

*Via E-mail and U.S. Mail*

July 3, 2008

Mr. Fred Rubin  
Los Angeles County Department of Public Works  
Environmental Programs Division  
900 South Fremont Avenue, Annex 3<sup>rd</sup> Floor  
Alhambra, CA 91803-1331

RE: Response to June 30, 2008 Letter regarding Finding of Conformance

Dear Fred:

We received your letter dated June 30, 2008. In your letter, you indicated that you had received our May 21, 2008, Finding of Conformance Application, reviewed it and had determined that it was incomplete for three reasons. We would like to address each of those concerns in this letter, so we can stay on schedule for Task Force consideration on July 17, 2008.

Issue #1 – BFI must provide evidence that it has obtained approval from the Los Angeles County Department of Public Works for a combined “City/County Project” Fill Sequencing Plan for that portion within the County’s jurisdiction.

BFI Response: As I mentioned in our meeting on July 1, 2008, we submitted our combined City/County Joint Technical Document (JTD) to all agencies in early January 2008. Included within that JTD was a narrative and applicable drawings which outline the fill-sequencing plan for the combined landfill unit. In letters, dated May 6<sup>th</sup> and May 14<sup>th</sup>, I requested DPW’s review and approval of that fill-sequencing plan, and at the request of DPW, included Table 1, labeled “Diminishing Landfill Capacity Phase Construction”. Table 1 shows the landfill construction and usage over a ten-year period. This morning, I had our engineering firm, BAS forward via e-mail the fill-sequencing documents, including capacity and airspace calculations, from the approved JTD to Martin Aiyetiwa. For your ease of reference, attached to this e-mail is a pdf of all of those documents.

Issue #2 – BFI must provide evidence that it has obtained Los Angeles City’s approval/determination to proceed to Phase II of the City Landfill.

BFI Response: We do not believe that we need City approval to commence joint landfill operations at this time. Our position is supported by a November 13, 2003 letter from City of Los Angeles Planning Department (a copy of which is attached). The City's letter states, among other things, that "with the City's approval of a fill design, the County CUP Condition 10.b was satisfied." (Letter at p. 2.) The letter goes on to say that:

The "phasing" provisions do not require a City-only landfill in the first five years of operation (i.e., Phase I), and *they do not call for the completion of Phase I before the joint City/County landfill can be developed* (i.e., Phase II). *The only purpose of "phasing" was to establish time periods (five-year intervals) within which the City would conduct comprehensive reviews to ensure that development and operation of the landfill within City territory was being carried out in compliance with the terms of the [Q] Conditions and the MMRP.* As illustrated by [Q] Conditions B.2.d.2 and B.2.d.3, "phasing" allows the City to monitor and periodically review landfill development within its own territory and to implement "corrective measures," as necessary and appropriate, at specified times during the landfill development process.

Ongoing development and operation of the Combined City/County Landfill will be subject to further discretionary approvals by the City, the County, and various regulatory agencies. *However, the overall "fill design" that was contemplated in County CUP Conditions 10.5 and 10.d has been approved, as provided by the City Zone Change, the General Plan Amendment, and the certified SEIR.* (Letter at p. 2. Underlining from original; Emphasis in italics.)

Issue #3 – In Section 5, Waste Material to be Handled, BFI stated that "Consistent with its Waste Discharge Requirements, Sunshine Canyon Landfill accepts contaminated soils for disposal or use as daily cover in lined areas of the site." However, the use of contaminated soil for daily cover is prohibited by the City and County's Land Use Permits.

BFI Response: We agree with your comment and have attached a revised replacement "Page 2" for insertion into the Finding of Conformance Application document.

Thank you for the opportunity to respond to your concerns. We would hope that these responses are sufficient to keep us on the Task Force Agenda for July 17, 2008.

Please feel free to call me at 818-833-6511, with any concerns or questions.

Sincerely,

David J. Hauser  
General Manager

CC: Martin Aiyetiwa, County DPW  
Carlos Ruiz, County DPW  
Larry Hafetz, County Counsel  
Michael Moore, County Counsel  
Sorin Alexanian, County Planning  
Maria Masis, County Planning  
Gerry Villalobos, County DPH  
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MAYOR

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November 13, 2003

Ms. Shari Afshari  
Assistant Deputy Director  
Environmental Programs Division  
County of Los Angeles Department of Public Works  
900 South Fremont Avenue  
Alhambra, California 91803-2331

Dear Ms. Afshari:

**RE: SUNSHINE CANYON LANDFILL CITY OF LOS ANGELES ZONE CHANGE ORDINANCE NO. 172,933**

This letter responds to your October 9, 2003 correspondence regarding City Ordinance No. 172,933 (the 1999 "Zone Change" for the Sunshine Canyon Landfill) in relation to Conditional Use Permit No. 86-312-(5), which was issued by the County of Los Angeles in 1993 (the "CUP") for the extension of landfilling into the County area of Sunshine Canyon.

