

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

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



From: Paulina Lawrence, Section Manager
Solid Waste Enforcement Section

Prepared By: Anthony VanderSchaaf, Solid Waste Enforcement Section
Jon Whitehill, Solid Waste Enforcement Section

Request Date: April 7, 2016

Action By: May 20, 2016

Decision Subject: Consideration of a Second Extension to the Final Compliance Schedule Due Date for a Facility included on the Inventory of Facilities that Violate State Minimum Standards (Inventory), Ukiah Solid Waste Disposal Site, SWIS No. 23-AA-0019, Mendocino County.

SUMMARY

The Ukiah Solid Waste Disposal Site ceased receiving waste in September 2001. To date, the landfill does not yet have an approved Final Closure and Postclosure Maintenance Plan and has not yet been permanently closed.

On March 13, 2012, the Ukiah Solid Waste Disposal Site was placed on the Inventory for ongoing violations of 27 CCR, Section 21110 –Time Frames for Closure. The site had not previously been added to the Inventory because the LEA had not cited consecutive State Minimum Standard (SMS) violations.

As required by regulations, the Mendocino County LEA issued a Compliance Schedule to the operator on March 30, 2012, and the subsequent Notice and Order; with a final compliance date of March 13, 2014 to complete closure of the facility.

On August 5, 2014, CalRecycle approved the LEA's request to extend the compliance date until August 15, 2015.

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On August 14, 2015, the operator notified the LEA they would not meet the final compliance date specified in the extended Compliance Schedule, due in part to a proposed cost-saving redesign of the final cover, and requested that the closure construction start date be extended to May 1, 2016. On November 11, 2015, the LEA submitted a second extension request to CalRecycle. However, staff was unable at that time to make a finding of “good faith effort” or “extenuating circumstances” and was therefore unable to make a recommendation to approve the extension request. The operator has since submitted additional documents (FCPCMP, Financial assurance demonstration, 401 and 404 applications) and submitted a mutually acceptable City of Ukiah Workplan which includes milestone timelines and due dates.

BACKGROUND

The Ukiah Landfill is owned and operated by the City of Ukiah. The facility is located approximately 1.5 miles east of Hwy 1 in the City of Ukiah in Mendocino County.

The City of Ukiah (operator) submitted preliminary Closure and Post Closure Maintenance Plans (Plans) in January 1999 to the LEA, North Coast Regional Water Quality Control Board (NCRWQCB), and former Integrated Waste Management Board (CalRecycle). In November 1999 the LEA, CalRecycle, and NCRWQCB provided comments on the Plans to the city of Ukiah. In May 2000, the City of Ukiah submitted revised Plans in the form of a Joint Technical Document (JTD).

The Ukiah Solid Waste Disposal Site ceased receiving waste in September 2001, prior to submittal and approval of Final Closure/Postclosure Maintenance Plans (FCPCMP) which are required to be submitted two years prior to the final shipment of waste.

Beginning in July 2010, the LEA began consistently citing violations for both 27 CCR 21110 – Time Frames for Closure and 27 CCR 21780 – Submittal of Closure Plans. From August 2009 to April 2010 the LEA only cited 21780 – Submittal of Closure Plans, which is not a “State Minimum Standard” which is the criteria for adding a site to the Inventory. Prior to 2009, only the CIWMB/CalRecycle noted violations for closure standards.

Original Compliance Schedule:

As a result of the facility finally being added to the Inventory, the LEA issued a Compliance Schedule (CS) to the City of Ukiah on **March 30, 2012** with an original required a compliance date of March 13, 2014.

The original CS required the operator to submit a FCPCMP to the required agencies no later than September 4, 2012. It also required closure construction to commence by July 1, 2013, and be completed by March 13, 2014. The City of Ukiah missed the September 4, 2012 submittal deadline and instead sent the LEA a letter on September 6, 2012, stating that they had submitted a FCPCMP in 2008 but had not yet received comments from the required agencies.

After resubmittal of the 2008 FCPCMP, the agencies commented on the Plan as follows:

- On January 2, 2013 CalRecycle provided comments to the operator
- On February 15, 2013, the LEA provided comments to the operator and informed the operator that pursuant to 27 CCR 21860(f) the operator must respond to agencies comments within 60 days.

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- On April 24, 2013, the North Coast Regional Water Quality Control Board (NCRWQCB) provided comments to the operator.

