

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2004-0706

FOR

COUNTY OF SAN JOAQUIN AND FOOTHILL SANITARY LANDFILL, INC.  
FOOTHILL SANITARY LANDFILL, MUNICIPAL SOLID WASTE (CLASS III)  
SAN JOAQUIN COUNTY

This Order is issued to County of San Joaquin (owner) and Foothill Sanitary Landfill, Inc. (operator) (hereafter collectively known as “Discharger”) and is based on provisions of California Water Code Section 13304 which authorize the Regional Water Quality Control Board, Central Valley Region (hereafter known as “Regional Board”) to issue a Cleanup and Abatement (CAO) Order.

The Executive Officer of the Regional Board finds, with respect to the Discharger’s acts, or failure to act, the following:

1. San Joaquin County owns and Foothill Sanitary Landfill, Inc. operates a Class III municipal solid waste landfill about 1 mile south of Shelton Road, in Section 12 and 13, T2N, R9E, MDB&M, known as the Foothill Sanitary Landfill.
2. The facility is comprised of an 800-acre parcel (Assessors Parcel No. 093-44-01) containing a single Waste Management Unit. This Unit is comprised of two areas: LF-1 and LF-2. LF-1 contains a single, unlined module (referred to as Module “I”), covering approximately 80 acres. LF-2 is comprised of multiple lined modules, the first of which was completed in March 2004.
3. Waste Discharge Requirements (WDRs) Order No. R5-2003-0020 was adopted by the Regional Board on 31 January 2003. The WDRs address the construction, operation, closure, and evaluation monitoring of the Class III landfill.
4. The Discharger is responsible for complying with this enforcement order.

**GROUNDWATER AND UNSATURATED ZONE DEGRADATION**

5. The monitoring results indicate that landfill gas (LFG) from the unlined Module “I” at the Foothill Landfill has impacted groundwater. The volatile organic compounds (VOC) were confirmed in well MW-3 and the VOCs that were most prevalent are Trichloroethene (TCE) and 1,1-Dichloroethene (1,1-DCE). TCE had eleven quantified detections with a maximum concentration of 4.0 micrograms per liter ( $\mu\text{g/l}$ ) and an average concentration of 0.78  $\mu\text{g/l}$ . 1,1-DCE had six quantified detections with a maximum concentration of 0.32  $\mu\text{g/l}$  and an average concentration of 0.16  $\mu\text{g/l}$ .
6. Title 27, California Code of Regulations (Title 27 CCR), Division 2, Subdivision 1, requires the Discharger submit to the Board an engineering feasibility study for a corrective action program necessary to meet the requirements of Section 20430. At a minimum, the study shall

contain a detailed description of the technologically and economically feasible corrective action measures that could be taken to achieve background concentrations for all Constituents of Concern.

