

RESOLUTION NO. 2007-09

**A RESOLUTION OF THE
MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT
AUTHORIZING AN UPGRADED WASTE SCREENING PROGRAM**

-oOo-

WHEREAS, the Monterey Regional Waste Management District (District) owns and operates solid waste management facilities, including a Class III landfill, and is required to conform to applicable federal, state and county laws; and

WHEREAS, the District is required by State and Federal regulations to implement a Waste Screening Program to detect and prohibit hazardous materials from being disposed in the District's Monterey Peninsula Class III Landfill; and

WHEREAS, the District, through its Mission Statement, provides a safe and secure environment for its employees and customers and is entrusted to protect the environment through its operations; and

WHEREAS, after thorough review and analysis, the Board of Directors and District staff have concluded that an upgraded waste screening program would benefit public health and safety and provide further protection of the environment and to employees by reducing exposure to hazardous materials; and

WHEREAS, an upgraded waste screening program would enhance protection of the environment and promote better customer awareness and understanding of the legal and regulatory compliance issues brought about by improper management of hazardous materials; and

WHEREAS, staff has determined that an upgraded waste screening program can be implemented without significant disruption to normal work flow and in a relatively cost effective manner.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Monterey Regional Waste Management District hereby adopts an Upgraded Waste Screening Program at a startup cost of approximately \$200,000 and thereafter an annual cost of \$95,000.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Monterey Regional Waste Management District duly held on October 19, 2007, by the following votes:

AYES:

NOES:

ABSENT:

ATTEST:

Leo Laska
Chair of the Board

William M. Merry
General Manager



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by Wmm Date 10/12/07
General Manager

DATE: October 12, 2007
TO: General Manager
FROM: Assistant General Manager
SUBJECT: Adoption and Implementation of Upgraded Waste Screening Program

RECOMMENDATION: That the Board of Directors adopt Resolution 2007-09, authorizing implementation of an upgraded Waste Screening Program including punitive measures for customers that do not adhere to the District's hazardous materials policy. This action is the culmination of staff effort resulting from Board direction on the matter. The cost of the upgraded waste screening program is estimated to be an initial expenditure of \$189,500, with an estimated annualized cost of \$95,000. The 2007/2008 budget includes the projected program upgrades.

DISCUSSION

On January 4, 2006, the District received a letter from the Monterey County Office of the District Attorney regarding (alleged) violations of the law related to dumping of asbestos at the District facilities. Although the Board has been advised and believes that no such violations of law occurred, since that time, the Board has regularly received information regarding the status of the on-going concerns from the District Attorney's office related to the District's waste screening procedures to detect and prohibit hazardous and prohibited materials from being discharged at the Materials Recovery Facility (MRF) and disposed in the landfill. Special Counsel Larry Biegel indicated to the Board that an "upgraded waste screening program" from the current measures in place, could be authorized by the Board to address these concerns. The upgraded program would go beyond that which is required by State and Federal regulations for waste screening. In late 2006, staff met with the County Local Enforcement Agency (LEA), the Salinas Valley Solid Waste Authority (SVSWA), and the area franchised haulers to provide and receive additional information on specific issues regarding upgrading the waste screening program and enforcement of the current laws and regulations from the LEA's standpoint.

Staff reviewed the current and *legally and regulatory compliant* waste screening protocols in place at the District that are incorporated into our various permits. After thorough staff review and analysis, staff believes that an upgraded waste screening program would benefit the safety and health of the District employees and customers, promote a better understanding of the legal and regulatory compliance issues by the customers using the site, and could be implemented without a significant disruption to the normal flow of the District's customers, and in a relatively timely and cost effective manner.

Some new practices and procedures will need to be established to develop an upgraded waste screening program. The District's consultant, Larry Sweetser, of Sweetser and Associates, has provided information which recommends a number of changes to the District's waste screening program. Staff has and/or will implement this upgraded waste screening program by taking the following actions:

- Add an additional Hazardous Waste Technician position whose primary responsibility will be implementing the upgraded waste screening program and its documentation. (completed)
- Restructure some of our current employees' job tasks including assisting in training District staff and implementing expanded documentation and record keeping. (completed)

- Increase the number of weekly waste screening audits and documented waste inspection observations to 25 and 50 respectively from a past standard practice of 6 per week. (in process). This constitutes an inspection or visual evaluation of approximately 4,000 customer loads on an annual basis.
- Utilize new technology and procedures to track and document targeted loads for inspection. (to be completed)
- In cooperation with local regulatory and enforcement agencies, conduct site-wide employee training and customer education on comprehensive asbestos and other hazardous materials recognition and management. (on-going)

Additionally, staff has begun to pursue an aggressive customer and public education campaign, performed in cooperation with the local franchised haulers, the County LEA, municipal building departments, local regulatory and enforcement agencies, and other stakeholders and users of the MRF and landfill.

