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MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

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COUNSEL

May 25, 2007

Mr. Carl Holm
Monterey County Planning Department
168 West Alisal Street
Salinas, CA 93901

RE: Support of Proposed Landfill Buffer Zone Ordinance

Dear Mr. Holm:

This letter is sent in support of the proposed ordinance related to the establishment of a landfill buffer zone and regulations governing the uses of real property located in the vicinity of solid waste landfills in Monterey County.

The Monterey Regional Waste Management District (District) is fully in support of a landfill buffer zone ordinance that prohibits issuance of building permits or other land use entitlements for any residential development within the buffer zone surrounding an active landfill. An active landfill operation is not compatible with a residential development because of issues such as heavy truck traffic congestion and safety, noise, odor, dust, litter, birds, landfill gas migration, and visual aesthetics. It is therefore prudent land use planning practice to provide an adequate buffer zone between an active landfill operation and any residential land use. Monterey County has, in the past, supported the establishment of a 2,500 foot buffer zone between an active landfill and any residential land use. The proposed landfill buffer zone is measured from the property line of the active landfill site.

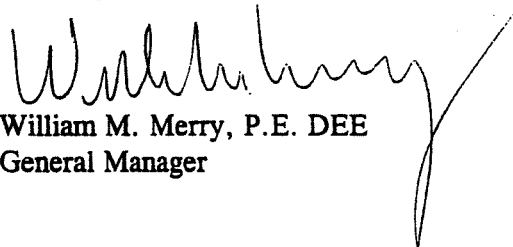
The District owned and operated active landfill pertaining to the proposed ordinance is the Monterey Peninsula Landfill (MPL), located at 14201 Del Monte Blvd, 2 miles north of Marina. In 2000, the District carried out discussions with the City of Marina and representatives of The Armstrong Ranch regarding the establishment of a 1,000-foot buffer zone around the MPL. Later in 2000, Marina voters passed the Urban Growth Boundary Initiative, which effectively amended the City General Plan to place a 20-year moratorium on future development on the Armstrong Ranch, adjacent to the MPL. Therefore, this moratorium made the inclusion of a landfill buffer zone in the City General Plan unnecessary until the year 2020. However, the establishment of a buffer zone is important in protecting valuable landfill capacity and solid waste infrastructure facilities from incompatible land uses and encroachment.

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Thank you for the opportunity to comment on the proposed landfill buffer zone ordinance. If you have any questions or require additional information, please call me at (831) 384-5313.

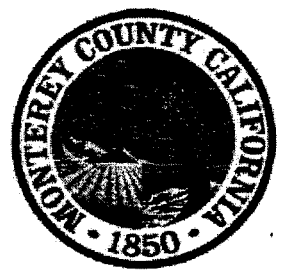
Sincerely,

A handwritten signature in black ink, appearing to read "William M. Merry". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

William M. Merry, P.E. DEE
General Manager

cc: Supervisor Fernando Armenta, District #1
Supervisor Louis Calcagno, District #2
Supervisor Simon Salinas, District #3
Supervisor Jerry Smith, District #4
Supervisor Dave Potter, District #5
Lew Bauman, Monterey County Administrative Officer's Office
Allen Stroh, Monterey County Health Department
Steven Johnson, Salinas Valley Solid Waste Authority
Keith Israel, Monterey Regional Water Pollution Control Agency
Anthony Altfeld, City of Marina

MONTEREY COUNTY



DEPARTMENT OF HEALTH LEN FOSTER, Director

ADMINISTRATION
ANIMAL SERVICES
BEHAVIORAL HEALTH

CLINIC SERVICES
COMMUNITY HEALTH
EMERGENCY MEDICAL SERVICES

ENVIRONMENTAL HEALTH
OFFICE OF THE HEALTH OFFICER
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

DATE: May 14, 2007
TO: Honorable Board of Supervisors
FROM: Len Foster, Director of Health *LF*
SUBJECT: **Proposed Landfill Buffer Zone Ordinance**

On April 28, 2007, the Monterey County Health Department, Environmental Health Division, acting as lead agency under the California Environmental Quality Act, commenced the formal 30-day comment period on a proposed Landfill Buffer Zone Ordinance. The purpose of the ordinance is to mitigate potential health and safety threats from landfill gas and ground and surface water contaminants, which can migrate from both active and closed landfills onto adjacent properties and into water wells and structures. The purpose of this memorandum is to outline the need for a landfill buffer zone throughout Monterey County; discuss issues raised by county residents during the comment period; and, detail plans to solicit broad stakeholder input in the coming months.

