

EXHIBIT 1



# COUNTY OF SAN DIEGO

## DEPARTMENT OF PUBLIC WORKS

BUILDING 2 5555 OVERLAND AVENUE

SAN DIEGO, CALIFORNIA 92123

TELEPHONE: (619) 565-5177

GRANVILLE M. BOWMAN, Director

Offices of:

County Engineer

County Road Commissioner

County Surveyor

County Airports

Flood Control

Liquid Waste

Solid Waste

Transportation Operations

April 7, 1986

Mr. Rick Gittings, City Manager  
City of San Marcos  
105 Richmar Avenue  
San Marcos, CA 92069

Dear Mr. Gittings:

Subject: Future Linda Vista Park on the Old San Marcos Landfill:  
Joint Powers Agreement, Quitclaim and Lease

Over the past months, staff of this Department has met with you and your representatives regarding development of the Linda Vista Park on the site of the old San Marcos Landfill. The City has expressed concern about requirements for development that result directly from having been a solid waste landfill.

As you are aware, the County has the responsibility for any remedial work on completed landfills required as a result of the landfill operation. Because of this on-going responsibility, it is appropriate for the County to resume ownership of the property. The County would then lease the site back to the City for use as a park.

Attached are copies of a Joint Powers Agreement and Lease. They have also been sent to our Department of General Services, Real Property Division, for their review. General Services is the County agency responsible for all matters pertaining to the transfer of ownership, agreements and lease. After their review, the documents will be submitted to the City for review and approval.

Regarding the site plan for the park, our primary concern is the application of irrigation water to the park on a regular and frequent basis. Unless carefully controlled, this will increase the potential for leachate in the landfill. The production of significant quantities of leachate could contaminate the park and surrounding area, the drainage channel, and ultimately the groundwater supply over a broad area.

To minimize this potential, shallow rooting vegetation with low watering requirements should be used. In addition, strict adherence to a watering schedule which avoids watering more frequently or for longer periods than

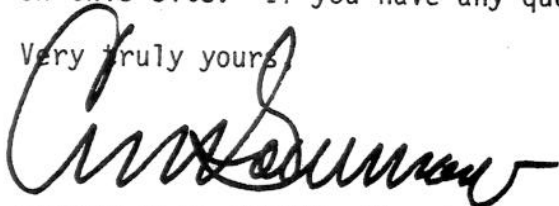
Mr. Rick Gittings, City Manager  
Page 2  
April 7, 1986

required, will be an important factor in minimizing leachate potential. During the operation of the park, any depressions which appear through settling or other means must be filled to prevent ponding.

California Statute 17735 requires the operator of a closed site to file a detailed description of the site with the Local Enforcement Agency. The California Administrative Code, Title 23, Subchapter 15, Article 8 requires that waste management units be closed according to an approved closure and post-closure maintenance plan. The County will comply with these requirements upon transfer of title.

We look forward to working with the City of San Marcos to provide a safe park on this site. If you have any questions, please call Gary Cane at 565-3063.

Very truly yours,

A handwritten signature in black ink, appearing to read "Granville M. Bowman". The signature is written in a cursive, flowing style with a long horizontal tail stroke.

GRANVILLE M. BOWMAN, Director  
Department of Public Works

GMB:GWC:ms

Attachments

EXHIBIT 2

A JOINT EXERCISE OF POWERS  
AGREEMENT BETWEEN THE CITY OF  
SAN MARCOS AND THE COUNTY OF SAN DIEGO

This Agreement dated for convenience as of August 12, 1986 by and between the City of San Marcos, hereinafter referred to as "City", and the County of San Diego, a political subdivision of the State of California, hereinafter referred to as "County".

WITNESSETH:

Whereas, from 1956 to 1968, County operated the San Marcos Landfill now commonly known as "Old San Marcos Landfill" adjacent to Rancho Santa Fe Road; and

Whereas, in August 1968 County closed said landfill; and

Whereas, on December 30, 1968, County quitclaimed to City said Old San Marcos Landfill site; and

Whereas, it has since been determined that responsibility for Closed Landfill maintenance in compliance with local, State and Federal regulation rests with the agency which operated the landfill; and

Whereas, City is now planning the development of a park on the site, in accordance with the terms of the quitclaim executed by County; and

Whereas in order for County to exercise its responsibility for the Closed Landfill it must install additional monitoring systems, and thereafter be permitted free access to the site for maintenance and monitoring of said systems;

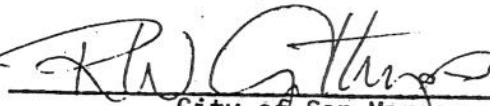
Now, therefore

The parties hereto agree as follows:

1. County will continue to retain liability for landfill-related incidents and responsibility for testing and/or remedial activity required pursuant to existing law, and any other subsequent legislation. County will defend and indemnify City and its employees against landfill-related incidents.
2. County will retain right of entry to install, monitor and maintain monitoring and methane gas control systems as required for Closed Landfills.
3. The City will assume liability and maintenance responsibility for park-related incidents and improvement and will defend and indemnify County and its employees against such incidents/improvements.

