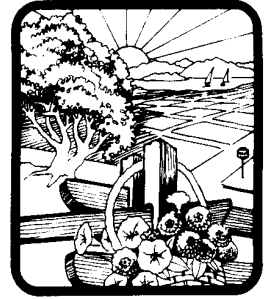


Lockey, Heather@CNRA

From: lynnepl1@juno.com
Sent: Thursday, March 15, 2018 4:53 PM
To: CEQA Guidelines@CNRA
Subject: Ceqa guideline comments from SCOPE
Attachments: Comment on CEQA Guidelines 3-15-18.pdf; Landfill maxes out.pdf; LA Times 8-11-16.pdf; Fed up with more trash Daily News.pdf

Please find our comments and three attachments.

SCOPE
Santa Clarita Organization for Planning and the Environment
TO PROMOTE, PROTECT AND PRESERVE THE ENVIRONMENT, ECOLOGY
AND QUALITY OF LIFE IN THE SANTA CLARITA VALLEY
POST OFFICE BOX 1182, SANTA CLARITA, CA 91386
www.scope.org



3-15-18

Christopher Calfee, Deputy Secretary and General Counsel
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: Comment on CEQA Guidelines Update

Dear Mr. Calfee

I spoke yesterday at the Los Angeles area public hearing regarding this matter, but now submit written correspondence on behalf of our organization re-stating and adding to our comments.

Abuse of the Addendum Process by Local Governments

We realize that the addendum process was not addressed directly in the proposed guideline update, but ask that you consider adding this matter as it is important for meaningful public input, since it was obvious that several guideline changes were aimed at ensuring adequate public notice.

Sadly, local agencies have begun to use the addendum process as a means of avoiding a supplemental or subsequent EIR, even when such a document is clearly warranted by the requirements of Section 15612 which specify which impacts require such a document.

As you are aware CEQA states:

Sec. 15164. Addendum to an EIR or Negative Declaration(a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

This addendum document is not required to be circulated, nor must responses to public comments be prepared. However, normally, it appears on a noticed agenda where the public can be informed of the document.

Recently, Los Angeles County has now twice to our knowledge used the addendum process to evade public comment and participation by approving the document in the “back room” with no public notice even though it approved

massive an inappropriate changes. Then they argued that there was no public comment (how could there be? (no one knew about it) and that the time to bring any legal challenge to the process had passed.

I have attached 3 news articles regarding the waiver which was granted to the operators of the Chiquita Canyon Landfill with an addendum that was never disclosed to the public. The waiver and the addendum allowed the exceedance of 25% of the total landfill capacity, for which a condition of permit approval had specifically stated “shall not be exceeded”. This addendum did not comply with CEQA, but no one in the community was noticed of its existence, and plaintiff attorneys advised that it was too late to challenge it.

The City of Santa Clarita has also abused the addendum process, by using the addendum for large scale changes that were clearly precluded by this process. While their addendums, to our knowledge, have appeared on a Board meeting agenda, this occurs without any prior notice that this document would be considered or approved. So, it was difficult to provide meaningful comment.

In these cases, the remedy is simply the requirement of adequate public notice, at least to all interested parties, and a penalty if notice is not given.

We understand that such abuses are also taking place elsewhere. We therefore urge you to require public notice circulation for addendums with a 30 day time period for this process to ensure that the ability of residents to participate in the process is protected.

Abuse of the Remand process to undermine

Your proposed guidelines also attempt to address how the remand process will proceed. We just wanted to share with you our recent experience in this area in the hopes that you will address it in the updated guideline changes.

