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In the Matter of: ) STIPULATED NOTICE AND ORDER  
) AND COOPERATIVE AGREEMENT  
CENTRAL DISPOSAL SITE ) NO. EA-2007-01  
SWFP NO. 49-AA-0001 )  
) PUBLIC RESOURCES CODE  
) (§§45000, 45011, 44106, and/or 45023),  
) CALIFORNIA CODE OF REGULATIONS,  
) TITLE 14, (§§18304, 18304.1)

**TO: County of Sonoma Department of Public Works, 2300 County Center Drive, Suite B-100, Santa Rosa:**

**PLEASE TAKE NOTICE THAT:**

- 1. WHEREAS, the Central Disposal Site is a solid waste facility located at 500 Mecham Road, Petaluma, California (APN 024-080-019) (the "Facility");
- 2. WHEREAS, the County of Sonoma is the owner of the Facility and the County of Sonoma Department of Transportation and Public Works is the operator of the Facility (collectively, the "County");
- 3. WHEREAS, the Sonoma County Department of Health Services, Environmental Health Division is the Local Enforcement Agency ("LEA") and has authority from the California Integrated Waste Management Board ("CIWMB") to act in the capacity of the enforcement agency for this Facility pursuant to Public Resource Code Section 43200 *et seq.*;
- 4. WHEREAS, the California Regional Water Quality Control Board, North Coast Region ("Regional Board") issued Waste Discharge Requirements and Order No. R1-2004-0040 in June 2004 ("WDRs") which limited the Facility to acceptance of waste in Landfill 1 and Phases I and II of Landfill 2;

1           5.       WHEREAS, pursuant to the schedule set forth in the WDRs, the County submitted  
2 Preliminary Closure and Postclosure Maintenance Plans dated February 11, 2005;

3           6.       WHEREAS, consistent with CCR, Title 27, Section 21769(d), the Regional Board  
4 is deemed to have approved the County's Preliminary Closure and Postclosure Maintenance Plans  
5 dated February 11, 2005, and by letter dated May 5, 2005, the LEA notified the County of  
6 Sonoma Department of Transportation and Public Works of the completeness determination of  
7 the Preliminary Closure and Postclosure Maintenance Plans;

8           7.       WHEREAS, following the CIWMB's August 2005 concurrence, on September  
9 2, 2005, the LEA issued the Facility Solid Waste Facility Permit No. 49-AA-0001 (the "SWFP"),  
10 which the Facility is currently operating under;

11           8.       WHEREAS, pursuant to Public Resources Code Section 40015 and CCR, Title 27,  
12 Sections 21640 and 21675, full solid waste facility permits are to be reviewed and, as necessary,  
13 revised at least once every five (5) years;

14           9.       WHEREAS, the SWFP authorizes the Facility to operate as both a solid waste  
15 disposal facility and a temporary transfer station consistent with the understanding of an upcoming  
16 temporary cessation of disposal of waste at the Facility, which thereafter occurred in  
17 approximately September 2005. The CIWMB maintains that at the time of its concurrence with  
18 the SWFP, the County had indicated that it anticipated obtaining additional permitted capacity and  
19 resuming onsite waste disposal in the upcoming months;

20           10.      WHEREAS, there is an ongoing dispute between the County of Sonoma and the  
21 CIWMB as to the issuance of an extension to commence closure of the Facility pursuant to  
22 CCR, Title 27, Section 21110(b)(3), resulting in the County of Sonoma's filing of a Complaint  
23 for Declaratory and Injunctive Relief and Petition for Writ of Mandate Pursuant to Code of  
24 Civil Procedure Section 1085, *County of Sonoma v. California Integrated Waste Management*  
25 *Board*, San Francisco Superior Court, Case No. CGC-07-469331 (the "Litigation");  
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1 11. WHEREAS, there is a dispute between the County and the CIWMB as to  
2 remaining capacity in Landfill 1, and there has not been resolution on the engineered  
3 alternative design for the liner system for Landfill 2, Phases III, IV and V;

4 12. WHEREAS, the County maintains that there is remaining landfill capacity in  
5 Landfill 1 and Landfill 2 and there is the potential to expand into the West Canyon Area;

6 13. WHEREAS, the CIWMB maintains that the County has not established that  
7 there is currently available permitted capacity at the Facility sufficient to postpone submittal of  
8 final closure and postclosure maintenance plans;