### **ENFORCEMENT HISTORY**

7. On November 6, 2002, the Discharger submitted an Evaluation Monitoring Plan, which describes the criteria for delineating the nature and extent of groundwater pollution. Because Module "I" is unlined and presumed to be a source of waste discharges, the WDRs require the closure of Module "I" as part of the corrective action measures.
8. WDRs Order No. R5-2003-0020, Provision J.12, requires that the Discharger submit on 1 June 2003, the Engineering Feasibility Study report, which includes closure of Module "I". The Discharger did not submit the document by the date of compliance.
9. On 16 September 2003, the Executive Officer issued a CWC 13267 Order requiring the Discharger to submit two reports, including (a) the Engineering Feasibility Study report, which includes the closure of Module "I", required by the WDRs and (b) a Partial Cover workplan, which includes design and construction of the soil cover for all modules in the Unit and addresses the performance standards for precipitation and drainage controls. The WDRs required the reports be submitted on 1 June 2003. The CWC 13267 Order required the documents to be submitted on 1 November 2003.
10. On 30 October 2003, the Discharger submitted the Partial Cover workplan and the Engineering Feasibility Study Report and Corrective Action Program. These documents did not include a closure plan for Module "I" in compliance with WDRs Order No. R5-2003-0020 or Title 27 CCR.
11. On 16 December 2003, the Executive Officer issued an Administrative Civil Liability Complaint (ALCL) No. R5-2003-0159 in the amount of \$10,000 for non-submittal of (a) the Engineering Feasibility Study report including the closure of Module "I", as required by the WDRs, and (b) a Partial Cover workplan including specifications for design and construction of the soil cover for all modules in the Unit and specifies the performance standards for precipitation and drainage controls; in compliance with closure standards set forth in WDRs and Title 27 CCR.
12. The Executive Officer and Discharger entered into a settlement discussion and agreed to resolve by consent and without further administrative proceedings the alleged violations of the CWC and WDRs. The Discharger agreed to pay \$10,000 in proposed civil liability and the Executive Officer agreed to revise the ALCL No. R5-2003-0159 (the new order is ALCL No. R5-2004-0520). The Discharger further agreed to accept CAO R5-2004-0706, which is intended to address releases from Module "I," and the Executive Officer agreed, if landfill gas releases are successfully eliminated, to recommend a modification of WDRs Order No. R5-

2003-0020 to be consistent with CAO R5-2004-0706. A Settlement Agreement, executed by the Executive Officer and the Discharger, contains the key terms.

### REGULATORY CONSIDERATIONS

13. As a result of the events and activities described in this Order, the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance and potential public health threat.
14. The Water Quality Control Plan (Basin Plan) for the Sacramento River and San Joaquin River Basins, Fourth Edition 1998, designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for all waters of the Basin.
15. Surface drainage flows into intermittent creeks, which drain generally in a westerly direction, and ultimately enters the Delta via either Mormon Slough or Duck Creek, which flow into the San Joaquin River in the Lower Calaveras Hydrologic Area (531.30) of the San Joaquin Hydrologic Basin.
16. The landfill is located in northeastern San Joaquin County. The existing and potential designated beneficial uses of surface water, as specified in the Basin Plan, are municipal and domestic supply, agriculture (stock watering and irrigation), industrial (processing and service supply), water contact recreation and non-contact water recreation, warm and cold freshwater habitat, warm and cold water migration of aquatic organisms, warm and cold water spawning, wildlife habitat, preservation of rare, threatened and endangered species, and groundwater recharge.
17. Section 13304(a) of the California Water Code provides that: *“Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the water of the state, and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”*
18. Section 13267(b) of the California Water Code states: *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes*

*to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”*

19. Technical reports are required by this Order to ensure compliance with this C&A Order, WDRs Order No. R5-2003-0020, Title 27 CCR, and the Basin Plan.
20. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.), pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
21. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at <http://www.swrcb.ca.gov/wqpetitions/index.html> and will also be provided upon request.
22. This Order is intended to address the threat to groundwater created by Module I. Compliance with this Order would meet the intent of closure of Module I (isolate waste from precipitation and irrigation) as described in Provision J.12 of the WDRs.
23. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at <http://www.swrcb.ca.gov/wqpetitions/index.html> and will also be provided upon request.

**IT IS HEREBY ORDERED** that, pursuant to Sections 13304 and 13267 of the California Water Code, County of San Joaquin and Foothill Sanitary Landfill, Inc. shall cleanup and abate, to the extent possible, the condition of pollution or nuisance and potential threat to public health caused by

discharge from the Foothill Sanitary Landfill facility, in accordance with the scope and schedule set forth below.<sup>1</sup>

