark De Bie
Deputy Director
Waste Permitting, Compliance and Mitigation Division

From: Wes Mindermann
Supervising Waste Management Engineer
Engineering Support Branch

Reviewed By: Steve Levine, Legal Office

Request Date: May 16, 2014

Decision Subject: **AWARDS FOR THE SOLID WASTE DISPOSAL AND
CODISPOSAL SITE CLEANUP PROGRAM GRANTS (SOLID
WASTE DISPOSAL TRUST FUND, FY 2013/14)**

Action By: May 20, 2014

Summary of Request:

Staff requests the approval of grant awards for the Solid Waste Disposal and Codisposal Site Cleanup Program (Program): the legacy disposal site abatement partial grants and the illegal disposal site abatement grants. CalRecycle staff is recommending two eligible legacy disposal site abatement partial grant applications and two eligible illegal disposal site abatement grant applications requesting a total of \$1,500,000.00 and \$529,541.88 respectively for this competitive grant program. Detailed project information for the recommended grants are located in the Attachments.

Recommendation:

Staff recommends approval of four grant awards, as listed in Tables 1 and 2 below totaling \$2,029,541.88.

Table 1. Legacy Disposal Site Abatement Partial Grants

Applicant	Total Award
Humboldt Waste Management Authority	\$750,000.00
City of Laguna Beach	\$750,000.00

Table 2. Illegal Disposal Site Abatement Grants

Applicant	Total Award
City of Santa Monica	\$398,064.00
City of Hesperia	\$131,477.88

Funding:

The FY2013/14 Budget Act allocates \$1,500,000 to the Legacy Disposal Site Abatement Partial Grant Program and \$1,000,000 to the Illegal Disposal Site Abatement Grant Program.

Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
SWDTF (FY 2013/14)	\$1,500,000	\$1,500,000	\$0	Legacy Disposal Site Abatement Partial Grants
SWDTF (FY 2013/14)	\$873,531	\$529,541.88	\$343,989.12	Illegal Disposal Site Abatement Grants

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant awards for the Program as listed in Tables 1 and 2. Each proposed grantee's award is conditioned upon:

1. The full payment within 90 (ninety) days of the date of this grant award of all outstanding debt(s) or scheduled payment(s) owed by the proposed grantee to CalRecycle; and
2. The return by the proposed grantee of a completed and executed Grant Agreement within 90 (ninety) days from the date that CalRecycle staff mails the Grant Agreement.

Dated: 5/16/14



Mark de Bie
Deputy Director

Background and Findings:

Statutory Authority

Public Resources Code (PRC) §48020 et seq. authorizes CalRecycle to expend funds from the Solid Waste Cleanup Trust Fund directly for cleanup, to provide loans to responsible parties who demonstrate the ability to repay, to provide matching grants to public entities for site cleanups, and to provide full grants to public entities for the abatement of illegal disposal sites.

Program Background

The Program addresses the cleanup of solid waste disposal and codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for a timely remediation and where cleanup is needed to protect public health and safety or the environment. Cleanup projects are implemented through contracts, grants, and loans. The California Integrated Waste Management Board (Board) [now the Department of Resources Recycling and Recovery (CalRecycle)] approved Program policies in February and September 1994; March and September 1995; and February, June, and August 1999. Regulations incorporating the approved policies were adopted by the Board in May 2000 and became effective September 11, 2000. In addition, CalRecycle approved the grant scoring criteria and the evaluation process for fiscal years 2012/13 and 2013/14 in August 2012.

As these are grants, any applicant's need for the funds is to be considered. Each grant application has a section for applicants to substantiate the need for the grant funds that is evaluated by staff as part of the General Scoring Criteria. In all cases, the applicants have expressed that their current funding is inadequate to complete the project. In addition, there is also a section for the substantiation of the threat to public health and safety and/or the environment, which is also evaluated by staff as part of the General Scoring Criteria. Based on the evaluations, the need for funding and threat being remediated are quantified and included in the grant's overall score and subsequent prioritization.

Title 14, California Code of Regulations, §18904 specifically lists eligible and ineligible remedial actions under the Program and allows CalRecycle to consider approval of any other remedial actions not specified as ineligible. Unless otherwise noted, specific actions proposed for each project are specifically eligible pursuant to the regulations.

With respect to legacy disposal site abatement partial grants, CalRecycle may award partial grants to public entities to clean up, among other sites, publicly operated solid waste disposal and codisposal sites that have always operated as public facilities. As a grant is essentially a bestowal of funds, cost recovery is not an issue in those cases, even though the public entity grantee is the "responsible party" for the cleanup. Therefore, this applicant is not subject to cost recovery by CalRecycle.