9 14. WHEREAS, CCR, Title 27, Section 21110(b)(2) sets forth the process for the  
10 calculation of average annual tonnage during the previous ten (10) years and directs that  
11 closure activities commence in accordance with the final approved closure plan if, for two  
12 consecutive years, the rate of solid waste disposal is less than or equal to thirty percent (30%)  
13 of the average annual tonnage;

14 15. WHEREAS, the County maintains that there is approximately 207,828 tons of  
15 remaining available permitted capacity in Phases I and II of Landfill 2, which would result in  
16 an approximately eighteen (18) additional months of waste disposal if waste disposal were to  
17 recommence at the Facility at the greater than thirty percent (30%) rate referenced in CCR,  
18 Title 27, Section 21110(b)(2);

19 16. WHEREAS, during its August 2007, September 2007, and October 2007 monthly  
20 inspections of the Facility, the LEA cited the Facility for failure to submit final closure and  
21 postclosure maintenance plans pursuant to CCR, Title 27, Section 21780;

22 17. WHEREAS, the LEA and the CIWMB maintain that the County is required to  
23 submit final closure and postclosure maintenance plans for the Facility pursuant to CCR, Title 27,  
24 Section 21780;

25 18. WHEREAS, the County disagrees that the submittal of final closure and  
26 postclosure maintenance plans are required at this time pursuant to CCR, Title 27, Section  
27 21780;  
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1           19.     WHEREAS, while the LEA and the CIWMB maintain that submittal of closure  
2 and postclosure maintenance plans are required at this time, the LEA and the CIWMB  
3 acknowledge that closure of the Facility in accordance with the approved plans is not required to  
4 proceed if there is available permitted capacity at the Facility, and disposal of waste recommences  
5 at the Facility prior to the time to implement closure activities as set forth in the approved final  
6 closure and postclosure maintenance plans;

7           20.     WHEREAS, the County maintains that its SWFP allows the out-hauling of waste  
8 from the Facility through late 2008 without the requirement to submit final closure and  
9 postclosure maintenance plans for a variety of reasons, including, but not limited to, the  
10 following: (i) the SWFP was issued after the June 2004 WDRs which limited landfill activities  
11 to Landfill 1 and Phases I and II of Landfill 2 yet at the same time only required submittal of  
12 preliminary closure documentation by February 2005; (ii) the CIWMB concurred in the  
13 issuance of the SWFP; (iii) the SWFP does not require submittal of final closure and postclosure  
14 maintenance plans; (iv) provision 13.c of the SWFP provides that “[t]he design and operation of  
15 the facility is consistent with State Minimum Standards for Solid Waste Handling and Disposal  
16 as determined by the enforcement agency, pursuant to PRC 44009”; (v) provision 17.g of the  
17 SWFP prohibits any operational changes to the Facility that do not conform with the terms of  
18 the SWFP and considers any such change to be a “significant change, requiring a permit  
19 revision”; and (vi) provision 17.hh allows for the out-hauling of waste for a three year period  
20 (*i.e.*, through late 2008);

21           21.     WHEREAS, the Sonoma County Local Task Force required under AB 939 (the  
22 “LTF”) and the public have indicated a strong preference for maintaining in-County landfill  
23 capacity and such a preference is consistent with the 2003 County Integrated Waste Management  
24 Plan;

25           22.     WHEREAS, the County Integrated Waste Management Plans are prepared for, and  
26 supported by, the jurisdictions of Cloverdale, Cotati, Healdsburg, Petaluma, Rohnert Park, Santa  
27 Rosa, Sebastopol, Sonoma, Windsor, and the County of Sonoma;

1           23.     WHEREAS, the County of Sonoma is proceeding with the divestiture of the  
2 Facility, with an anticipated binding contract to be executed by the County of Sonoma and the  
3 successful proposer by the end of December 2008. Divestiture milestones are anticipated to  
4 include the following: (i) No later than the end of February 2008, development of a short-list  
5 of qualified proposers based on the submittal of Statement of Qualifications ("SOQs"); (ii) By  
6 June 1, 2008, complete an interactive industry review process with the short-listed proposers  
7 that involves preparation of draft requests for proposals ("RFPs") and contract documents, and  
8 one-on-one meetings between officials for the County of Sonoma and the proposers; (iii) By  
9 early September 2008, completion of review of proposals submitted in response to the RFPs  
10 and identification of a viable divestiture partner; and (iv) By mid December 2008, development  
11 of acceptable terms for completion of the divestiture;

12           24.     WHEREAS, the process has begun to amend the 2003 County Integrated Waste  
13 Management Plan to be consistent with the divestiture process and allow for continued solid  
14 waste disposal at the Facility provided it is operated by an entity other than the County or, if  
15 necessary, allow for continued out-hauling of waste;