The District has taken several steps to prevent the delivery of hazardous waste to the Monterey Peninsula Landfill. The first action the District undertook was to request that each of our 530 customers sign a "customer certification" related to management of hazardous materials. The certification letter required our customers to sign and return the letter stipulating their acknowledgement and the prevention of delivery of the types of prohibited materials that can be accepted at the landfill. To date, 298 customers have signed and returned the letter. Staff will be proposing to the Board whereby customers that fail to sign the customer certification will be subject to one or more of the following punitive measures:

- Assessment of a higher disposal fee up to the Problem Waste rate (currently \$68 per ton).
- Loss of charge account privileges at the District.
- Subject to targeted waste screening.
- Refusal of service at District facilities.

The second action undertaken was outreach to local building and community development departments that requested the following actions:

- Adopt the "Model C&D Ordinance" approved by the Board at the August 2006 meeting.
- Require a signed certification of construction and demolition permit holders that: *"any hazardous materials that may originate from this project, including asbestos containing material, will be managed in accordance with state regulations, and that no hazardous materials will be disposed with solid waste or recyclable material."*

A third action undertaken was a comprehensive public outreach campaign to the community through a series of speaking engagements.

Finally, in an attempt to close one of the "loop holes" of greatest concern to the District, the fact that the Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 424 **does not** require an inspection for the presence of asbestos containing material (ACM) nor require notification prior to the demolition of single family residences, the District staff issued a letter dated September 14, 2007 to the MBUAPCD requesting that the Rule 424 exemption be removed. A copy of that letter is attached. The City of Monterey, in a letter to the District dated October 10, 2007 (attached), supported that position. Also attached is a related letter from Pebble Beach Community Services District dated September 29, 2007.

The implementation of an upgraded waste screening program along with a method of identifying and tracking problem customers (and referring those customers to the LEA), coupled with an aggressive customer and public education and outreach effort, will reduce the potential exposure to District employees and customers for materials that are not acceptable into the District's landfill or MRF.

Larry Sweetser of Sweetser and Associates has assisted the District in the development of this "Proposed Upgraded Waste Screening Program - Effective October 19, 2007" (attached). The implementation of an upgraded waste

screening protocol will also include an evaluation of the current procedures in place regarding the recognition and handling of Explosive Ordnance Devices (EODs), assistance in the training of staff on the upgraded waste screening measures, and additional work on the refinement of the District's public education and notification processes.

PERMIT APPROVAL

The Monterey County Environmental Health Department has granted approval of the District's request to amend the Facilities Permit to upgrade the Waste Screening Program. A copy of the County's Notice of Acceptance, dated September 28, 2007 is attached.

COST

As originally conceptualized, the cost of the upgraded waste screening program was expected to be substantially above what the past staff and capital expenses were for waste screening. The former program, while compliant in every regulatory fashion, was evaluated to be insufficient to meet the elevated expectation of the County's office of the District Attorney. Staff developed the budget during FY 2006/2007, and has since refined the budget amount to reflect the expenses outlined below. Due to the current fiscal condition of the District, staff believes we have made the appropriate reductions to the original budget proposal without compromising program effectiveness. Staff reduced the original estimate by approximately 25%. This reduction came primarily from the elimination of the specially designated and outfitted waste inspection vehicle. Initial staff estimates to implement the program were right around \$225,000-250,000. The cost to implement an upgraded waste screening program is as follows:

| | |
|---|------------------|
| a. One time staff management cost | \$75,000 |
| b. One time attorney fees | \$38,000 |
| c. One-time permit amendment | \$1,500 |
| d. Provide dedicated vehicle, outfitted for use by Waste Inspector (deleted due to budget constraints) | \$0 |
| e. Upgrade Scale Software with provisions to track problem customers for targeted load inspections | \$10,000 |
| f. Purchase computer support equipment, including personal digital assistant (PDA) devices to document waste screening, including photos | \$15,000 |
| g. Additional signage for Waste Inspection Station, customer notices, etc | \$5,000 |
| h. Provide training for all employees on waste screening procedures and on identification of ACM and other hazardous materials (on-going cost \$5,000/yr) | \$15,000 |
| i. Region-wide education and outreach program (initial cost [\$5,000 per year thereafter]) | \$10,000 |
| j. Approved work scope with Sweetser and Associates to review and update District's Waste Screening Program and Waste Acceptance Policy (\$5,000 per year thereafter) | \$20,000 |
| k. Add position to organizational chart of Hazardous Waste Technician (annual cost) | \$75,000 |
| l. Sample random loads of construction demolition loads for asbestos containing material (ACM) (annual cost) | \$5,000 |
| | \$189,500 |
| Total One Time Startup Cost: | \$189,500 |
| Total Annual Cost | \$95,000 |

The total cost to implement an upgraded waste screening program is projected to be \$189,500. The projected annual increase to the expense portion of the budget is approximately \$95,000, which would include adding one position, computer equipment and to conduct training and public education.

The program will be intensely scrutinized as to its effectiveness over the next 18 months and staff will report to the Board as requested and necessary.