The traditional remedy when a court has found an Environmental Impact Report (EIR) to be inadequate was to order the EIR decertified and the project approvals set aside pending drafting and approval of a corrected EIR. In the case of the recent Newhall Ranch remand from the CA Supreme Court¹ to which we are a party, the trial court’s writ voided certification of portions of the EIR covering greenhouse-gas (GHG) emissions and two mitigation measures related to an endangered fish. The court didn’t say exactly what portions of the text of the EIR were voided, and didn’t make the finding required by Pub. Res. Code § 21168.9(b) that the voided portions were severable from the remainder of the EIR. The Court of Appeal decision affirmed the trial court’s limited order.

The CEQA remedy statute in Pub. Res. Code § 21168.9 requires that, for every decision or approval made in violation of CEQA, the court take one of three actions—setting aside the decision or approval, suspending related project activities, or mandating specific

¹ *Center for Biological Diversity v. California Department of Fish and Wildlife* (2017) 17 Cal.App.5th 1245 case, Supreme Court case #S246487

action to bring the decision or approval into compliance with CEQA. In this case, all of the project decisions, including findings, statement of overriding considerations, and mitigation monitoring program, and project approvals, including incidental take permits and a master streambed alteration agreement, were merely suspended. This remedy is inconsistent with the statute, but the Court of Appeal affirmed, creating a precedent for a very loose and flexible interpretation of the CEQA remedy statute.

This interpretation should not be allowed to stand. We ask that you make clarifications in the guidelines so that Courts cannot bend the guidelines in ways that may undermine the mitigation process.

Finally, the CEQA remedy doesn't provide standards under which a court can determine when portions of an EIR or other decisions are "severable." This case can be interpreted as establishing a very loose standard, that the severed portion must be severable from the rest of the project, not from the rest of the decision. But that concept doesn't bear close scrutiny—it's hard to know what that would mean. The Guidelines should clarify that, when § 21168.9 requires a portion of a decision or approval to be severable, it must be severable from the rest of the decision or approval, not from the project as a whole.

Thank you in advance for considering our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raymond O. Lambert".

President

SCVNews.com | Chiquita Landfill Maxes Out; County Issues Waiver

 scvnews.com/2016/08/04/chiquita-landfill-maxes-out-county-issues-waiver/

Jessica Boyer

The county planning director has issued a waiver allowing the Chiquita Canyon Landfill to continue accepting trash beyond its approved capacity while the landfill's expansion plan works its way through the approval process, an official confirmed Thursday.

Under its 1997 conditions of approval, the county required the landfill in Val Verde to close once it hits 23 million tons or on Nov. 29, 2019 – whichever is earlier.

Edel Vizcarra, deputy to Supervisor Michael D. Antonovich, said the county planning director approved a “clean hands waiver” earlier this year. The waiver allows Chiquita to continue normal operations until the Regional Planning Commission makes a decision to approve the expansion or close the landfill.

“They have reached their capacity of 23 million tons,” Vizcarra said Thursday. “They anticipated they were going to hit this tonnage limit sometime in late 2016, so they applied for a new conditional use permit for an expansion.”

The landfill crossed the 23 million-ton threshold this summer – which was no surprise. County documents for the period ending Dec. 31, 2014, showed that the 23 million ton limit was only 2 years and 1.83 million tons away. From January 2015 to Jan. 7, 2016, more than 1.408 million tons of waste was taken to Chiquita Canyon, leaving the facility with only about 400,000 tons of remaining capacity at the beginning of 2016.

Based on county documents, the the facility's 2015 daily average of solid waste tonnage was 5,896.05 tons. It is allowed to take in 6,000 tons per day. Roughly 80 percent of its trash is generated outside of the Santa Clarita Valley.

If the Planning Commission approves a new permit – which could happen early next year – the landfill would be able to expand both its footprint and its capacity limit. If the permit is denied, the landfill would have cease operating, but it could appeal the decision to the Board of Supervisors.

“We were promised in 1997 that the landfill would close,” said Bonnie Nikolai, a Val Verde representative at the Castaic Area Town Council. “It is now time to close, and we want to hold them to their promise. We do not want to renegotiate. We do not want any of their money. We just want them gone.”