16           25.     WHEREAS, the County's desire to provide maximum flexibility to allow the  
17 divestiture process for the Facility to proceed to conclusion is (i) consistent with the preference of  
18 the LTF and the public; (ii) consistent with the 2003 County Integrated Waste Management Plan  
19 and the proposed amendment to such plan; and (iii) potentially best ensures uninterrupted waste  
20 disposal for the County of Sonoma and the cities that rely on the County of Sonoma to provide  
21 their solid waste management;

22           26.     WHEREAS, the County maintains that the highest and best use of the Facility is as  
23 an ongoing operation, and that submittal, review and approval of closure documentation when  
24 such documentation is not required could have an adverse impact on or be a deterrent to the  
25 Facility divestiture process. Moreover, as a public entity, the County is required to demonstrate  
26 good stewardship and fiscal responsibility over the Facility. Given this responsibility over a  
27 public asset, the County of Sonoma needs to evaluate the value of the Facility as an ongoing  
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1 operation and the ability of the Facility to continue operation under a different owner and/or  
2 operator before the County of Sonoma makes a final decision to close the Facility or authorize its  
3 use for something other than its highest and best use; and

4 27. WHEREAS, in an effort to avoid litigation over the need for submittal of final  
5 closure and postclosure maintenance plans and to resolve the Litigation, the County, the LEA  
6 and the CIWMB have negotiated this Stipulated Notice and Order and Cooperative Agreement  
7 and have agreed to proceed as outlined herein.

8 **A. THEREFORE, PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 45000,**  
9 **45011, AND 44106, THE COUNTY IS ORDERED TO:**

10 1. Provide status reports to the LEA and the CIWMB on the divestiture process as  
11 follows:

- 12 • March 1, 2008: Status of the SOQs;
- 13 • June 1, 2008: Status of the timing for issuance of RFPs;
- 14 • September 15, 2008: Status of the RFP process; and
- 15 • December 15, 2008: Status of the completion of the divestiture process.

16 2. Notices made pursuant to Section 1 shall be considered confidential. Notices shall  
17 be provided to the following:

- 18 • LEA: Christine M. Sosko, Sonoma County LEA, Department of Health Services,  
19 Environmental Health Division, 475 Aviation Boulevard, Suite 220, CA 95403
- 20 • CIWMB: William R. Orr, California Integrated Waste Management Board, P.O.  
21 Box 4025, MS 10A-18, Sacramento, CA 95812.

22 3. Pursuant to CCR, Title 27, Section 21780, no later than August 1, 2008, submit  
23 final closure and postclosure maintenance plans. Pursuant to CCR, Title 27, 21860(b), the  
24 CIWMB shall act as the coordinating agency for review of the final closure and postclosure  
25 maintenance plans.

26 4. Upon approval of the final closure and postclosure maintenance plans, the County  
27 shall proceed with closure consistent with the approved final closure and postclosure maintenance  
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1 plans unless waste disposal recommences at the Facility at a rate above thirty percent (30%) of the  
2 average annual tonnage rate, as calculated per Section A.5 of this Stipulated Notice and Order and  
3 Cooperative Agreement, prior to the time to implement closure activities as set forth in the  
4 approved final closure and postclosure maintenance plans. There is no requirement to obtain  
5 further approval from the LEA or the CIWMB prior to recommencing such disposal, consistent  
6 with SWFP Section 17.gg. Moreover, if a new owner and/or operator elects to dispose of waste in  
7 an area or areas where closure activities have commenced in accordance with the final approved  
8 closure and postclosure maintenance plans, the obligation to continue with further closure  
9 activities in such area or areas shall cease. In the event the new operator and/or operator obtains  
10 additional permitted capacity and commences onsite waste disposal at levels either: (a) exceeding  
11 the amounts set forth in CCR, Title 27 21110(b)(2) as calculated per Section A.5 of this Stipulated  
12 Notice and Order and Cooperative Agreement; or (b) as otherwise approved by the LEA and  
13 concurred with by the CIWMB, then the requirement to implement closure will no longer have  
14 any force or effect.

15         5.       Within sixty (60) days of the Effective Date of this Stipulated Notice and Order  
16 and Cooperative Agreement, consistent with CCR, Title 27, Section 21110(b)(2), the County shall  
17 submit to the LEA and the Waste Compliance and Mitigation Program of the CIWMB the  
18 calculation of the annual average tonnage rate for waste disposal in Phases I and II of Landfill 2  
19 and/or Landfill 1. The period between July 1, 1995 and June 30, 2005 shall be used as the ten (10)  
20 year period for purposes of calculating the average annual tonnage rate. The LEA, and as  
21 required, the Waste Compliance and Mitigation Program of the CIWMB, shall respond to the  
22 County's submittal no later than thirty (30) days after receipt of the submittal. The parties shall  
23 diligently and in good faith work to resolve any outstanding issues related to the County's  
24 submittal by no later than May 15, 2008.