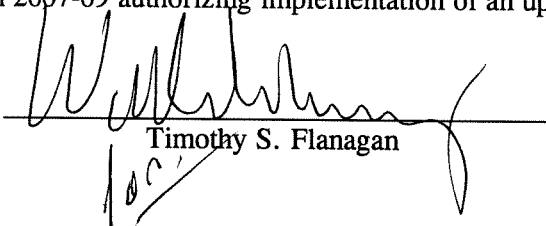
STRATEGIC PLANNING IMPACT

A2 b: Revise/update District Guiding Principles, Policies and Procedures.

A6 a: Program focus on public awareness, increased diversion of organics and commercial wastes, proper management of hazardous and prohibited materials, litter abatement, and sustainability.

CONCLUSION

Staff recommends that the Board adopt Resolution 2007-09 authorizing implementation of an upgraded Waste Screening Program.



Timothy S. Flanagan

Attachments:

Waste Screening Program Upgrade (Proposed Upgraded-Effective October 19, 2007, Current Enhanced-September 2007, Original-Early 2006)

Letter from City of Monterey Dated October 10, 2007

Letter from Pebble Beach Community Services District Dated September 29, 2007

Letter to MBUAPCD Dated September 14, 2007

Monterey County Notice of Acceptance of Report of Facility Information (RFI) Amendment

Monterey Regional Waste Management District

WASTE SCREENING - PROPOSED UPGRADED PROGRAM EFFECTIVE OCTOBER 19, 2007

1. Regulatory Provisions

- a. Create Surveillance Form to quickly document screening of loads that are not targeted for full inspection.
- b. Update operational procedures to include all activities performed.
- c. Establish a comprehensive list of all types of wastes prohibited by regulations from disposal at the MRF and LF, including friable asbestos, hazardous wastes, Universal Wastes, and other prohibited wastes such as appliances, electronic wastes, CRTs, fluorescent tubes, batteries, explosive devices, and whole tires.
- d. Meet with County Local Enforcement Agency (LEA), Monterey Bay Unified Air Pollution Control District (MBUAPCD), and other regulatory agencies to ensure all parties are aware of the fundamental concepts of the proposed upgraded waste screening program.

2. Load Inspections

- a. Increase overall number and frequency of targeted and random load inspections to a minimum of 25 loads per week, plus an additional 50 loads per week for assessment level of inspection.
- b. Conduct high-profile load inspections, with high visibility to other customers, using traffic cones, a large sign indicating "Waste Inspection Station", and by adding title to the Waste Inspector's safety vest.
- c. Develop Protocol and sample random loads of demolition debris and test for the presence of asbestos containing materials (ACM).
- d. Upgrade scale software with provisions to track problem customers for targeted load inspections.
- e. Conduct targeted load inspections of customers with previous problem loads.
- f. Increase number of staff qualified to conduct load inspections to allow for multiple inspections to occur simultaneously.
- g. Target specific industries (such as auto repair shops, laboratories, manufacturing facilities, demolition contractors, and large haulers) for more frequent intentional surveillance and/or load inspections.
- h. Provide Waste Inspector with a dedicated and labeled pickup truck furnished with equipment for responding to spills, including absorbent, containers, traffic cones, gloves, shovel, and fire extinguisher.

3. Employee Training

- a. Provide ongoing waste screening training for all site personnel to match their respective waste screening responsibilities.
- b. Provide ongoing training on identifying specific prohibited wastes, such as friable asbestos, and the appropriate response and handling procedures.
- c. Conduct training on evidence gathering and chain of custody procedures.
- d. Apply for State grants to offset cost of training and other program enhancements.

4. Recordkeeping

- a. Utilize appropriate computer support equipment, including handheld Personal Digital Assistant (PDA) devices with digital cameras, to support data collection and tracking, to document all load inspections and surveillance activities, and allow the electronic transmittal of data to the LEA.
- b. Document all load surveillance activities throughout the facility, including written and photo documentation, by all site personnel including scale personnel, MRF personnel, equipment operators, and management.
- c. Update load inspection form to indicate follow-up.
- d. Ensure waste screening records also capture data on the loads without prohibited wastes detected and that are deemed acceptable, including full load inspections and assessment level screening activities performed at the scale, MRF, and landfill.

Waste Screening – Proposed Upgraded Program (*Effective October 19, 2007*), Continued

5. Regulatory Agency Notification

- a. Establish threshold volumes for incidents of illegally disposed prohibited and hazardous waste at the MRF and LF, that when exceeded, trigger a notification of the LEA and other regulatory agencies, and that require specific waste handling procedures and recordkeeping.
- b. Establish inter-agency communication between the District and the MBUAPCD so that when a demolition project has been determined to contain friable asbestos, Hazardous Waste Manifest forms are filed with both agencies indicating that the waste was properly handled and disposed.
- c. Establish short-term security containment so that chain of custody is preserved during regulatory agency investigations.
- d. Develop sufficient documentation of incidents to allow impounded hazardous and prohibited wastes to immediately be sent for proper recycling or disposal.