1. By **31 August 2004**, the Discharger shall submit a *Project Design Report*, which shall contain, but not be limited to, a general description of the proposal to eliminate the release of LFG from Module "I" (the "Project"), the details of the proposed barrier between Module "I" (unlined) and Module 1 (new expansion) refuse, the conceptual LFG collection system for Module "I," additional groundwater monitoring wells, and intermediate cover for the sideslopes for all modules in compliance with WDRs and the minimum standards set forth in Title 27 CCR.
2. By **21 September 2004**, the Discharger shall submit a *Landfill Closure Method Selection Report*, which shall include, but not be limited to, the proposed closure method for the crest of Module "I," including the performance demonstration for alternative covers, in compliance with WDRs and the minimum standards set forth in Title 27 CCR.
3. By **16 November 2004**, the Discharger shall submit a *Partial Cover, Intermediate Cover and Drainage and Erosion Control Plan* for surfaces that have reached final elevations or which are not at final elevations, but which will not receive refuse within 180 days for intermediate cover and two years for partial cover as described in the WDRs, in compliance with the minimum standards set forth in Title 27 CCR.
4. By **1 February 2005**, the Discharger shall submit a *Preliminary Closure and Post Closure Maintenance Plan*, which shall include the area(s) to be closed (e.g., crest of Module "I"), details of the landfill gas collection system and associated cost estimates, and closure/post closure maintenance cost estimates to determine funding for the financial assurance mechanism, in compliance with WDRs and the minimum standards set forth in Title 27 CCR.
5. By **14 June 2005**, the Discharger shall submit the *Partial Final Closure Plan*, which shall include details of the closure activities for the "crest" of Module "I" as identified in the approved *Preliminary Closure and Post Closure Maintenance Plan*, in compliance with WDRs and the minimum standards set forth in Title 27 CCR.
6. By **6 September 2005**, the Discharger shall submit a *Construction Specifications and Construction Quality Assurance/Quality Control Plan*, which shall include, but not be limited to construction specifications and construction quality assurance/quality control details for each Component of the Project as follows:
  - Final closure of the crest of Module "I";
  - Partial and intermediate Cover;

---

<sup>1</sup> The schedule is derived from a schedule proposed by the Discharger, which is part of the record for this Order and includes assumptions regarding timelines for necessary review and approvals by third party agencies. Delays in those reviews and approvals, to the extent unrelated to acts or omissions by the Discharger, shall constitute good cause for modification of the schedule in this Order.

- Drainage and erosion control plan;
  - Overlay barrier between Module "I" refuse and Module 1 expansion sideslope;
  - Landfill gas collection system; and
  - A minimum of two additional groundwater monitoring wells.
7. By **22 May 2006**, the Discharger shall begin construction of all the components of the Project.
  8. By **1 November 2006**, the Discharger shall have completed construction of all the Components of the Project and shall have initiated operation of the LFG collection system for Module "I."
  9. By **24 November 2006**, the Discharger shall submit a *Construction Quality Assurance(CQA) Certification Report*, as prepared by a third party CQA Officer.

In addition to the above, the Discharger shall comply with all applicable provisions of the California Water Code that are not specifically referred to in this Order. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all technical reports shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist and signed by the registered professional.

All tasks in this Order must be completed to the satisfaction of the Executive Officer by the applicable deadline. If, in the opinion of the Executive Officer, the Discharger fails to comply with any task or provision of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$5,000 or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including sections 13268, 13271, and 13350. The Regional Board reserves its right to take any enforcement actions authorized by law.

If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the task schedule set forth herein or in compliance with any schedule submitted pursuant to the Order and approved by the Executive Officer, the Discharger may request, in writing, a time extension. The extension request must be submitted at least fifteen (15) days in advance of the due date and shall include justification for the delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates and the due date in question and all subsequent dates dependent upon the extension. An extension may be granted for good cause, in which case this Order will be accordingly revised.

This Order in no way limits the authority of this Regional Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

CLEANUP AND ABATEMENT ORDER NO. R5-2004-0706  
COUNTY OF SAN JOAQUIN AND FOOTHILL SANITARY LANDFILL, INC.  
CALAVERAS COUNTY

7

This Order is effective upon the date of signature.

original signed  
THOMAS R. PINKOS, Executive Officer

18 May 2004  
Date

KAS