



LINDA S. ADAMS  
SECRETARY FOR ENVIRONMENTAL  
PROTECTION

# CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD



ARNOLD SCHWARZENEGGER  
GOVERNOR

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812-4025  
(916) 341-6000 • WWW.CIWMB.CA.GOV

MARGO REID BROWN  
CHAIR  
MBROWN@CIWMB.CA.GOV  
(916) 341-6051

WESLEY CHESBRO  
WCHESBRO@CIWMB.CA.GOV  
(916) 341-6039

ROSALIE MULÉ  
RMULE@CIWMB.CA.GOV  
(916) 341-6016

CHERYL PEACE  
CPEACE@CIWMB.CA.GOV  
(916) 341-6010

GARY PETERSEN  
GPETERSEN@CIWMB.CA.GOV  
(916) 341-6035

June 10, 2008

Mr. Wayne Tsuda, Director  
City of Los Angeles Local Enforcement Agency (LEA)  
Environmental Affairs Department  
200 N. Spring Street, Room 1905 MS 177  
Los Angeles, California 90012

SUBJECT: City of Los Angeles EA letter, dated May 22, 2008, regarding Sunshine Canyon City/County Landfill (SWFP No.19-AA-2000)

Dear Mr. Tsuda:

California Integrated Waste Management Board (CIWMB) staff, acting as the Enforcement Agency (EA) pursuant to PRC 43202, received your letter regarding Browning Ferris Industries (BFI's) application package for a new Solid Waste Facilities Permit (SWFP) for the Sunshine Canyon City/County Landfill.

Your letter states that the City EA "received a copy of an extensive package of information dated May 19, 2008 from BFI's consultant Bryan Stirrat and Associates (BAS) on May 21, 2008". Your letter also states that "the information deals with, among other things, revisions to the design of the interface between the closed landfill and the construction of the new landfill and engineered fill and lining systems to support the new design in the City portion of the landfill". You further state that "significant changes in landfill design are present (sic) contained in the new information affecting overall capacity, acreage, seismic stability and operational conditions", including "landfill decomposition gas control systems...liner and leachate control systems."

You recommend that, in consideration of the new information, CIWMB, acting as EA, determine either that BFI has amended its application or that the EA treat the new information as the basis for a new permit application, and in either case take approximately 60 additional days to review and verify the information and prepare a revised proposed permit.

The majority of the changes in the package that BAS sent to multiple agencies on May 19, 2008 had previously been sent by BAS in its April 9, 2008 transmittal to CIWMB staff. The new changes included in the May 19, 2008 package, and the ones to which you refer, are related to those items found in the response to comments matrix (attached) that are highlighted in bold font (i.e. those related to stability analyses and associated minor design changes, and to the revised landfill gas plan).

CIWMB staff has reviewed the information BAS submitted on behalf of BFI in its May 19, 2008 package. We gave special attention to the new information, since we had



already reviewed the material BAS submitted on April 9, 2008. The information in the April 2008 package as indicated in the attached matrix included updated slope stability data; liner clarifications; clarification regarding the definition of green waste; clarification that the sediment basin would be cleaned out as soon as practicable; site capacity and site life clarifications; geologic map and cross section updates; text clarifications in regards to the leachate sump pump; corrections to Financial Assurances; text changes for the following: access roads, fueling area, trash roll off boxes, lightening; landfill equipment, supervisory structure, personnel training, litter, load checking, and other miscellaneous minor text corrections. These changes reflect comments made by the City and County LEA, County of Los Angeles Department of Public Works, CIWMB and the Los Angeles Regional Water Quality Control Board (RWQCB).

The key changes specified in the May 2008 submittal are design changes resulting from the revised stability berm configuration. They include the following reductions in site parameters: landfill footprint (approximately 4 acres), net airspace (approximately 350,000 cubic yards) and site life (approximately one month). The changes resulting from the modifications to the berm design result in only minor modifications to those areas of the JTD within the authority and responsibility of the EA, as set out in Title 27. CIWMB EA staff do not find it necessary to take an additional time to address the minor changes that may be required to be reflected in the proposed permit.

You indicate that the submittal should be viewed as an amendment under 27 CCR 21610 and strongly request that the CIWMB staff notify the City EA of our determination under PRC 44004(d). Neither provision applies in this circumstance and neither mandates the action you request. PRC 44004(d) applies to the operator of an existing permitted facility who wishes to make a significant change in the design or operation of its existing facility, thus possibly requiring revision of its existing permit. In this case, Sunshine Canyon City/County Landfill will be a new facility consisting of two previously separate landfills, one in the City and one in the County, and BFI has applied for a new solid waste facilities permit for the Landfill. Section 21610<sup>1</sup> of Title 27 provides that the applicant must notify the EA of any amendments to its application while the application is pending. The regulation then directs the EA to Section 21685(d) for the manner of processing an amended application. (The reference to subdivision (d)<sup>2</sup> is erroneous. See footnote 2 below.) Section 21685(e) states that revisions, additions, and amendments will be considered in accordance with the conditions set out in Section 21580 and 21650(f), both of which involve a situation where an applicant requests the ability to file an incomplete application. That is not the case here, since BFI has not made such a request. Moreover, even if BFI's submission of amendments to its application were deemed to be a waiver of the time to process the application, the EA is not obligated to

---

<sup>1</sup> 27 CCR section 21610 provides: "At any time after the application package has been submitted and before issuance or denial of the permit or alteration thereof, the applicant shall promptly notify the EA of any changes in any of the information required in the application package. Such notice shall be given by filing two copies of the amendments to the application within seven days of the applicant's first knowledge of the changes. For processing additions, revisions or amendments to the proposed permit and accompanying documents, refer to section 21685(d)."