6. Customer Education and Enforcement

- a. Require an annual signed acknowledgement of understanding (customer certification) by regular District customers that hazardous and prohibited wastes are not allowed to be discharged at the MRF or Landfill. Failure to sign the customer certification and/or to adhere to the District's Prohibited and Hazardous Waste Policy will result in one or more of the following:
 - Assessment of a higher disposal fee up to the Problem Waste rate (currently \$68 per ton)
 - Loss of charge account privileges at the District
 - Subject to targeted waste screening
 - Refusal of service at District facilities
- b. Distribute notices to customers indicating District's Prohibited and Hazardous Waste Policy and Waste Screening Program, via billing inserts in the mail and handouts at the scale house.
- c. Work with District member agencies to adopt local construction and demolition (C&D) ordinances that require proper management of hazardous and prohibited materials.
- d. Add language to weight tags indicating the District's prohibition on certain wastes and the customer's responsibility to comply with District Policies.
- e. Consider requiring a copy of either the Demolition Permit or a completed Non-Hazardous Waste Manifest, with the generator and/or hauler certifying that all wastes coming from the project site are classified as non-hazardous, before accepting loads of demolition debris from large demolition projects.
- f. Consider registration or permitting of certain industries targeted as having the potential to generate prohibited and hazardous wastes (such as auto repair shops, laboratories, manufacturing facilities, demolition contractors, and large haulers).
- g. Increase signage at entrance to Site/MRF/Landfill to indicate that customers are responsible for prohibited wastes in their loads and violators of the law may be reported to the appropriate regulatory/enforcement agencies for possible civil or criminal prosecution, including the assessment of fines and/or imprisonment.
- h. Create ads to run in construction industry publications to inform and educate on District's Prohibited and Hazardous Waste Policy.
- i. Continue to update District's website with information on the Prohibited and Hazardous Waste Policy and Waste Screening Program.
- j. Conduct workshops with regular customers and regional construction trade associations on the District's Prohibited and Hazardous Waste Policy, in conjunction with the LEA, the MBUAPCD, and the Salinas Valley Solid Waste Authority (SVSWA).
- k. Work with Certified Unified Program Agency (CUPA) and other agencies on education efforts with generators.

Monterey Regional Waste Management District

WASTE SCREENING – CURRENT ENHANCED PROGRAM SEPTEMBER 2007

1. Regulatory Provisions

- a. Program compliance with California Integrated Waste Management Board (CIWMB) requirements, per Title 14 (transfer station/MRF) and Title 27 (landfill).
- b. Efforts in place to detect and prevent prohibited wastes from entering the MRF and landfill.
- c. Customers are notified of the detection of prohibited wastes.
- d. District sent letter to MBUAPCD requesting removal of NESHAP Exemption for single family dwelling

2. Load Inspections

- a. Added an additional Hazardous Waste Technician staff position whose primary responsibility is to implement the upgraded Waste Screening Program, and act as the District's primary Waste Inspector.
- b. Scale personnel query customers regarding prohibited wastes.
- c. Random load inspections occur in excess of the minimum 3-5 loads per week to 10-15 loads per week.
- d. Commercial and demolition loads are targeted more frequently for inspection.
- e. Representative samples taken of suspect asbestos containing material taken and sent for lab analysis. All samples so far have come back negative.
- f. Scale attendants, MRF spotters/salvagers, and equipment operators contact the Waste Inspector or Hazardous Materials Manager when they suspect problems.

3. Employee Training

- a. Waste screening training provided for all site personnel to match their respective waste screening responsibilities.
- b. Conducted training for all employees on identification of specific prohibited wastes, such as non-friable and friable asbestos, and the appropriate response and handling procedures.
- c. Conducted additional training for HHW Collection Facility employees to ensure understanding of waste screening policies

4. Recordkeeping

- a. Program complies with regulatory requirements for recordkeeping.

5. Regulatory Agency Notification

- a. Incidents are documented and are reported when load contains excessive amounts of prohibited wastes.

6. Customer Education

- a. New District brochures identify hazardous and prohibited materials and proper handling and disposal procedures.
- b. Prominent signage at scale house identifies hazardous waste policy.
- c. MRWMD customers have received up to 3 notices describing District hazardous waste policy and requiring their signature verifying they understand and will abide by the policy.
- d. District website upgraded to describe policy and program, and provides waste generator profile forms for convenient download.