Background

The relationship between the City Zone Change and the County CUP is set forth in the County CUP Conditions 10.b and 10.d. Under the County CUP, the County authorized BFI to develop a joint City/County landfill partly within unincorporated County territory (designated by Exhibit A (Alternate) in Condition 10.b), upon the condition that BFI diligently pursue authorization from the City to expand landfilling back into City territory, resulting in at least 20 million tons of capacity in the City. Under Condition 10.d, if the City refused to authorize such an expansion, waste transported in City-operated trucks would be excluded from the County Landfill.

In December 1999, the City granted approval for BFI to extend the landfill into the City. The City approved an amendment to the Granada Hills-Knollwood Community Plan (the "General Plan Amendment") and a Zone Change, Ordinance No. 172,933, which contained [Q] Qualified Conditions of Approval (the "[Q] Conditions").

In the Zone Change [Q] Conditions the City approved a "fill design" that overlays County territory designated by Exhibit A in Condition 10.b and allows in excess of 20 million tons of waste capacity in City territory, as called for in County CUP Condition 10.d. The City-approved fill design is described in [Q] Condition B.2, as follows:

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"The Combined City/County Landfill approved herein shall result in one landfill . . . encompassing approximately 451 acres with an estimated net disposal capacity of 90 million tons. This landfill footprint shall not exceed approximately 194 acres located in the City, with an estimated net disposal capacity of 55 million tons, the currently operational 215-acre County Landfill, with an estimated net disposal capacity of 17 million tons, and a connecting area of approximately 42 acres in the County, with an estimated disposal capacity of 18 million tons."

With the City's 1999 approval of a fill design, the County CUP Condition 10.b was satisfied. The City approval built in some degree of control over landfill development and operation within its jurisdiction by adopting the [Q] Conditions and a Mitigation and Monitoring Reporting Program ("MMRP").

In response to your questions concern the "phasing" provisions of the [Q] Conditions, it is important to note that the phasing provisions only apply to the use of land within the City's jurisdiction. References to "City Landfill" and "Combined City/County Landfill" in [Q] Condition B.2.d are intended to ensure that the City can maintain some control over landfill development and operations that occur within City territory.

The "phasing" provisions do not require a City-only landfill in the first five years of operation (i.e., Phase I), and they do not call for the completion of Phase I before the joint City/County landfill can be developed (i.e., Phase II). The only purpose of "phasing" was to establish time periods (five-year intervals) within which the City would conduct comprehensive reviews to ensure that development and operation of the landfill within City territory was being carried out in compliance with the terms of the [Q] Conditions and the MMRP. As illustrated by [Q] Conditions B.2.d.2 and B.2.d.3, "phasing" allows the City to monitor and periodically review landfill development within its own territory and to implement "corrective measures," as necessary and appropriate, at specified times during the landfill development process:

Ongoing development and operation of the Combined City/County Landfill will be subject to further discretionary approvals by the City, the County, and various regulatory agencies. However, the overall "fill design" that was contemplated in County CUP Conditions 10.b and 10.d has been approved, as provided by the City Zone Change, the General Plan Amendment, and the certified SEIR.

#### Responses

In light of this relationship between the City Zone Change and the County CUP, more specific responses to your questions are provided below:

- 1. Whether the City approval, as stated in "Q" condition item B.2.d, includes provisions that would allow development and/or operation of Phase II of the project (combined City/County landfill) before completion of the initial five years of operation of Phase I of the City Landfill and/or without satisfactory completion of all requirements associated with Phase I.***

Compliance with the "phasing" provisions of [Q] Condition B.2.d is a continuous and ongoing process. The nature of that ongoing process is identified in several provisions of the City Zone Change. For instance, Condition B.2.d.2.aa provides that Phase II may commence after at least

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four years of landfill operation under Phase I. Moreover, Condition B.2.d.2.gg (Phase II) and Condition B.2.d.3.ee (Phase III) state, in part:

"Any corrective measures deemed necessary shall be formulated and imposed within the following six-month period; however, except as provided in Condition Nos. A.4.c and D, there shall be no interruption of service during the establishment and implementation of any corrective measures deemed necessary by the TAC or caused by delays in the City's review. ... [T]he City's review for compliance shall be carried out on an ongoing basis including annual reports ... ."