On May 10, 2013, the LEA notified the City of Ukiah that they were required to respond to comments and submit all required revisions to the Closure Plan no later than June 24, 2013. The LEA's notification on May 10, 2013 requested:

- Complete sets of the Closure Plan (JTD format) and Post Closure Maintenance Plans (electronic and hard copy)
- Financial Assurances Mechanism
- Non-water Corrective Action Plan and Cost Estimates
- Closure Cost Estimates
- The LEA also notified the City of Ukiah that pursuant to 14 CCR 18365(b) a one year extension to the March 30, 2012 Compliance Schedule beyond the second year may be granted only by approval of CalRecycle. The extension request was to be submitted no later than March 15, 2014.

After the operator failed to comply with the CS and the LEAs request for response to comments, the LEA took increased enforcement action by replacing the CS with an issued Notice and Order (N&O) on July 25, 2013. The N&O was later amended on October 9, 2013 to extend the operator's compliance date for submittal of a revised FCPCMP to October 31, 2013 and commencement of final closure by March 15, 2014.

On October 31, 2013 the operator submitted a revised FCPCMP. On January 9, 2014 the City of Ukiah submitted the Non-water corrective action Cost Estimate which was deemed "technically adequate" by CalRecycle on April 17, 2014.

First Extension Request:

On January 29, 2014, the operator requested an extension for the following reasons:

- Closure Plan had not yet been approved, the operator cannot commence closure until the Plans are approved.
- The operator needed to provide public notification, complete CEQA, and obtain City Council approval.
- The City would need time to implement the contractor bidding and approval process.
- Closure activities would need to occur during construction season.

On March 12, 2014, the LEA determined that the operator has made good faith effort and that there is no immediate public health and safety threat and submitted a request for CalRecycle to approve the extension request.

On August 5, 2014, CalRecycle approved the LEA's request to extend the compliance date until **August 15, 2015.**

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ANALYSIS

The LEA may grant a one-year extension beyond two years upon approval by CalRecycle's Executive Director or his/her delegate. CalRecycle approval is based upon a finding that the LEA is taking "appropriate enforcement action" using the criteria of Title 14 Section 18084(d) which takes into account timely progress by the operator in addition to demonstrations of "good faith effort" and documentation of "extenuating circumstances". The following findings support the operator's and LEA's findings of "good faith effort" and "extenuating circumstances" since the approval of the last extension request:

- On December 15, 2014, at the request of CalRecycle and the LEA, the operator submitted status report with updated target dates, including submittal of a revised FCPCMP by January 19, 2015, financial assurance documentation by January 30, 2015, certified CEQA document by March 18, 2015, and the start of closure construction by May 15, 2015.
- On February 26, 2015 the operator provided an updated status report stating that the financial assurance documentation would now be submitted by "March 2015", that the operator had identified a new cost-saving design for the closure cap to be described in an updated closure plan, and that closure construction would commence during "Summer 2015".
- On June 18, 2015, the LEA requested a status report and stated that, in order to demonstrate "good faith effort" towards compliance, the operator would need to submit a complete FCPCMP, financial assurance documentation, CEQA certification, and WDRs.
- On August 14, 2015 the operator submitted an updated Final Closure and Post Closure Maintenance Plan, which included a commitment to submit financial assurance documents by October 9, 2015 and complete CEQA by December 31, 2015.
- The operator noted in their August 14th letter that "a revised final cover system has been identified for the site which represents the primary cause of the noted delay... cost reductions related to the revised final cover system equate to approximately \$696,960..."
- The operator's August 14th letter also requested that the final closure construction start date be extended to May 1, 2016.
- On October 9, 2015, the operator submitted a status report which stated that the financial assurance documentation would be heard by the Ukiah City Council at their November 4, 2015 meeting and then submitted to CalRecycle by November 30, 2015.
- On October 21, 2015, CalRecycle's Engineering Support Branch issued a memorandum stating that it was not able to approve the August 2015 FCPCMP because "the recent submittal is still a disjointed document". The operator was requested to respond to the attached comments and submit required revisions by December 20, 2015." On November 9, 2015, the LEA echoed CalRecycle's FCPCMP decision in a letter to the City of Ukiah.
- On November 20, 2015, the LEA submitted a request to extend the final compliance due date of the N&O to May 1, 2016.
- On November 25, 2015, the operator informed the LEA that the financial assurance documentation would be approved by the City Council at their December 16, 2015 meeting but would not be approved by the City Council until their January 6, 2016 meeting.