ATTEST:

  
SHEILA A. KENNEDY, CITY CLERK

By:   
City of San Marcos


By:   
County of San Diego  
Asst. Clerk of the Board of Supervisors

EXHIBIT 3



# City of San Marcos

105 W. RICHMAR AVENUE • SAN MARCOS, CALIFORNIA 92069

619/744-4020

December 23, 1986



David Barker  
Regional Water Quality Control Board  
9771 Clairemont Mesa Blvd. Ste B  
San Diego, CA 92124

Dear David:

About this time last year I spoke with you by phone regarding the City's plans to construct a public park on the southerly half of the closed Linda Vista (old San Marcos) landfill. At that time you indicated RWQCB had a mandate to prepare post-closure requirements for defunct landfills statewide and that you had been given 3 years to accomplish that task. On learning that the City intended to proceed with park development within the year, you indicated our schedule seemed "sufficiently pressing" to warrant prioritizing post-closure regulations for the Linda Vista site.

The City's time frame on the park has slipped somewhat, but we now intend to put it out to bid early this summer and be under construction shortly thereafter. The majority of the park will be devoted to playing fields and, as I had indicated before, we are concerned about possible conflicts between those facilities and landfill test/monitoring wells which might be required by your agency.

As you are probably aware, the City and County have signed a Joint Powers Agreement for the landfill site, whereby the County assumes liability for landfill related incidents and responsibility for necessary remedial action (including any measures specified in the post-closure regulations).

The City desires to cooperate in seeing all necessary testing/monitoring implemented at this site. However, demand for additional park space here is critical and we will be unable to defer the Linda Vista improvements beyond the point indicated above. Accordingly, we would appreciate it if you could provide us with an update on the status on post-closure requirements for the site. We would also appreciate a copy of any plans which may already have been prepared to implement those requirements so that we may accommodate any testing/monitoring facilities on our park drawings.

If you have any questions regarding the above, please feel free to give me a call at 744-1050.

Sincerely,

*Paul Malone*  
Paul Malone

Administrative Assistant

PM/ck  
cc. City Manager

*(new)  
File: Linda Vista  
(old San Marcos)  
Land Fill*

*ALL 1/2/87  
PWP 2/5  
MVA 1/5  
PA 2/1/2*

EXHIBIT 4





RECEIVED  
APR 2 1987  
CITY OF SAN MARCOS

# County of San Diego

GRANVILLE M. BOWMAN  
DIRECTOR  
(619) 565-5177

## DEPARTMENT OF PUBLIC WORKS

5555 OVERLAND AVE. SAN DIEGO, CALIFORNIA 92123-1295

COUNTY ENGINEER  
COUNTY AIRPORTS  
COUNTY ROAD COMMISSIONER  
TRANSPORTATION OPERATIONS  
COUNTY SURVEYOR  
FLOOD CONTROL  
LIQUID WASTE  
SOLID WASTE

April 14, 1987

Mr. Paul Malone  
Administrative Assistant  
City of San Marcos  
105 W. Richmar Avenue  
San Marcos, CA 92069

Dear Mr. Malone:

Subject: Groundwater Monitoring Wells at the Linda Vista Landfill

We have reviewed your plan for the development of a portion of the Linda Vista (Old San Marcos) Landfill into a public park. The plan for the proposed park is consistent with the goals for beneficially utilizing closed landfills. We do not anticipate any conflicts between your proposed recreational facilities and future groundwater monitoring wells that will be installed for the State Solid Waste Assessment Testing (SWAT) Program.

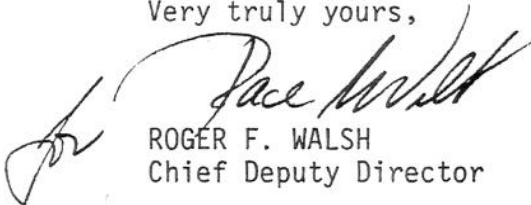
This Department is following the State Water Resources Control Board Ranking List in developing SWAT programs for former landfill sites. We are currently working on the programs for Rank 1 and Rank 2 sites. The former Linda Vista Landfill is a low priority or Rank 11 site. As such, it is not scheduled for review until 1997.

In view of this, please do not delay your project. We will develop a groundwater monitoring plan for this facility in the near future as time permits for submission under the SWAT program. Your park development will not affect our well locations for Solid Waste Assessment Testing.

The former Linda Vista Landfill was closed in 1969. It is not necessary to obtain a closure permit for this old landfill facility. *- Grandfathered*

If you should have any questions or need any additional information, please contact Mr. Bob Erickson at 565-3080.