<sup>2</sup> Note: The reference to subdivision (d) of Section 21685 is in error. The text of the regulation should refer to subdivision (e) of Section 21685, which provides: "If an applicant or enforcement agency requests that revisions, additions or amendments be considered, these will be considered in accordance with the conditions specified in §21580 and ¶(f) of §21650 respectively."

take the full amount of time available under the waiver. It should take whatever time it needs to perform its duties, not necessarily to exceed the maximum allowed.

The underlying issue you raise is how an EA should treat the amendment of a solid waste facilities permit application during the period when the EA is considering the application, but before the EA has proposed a permit to CIWMB for concurrence. If I understand your position, you believe that any amendment of an application mandates that either the EA must treat the amendment as a wholly new application, thus restarting the relevant time periods for EA action on the application, or that the applicant must treat its application as incomplete and waive the time periods. CIWMB regulations do not so state, however, and cannot be reasonably interpreted in the manner you suggest. Indeed, it is somewhat ironic that you take this position since most of the changes BFI made in its May 19, 2008 submission were made at the request of, or in response to questions from, public agencies, including the City LEA.

We believe that the proper interpretation of CIWMB statutes and regulations give the EA sufficient discretion to decide on a case-by-case basis, depending on the facts, whether amendments to an application during its review period affect its fundamental determination that the application is complete and correct or affect its determination to propose a solid waste facilities permit to the CIWMB. Section 21655(a) of Title 27 directs the EA to exercise its discretion when it evaluates amendments to applications for solid waste facilities permits. That section provides that if an applicant's amendment of its application "fundamentally alters the nature of the application...[and] requires evaluation,...the EA may deem the amendment a new application." Such a determination restarts the timeframe for the EA to process the application.

Thus, applying the rationale underlying Section 21655(a), if the amendments alter the EA's complete and correct determination, which it made when it accepted the application for processing, then the EA must treat the amendments as a new application. If the amendments alter the EA's decision to propose a permit to CIWMB, the EA may, if it needs the additional time, treat the amended application as a new application. However, if the EA does not need to spend significant additional time on the amended application, that is, if the changes do not affect its determination that the application is complete and correct or its decision to propose a permit to CIWMB, the EA is not required to treat the application as new and restart the clock. The EA may simply account for the amendments in whatever manner is proper, given the circumstances, and proceed. The critical requirement is that the EA satisfy itself that the proposed permit meets all State requirements and contains all of the terms and conditions the EA believes are necessary under applicable law.

Lastly, one other scenario presents itself. Remember that the application used by the EA for consideration of a solid waste facilities permit is also used by the Regional Water Quality Control Board (RWQCB) to determine whether to issue Waste Discharge Requirements (WDRs) for the solid waste facility. In a case where the applicant's amendments arise from RWQCB requirements, not CIWMB regulations, the EA should make note of the amendments, as appropriate, but does not have the authority to deem the application a new application and restart the processing clock. (The RWQCB, of course, would treat the amendments under its own authority as set out in Title 27 and in the Water Code.)

CIWMB, acting as EA, has exercised its discretion under Section 21655(a). The amendments that BFI submitted in its May 19, 2008 package do not affect either of our key decisions-- whether to accept the application as complete and correct and whether, and under what conditions, to propose a solid waste facilities permit to CIWMB. The design changes resulting from the amendments BFI submitted that are within our jurisdiction generally reduce the scale of the proposed landfill and do not result in any significant operational changes within our authority. Part of our rationale is that the new information BFI submitted on May 19, 2008 primarily relates to the RWQCB's determinations, rather than CIWMB's. CIWMB staff is aware of, and is monitoring, discussions between the applicant, Los Angeles Regional Water Quality Control Board (LARWQCB) and the City and County of Los Angeles which resulted in the new changes that BAS made in its May submittal. As you know, the major responsibility for slope stability and leachate control aspects of solid waste landfills rests with the RWQCB. Before they issue WDRs for a landfill, the RWQCB must determine whether the design of the landfill will sufficiently protect the state's waters (27 CCR Section 21145(a)). As EA, --like every other EA, we must avoid duplicating or conflicting with the actions of the RWQCB with respect to water quality issues. Please refer to the letter from Ted Rauh to you dated March 24, 2008, for a more detailed explanation of the relationship between CIWMB review and RWQCB review of slope stability at landfills. A comparable analysis would apply to the question of leachate.

If you have any questions, please contact me at 916.341.6324 or [smarkie@ciwmb.ca.gov](mailto:smarkie@ciwmb.ca.gov)

Sincerely,



Susan Markie, Manager  
Permit South Branch  
Permitting & EA Support Division  
Waste Compliance & Mitigation Program

Cc: Kenneth Murray, Los Angeles County LEA  
David Thompson, City of Los Angeles LEA  
Wen Yang, LARWQCB  
Eugene Tseng, City of Los Angeles LEA  
Dave Hauser, BFI  
Anthony Pelletier, Allied Waste  
Mike Driller, Department of Water Resources  
Martins Aiyetiwa, Los Angeles County Department of Public Works  
Al Medina  
Beth Jines  
Ted Rauh, CIWMB  
Elliot Block, CIWMB  
Michael Bledsoe, CIWMB  
Mark De Bie, CIWMB

Attachment