With respect to illegal disposal site abatement grants, cost recovery is not applicable when the grants involve the cleanup of public land maintained for public benefit and use and the entity did not cause or gain a benefit from the disposal of the waste. A grant is appropriate and cost recovery is not applicable as to the public entity. Where grant funds will be used to clean up private parcels, the grantee has agreed to pursue cost recovery on behalf of CalRecycle.

Criteria and Process

The Program Eligibility, Scoring Criteria, and Evaluation Process were discussed at the August 8, 2012 CalRecycle meeting. The Notice of Funds Available was placed on the CalRecycle web site for FY 2013/14 on July 2, 2013.

Applications were due February 14, 2013, with a secondary due date of March 4, 2014 for Resolution submission. Five applications were received. However, one legacy disposal site

abatement application was not awarded due to a lack of available funds. Of the remaining four applications, a total of \$2,029,541.88 is requested for this application cycle.

Staff reviewed the four applications in accordance with the approved evaluation and scoring criteria. The maximum grant award is \$750,000 for legacy disposal site abatement partial grants, and \$500,000 for illegal disposal site abatement grants.

Attachment A

Humboldt Waste Management Authority (HWMA) Legacy Disposal Site Abatement Partial Grant

Project Information:

Located two miles southeast of Eureka, Recology of Humboldt County (RHC) and the Humboldt Waste Management Authority (HWMA) own adjacent parcels of land which contain the Cummings Road Burn Ash Site (Site) (Facility No. 12-CR-0048). From the 1930's until approximately 1969 municipal solid waste was disposed through open air burning with the resulting ash and debris being pushed onto adjacent slopes by City Garbage of Eureka. In 1969, the burn dump operations ceased and the Cummings Road Landfill (Landfill) (Facility No. 12-AA-0005) was constructed over a portion of the burn dump on the more level portion of the land. The Landfill was subsequently purchased by Nor-Cal Waste Systems (now RHC) in 1975. In 2000, the Landfill was purchased by the HWMA from RHC. The original owners of the Site are now deceased and neither the HWMA nor RHC owned and/or operated the Site.

The 6.2 acre Site adjacent to the Landfill straddles the property line between RHC and HWMA parcels with 1.33 acres located on the HWMA's property and 4.87 acres located on RHC's property. The majority of the burn ash and debris resides on steep slopes in a heavily vegetated area south of Cummings Road. During the 2005/06 winter a series of storms resulted in intense rainfall and a landslide occurred at the eastern edge of the Site that exposed burn ash and debris, some of which slid into the junction of an unnamed stream and Ryan Creek. Ryan Creek is a tributary to Freshwater Creek, which ultimately flows into Humboldt Bay. In addition, Ryan Creek is designated a critical habitat for Northern California Steelhead and the Ryan Creek watershed is included in the Humboldt County Coastal area-wide designation of critical habitat for Southern Oregon/Northern California Coho Salmon.

Due to the environmental conditions at the Site the North Coast Regional Water Quality Control Board (NCRWQCB) issued a Cleanup and Abatement Order in April 2013 that requires the HWMA and RHC to complete the remediation of the Site by September 30, 2014. In response, the HWMA and RHC prepared and submitted a Corrective Action Plan (CAP) to the NCRWQCB and the Humboldt County Division of Environmental Health [Local Enforcement Agency (LEA)]. Per the approved CAP the Site will be clean closed and the resulting debris and burn ash will be disposed in the lined area of the adjacent Landfill. The HWMA is in the process of closing the Landfill. Phase I of the closure was completed in September 2012. Phase II of the closure is pending the completion of the Site remediation. Because the burn ash and debris are a designated waste, they have been approved for relocation and disposal to the lined portion of the Landfill as authorized by the NCRWQCB Waste Discharge Requirements (WDR) issued on May 2, 2013. In addition the project will include stream and redwood forest restoration, fish passage barrier removal, and a five-year post-closure monitoring and maintenance plan.

At the most recent inspection of the Site on May 14, 2014, the LEA noted the following violations of State Minimum Standards: Title 27, California Code of Regulations (27 CCR) Section 20820 (Drainage and Erosion Control); 27 CCR Section 20650 (Grading of Fill Surfaces); and 27 CCR Section 21145 (Slope Stability).

Preliminary engineering cost estimates prepared in May 2013 for the remediation of the Site range between \$3.7 million to \$4.9 million, with identified mitigation and/or permit conditions bringing the project total to \$5.3 million. This far exceeds the HWMA's \$2.3 million in unrestricted cash and cash equivalents and represents between 40 percent and 53 percent of total annual operating revenues. Furthermore, approximately \$550,000 of the HWMA's unrestricted reserves is held by CalRecycle as part of the retention for Phase I of the Landfill closure and cannot be released until the Phase II closure is completed. The HWMA's operations cash flow in Fiscal Year 2012/13 was negative, and asset-less liabilities are currently \$6.27 million. The Cleanup and Abatement Order requires the Project to be completed by late 2014 and the HWMA does not have the resources or funding to fully absorb the Project costs without assistance.