Waste Screening – Current Enhanced Program (*September 2007*), Continued

District Public Education and Outreach on Upgraded Waste Screening Program

| Date | Group | # of Attendees | District Presenter |
|------------|---|----------------|--------------------|
| 11/12/2006 | Ft. Ord Veterans Transition Center | 25 | Jeff Lindenthal |
| 11/16/2006 | Monthly Meeting SWANA Goldrush Chapter | 30 | William Merry |
| 11/17/2006 | MRWMD Board Meeting | 25 | William Merry |
| 3/13/2007 | Pacific Grove Rotary | 60 | William Merry |
| 3/15/2007 | Monterey Kiwanis | 40 | William Merry |
| 3/23/2007 | Stevenson School, Advance Placement Science Class | 20 | William Merry |
| 3/24/2007 | MRWMD Overview and Composting Workshop | 50 | Jeff Lindenthal |
| 3/27/2007 | Carmel Valley Rotary | 45 | William Merry |
| 3/28/2007 | SWSWA C&D Meeting | 12 | Jeff Lindenthal |
| 3/29/2007 | Monterey Bay Aquarium Docents | 13 | Kimberle Herring |
| 4/11/07 | York High School Students | 12 | Jeff Lindenthal |
| 5/2/07 | Monterey Adult School | 80 | Jeff Lindenthal |
| 5/15/07 | Monterey Sunrise Rotary | 45 | William Merry |
| 5/16/07 | Naval Postgraduate School Students | 16 | Jeff Lindenthal |
| 5/24/07 | County Integrated Waste Management Task Force | 14 | William Merry |
| 6/15/07 | City Managers Monthly Meeting | 30 | William Merry |
| 7/13/07 | Maui County, Hawaii Solid Waste Division, Tour of MRWMD | 30 | William Merry |
| 7/18/07 | SWANA Gold Rush Chapter Tour of MRWMD | 8 | Tim Flanagan |
| 7/19/07 | Monterey Pacific Rotary | 25 | William Merry |

MRWMD Waste Screening Program Upgrade Notices

May 4, 2007 Mailed 509 notices to all customers on account with the District.

June 6, 2007 Second mailing to all customers that had not signed and returned.

July 6, 2007 Third mailing to all customers that had not signed and returned.

As of September 13, 2007, 296 customers have returned their signed certification that they have received and read the District's policy regarding the disposal of hazardous and other prohibited wastes.

WASTE SCREENING - ORIGINAL PROGRAM
EARLY 2006

1. Regulatory Provisions

- a. Full compliance with the requirements under California Code of Regulations (CCRs), Title 23 to implement a program.
- b. Primary components are the detection and interception of hazardous wastes delivered and the operation of the permanent Household Hazardous Waste Collection Facility.
- c. Hazardous wastes intercepted are returned to generator/hauler whenever possible.

2. Load Inspections

- a. First point of contact is the scale house where a review is conducted on incoming loads.
- b. Presents concept of random load inspections at rate of 3 to 5 random loads on a random day of the week, at both the landfill and MRF.

3. Employee Training

- a. Initial and refresher training is included in the program.

4. Public Education

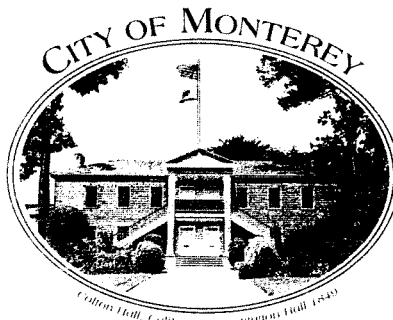
- a. Prominent signage at entrance to the facility.
- b. Literature on Household program and landfill regulations distributed to customers and the public.
- c. Prominent notices posted at scale house

5. Recordkeeping

- a. Program complies with regulatory requirements for recordkeeping.

6. Regulatory Agency Notification

- a. Regulatory agencies are notified, as appropriate, when incidents are discovered.



October 10, 2007

BUILDING SAFETY & INSPECTION

Mr. William Merry, P.E., DEE
General Manager/District Manager
Monterey Regional Waste Management District
14201 Del Monte Blvd
Box 1670
Marina, CA 93933

SUBJECT: Letter dated September 14, 2007

Dear Mr. Merry:

On behalf of the City Manager, I would like to respond to your letter of September 14, 2007. The management and abatement of hazardous materials has been and is important to the City of Monterey. We agree with the request you made to the Monterey Bay Unified Air Pollution Control District to remove the exemption from MBUAPCD Rule 424.

The City of Monterey has recently changed our building permit application form to reflect this recommendation. We support your effort to further protect our county and streamline the removal of hazardous waste.

If you have any questions or concerns, please feel free to contact me at 831.646.5642.

Sincerely,

John D. Kuehl
Building Official

JDK:lf

c: City Manager
Director of Plans, Engineering and Environmental Compliance



Craig E. Anthony, General Manager/Secretary

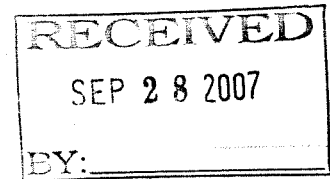
PEBBLE BEACH

COMMUNITY SERVICES DISTRICT

3101 FOREST LAKE ROAD • PEBBLE BEACH, CALIFORNIA 93953 • (831) 373-1274 • FAX (831) 373-2357

September 29, 2007

Mr. Dale Ellis
Mr. Mike Novo
Monterey County Planning Department
2620 1st Avenue
Marina, CA 93933



RE: Hazardous Materials Demolition and Building Permit Process

Dear Gentlemen:

As you know, the proper handling of hazardous materials resulting from construction and demolition activity within Monterey County is vital to the health and safety of our community.