The reference to "City Landfill" in [Q] Condition B.2.d.1 does not require a City-only landfill design for the first five years of operation which must be approved before the Combined City/County landfill design can be implemented. The City's [Q] Conditions contemplate that landfill development and operation would also occur within County territory during the first five years of operation as needed to complete the City-authorized fill design. The following illustrate this point:

First, [Q] Condition B.2.d.1 provides that the initial five years of operation shall not exceed 16 million tons (3.2 million tons per year). That amount can only be reached with a joint City/County landfill operation exceeding 10,000 tons per day, since there are about 312 operating days in a year. If the first phase of landfilling were to be limited to a City-only landfill, the landfill would be limited to an average disposal rate of 5,000 tons per day, the annual disposal volume would be approximately 1.56 million tons, with a total of 7.80 million tons in the first five years – less than half of the 16 million tons contemplated by the City for Phase I.

Secondly, [Q] Condition B.2.d.1 refers to Exhibit Nos. E-4C and E-4D as a conceptual development sequence for Phase I. From an engineering perspective, the fill elevations within City territory for Phase I that are depicted in those exhibits can only be achieved by development in County territory as well (i.e., portions of the 42-acre bridge area). That engineering reality is further illustrated in Figures 2.5-3 through 2.5-5 of the SEIR. The SEIR describes the need to use County territory to develop the City-authorized fill design, as follows:

"In order to facilitate the design of the City/County Landfill, an area of approximately 42 acres within the jurisdiction of the County of Los Angeles (County) would be developed. This acreage would be engineered to ultimately connect, both vertically and horizontally, to the proposed landfill in the City and the existing operational County Landfill (landfill footprint of +/- 215 acres)." (6/98 Final SEIR, p. 1-1.)

While landfilling within City territory during the first five years was contemplated, as depicted in Exhibits E-4C and E-4D, the City did not require that all disposal operations during Phase I be conducted entirely within the City area of Sunshine Canyon. [Q] Condition B.4 states that the maximum or emergency tonnage intake rates "allow the permittee to adjust disposal between the City and County."

As noted earlier, the purpose of the "phasing" in [Q] Condition B.2.d was to establish a compliance review and condition-refinement process to be followed throughout the development and operation of the Sunshine Canyon Landfill. The "phasing" does not establish separate landfills; it just sets forth a periodic review process and opportunity for the City to take corrective measures for landfilling activities within City territory.

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2. *Whether the Director of Planning's determination of compliance with specified requirements as stated in "Q" condition item B.2.d.2 is a ministerial permit approval action or a discretionary approval action of the City of Los Angeles.*

While "ministerial" in nature, the Director's determination of compliance with the [Q] Conditions is not a "permit approval." The Director's determination does not require BFI to engage in further environmental review or obtain further City "entitlements" for landfill design.

The City, through its Technical Advisory Committee ("TAC") for the Landfill will continue to exercise judgment and discretion in reviewing compliance with the [Q] Conditions and MMRP to determine whether corrective measures are needed for ongoing development and operation of the Landfill within the City's jurisdiction. The Director's determination of compliance under Condition B.2.d.2 is nothing like the major discretionary approvals that were called for in CUP Conditions 10.b and 10.d and were granted by the City (i.e., the City Zone Change and the General Plan Amendment):

The City Planning Director's determination of compliance under [Q] Condition B.2.d generally focuses on matters that are ministerial. The Director reviews whether: (1) landfilling operations have been carried out for at least four years; (2) BFI has obtained required permits and entered required agreements; (3) required closure construction has been completed for the inactive landfill areas in City territory; (4) annual reports have been timely submitted; and (5) air quality, oak tree and alternative fuel mitigation steps have been taken.