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- February 4, 2016, CalRecycle, RWQCB, the LEA, and the City met with Senator's Mc Guire's office to discuss progress on the project. Subsequently, CalRecycle, LEA, RWQCB and the City of Ukiah have and continue to have joint meetings.
- In February 2016, a schedule of required actions and submittals was agreed upon by the RWQCB, LEA, CalRecycle, and the City of Ukiah.
- On March 11, 2016, Tim Erikson, Director of Public Works for the City of Ukiah, formally submitted to CalRecycle an extension request letter and workplan with the final compliance date of October 31, 2017. The city's completed milestones to date include:
 1. City of Ukiah's Schedule for Closure (Workplan) which included milestones and letter of commitment submitted originally March 11, 2016 and revised on May 18, 2016.
 2. Demonstration of operating liability coverage on February 18, 2016.
 3. CEQA documentation submitted to State Clearing House (SCH) on February 19, 2016.
 4. Updated financial assurance demonstration for closure and postclosure maintenance costs partially submitted on February 26, 2016, and final submittal on May 11, 2016.
 5. Demonstration of financial assurance mechanism for corrective action plan partially submitted on February 29, 2016. (Outstanding items include audited financial statements and associated Local Government Financial Test documentation.)
 6. Final closure and postclosure maintenance plan submitted as one complete document on March 8, 2016 (CalRecycle has since commented on April 20, 2016; the LEA commented on April 21, 2016, the Mendocino County Air Quality District commented on April 29, 2016; and the RWQCB submitted comments on May 3, 2016).
 7. 401 and 404 permit applications submitted on March 30, 2016.

OPTIONS

1. Approve the second extension for the final compliance date of October 31, 2017.
2. Conditionally approve the second extension to extend the compliance due date to October 31, 2017, which includes directing the LEA to take further enforcement if key milestones are not met.
3. Deny the second extension request. Direct the LEA to take specific further enforcement action.

FINDINGS:

At the time the second extension request was originally received and reviewed, staff was unable to make a finding of "good faith effort" pursuant to Title 14, California Code of Regulations (CCR), Sections 18084(d) and 18365.

However, based on a review of the operator's recent efforts, including the recently submitted documents (FCPCMP, Financial assurance demonstration, 401 and 404 applications) and submittal of a mutually acceptable City of Ukiah Workplan and milestone timeline, staff can now make a finding of "good faith effort" and conditionally approve the second request to extend the milestones and final deadline of the LEA's amended Notice and Order (N&O) issued on October 9, 2013.

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RECOMMENDATION

CalRecycle staff recommend approval of the second request to extend the N&O compliance date(s) under the following conditions:

- 1) The LEA formally amend the N&O and include the milestones agreed upon through our joint meetings (see the attached Workplan) with a final compliance of October 31, 2017 and penalty language for failure to meet major milestones within the control of the operator.
- 2) The amended N&O shall clearly state that the LEA may seek penalties for the City's failure to meet the final compliance deadline of October 31, 2017 or being 30 days late on any other milestones under their control; specifically milestones (Action Items) 12, 15, 20, unless the City can demonstrate to the satisfaction of the LEA and CalRecycle that there were extenuating circumstance outside the operator's control.
- 3) Lastly, if the LEA fails to enforce the Action Item 12, 15, 20, 21 (final compliance date of October 31, 2017), except in cases where the City has demonstrate to the satisfaction of the LEA and CalRecycle that there were extenuating circumstance outside the operator's control, CalRecycle will implement 14 CCR 18350 to take enforcement on the matter itself. Extenuating circumstance include acts of God such as inclement weather, earthquakes, and delays in obtaining discretionary permits or other government agency approvals where the operator's actions or failure to act was not the cause of the delay.

BRANCH CHIEF ACTION:

On the basis of the information in this Request for Action, I hereby issue, pursuant to 14 CCR, Section 18365(b), approval of a second extension to the owner and operator of the Ukiah Landfill (23-AA-0019) to October 31, 2017, under the above conditions.