In an effort to ensure that individuals obtaining Monterey County building and demolition permits are fully cognizant of the importance of this issue, I am writing to request that you amend your building and demolition permit documents to include the following language:

I agree that any hazardous materials that may originate from this project, including asbestos containing material, will be managed in accordance with state regulations, and that no hazardous materials will be disposed with solid waste or recyclable material.

This same language has been provided to all the cities in the County for inclusion in their Construction and Demolition material recycling ordinances. I appreciate your consideration of this matter and thank you for your assistance in helping to ensure that any hazardous materials generated during permitted construction activity are properly managed.

Sincerely,

Richard D. Verbanec
Board President

BOARD OF DIRECTORS

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MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Home of the Last Chance Mercantile

September 14, 2007

WILLIAM MERRY, P.E., DEE
GENERAL MANAGER/
DISTRICT ENGINEER

TIMOTHY S. FLANAGAN
ASST. GENERAL MANAGER

RICHARD SHEDDEN, P.E.
SENIOR ENGINEER

RICHARD NORTON
ADMIN. SERVICES MGR.

ROBERT WELLINGTON
COUNSEL

Mr. Doug Quetin
Executive Director
Monterey Bay Unified Air
Pollution Control District
Silver Cloud Court
Monterey, CA 93940

RE: Request MBUAPCD Board to Remove the NESHAP Exemption for Single Family Dwellings

Dear Mr. Quetin:

As you well know, the management and abatement of asbestos containing material (ACM) is a primary concern in this county. As a result, federal, state and local regulations have been adopted to closely control how it is managed. We certainly applaud the efforts by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) in this regard.

However, local events over recent months have brought to light two additional measures which would provide better protection of human health and the environment when it comes to the management and abatement of ACM.

The first would be to remove the exemption from the MBUAPCD Rule 424 which exempts single family residence demolition from Federal Asbestos NESHAP regulations to require an environmental assessment to detect the presence of ACM, and to then require its removal under Federal Regulations (40CFR Part 61.145). As it stands now, no such inspection is required. Therefore, the ACM goes undetected and it is not abated from the dwelling. As such, when this hazardous material is present, it is very often placed (illegally) into a truck and transported (illegally) to a facility for processing or disposal (illegal disposal of hazardous material). As you know, it is very difficult to detect the presence of asbestos in a load of debris as it enters the landfill. Therefore, requiring an environmental assessment when the dwelling is standing is a much better protocol.

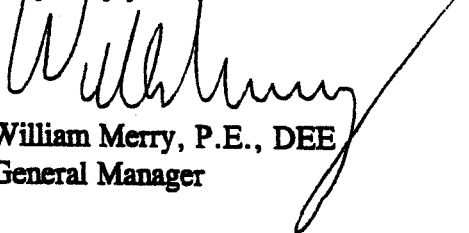
The second measure to substantially improve management of ACM would be to establish communications between the MBUAPCD, city/county building departments, and the waste management facility (landfill) in terms of the disposition of ACM. Doing so, would allow a chain of custody procedure in the management of the hazardous material, friable asbestos. We suggest such a meeting of all local stakeholders be held to begin to develop such procedures.

Mr. Doug Quetin
September 14, 2007
Page 2

The District believes these measures are necessary to provide further protection to construction and waste management employees, customers of the District, and the environment. We hope that you will agree.

Thank you for your courtesy and attention to this matter, Doug. We look forward to your consideration and response to this letter in the near future.

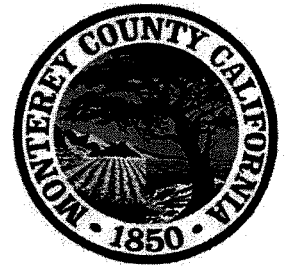
Very truly yours,



William Merry, P.E., DEE
General Manager

cc: MRWMD Board of Directors
Allan Stroh and John Ramirez; Monterey County Environmental Health Department
Lew Bauman, CAO Monterey County
Monterey Peninsula City Managers
Steve Johnson, General Manager, Salinas Valley Solid Waste Authority
Patrick Mathews, Solid Waste Manager, Santa Cruz County

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

NOTICE OF ACCEPTANCE REPORT OF FACILITY INFORMATION (RFI) AMENDMENT FOR THE MONTEREY PENINSULA LANDFILL

APPLICANT: Monterey Regional Waste Management District

FACILITY NAME: Monterey Peninsula Landfill

FACILITY LOCATION: 14201 Del Monte Blvd
Marina, CA 93933

**SOLID WASTE FACILITY
PERMIT NUMBER:** 27-AA-0010

FACILITY CONTACT: Mr. William Merry, General Manager
Monterey Regional Waste Management District
PO Box 1670
Marina, CA 93933-1670
(831) 384-5313