Although the Board of Supervisors set the capacity limit at 23 million tons of solid waste, the landfill, as currently configured, can actually hold 29.4 tons, according to its environmental documents. Vizcarra said the county expects the expansion permitting process to be completed before it reaches its actual capacity.

The new conditional use permit process has begun, but it was put on hold for some changes that needed to be made and information that needed to be circulated in the environmental impact report, Vizcarra said.







Fed up with more trash, smell, gas, residents demand LA dump shut down



Several groups and individuals will deliver a letter to the Offices of Supervisor Michael Antonovich asking that the County of Los Angeles, as the Local Enforcement Agency, close Chiquita Canyon Landfill (CCL) due to recent evidence that it has exceeded its permitted fill tonnage and has been operating outside its permitted capacity limit since June of this year. (Photo by Dean Musgrove/Los Angeles Daily News)

By [Dana Bartholomew](#), Los Angeles Daily News

Posted: 08/06/16, 3:08 PM PDT | Updated: 9 hrs ago

[0 Comments](#)

Nearly two decades ago, the operator of a garbage dump near the village of Val Verde promised the landfill would close by 2019, or when the trash pile hit a certain limit.

Now environmental groups and residents say the Chiquita Canyon Landfill, located less than a mile south of the unincorporated town northwest of Santa Clarita, has exceeded its permitted 23 million-ton maximum. And they are demanding Los Angeles County close the dump.

“This community and the entire Santa Clarita Valley deserve the safeguards that are supposed to be afforded to all residents by county oversight processes,” said Lynne Plambeck, president of Santa Clarita Organization for Protecting the Environment, otherwise known as SCOPE. “Why aren’t tonnage limits for this landfill being monitored and regulations enforced as they would be in other communities through Los Angeles County?”

“This is like the fox guarding the henhouse, with the county making money on the dump.”

•**RELATED STORY:** [Landfill expansion plans near Val Verde draw civil rights complaints from locals](#)

Activists from [SCOPE](#) joined [Friends of Citizens for Chiquita Canyon Landfill Compliance](#) and some Val Verde residents this week to protest outside the office of county Supervisor Michael Antonovich in Santa Clarita. Their demand: immediate closure of the landfill in lieu of a proposed expansion that could double the size of the dump.

An Aug. 4 letter by environmental groups to the supervisor also calls upon the county to enforce its conditional use permit for the Chiquita Canyon Landfill, which is limited to 23 million tons.

They say the 257-acre landfill, located on Highway 126 three miles west of Castaic, exceeded the limit last June, citing landfill reports. They point to a 1997 permit that says the landfill shall close when it reaches its 23-ton capacity, or by November 2019, whichever comes first.

They also say a contractual agreement made by the landfill’s former owner and the town now populated by 2,550 residents said the expansion made 19 years ago would be its last.

•**RELATED STORY:** [One solution for bad smell in Granada Hills: Limit hours of LA County’s largest dump](#)

Val Verde, once known as the “the black Palm Springs,” had once served as a resort, swimming and picnic area for African-Americans once barred from public beaches and swimming pools. Today, it is roughly 60 percent Latino.

[Waste Connections](#), which owns the 40-year-old Chiquita Canyon Landfill, has proposed nearly doubling its landfill size to 400 acres, with the pile of garbage growing by 140 feet. It also hopes to double its daily and weekly intake, from 6,000 to 12,000 tons per day and from 30,000 to 60,000 tons per week, through 2037.

Its expansion application is now in the environmental impact study phase, pending air quality and traffic reports, county officials say. A hearing with the county Planning Commission – or pending an appeal, the Board of Supervisors – is expected early next year.

Until then, the Castaic-based company has obtained a “clean hands waiver,” allowing it to operate Chiquita Canyon until a new conditional-use permit application to expand is decided.

Antonovich, meanwhile, has taken a wait-and-see approach pending the final draft EIR – but is not supportive of a major dump expansion, officials said.