3. *Considering that the City-approved Zone Change Ordinance No. 172,933 provides for development and operation of the City landfill in phases and the qualified condition for a determination of the Director of City Planning, as stated in "Q" condition item B.2.d*

- a. *what is the design that is currently authorized by the City for development and/or operation and,*
- b. *what is the currently-authorized sequence of development from the sequences shown in Exhibit Nos. E-4B, E-4C, and E-4D*

The "design" authorized by the City is the Combined City/County Landfill, as provided in the City Zone Change, the General Plan Amendment, and the certified SEIR. As stated above, the City-approved fill design is set forth in the [Q] Condition B.2, as follows:

"The Combined City/County Landfill approved herein shall result in one landfill . . . encompassing approximately 451 acres with an estimated net disposal capacity of 90 million tons. This landfill footprint shall not exceed approximately 194 acres located in the City, with an estimated net disposal capacity of 55 million tons, the currently operational 215-acre County Landfill, with an estimated net disposal capacity of 17 million tons, and a connecting area of approximately 42 acres in the County, with an estimated disposal capacity of 18 million tons."

The authorized sequence of development pursuant to [Q] Condition B.2.d.1 provides that the first five years of landfilling within City territory is to proceed in accordance with the [Q] Conditions and the MMRP. It makes reference to Exhibits E-4C and E-4D, which was a contemplated sequence of landfill development. As explained above, the sectional depiction of landfill development in Exhibit E-4D (sequences A, B, and C) is the same sequencing concept that was provided in SEIR

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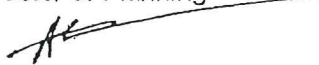
Figure 2.5-5. Notably, Figures 2.5-3 through 2.5-5 are utilized in the SEIR to illustrate that, from an engineering perspective, the City-approved Combined City/County Landfill design requires the use of both City and County territory.

It must be emphasized that the City-approved fill design for the Combined City/County Landfill does not require a particularized "sequence of development" within City territory. Exhibits E-4B through E-4D and Figures 2.5-3 through 2.5-5 provide a conceptual sequencing that was prepared to facilitate the coordinated efforts by City and County agencies to develop and operate the Combined City/County Landfill pursuant to the terms of a Joint Powers Agreement or similar agreement.

Please contact Larry Friedman at (213) 978-1225 if you have any questions regarding this response.

Very truly yours,

Con Howe  
Director of Planning

  
ROBERT H. SUTTON  
Deputy Director, Planning

CH:RHS:LF:lf

cc: Hon. Greig Smith, Councilmember, 12<sup>th</sup> District  
Gideon Kracov, Deputy City Attorney  
Wayne Tsuda, Environmental Affairs Department  
David Edwards, Browning-Ferris Industries, Inc.  
John C. Funk - Weston, Benshoof, Rochefort, Rubalcava, MacCuish, LLP



#### **4. Project Design Capacity**

The total design capacity of the City/County Landfill is estimated to be 141.2 million cubic yards, of which approximately 50.7 million cubic yards is presently permitted in the existing City and County landfills. Thus, approval of the City/County Landfill will add approximately 90.5 million cubic yards of permitted capacity to the facility. The total estimated amount of solid waste to be disposed in the City/County Landfill is approximately 91.1 million tons.

#### **5. Waste Material to be Handled**

The waste types received at SCL consist of non-hazardous residential, commercial, and inert/exempt waste classified in accordance with 27 CCR, Sections 20220 and 20230, defining Class III and inert wastes. The municipal solid waste categories are described as follows:

- Mixed Municipal Solid Wastes (including commercial and residential waste);
- Non-hazardous industrial wastes (except those having high liquid content [ $>50$  percent liquid by weight]); and
- Construction/Demolition wastes that may be disposed of or are beneficially used and not disposed in the landfill; and
- Green Wastes that are beneficially used and not disposed in the landfill.

Typical residential non-hazardous solid waste includes, but is not limited to, household refuse, tree and lawn clippings, leaves and brush, scrap lumber and metal, appliances, furniture, wood chips, plastic containers, newspapers, cardboard and glass containers. Commercial and industrial waste typically includes, but is not limited to, food wastes, paper, corrugated cardboard, plastic, rubber, glass, mixtures of concrete, asphalt, wood, steel, brick and block.

Universal wastes (fluorescent lamps, CRTs, instruments that contain mercury, batteries, and electronics) are prohibited for disposal at the site. SCL also does not landfill compostable material (other than incidental compostable material mixed with other landfilled loads) as defined in 14 CCR, Section 17850 as "any organic material that when accumulated will become active compost as defined in 14 CCR, Section 17852(a)(I)" nor does SCL accept biosolids, untreated medical waste or asbestos wastes.

The site may accept up to 6,600 tons per week of total exempt clean soil and waste for beneficial use (e.g., asphalt rubble and processed green material).