Although the HWMA and RHC jointly own the Site, the HWMA has agreed, as part of a tentative Settlement Agreement, to be responsible for the complete remediation of the Site, including post-remediation monitoring and maintenance required as mitigation measures and/or permit conditions. Per the tentative Settlement Agreement, RHC has proposed a cash settlement to the HWMA, an option for HWMA to purchase the abated adjacent RHC land, and provide additional technical and engineering support to the HWMA during the remediation.

This is the fourth application since 2008 where the Department, through its approval, would be implementing an expanded policy of awarding a partial grant to a public entity responsible party which would also additionally benefit private party[ies] which either own or co-own the site. Prior to 2008, Department/CIWMB partial grants had primarily been awarded to public entities to clean up publicly owned disposal sites that had always operated as public facilities and thus provided a purely public benefit. In September of 2008 the CIWMB first extended the reach of its grants to include a site (the Canyon Park site) which was co-owned by a public entity and a private party and which thus benefitted both parties. A December 2010 RFA involved the Benton Burn Dump, which was owned by a Homeowner's Association which benefitted from the partial grant application by the City of Escondido, which had formerly contracted to use the site to dispose of municipal solid waste. A November 2011 RFA involved the Dellar landfill, which was owned by a private party which benefitted from the partial grant application by the City of Sacramento, which had formerly contracted to use the site to dispose of municipal solid waste. In all of these cases the public entities have committed to funding their portion of the project costs and negotiated with the private parties regarding an equitable allocation of those costs between the parties. Staff submits that it is in the public interest to extend the objectives for the partial grant portion of the Program to include sites such as these where: (a) the present private party owners had no involvement with the deposition of waste at the site; (b) the public entity (either having no present ownership interest or a co-present ownership interest with a private party), acknowledges its obligations as a responsible party; and (c) at least half the costs of the remediation are borne by the responsible parties through an equitable apportionment determined by the parties. These extended program objectives are applicable in the HWMA application here and are consistent with the Program's enabling statutes. In staff's view these expanded objectives encourage public entities which had formerly been involved with the deposition of waste at a site and/or co-own a site to pursue the laudable goal of fulfilling their shared responsibility for remediation in a cooperative manner with the private party owners.

Attachment B
City of Laguna Beach Legacy Disposal Site Abatement Partial Grant

Project Information:

The Water Tank Ravine Burn Site (Site) (Facility No. 30-CR-0168) is a pre-regulation closed dump located within a steep ravine on a 196-acre public open space area known locally as the DeWitt Parcel. The parcel was acquired by the City of Laguna Beach (City) from John DeWitt and Alice Platz in 1991 with State bond funds for use as permanent open space. The City had no knowledge regarding the presence or condition of the Site and obtained the property with the understanding that it would always be public open space. The Site is the product of the disposal and burning of household waste from the late 1940's to early 1970's. Storm events in December 2010 eroded and transported waste into the downstream residential area known as Sun Valley. Sun Valley has more than 25 homes with a few commercial uses along Laguna Canyon Road and virtually all of them were impacted by mud, burn ash, and debris from the Site. The City Council, concerned about the health and the safety of the public, immediately authorized the development and implementation of an interim stabilization project to prevent additional erosion and migration of burn ash and debris from the Site while a long-term solution for a remediation was investigated, designed, approved, permitted, and implemented. The Local Enforcement Agency (LEA) has inspected the Site since it was discovered in 2011 and currently notes an Area of Concern for Title 27, California Code of Regulations (27 CCR) Section 20820 (Drainage and Erosion Control)..

After evaluating the remediation options to bring the Site into compliance with State requirements, the City determined the best option was to clean close the Site and restore the environs to all the beneficial public uses that prompted the purchase of the property in the first place. The City will not benefit financially from the remediation or restoration of the property, which is to remain public open space in perpetuity.

The grant funds are needed because the City has, during the last 8 years suffered through two federally-declared disasters that caused significant damage to the City's infrastructure. The Federal Emergency Management Agency (FEMA) and the California Emergency Management Agency (CalEMA) have reimbursed the City for the majority of approximately \$40 million in disaster-related expenses. However, the FEMA denied reimbursement for some projects and in most other cases reimbursement was less than the full cost of the project. The City's unreimbursed disaster-related expenses total more than \$4.0 million and, on an annualized basis, that is approximately 10 percent of its annual capital improvement budget over the last 8 years. In addition to disaster-related expenses, that City has already paid more than \$500,000 for settlements, investigations, the interim stabilization project, the development of the Remedial Action Plan, California Environmental Quality Act (CEQA) compliance, and the many other costs necessary to secure all permits and approvals to implement the remediation of the Site by this Fall. The City expects to pay an additional \$130,000 to complete all work necessary to begin the remediation. The City Council has committed a total of \$1.3 million to remediate and restore the Site. The CalRecycle grant will help the City accelerate the pace of the remediation efforts and expedite the process of re-establishing full beneficial public use of the property and eliminating the threat to public health and safety and the environment.