“The supervisor isn’t supportive of doubling the current size of the landfill, as proposed,” said Edel Vizcarra, planning and public works deputy for Antonovich. “He doesn’t want it to become a regional landfill.

“If you expand this thing to the size of Sunshine Canyon (Landfill in Sylmar), they’ll have trash from everywhere. We don’t want this to be a landfill for Los Angeles city. We want it to serve as a resource for the Santa Clarita Valley.”

Critics now say only a small percentage of the garbage comes from Santa Clarita, saying much of the waste is now trucked in from such cities as Burbank, Inglewood, Redondo Beach, Beverly Hills and El Segundo, as well as the San Fernando Valley and Ventura County.

Val Verde residents have complained of headaches and nausea they attribute to landfill odors and methane gas. Similar odor complaints have been made about Sunshine Canyon, which faces a second nuisance abatement order from air regulators.

Plambeck, of SCOPE, said the county received 10 percent of the Chiquita Canyon Landfill tipping fees, which came to roughly \$8 million a year.

Last year, environmental activists submitted a civil rights complaint that residents of the mostly Latino community did not get notices or public meetings in Spanish regarding proposed expansion. The complaint filed with the county remains unresolved.

“The County knew people were already sick from the landfill. It needs to be shut down so we can be sure our kids grow in a healthy and safe environment,” said Noe Rico, of Val Verde, who has two young children, in a statement.

“The County needs to be standing up for us ... not throwing us in the garbage pile.”

North L.A. County residents are angry that the Chiquita Canyon Landfill quietly avoided closure



Val Verde residents express displeasure with L.A. County over the Chiquita Canyon Landfill. Residents delivered a letter to Supervisor Michael Antonovich office asking for the landfill to be closed immediately.

Nina Agrawal
Aug 11,2016

The town of Val Verde, population 2,468, consists of a smattering of narrow roads and single-family houses nestled among the hills of Chiquita Canyon, and a dump named after that canyon that some nearby residents say needs to be shut down.

The Chiquita Canyon Landfill is L.A. County's second-largest site for burying the kitchen waste, packaging and other refuse discarded by residents. Last year, it took in more than a million tons of garbage.

Six days a week, a steady stream of semi-trucks rumble up and down the roads to the dump's working face, a colored mosaic of mostly indistinguishable trash. As the trucks tip their

waste, metals clank under the roar of Caterpillar bulldozers and compactors with studded steel wheels that push, crush and bury the garbage.

Twenty years ago, Chiquita Canyon's owners and Val Verde residents engaged in a bitter fight over a proposal to expand the landfill. In 1997, the two sides settled on an agreement requiring the dump to close its gates when a certain number of tons of buried trash had been reached and to pay into a fund for community programs. The agreement left open an avenue for the landfill to apply for a renewed permit.



Protesters outside Supervisor Michael Antonovich's office in Santa Clarita call for the closure of the Chiquita Canyon Landfill. (Al Seib / Los Angeles Times)

I thought we had an ironclad agreement. I'm astounded. I'm enraged, actually. — Barbara Wampole, Val Verde resident and landfill opponent

By the end of July, the landfill had surpassed the cap, according to a tally from public records and landfill officials.

Waste Connections Inc., the landfill owner, is seeking another expansion permit, and that application is undergoing environmental review. In the meantime, the company quietly applied for and obtained a temporary waiver to keep operating, leaving some Val Verde residents feeling hoodwinked.

"I thought we had an ironclad agreement," said Barbara Wampole, who has lived in Val Verde for 42 years and fought the 1997 expansion. "I'm astounded. I'm enraged, actually."

Wampole was part of a group of about two dozen activists and residents who delivered a letter last week to L.A. County Supervisor Michael Antonovich, whose district includes Val Verde, demanding the dump's closure. The activists are worried about air and water quality in

the area and the landfill's effects on public health. They argue that the landfill's managers acted in bad faith and broke the terms of the 1997 agreement.