Dated: *May 20, 2016*



Georgianne Turner
Branch Chief
Waste Evaluation and Enforcement Branch

Attachments:

- Operator Extension Request, 8/14/2015
- LEA Extension Request, 11/20/2015
- Operator Status Reports
- City of Ukiah Letter and Workplan, March 11, 2016, revised May 18, 2016



Mendocino County Health & Human Services Agency

Healthy People, Healthy Communities

Dave Jensen, Director

Public Health Branch

Division of Environmental Health

Ukiah Office: 860 N Bush St, Ukiah CA 95482 Phone: 707-234-6625
Fort Bragg Office: 120 W Fir St, Fort Bragg CA 95437 Phone: 707-961-2714



11/20/2015

Georgianne Turner, Branch Chief
CalRecycle
1001 I St. Mail Stop 10A-17
P.O. Box. 4025
Sacramento, CA 95812

To: Georgianne Turner
Subject: Construction Start Date Extension Request
Site: Ukiah Solid Waste Disposal Site
3100 Vichy Springs Rd. Ukiah CA 95482
Facility No: 23-AA-0019

Please find attached a request from the operator of Ukiah Landfill for the extension of the construction start day to May 1, 2016.

The Mendocino County LEA has determined that the operator of Ukiah Landfill continues to make a progressive effort to comply with the requirements set forth by CalRecycle and the LEA.

- On February 26, 2015 the LEA received a letter from the City of Ukiah acknowledging misperception in regards to financial assurance documentation and on February 7, 2015 the City of Ukiah discussed the matter with CalRecycle Financial Assurance Division. In the same letter, the City of Ukiah and consulting firm (EBA) identified a cost saving new design for the closure cap and will submit an updated the Final Closure Plan package.
- The City of Ukiah developed a study for an updated CEQA from the initial CEQA documents from 2000 and intents to complete permits requirements by the end of 2015. The City of Ukiah has also set aside funds for CEQA and other permitting processes.
- On August 14, 2015 the City of Ukiah submitted updated plans for the Final Closure and Post Closure Maintenance Plan including Construction Drawings, Technical Specifications, Construction Quality Assurances Plan (CQA) and updated Closure and Post Closure maintenance cost estimates.

Administrative Services 747 S. State St. Ukiah, CA 95482 Ph. 707-472-2333 Fax 707-472-2335	Adult & Aging Services 747 S. State St. Ukiah, CA 95482 Ph. 707-463-7900 Fax 707-463-7979	Children & Family Services 727 S. State St. Ukiah, CA 95482 Ph. 707-463-7990 Fax 707-463-7960	Behavioral Health & Recovery Services 1120 S. Dora St. Ukiah, CA 95482 Ph. 707-472-2300 Fax 707-472-2306	Public Health Services 1120 S. Dora St. Ukiah, CA 95482 Ph. 707-472-2700 Fax 707-472-2773	Employment & Family Assistance Services 737 S. State St. Ukiah, CA 95482 Ph. 707-463-7700 Fax 707-463-7859
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- On October 9, 2015 the City of Ukiah submitted a status letter to meet the financial assurance requirements stating that the documentation will be submitted to the City Council on November 4, 2015, and once approved by the board will be submitted to CalRecycle no later than November 30, 2015.
- The City of Ukiah states that their extenuating circumstances for the delay are due to the proposed revision to the final cover design, which is expected to not only be more cost effective, but also will increase stabilization, and reduce maintenance. It also appears that the City of Ukiah Public Works needs Ukiah City Council approval for a number of their projects including the approval for CEQA update, the preparation for a new final cover, and Financial Assurance documentations.

The site does not appear to pose any significant threat to public health and safety of the landfill by granting an extension deadline. Pursuant to 14 CCR Section 18365 (b), a one year extension to the compliance schedule beyond 2 years may be granted only by approval of CalRecycle's Executive Director.

The Mendocino County LEA agrees that the operator's request is reasonable, and with the executive director's approval, the LEA would like concurrence to grant an extension commencement of closure construction until May 1, 2016.

Sincerely,



Phil Chou
Mendocino County LEA

Cc: Jon Whitehill, CalRecycle (email)
Andy Marino, CalRecycle (email)
Michael Wochnick, CalRecycle (email)
Anthony Vandershaaf, CalRecycle (email)
Terri Cia, NCRWQCB (email)
Tim Eriksen, City of Ukiah (email)
Ukiah City Council (email)



August 14, 2015

Mr. Trey Strickland
Mendocino County Environmental Health (County)
860 North Bush Street
Ukiah, CA 95482

**RE: FINAL CLOSURE SUBMITTAL PACKAGE AND EXTENSION REQUEST
CITY OF UKIAH LANDFILL
MENDOCINO COUNTY, CALIFORNIA**

Dear Mr. Strickland:

This submittal package, identified herein as Joint Technical Document (JTD) Addendum No. 2, has been prepared in response to the County's letter dated June 18, 2015 inquiring about the status of the final closure project for the City of Ukiah Landfill and requesting information from the City of Ukiah (City) to demonstrate that a "good faith effort" is being put forth to complete the project in order to justify the granting of an extension to the previously agreed upon construction start date of August 15, 2015. Included in the County's letter is a request for submittal of miscellaneous documentation that is needed for the County and California Department of Resources Recycling and Recovery (CalRecycle) to approve the final closure project. The following provides a list of the documentation requested and the current status of their development:

- **Complete Final Closure Plan:** Updated closure and postclosure maintenance information is attached herein that incorporates changes from the previously submitted Final Closure and Postclosure Maintenance Plan (FCPMP) included as part of the January 2008 Joint Technical Document (JTD). The updated information provides supporting documentation for a revised final cover system. Also included are the corresponding Construction Drawings, Technical Specifications, Construction Quality Assurance (CQA) Plan, and updated final closure and postclosure maintenance cost estimates.
- **Financial Assurance:** The requested financial assurance documents will be prepared utilizing the enclosed updated final closure and postclosure maintenance cost estimates. The financial assurance documents will be submitted to CalRecycle Financial Assurances Unit by no later than October 9, 2015.

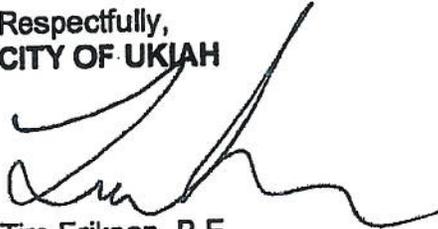
- **California Environmental Quality Act (CEQA):** Consistent with the information outlined in the County's letter, provisions are being made to update CEQA that include the development of an updated Initial Study that incorporates changes that have occurred since the previous CEQA determination in 2000, as well as the performance of studies for special status plant/wildlife species, wetland delineation of the creek, and greenhouse gas emissions. In addition, permits are being obtained through the California Regional Water Quality Control Board – North Coast Region (RWQCB)(401 Permit), US Army Corps of Engineers (404 Permit), and California Department of Fish and Wildlife (1602 Permit) to accommodate discharge modifications to the creek. All the field studies for the above work have been completed. The new CEQA determination and acquisition of the various permits will be completed before the end of this calendar year (2015).
- **Waste Discharge Requirements (WDRs):** The information provided herein associated with the updated FCPMP should be sufficient for the RWQCB to develop closure WDRs. Whereas the City has no control over the RWQCB's schedule and priorities, the issuance of closure WDRs by the end of this calendar year (4.5 months) is considered a reasonable time frame for this to occur.

As demonstrated above, progress has been made with respect to implementing the final closure project. Whereas the City will be unable to meet the existing August 15, 2015 closure construction start date, this should not be perceived as a lack of commitment by the City. As the County is aware, a revised final cover system has been identified for the site which represented the primary cause of the noted delays. However, the additional time expended in researching potential alternatives proved to be highly beneficial from a performance (higher stability), maintenance, and cost perspective. Based on the revised closure and postclosure maintenance cost estimates presented in the attached addendum, the cost reductions related to the revised final cover system equate to approximately \$696,960, which represents a significant savings of tax payer dollars. In addition, the City has already committed \$50,750 towards the CEQA and permitting process, and \$186,520 for the design and fabrication of a totally-enclosed vertical ground flare. These provisions clearly demonstrate that the City is committed to moving forward on this project and that a "good faith effort" has been made in this regard.

Based on the circumstances presented herein, the City would like to respectfully request that the closure construction start date be extended to May 1, 2016. This extension will allow sufficient time for regulatory review and approval of this submittal package, the development of closure WDRS, completion of the CEQA and permitting process, the procurement of contractor bids, and awarding of the construction contract.

Thank you for your understanding and consideration of this extension request. If you should have any questions regarding the information contained herein or need additional information, please contact our office accordingly.

Respectfully,
CITY OF UKIAH

A handwritten signature in black ink, appearing to read 'Tim Eriksen', written over the printed name below.

Tim Eriksen, P.E.
Director of Public Works / City Engineer

cc: Mr. Andy Marino, California Department of Resources Recycling and Recovery
Mr. Trey Strickland, Mendocino County Health & Human Services Agency
Mr. Robert Scaglione, Mendocino County Air Quality Management District
Ms. Terri Cia, RWQCB, North Coast Region
Mr. Damon Brown, EBA Engineering

Enclosure: Joint Technical Document Addendum No. 2 (August 2015)