Attachment C
City of Santa Monica Illegal Disposal Site Abatement Grant

Project Information:

The City of Santa Monica (City) initiated a pilot program for alley cleanup and illegal dumping in Fiscal Years 2011 and 2012. Currently, a crew of two full-time and two part-time workers responds to customer complaints of illegally dumped materials. Consequently, the City collected over 600 tons of illegally dumped material over the two year period. The pilot program included 4,454 proactive alley cleanups, in which a crew canvasses the city for dumped materials. Additionally, 1,245 illegal dumps were remediated based on citizen complaints. More than 60 percent of the service requests occurred in multi-family locations.

The City has invested over \$500,000 in its efforts to keep illegal dumping to a minimum. However, it needs to proactively initiate a program for the multi-family areas and needs these grant funds to expand its current efforts and further initiate a concentrated effort in the described areas to address its illegal dumping problem. Currently, dumping is located either by the illegal dumping crew or by citizens reporting materials dumped in the alleys. The City proposes to take a proactive approach to illegal dumping activity by providing scheduled pickups in multi-family locations by quadrant. This proactive approach of canvassing the alleys daily by quadrant would further reduce the garbage entering the City's storm drains and reduce public health risks due to vermin and pestilence as a result of illegally dumped materials amassing in the alleyways. Additionally, the City would like to initiate a multi-family bulky item collection program in which buildings are assigned a specific date for collection of bulky materials. These materials could then be recycled or reused as part of the City's zero waste goals. The City will investigate and prosecute any persons responsible for the dumping and pursue cost recovery as practicable. All cost recovery will go to the City to support its continuing efforts in stopping the illegal dumping.

Attachment D
City of Hesperia Illegal Disposal Site Abatement Grant

Project Information:

The City of Hesperia (City) covers nearly 75 square miles of developed and vacant desert land. Illegal dumping is a major problem for the City resulting in significant social, health, environmental and economic impacts. Areas used for illegal dumping, oftentimes near schools or residences, are easily accessible to people who are vulnerable to the physical hazards posed by waste. The City attempts to remove illegal dump sites quickly to alleviate the threat to public health and safety and the environment and also to discourage further illegal dumping. The City supports an aggressive community enhancement program that consists of Code Enforcement Officers locating illegal dumps and responding to citizen complaints, providing thorough investigations complete with looking for identifying information, and organizing the rapid removal of the illegally dumped waste in public right-of-ways.

The City has worked over the last few years to curb illegal dumping. Previously, residents were provided with unlimited trash service, which allowed residents to receive as many trash carts necessary to contain their trash. This program was originally designed to reduce illegal dumping. However, after 10 years the City has not seen any additional measurable reductions in illegal dumping. Therefore, in 2012 the City changed their trash service to a limited "pay as you throw" service in order to manage the City's solid waste more effectively and to comply with the requirements of the AB 32 and AB 341. The illegal dumping sites in the City include abandoned piles of household garbage, furniture, bags of yard waste, discarded appliances, old barrels, auto parts, used tires, and construction and demolition debris. These illegal dump sites can be found throughout the City, especially in the Mojave River, in empty lots along public right-of-ways, and public lands. If allowed to remain, the sites often grow larger and attract more dumping..

The City has identified three illegal disposal "hot spots" totaling about 200 acres for cleanup. These areas have the most illegal dumping activity and pose the highest risks to residents and the environment. In addition, the City proposes to clear other illegal dumping sites in and around public right-of-ways scattered throughout the City. Two other locations, the Maple/Ranchero Site and the Glendale/Mojave River Site, will be abated once the initial "hot spots" are eradicated. The City's proposed plan consists of cleaning up these chronic and blighted areas, posting signs stating the violations and fines associated with the offense of illegal dumping, the installation of active and decoy cameras, and an implementation of an increased public education program relating to the City's bulky item pickup programs. Surveillance cameras will be monitored by City Code Enforcement Officers to identify illegal dumpers for prosecution. The City will investigate and prosecute any persons responsible for the dumping and pursue cost recovery as practicable. All cost recovery will go to the City supporting its continuing efforts in stopping the illegal dumping.

The City will also develop a comprehensive campaign of outreach and community involvement. The program will begin with the development of print media to include brochures, bus shelter posters, bill inserts in resident's water and trash service bill, an illegal dumping hotline, and new content for the City's website and other publications regarding the need to keep the City clean and the fines and penalties for illegal dumping.