Company representatives and government officials say the landfill did nothing wrong.

Last November, in anticipation that the dump would soon reach its maximum permitted capacity of 23 million tons, Mike Dean, Waste Connections' division vice president for Southern California, wrote to Richard Bruckner, the county's regional planning director, and requested a waiver in order to continue operating while the company waited for a new permit.

In March, Bruckner approved the waiver. Four days later, Dean accepted the terms. Antonovich's office became aware of the waiver in May, said planning deputy Edel Vizcarra.

But no one notified the people living just beyond the dump's ridge, despite a written agreement that the landfill would "forward all notices and reports from or to its regulatory agencies" to the Val Verde Community Advisory Committee, the liaison body between the landfill, Antonovich's office and members of the community.

Dean said the landfill only forwards reports of waste tallies and monitoring and inspection results because those are of greatest interest to the committee.

Committee members and other activists say getting even those reports is a battle and it was unconscionable for the company not to share key information about getting permission to continue to operate.

"This is a big deal," said Lynne Plambeck, director of the Santa Clarita Organization for Planning and the Environment, an environmental activism group. "If you would have provided them [Val Verde] anything, you would have provided them that."

Mitch Glaser, assistant administrator at the Department of Regional Planning, said the department grants up to four temporary waivers, known as "clean hands waivers," at its discretion each year. Public notification is not always required and in this case consisted of only a notice filed at the county clerk's office in Norwalk, nearly 60 miles from Val Verde.

Vizcarra acknowledged that residents should have been informed about the waiver. As for sharing the news himself, "I guess I could have," he said. "But I didn't."

"It's like some sort of secret process," Plambeck said. "They're supposed to be keeping the community informed about this."

Dean and Chiquita Canyon Landfill's director of public relations, John Musella, said they didn't inform the community when they sought and later obtained the waiver because it wasn't yet effective. They said they planned to inform the community once the landfill had surpassed 23 million tons, around August.

Clean hands waivers are granted at the sole and final discretion of the director of regional planning and there is no way to appeal once a waiver has been granted.

Some Val Verde residents say they would have liked the opportunity to object to the nuisance and possible health consequences of living near a dump.

Mark Cezon bought his property on Lincoln Avenue, one of the streets closest to the landfill, in 2009. “It didn’t make me think twice — until I started smelling it,” he said. “It smells like rotten garbage. It’s nasty.”

Since 2007, Waste Connections, Chiquita Canyon Landfill, Musella and his public relations firm, have donated a total of \$8,400 to campaign funds and an “office holder” account for Antonovich.

Both Vizcarra in Antonovich’s office and Dean at the landfill say the money has no influence on the supervisor’s approach to the landfill.

So far this year, the South Coast Air Quality Management District, which regulates air pollution in the South Coast Air Basin, has received 107 complaints about the landfill. Last year it received 233 complaints. It has issued the landfill only one notice, in 2015, for violating health and air quality codes that prohibit public nuisance.

For comparison, the district received 1,795 complaints about Sunshine Canyon, the county’s largest landfill, in 2015, but the two L.A. neighborhoods closest to it, Granada Hills and Sylmar, together comprise a population of more than 130,000.

Sam Atwood, media relations manager for the district, said strong odors “can affect an individual’s health and well-being” by causing issues such as headaches or nausea.

But research findings about the long-term health effects of living near a landfill are mixed, said Dr. Cyrus Rangan at the Department of Public Health.

Dean said a Waste Connections employee walks the streets of Val Verde at least once every day to monitor for smells and “rarely” does one observe an odor. He also said the landfill’s 24-hour hotline receives few calls.

“The landfill doesn’t smell.... Garbage smells,” Dean said. “Our job is to get it spread out, covered as quickly as possible ... and we do a very good job of that.”

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