DATE OF SUBMITTAL: August 31, 2007

DATE OF ACCEPTANCE: September 28, 2007

LEA CONTACT: Matt Fore, Supervising Environmental Health Specialist
(831) 755-4579

As a property owner, tenant or person with vested interest in the project vicinity, please be advised that the County of Monterey Solid Waste Local Enforcement Agency (LEA) has accepted an application package from the Monterey Regional Waste Management District (the "District") for the Monterey Peninsula Landfill (MPL) located at 14201 Del Monte Boulevard in Marina, CA. The LEA is certified by the California Integrated Waste Management Board to enforce state laws and regulations at solid waste sites within the County of Monterey, including all disposal facilities.

Description of Project

On August 31, 2007, the LEA received a RFI Amendment application package from the District. The application package proposed several modifications to the existing Hazardous Waste Exclusion Program. The revised "Waste Screening and Acceptance Program for the Monterey Regional Waste Management District" establishes formal load check procedures to prevent the disposal of hazardous and prohibited wastes at the MPL. It also establishes other protocols for receiving and handling special and problem wastes.

The LEA has determined that the proposed RFI amendment does not require a revision to the Solid Waste Facilities Permit pursuant to 27 CCR §21665 and has therefore accepted the application package on September 28, 2007.

Appeals Process Information

Pursuant to Public Resources Code §44307, this decision by the LEA may be challenged through a formal hearing process. To initiate the appeals process, please contact the Monterey County LEA office at 831-755-4579 for a "Request for Hearing" form. The form may also be obtained online at <http://www.ciwmb.ca.gov/LEACentral/CIA/forms/hearing.pdf>.

Where to Get Additional Information

A copy of the application package is available for public review during normal business hours Monday-Friday, 8am-5pm or by appointment in the LEA office located at 1270 Natividad Road, Room 109, Salinas, CA 93906. For additional information, please call 831-755-4579.

Santa Cruz Sentinel

Capitola car dealer accused of illegal asbestos removal fined \$600K

September 21, 2007

BY JENNIFER SQUIRES

An auto dealership owner will pay \$200,000 in fines for improperly removing asbestos-contaminated building scraps from a Soquel Drive property and illegally dumping it in the Marina Landfill more than two years ago, a judge ruled this week.

The district attorney's offices in Santa Cruz and Monterey counties brought the lawsuit against Steve John, who owns Ocean Honda in Capitola, after authorities discovered John had allowed a construction crew to demolish 18 small- and medium-sized buildings on the Soquel Drive property without getting the permits and experts required to remove environmentally hazardous materials, including asbestos tiles and items covered with lead paint, according to Santa Cruz County prosecutor Morgan Taylor.

The crew then drove 10 dump trucks loaded with material to the Marina Landfill, but did not notify landfill officials of the toxic material, according to Taylor. "It's a lot of debris," Taylor said, explaining the disposal method could allow chemicals to leech into the groundwater. "There's no way to go back and reclaim it".

No health issues or environmental problems have been documented since the material was dumped in March 2005, John's attorney, Tom Griffin of Watsonville, pointed out. "There was never any allegation or suggestion that any demolition prior to the permit had caused any health risks," Griffin said.

He explained that after a tip to the Monterey Bay Unified Air Pollution Control District, which OKs asbestos removal, during the demolition process, John halted work until he obtained the correct permits to demolish the final two buildings. All of the structures on the property, between 3711 and 3801 Soquel Drive, were built in the 1930 to 50s. "Developing this property was a very complex project," Griffin said. He said the land had been an eyesore and was crime-ridden before John purchased it and "he was immediately held responsible to try to clean it up. He was moving forward as rapidly as possible"

Griffin said his client wasn't aware he needed an asbestos abatement permit from the air pollution control district.

However, according to documents brought out during the mediation of the lawsuit, one of John's consultants reportedly told him in October 2004 that an asbestos permit would be necessary, but the paperwork was buried in "a banker's box of documents" related to the project, Griffin said. "They knew what they had," Taylor said. "They knew they had to clean that up"

Both sides continue to disagree if the lack of a permit was an oversight or a mistake, and the judgment handed down by Superior Court Judge Robert Yonts this week does not rule on that issue.

Still, Yonts ruled that John must pay a \$600,000 settlement for the illegal demolition and dumping. Of that, he will be allowed to write off \$400,000 he spent legally demolishing the last two — and largest — buildings and cleaning up the site. He will pay \$200,000 cash split between both counties.

It's the type of environmental law case that attorneys say is popping up more and more as developers renovate old buildings, like warehouses-turned-condos, Taylor said. "A lot of these old buildings have, for example, those popcorn ceilings. That's asbestos," he said.

What happens next to the land remains to be seen. The car dealership project was put on hold indefinitely when the suit was brought more than two years ago. "Now it's simply an empty lot and that part's really unfortunate," Griffin said.