25         6.       The SWFP permit review application submittal date shall be extended until June 1,  
26 2009.

1           7.     Revision of the Facility's solid waste facility permit as required by CCR, Title 27,  
2 Section 21870(e), shall not occur prior to the County's completion of closure activities.

3           8.     Nothing herein precludes the submittal of information required under CCR, Title  
4 27, Section 21630 and Public Resources Code Section 44005 regarding a new owner and/or  
5 operator for the Facility at any time, at which point the LEA and the CIWMB shall review the  
6 submittal by the new owner and/or operator as required under CCR, Title 27, Section 21670 and  
7 Public Resources Code Section 44005. Shall it be determined that the new owner and/or operator  
8 meets the requirements for transfer of the SWFP for the Facility, transfer of the SWFP shall  
9 proceed.

10 **B.     PLEASE TAKE NOTICE THAT PURSUANT TO PUBLIC RESOURCES CODE**  
11 **SECTIONS 45011, 45014, AND 45023, if the above actions are not completed or complied with**  
12 **by the specified date, and no extension of time has been granted consistent with the terms of this**  
13 **Stipulated Notice and Order and Cooperative Agreement, the LEA and the CIWMB may:**

14           1.     Petition the superior court for injunctive relief to enforce this Stipulated Notice and Order  
15 and Cooperative Agreement. (Public Resources Code Section 45014);

16           2.     Petition the superior court for civil penalties in an amount not to exceed \$10,000 per day  
17 for each violation (Public Resources Code Section 45023 and 45024);

18           3.     Impose administrative civil penalties in an amount not to exceed \$5,000 per day for each  
19 day the Facility fails to achieve compliance with the time frames specified above (Public  
20 Resources Code Section 45011); and/or

21           4.     Suspend or revoke the SWFP (Public Resources Code Sections 44305 and 44306).

22 **C.     ADDITIONAL STIPULATED NOTICE AND ORDER PROVISIONS**

23           1.     In the event the time frames for completion of the above specified activities cannot be  
24 adhered to due to factors beyond the reasonable control of the County, then the LEA, after  
25 consultation with the CIWMB, may extend the time frames based upon those specific factors  
26 provided by the County in writing. Any such extension to the time frames or other amendment to  
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1 this Stipulated Notice and Order and Cooperative Agreement shall be in the form of an Amended  
2 Stipulated Notice and Order and Cooperative Agreement.

3 2. Failure to comply with the schedule outlined in this Stipulated Notice and Order and  
4 Cooperative Agreement may result in the LEA expending available funds under the  
5 circumstances set forth in Public Resources Code Section 45000 which, in the judgement of the  
6 LEA, is required by the magnitude of endeavor or the need for prompt action to protect public  
7 health and safety or the environment. If the LEA expends funds to perform work authorized by  
8 Section 45000, the LEA may seek cost reimbursement from the County pursuant to Public  
9 Resources Code Section 45000(d).

10 3. Nothing in this Stipulated Notice and Order and Cooperative Agreement shall constitute  
11 or be construed as a satisfaction or release from liability for any conditions or claims arising as  
12 a result of past, current, or future operations.

13 4. This Stipulated Notice and Order and Cooperative Agreement has been negotiated in  
14 good faith and the actions undertaken by the County in accordance with this Stipulated Notice  
15 and Order and Cooperative Agreement do not constitute an admission of any liability. The  
16 County does not admit, and retains the right to controvert in any subsequent proceedings, other  
17 than proceedings to implement and enforce this Stipulated Notice and Order and Cooperative  
18 Agreement, any terms of this Stipulated Notice and Order and Cooperative Agreement.

19 5. All parties to this Stipulated Notice and Order and Cooperative Agreement agree to  
20 comply with and be bound by the terms of this Stipulated Notice and Order and Cooperative  
21 Agreement.

22 6. Neither the LEA nor the CIWMB shall be liable for injuries or damages to persons or  
23 property resulting from acts or omissions by the County or related parties in carrying out  
24 activities pursuant to this Stipulated Notice and Order and Cooperative Agreement, nor shall the  
25 LEA or the CIWMB be held as a party to any contract entered into by the County or its agent(s)  
26 in carrying out activities pursuant to this Stipulated Notice and Order and Cooperative  
27 Agreement.

