

**WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF
ACTION REQUEST**

To: Georgianne Turner, Branch Chief
Waste Evaluation and Enforcement Branch

From: 

Debbie Knight, Acting Section Manager
Solid Waste Enforcement Section

Prepared By: Cathy Blair, Solid Waste Enforcement Section

Request Date: November 18, 2013

Action By: December 18, 2013

Decision Subject: Consideration of an Extension to the Compliance Schedule Due Date for a Facility included on the Inventory of Facilities that Violate State Minimum Standards (Inventory), American Avenue Landfill, Fresno County (10-AA-0009)

SUMMARY

On October 13, 2010, the American Avenue Landfill was placed on the Inventory for ongoing violations of 27 CCR 20921 – Gas Monitoring and Control. On November 2, 2010, the Fresno County LEA (LEA) issued a Notice and Order (N&O) to the operator, with a final compliance date of October 13, 2012.

Prior to the October 2012 deadline, the operator determined that they would be unable to meet the final compliance date specified in the original N&O. Site assessment during implementation of Phase 1 of the approved remediation plan determined that a much larger control system was necessary. Therefore, Phase 2 of the remediation plan was implemented, which would take an extended length of time to design, permit, and install. With the approval from CalRecycle, on July 20, 2011, LEA issued a N&O extension to the operator, with a final compliance date of October 13, 2013.

Due to extenuating circumstances, the operator was unable to meet the revised final compliance date specified in the extended N&O. The contractor assigned to the construction of both Phase 1 and Phase 2 did not meet the goals established by the contract timelines, had its contractor's license suspended during the project, and eventually was forced to completely cease work on the project as of August 1, 2013, due to several issues. The operator concluded that more time would be required to obtain approvals and secure a new contractor and to complete the extensive work required to expand the LFG System.

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On October 31, 2013 the operator submitted a request to the LEA for an extension to the N&O deadline. The operator's request included documentation of completed and remaining tasks and a demonstration of unforeseen circumstances outside the control of the landfill operator.

OPTIONS

1. Approve the one-year extension for the proposed compliance due date to October 13, 2014.
2. Deny the extension to the compliance due date.

ANALYSIS AND FINDINGS

Background

The landfill gas monitoring and control plan was approved on July 13, 2009. An extension to the implementation due date was approved on September 3, 2009, and installation of the new compliance probes was completed on April 2, 2010.

The operator's first quarterly monitoring report, dated April 2, 2010, documented that perimeter monitoring probes GP-35, CP-36, GP-37, and GP-39 were above 5 % methane by volume. The LEA cited a violation of 27 CCR 20921 in their April 19, 2010 inspection report.

The operator submitted a gas migration remediation work plan on May 26, 2010 and the amended remediation plan was approved on June 29, 2010. The remediation plan proposed a phased approach, with Phase 1 maximizing and optimizing the existing landfill gas collection and control system (LGCCS). Phase 2 would include expansion of the system, if necessary.

On October 13, 2010, the facility was placed on the Inventory for ongoing violations of 27 CCR 20921. On November 2, 2010, the LEA issued a N&O to the operator, with a final compliance date of October 13, 2012.

Site assessment during implementation of Phase 1 of the approved remediation plan determined that a much larger control system was necessary which required a longer length of time to design, permit and install. On July 14, 2011, CalRecycle approved a twelve month extension. On July 20, 2011, the LEA issued a N&O extension to the operator, with a final compliance date of October 13, 2013.

On November 6, 2012, the Fresno County Board of Supervisors (BOS) awarded a contract to Construction Development System (CDS) to complete both Phase 1 and Phase 2 of the LGCCS. CDS completed Phase 1 on May 17, 2013.

CDS continued to work on Phase 2 of the project, but progress slowed due to alleged nonpayment by CDS to several of its suppliers and subcontractors. CDS also had its contractor's license suspended due to nonpayment of its worker's compensation insurance. CDS ceased working on the project on August 1, 2013.

The BOS found CDS in breach of contract on September 10, 2013. On September 12, 2013, the contract between the County of Fresno and CDS was formally terminated.

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On October 22, 2013, the operator submitted an Agenda Item to the BOS requesting authorization to proceed with a formal bid for completion of the work on the LGCCS.

On October 31, 2013, in a letter addressed to the LEA, the operator outlined the work items required for the project to be completed including a list of tasks that will ensure the project's completion.

Analysis

The operator is implementing remediation actions as outlined in the approved work plan, and has continued to monitor the landfill gas compliance probes weekly.

The operator procured a contractor to complete both Phase 1 and Phase 2 of the remediation plan. During Phase 1 of the remediation, the existing system was optimized. Improvements included reconnecting offline extraction wells, connecting leachate risers to the extraction system, and modifying the enclosed ground flare to maximize system capacity, as outlined in the N&O and Compliance Schedule.

Evaluation during Phase 1 determined that a much larger control system was necessary. Therefore, Phase 2 of the remediation plan needed to be implemented to achieve compliance, which would take an extended length of time to design, permit, and install.

Due to extenuating circumstance involving the contractor, the operator was required to re-evaluate and return to the BOS for authorization to proceed with a formal bid for completion of the work on the LGCCS.

Staff of the CalRecycle has reviewed the operator's extension request, including documentation of good faith effort and extenuating circumstances, and agree with the LEA's determination that it is reasonable to extend the compliance date, allowing the operator to procure a new contractor and to complete any additional work required for expansion of the LGCCS.

FINDINGS:

The owner and operator have demonstrated progress and good faith effort in bringing the facility back into compliance. Additionally, the operator is continuing with the remediation plan activities as outlined in the original proposal. The operator has also demonstrated that unforeseen extenuating circumstances outside the control of the landfill operator contributed to delays. Based on the factors set forth in 14 CCR 18084, the operator has made a good faith effort and the LEA is taking appropriate enforcement action. Therefore it is reasonable to grant the additional time to bring the facility into full compliance.

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RECOMMENDATION

CalRecycle staff recommends that the facility be granted a one-year extension.

BRANCH CHIEF ACTION:

On the basis of the information in this Request for Action, I hereby issue, pursuant to 14 CCR 18365(b), approval of a one-year extension to the owner and operator of the American Avenue Landfill (10-AA-0009) to October 13, 2014.

Dated: 12-9-13



Georgianne Turner
Branch Chief
Waste Evaluation and Enforcement Branch

Attachment (Request Letter)