Congress Reignites Asbestos Scare with Ban on Aggregates

Environment News

Written By: William L. Kovacs

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Depending on your perspective, hearing that something is "the next asbestos" fills you with either great joy or great trepidation.

For trial attorneys looking to replace the cash cow of asbestos litigation, the phrase brings renewed hope of class-action lawsuits and great wealth. For industry, the phrase means spending more money to defend itself from numerous frivolous claims based on speculative science.

Several products have been previously touted as "the next asbestos"--silicone breast implants, microwave popcorn, PVC pipes, silica, nanotechnology--yet none of them was able to retain the title for very long. The science just wouldn't support the claim.

Aggregates in Crosshairs

So Congress decided to step in. On March 7, Sen. Patty Murray (D-WA) introduced the Ban Asbestos in America Act of 2007, which ostensibly mandates an outright ban on asbestos-containing products in the United States. Despite its stated goal, the bill contains a woefully imprecise definition of asbestos. It is defined so broadly that it actually includes common rock fragments and other non-asbestiform minerals.

In other words, thanks to Congress, rocks are the next asbestos. Consider what this means. Any worker or citizen who is "exposed" to aggregates (such as sand, stone, gravel)--at a construction project, quarry, or somewhere else--will be able to file a claim; never mind that the science won't support it.

The entire aggregates and construction industry of this country will face potentially devastating economic impacts as the public becomes unduly alarmed every time it sees a public works project.

Hasty Effort

On July 31, the bill was unanimously reported out of the Senate Environment and Public Works Committee. The next day--despite a mandatory three-day waiting period and the fact that no committee report had been issued--Murray attempted to "hotline" the bill and have it passed under Unanimous Consent (without floor debate). Sen. Jeff Sessions (R-AL) filed an objection, and the bill failed to pass.

It next moves to the Senate floor following Congress's August recess. A bill identical to Murray's was introduced in the House by Rep. Betty McCollum (D-MN) on August 2.

Poor Science

In addition to mandating a ban on asbestos-containing products, the bill also calls for a health risk study to be conducted by the National Institute for Occupational Safety and Health (NIOSH) and a public education campaign to convey the results of the study.

Strangely, the education campaign is to start several months before the study is completed.

And why NIOSH? It has no geological or mineralogical expertise, and that expertise is necessary to evaluate and distinguish between asbestos and non-asbestiform minerals.

A more appropriate choice to lead the study would be the National Academy of Sciences, which is well-equipped to conduct such an undertaking.

False Definition

Faced with the possibility of this poorly written bill becoming law, a coalition of business interests began to lobby for it to be reformed, with some success. Senators James Inhofe (R-OK) and Johnny Isakson (R-GA) helped draw attention to some of the bill's deficiencies, and, consequently, Murray made some much-needed modifications.

Yet the study section of the bill--arguably the most important section because the results will inform subsequent regulations--still maintains the overly broad definition of asbestos.

Trial Lawyers Bonanza

At a time when asbestos lawsuits are finally on the wane, trial lawyers are looking to this bill to fill the void. They recognize better than most that the proposed law will create another cottage industry for class-action lawsuits, with an almost unlimited pool of defendants and "victims."

Unless these bills are defeated or amended further, common rocks really will be the next asbestos.

William L. Kovacs (pr@uschamber.com) is vice president of the U.S. Chamber of Commerce Environment, Technology & Regulatory Affairs Division.

WASTENEWS

Asbestos ban moves closer to law

Oct. 5, 2007

The United States could become the 41st country to ban asbestos if a bill passed unanimously Thursday by the Senate becomes law.

The legislation, in the works for six years under the guidance of Sen. Patty Murray, D-Wash., prohibits the importing, manufacturing, processing and distribution of products containing the carcinogen. It's up to the Environmental Protection Agency to issue rules ensuring asbestos products are off the shelves within two years of the bill's enactment.

Murray collaborated with Sens. Johnny Isakson, R-Ga., and Barbara Boxer, D-Calif., who chairs the Environment and Public Works Committee, on the bill.

Asbestos hasn't been mined in the country since 2002 but can still be found in some 3,000 products, including hair dryers, ceiling tiles and vehicle braking systems. The United States imports most of its asbestos minerals from Canada.

A companion House bill, introduced by Betty McCollum, D-Minn., is awaiting action in the Energy and Commerce Committee.

Murray's bill, which would amend the Toxic Substances Control Act, covers half a dozen regulated forms of asbestos and three durable fibers. In addition, it calls for creating a \$50 million research and treatment network for asbestos-related diseases; expanding an existing disease registry to include other patients with asbestos-related diseases; directing the Pentagon to conduct additional research on asbestos disease, early detection and treatment; and launching an EPA-direct public education campaign about the dangers of asbestos, a cancer-causing material.

This is a historic day in the fight to protect Americans, Murray said in an e-mail statement. Workers and their families deserve a future free of deadly asbestos exposure, and I'm not stopping until this bill is signed into law."