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1 7. This Stipulated Notice and Order and Cooperative Agreement does not relieve the  
2 County from complying with all other applicable local, state, and federal requirements, nor  
3 does it preclude the LEA or the CIWMB from taking any and all other actions allowed by law.

4 8. Any notice or correspondence to the County pertaining to this Stipulated Notice and  
5 Order and Cooperative Agreement shall reference the Stipulated Notice and Order and  
6 Cooperative Agreement and be directed as follows:

7 Susan Klassen, Deputy Director  
8 County of Sonoma Department of Transportation and Public Works  
9 2300 County Center Drive, Suite B-100  
Santa Rosa, CA 95403

10 9. This Stipulated Notice and Order and Cooperative Agreement may only be amended in  
11 writing by an appropriate representative of the LEA or CIWMB and the County.

12 **D. ADDITIONAL COOPERATIVE AGREEMENT PROVISIONS**

13 1. Upon execution of this Stipulated Notice and Order and Cooperative Agreement, the  
14 County of Sonoma and the CIWMB shall enter into an agreement to stay the Litigation through  
15 June 1, 2009. Provided there is adherence to the schedule outlined in this Stipulated Notice and  
16 Order and Cooperative Agreement, the County shall file the appropriate paperwork to dismiss  
17 the Litigation without prejudice no later than June 1, 2009.

18 2. Consistent with the California Integrated Waste Management Act of 1989, Public  
19 Resources Code 40000 *et. seq.*, and as set forth in Public Resources Code Section 40001, "solid  
20 waste management is a shared responsibility between the state and local governments." As  
21 provided in Public Resources Code Section 40002, local governments and the state are to work  
22 cooperatively to ensure there is local adequate provision for solid waste handling. Pursuant to  
23 Public Resources Code Section 40059, local governments are directed to determine aspects of  
24 solid waste handling that are of local concern. Consistent with the cooperative state/local  
25 mandates of the Public Resources Code, the LEA and the CIWMB agree to work cooperatively  
26 with the County on submittals (i) required under this Stipulated Notice and Order and  
27 Cooperative Agreement; and/or (ii) pertaining to the divestiture process for the Facility,  
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1 including consideration of any requests by the County to amend this Stipulated Notice and  
2 Order consistent with the divestiture process.


3 3. Additionally, the LEA and the CIWMB agree to work cooperatively with any new  
4 owner and/or operator of the Facility selected during the divestiture process and approved  
5 consistent with CCR, Title 27, Section 21670, and shall consider and timely respond to any  
6 reasonable requests by such new owner and/or operator to (i) re-commence waste disposal at  
7 the Facility; (ii) demonstrate remaining available permitted capacity at the Facility; (iii) expand  
8 areas of the Facility permissible for waste disposal; (iv) review and approve any extensions  
9 sought pursuant to CCR, Title 27, Section 21110(b)(3); and/or (v) adjust, revise or modify  
10 compliance and/or closure implementation schedules.

11 This Stipulated Notice and Order and Cooperative Agreement is agreed upon and issued as  
12 of the date set forth below.

13  
14 Date: December 28, 2007

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17 \_\_\_\_\_  
18 Christine Sosko, REHS  
19 Sonoma County Department of Health Services  
20 Acting as the Local Enforcement Agency

21 \_\_\_\_\_  
22 Ted Rauh, Program Director  
23 Waste Compliance and Mitigation Program  
24 California Integrated Waste Management Board

25   
26 Valerie Brown, Chairperson, County of Sonoma Board of Supervisors  
27 County of Sonoma  
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1 including consideration of any requests by the County to amend this Stipulated Notice and  
2 Order consistent with the divestiture process.

3 3. Additionally, the LEA and the CIWMB agree to work cooperatively with any new  
4 owner and/or operator of the Facility selected during the divestiture process and approved  
5 consistent with CCR, Title 27, Section 21670, and shall consider and timely respond to any  
6 reasonable requests by such new owner and/or operator to (i) re-commence waste disposal at  
7 the Facility; (ii) demonstrate remaining available permitted capacity at the Facility; (iii) expand  
8 areas of the Facility permissible for waste disposal; (iv) review and approve any extensions  
9 sought pursuant to CCR, Title 27, Section 21110(b)(3); and/or (v) adjust, revise or modify  
10 compliance and/or closure implementation schedules.

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Christine Sosko, REHS  
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Acting as the Local Enforcement Agency

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