Very truly yours,

  
ROGER F. WALSH  
Chief Deputy Director

RFW:RLE:scm

cc: Bruce Posthumus RWQCB  
9-008

EXHIBIT 5



# California Regional Water Quality Control Board

## San Diego Region



Gray Davis  
Governor

Winston H. Hickox  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb9/>  
9771 Clairemont Mesa Boulevard, Suite A, San Diego, California 92124-1324  
Phone (619) 467-2952 • FAX (619) 571-6972

May 4, 2000

Mr. Paul Malone  
Assistant City Manager  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069-2949

Dear Mr. Malone:

File No. 06-0022.02

### RESPONSIBILITY FOR OLD SAN MARCOS LANDFILL

We have reviewed your letter dated April 26, 2000 that asserts the City of San Marcos is not responsible for the maintenance of Old San Marcos Landfill. As your letter points out, the County of San Diego operated the Old San Marcos Landfill from 1956 to 1968, and under an agreement with the City of San Marcos, the County of San Diego continues to take responsibility for maintenance and monitoring of the landfill.

You should be aware of a recent decision by the Fourth Appellate District, Division One (Case Nos. D032097 consolidated with D031660) regarding landfill operator liability for the Duck Pond Landfill. The Court found that the landfill operator (County of San Diego) is exempt from liability under Water Code Section 13304(f) for discharges which occurred prior to 1981 (the effective date of this Water Code Section). This determination was based on a lack of evidence in the record to establish that discharges to ground water were occurring prior to 1981, or that the County of San Diego engaged in acts that were illegal after 1981 that led to discharges of contaminants into waters of the State. A copy of the Court decision is attached.

The circumstances of the Old San Marcos Landfill are very similar to those in the Duck Pond Landfill ruling. Based on the Appellate Court decision, this Regional Board will not pursue naming the County of San Diego on Order No. 97-11 as a responsible party for the Old San Marcos Landfill. However, naming the City of San Marcos, the owner of the land underlying the waste, as responsible for ongoing maintenance, monitoring, and corrective action is consistent with state regulations and Order No. 97-11. Therefore, we will recommend that the Regional Board name the City of San Marcos as a responsible party subject to Order No. 97-11. As an alternative to adding the City of San Marcos to Order No. 97-11 the Regional Board could issue a Cleanup and Abatement Order naming the City of San Marcos as the responsible party to perform landfill maintenance as a preventative measure to pollution.

*California Environmental Protection Agency*

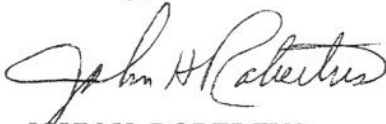
Recycled Paper



If you have evidence to establish that pre-1981 landfill discharges were illegal at that time, or that the County of San Diego engaged in acts that were illegal since 1981 that led to discharges of contaminants into waters of the State, the Regional Board will reconsider naming the County of San Diego on Order No. 97-11.

If you have any questions, please contact Ms. Carol Tamaki at (858) 467 - 2982.

Sincerely,



JOHN H. ROBERTUS  
Executive Officer

Enclosure

JHR:mja:cat

File:bradleyrp9711.doc

cc: Jon Rollin, Inactive Waste Site Management, County of San Diego

Michele Stress, Department of Environmental Health, County of San Diego

EXHIBIT 6



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board San Diego Region



Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

August 21, 2006

Mr. Mike Mercereau, Director  
City Public Works Department  
201 Mata Way  
San Marcos, CA 92069-2949

**CERTIFIED MAIL**  
7006 0100 0002 8367 2811

In reply refer to:  
**LDU:06-0022.02:agrove**

Dear Mr. Mercereau:

**RE: WORKPLAN FOR INVESTIGATION OF BRADLEY PARK/OLD LINDA VISTA  
LANDFILL IN THE CITY OF SAN MARCOS: INVESTIGATIVE ORDER NO. R9-  
2006-0044**

On July 17, 2006, the California Regional Water Quality Control Board, San Diego Region (Regional Board) received the above-referenced report from the City of San Marcos (the Discharger). The work plan was submitted to comply with directives of Investigative Order No. R9-2006-0044, issued to Discharger on April 17, 2006. The Regional Board has determined that **the proposed work plan is incomplete at this time.**

Regional Board Order R9-2006-0044 requires the Discharger to develop an Evaluation Monitoring Program (EMP) for the Bradley Park/Old Linda Vista Landfill (Unit), in accordance with the requirements in California Code of Regulations (CCR) Title 27, §20080(g), §20385, and §20425. The purpose of the EMP is to assess the nature and extent of a release from the Unit (landfill), develop the information specified in CCR Title 27, §20425; and implement a corrective action program meeting the requirements of CCR Title 27, §20430. The work plan submitted by the Discharger includes the following deficiencies:

1. **Extent and Characterization of Waste Discharge [Section B.1(1)]:** The work plan provided by the Discharger fails to comply with Order R9-2006-0044, which requires a work plan for the "collection and analysis of all data, necessary to assess the spatial distribution and concentration of solid wastes at the site and each waste constituent throughout the zone affected by the release in soil and ground water to background concentrations."