Summary of the Ordinance

The proposed ordinance would establish two distinct buffer zone areas in the unincorporated county. In Zone A, the proposed buffer would extend 2,500 feet from active and a closed landfills. In Zone B, the buffer would extend 1,000 feet from active and closed landfills. In Zones A and B, office and commercial development and installation of water wells would be allowed adjacent to closed landfills subject to underlying zoning regulations and a County Use Permit. Residential development could be allowed, also subject to a County Use Permit.

Within Zones A and B of an active landfill, new residential development, creation of new lots and installation of wells would be prohibited under the proposed ordinance.

Need for the Ordinance

As organic waste decomposes in a landfill, explosive gases are generated that can accumulate in structures and can contaminate ground and surface water supplies. State law (Title 27, California Code of Regulations) requires a 1,000-foot setback between a closed landfill and any structure, where the two coexist on the same parcel. However, similar protections are not maintained where the landfill and the structure are located on adjacent parcels. The purpose of this ordinance is to remedy this regulatory shortfall by applying public health and safety protections to adjacent parcels.

Issues Raised During Public Comment Period

On April 26, 2007, the County mailed approximately 700 notices to property owners who would be subject to the proposed ordinance. Input received thus far focused primarily on the following issues:

1. **Variation in Buffer Zone Distances:** The buffer zone distance in Zone A is 2,500 feet whereas the distance in Zone B is only 1,000 feet. Based upon protections in existing state regulation, the County is proposing a minimum 1,000-foot buffer zone, reflected in Zone B. However, the Joint Powers Agreement that established the Salinas Valley Solid Waste Authority mandates that all participating jurisdictions pursue the creation of a 2,500-foot buffer zone around all landfills within the Authority boundaries (Zone A).
2. **Takings Issue:** Some respondents view the prohibition on new residential development and lot creation near active landfills as a potential "taking" of private property. County Counsel considered this issue thoughtfully during the development of the proposed ordinance to avoid potential takings. It should be noted that the Jolon Road and Crazy Horse Landfills are scheduled to close by 2007 and 2009 respectively, which would ease development restrictions on parcels located nearby these currently active landfills.
3. **Hazard Assessment:** Many residents expressed that the hazard assessment is ambiguous and cost prohibitive and have pledged to submit alternate hazard assessment language. The County is willing to consider any alternate protocols that adequately protect public health and safety from the threats described above.
4. **Decline in Property Values:** Respondents throughout the county have expressed concerns that the zoning overlay will depress the value of parcels affected by the proposed ordinance whether or not an actual hazard is proven. Bradley residents have echoed this sentiment where the 1,000-foot zone surrounding the Bradley Landfill places a substantial percentage of developed parcels within the proposed buffer zone.

Next Steps

Based upon levels of concern reflected in stakeholder input received during the comment period, the Health Department has postponed bringing the proposed ordinance to the Planning Commission until additional formal and informal community and stakeholder workshops can be held. Throughout the coming months, the Department will convene several meetings to actively solicit input from, and to educate a broad spectrum of stakeholders. Staff will also develop and distribute easily understandable outreach materials at these meetings. The Department will also equip its website to accept electronic comments on the proposed ordinance and will direct web browsers to the current ordinance package via a link to the Planning Department website. Following this stakeholder initiative, the County will consider all comments received.

Through the existing CEQA process, a series of stakeholder and community workshops and revisions to the Health Department website, residents and property owners will have ample opportunity to participate in the final development of the Landfill Buffer Zone Ordinance. Throughout this phase, staff will apprise the Board of any new developments and issues as they arise.

The intent of the proposed ordinance is to put into place safeguards on development occurring on parcels adjacent to active and closed landfills. It is not the intent of the ordinance to unduly infringe upon private property rights; rather it's intent is to protect the health and safety of the public.

cc: Lew C. Bauman, CAO
Charles McKee, County Counsel
Allen J. Stroh, Director of Environmental Health
Steve Johnson, Salinas Valley Solid Waste Authority
William Merry, Monterey Regional Waste Management District