**Groundwater:** According to the available historical ground water data, upgradient monitoring well SM-1 contains detectable concentrations of waste constituents and is no longer viable for use as a background monitoring well. Furthermore, impacts to ground water downgradient of well SM-7 have not been delineated. Under the existing conditions, the Regional Board concludes that the impacts of solid waste constituents upon groundwater are not adequately delineated at this time. The work

*California Environmental Protection Agency*

The work plan does not contain provisions to collect and report the required information to the Regional Board. Order R9-2006-0044 requires the Discharger to provide the Regional Board with a report documenting the information referenced above to provide technical support for an evaluation of the behavior of ground water and waste constituents released from the Unit (landfill), and evaluate the source of waste constituents that are detected in background well SM-1.

4. **Origination of the Discharges:** According to the work plan, the Discharger asserts that the "seeps" are not produced by the landfill, but by the sub-drain system. The Regional Board reviewed the analytical results of samples collected from the seep, the sub-drain pipe; and upgradient and downgradient monitoring wells for the Unit (landfill). In considering the assertion made by the Discharger, the Regional Board concludes that:
  - a. It is the understanding of the Regional Board that the sub-drain is a closed system, originating at the landfill site, and ending with the discharge of collected irrigation and/or storm water runoff into the storm water conveyance channel.
  - b. According to the data presented, the results indicate the presence of various volatile chlorinated solvents, which are consistent with volatile organic compounds (VOCs) associated with municipal solid wastes and listed in federal regulations for municipal solid waste landfills (see Code of Federal Regulations, Title 40, Section 258, Appendix II).

The presence of the observed waste constituents in the closed sub-drain system is consistent with our conclusion that there has been a release of waste constituents from the municipal solid wastes located in the landfill.

The Discharger must ensure that the Evaluation Monitoring Program Report (required in Directive B.2 of Order R9-2006-0044) includes a complete evaluation of other contributing factors including, but not limited to, landfill gas as a source for the volatile waste constituents found in ground water, the drainage pipeline and the seep. Further evaluation of the source(s) of the waste constituents in the discharge is required.

5. **Initial Conceptual Site Model Conclusions [Section B.1(7)]:** The Regional Board does not agree with the Discharger's conclusion that there is no relationship between the discharges of waste constituents into the creek via the sub-drain pipeline, and a release of waste constituents from solid wastes at the Unit (landfill).

Mr. Mike Mercereau, Director  
Order R9-2006-0044: Work plan  
for Evaluation Monitoring Program  
at Bradley Park/Old Linda Vista Landfill,  
in the City of San Marcos

- 4 -

August 21, 2006

Further evaluation of site characteristics, including impacts from landfill gas, and impacts by waste constituents on ground water is warranted and necessary. The Discharger should update/revise their initial Site Conceptual Model after completing the required investigation of the extent of solid wastes at the facility, and technical evaluation of pathways and impacts by wastes exposed at the facility and waste constituents released from the Unit (landfill).

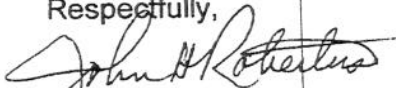
As you are aware, there has been a significant amount of public interest in this site. During the past several weeks, the Regional Board has received a number of contacts from the public and the local newspapers regarding this site. The Discharger should begin work on developing a plan to comply with the public participation requirements of Order R9-2006-0044 [see Directive C.1(e)(4)].

Under the authority of Water Code section 13267, I request that the Discharger provide the Regional Board with a revised work plan that will ensure compliance with all the requirements of section B.1 of Order R9-2006-0044. Please provide the revised work plan to the Regional Board by **September 30, 2006**.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to." In order to assist us in the processing of your correspondence, please include this code number in the heading or subject portion of all correspondence and reports submitted to the Regional Board pertaining to this matter.

If you have any questions regarding this matter or require further information, please contact Mrs. Amy Grove at (858) 637-7136 or via e-mail at [agrove@waterboards.ca.gov](mailto:agrove@waterboards.ca.gov).

Respectfully,

  
JOHN H. ROBERTUS  
Executive Officer

cc: Mr. Garth Koller, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069-2949

Ms. Candace Gibson, County of San Diego, Landfill Management, 5201 Ruffin Road,  
MS 0383, San Diego, CA 92123

Ms. Kerry McNeill, County of San Diego Local Enforcement Agency, 9325 Hazard Way,  
San Diego, CA 92123

*California Environmental Protection Agency*