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November 1, 2016

Chair Candace Andersen
Members of the County Board of Supervisors
Contra Costa County
651 Pine Street, First Floor
Martinez, California 94553

Re: Agenda Item: D.6 – Permit Review of Keller Canyon Landfill Land Use Permit

Dear Chair Andersen and Members of the County Board of Supervisors:

I am writing to provide comments regarding the Contra Costa County Board of Supervisors’ [“Board”] Review of Keller Canyon Landfill’s [“KCL”] Land Use Permit [“LUP”], which is set for public hearing before the Board on the above-referenced date.

REMAINING COMPLIANCE ISSUES

To start, I would like to say that it is apparent from the Staff Report for Agenda Item D.6 [“Staff Report”] that County staff has put a lot of time and effort into preparing its review of KCL’s LUP. It is not my intent in any way to diminish or disparage the hard work that went into preparing the Staff Report. That being said, there are a number of subjects discussed in the Staff Report that I feel warrant further explanation in order to have a complete picture of the status of the landfill’s compliance with its LUP. These subjects include, but are not necessarily limited to, odor and other health issues, direct haul compliance, and material recovery operations.

ODOR

With regard to odor issues, as a resident of Pittsburg, a community deeply impacted by the presence of the landfill and the activities that take place there, I know from personal experience that odor from the landfill is a major problem in the area and that it largely goes unreported. I am one of those people that do not report the odor from the landfill. If I did, I probably couldn’t get much of anything else done.

Staff indicates that it reviewed odor complaints¹ received by the Contra Costa County Department of Conservation and Development [“DCD”], the Contra Costa County Department of Environmental Health [“LEA”], the Bay Area Air Quality Management District [“BAAQMD”], and KCL.² In addition, staff indicates that KCL performs routine patrols of the area including local neighborhoods for any indication of odors.³ Staff further states that findings and results from the surveys conducted by KCL are documented daily.⁴

¹ It is worth noting that in early 2015 the DCD setup an online form for reporting odors and as a result there have been 15 odor complaints received by the DCD since that time. (Staff Report, p. 11.) This is a sharp increase from the 2 odor complaints reported in permit review for KCL performed in 2014. (Staff Report for the Keller Canyon Landfill Permit Review before the Contra Costa Planning Commission, dated October 28, 2014 [“2014 Permit Review”], p. 13.)

² Staff Report, pp. 11-12, Exhibit D, p. 30.

³ Staff Report, p. 12, Exhibit D p. 30.

⁴ Staff Report, p. 12, Exhibit D p. 30.

However, staff did not indicate whether it reviewed the daily odor patrol logs maintained by KCL and did not discuss the findings and implications of the data contained within said logs. Moreover, staff did not address the issue of unreported incidents of odor. Specifically, staff did not discuss any statistical correlation between reported incidents of odor and those that go unreported.

It is important that odor complaints are given the attention and credence that they deserve in order to ensure that proper enforcement action and mitigation efforts can be taken, particularly for a facility tasked with the management of solid waste and minimizing potentially hazardous environmental impacts. Demonstrative of the odor issue is the infestation of thousands of seagulls that live in the landfill, whose mainstay is the direct haul garbage that isn't properly processed and doesn't belong in a landfill. They smell the garbage, they flock to the landfill and spill over into the Oak Hills Shopping Center, where our families shop and eat. It's disgusting.

Moving forward, further analysis and context should be given to the odor issues associated with Keller Canyon landfill. I urge the Board to direct staff to review and report back on the data maintained in KCL's daily odor patrol logs and to address the issue of unreported incidents of odor, if not as part of this review then moving forward for all permit reviews to follow.

DIRECT HAUL

With regard to the direct hauling of waste to KCL, staff states "the Board took actions in 1992-1993 to specifically address issues related to direct haul and import of special wastes. These parameters were used to develop new conditions (conditions 8.5-8.8), which were approved in 2015 as part of the prior permit review."⁵ Staff also explains "the Board did allow a grace period of 18 months for those direct haul conditions to take effect following the September 22, 2015 hearing."⁶

However, *more than a year later*, the Staff Report's only indication of KCL's efforts to comply with the direct haul conditions is to say that "[s]taff expects the landfill operator to begin developing documentation and implementing the tasks necessary to comply with the new conditions by the time they take effect next Spring."⁷ Essentially, it appears that KCL has done nothing thus far to even attempt to comply with the direct haul conditions in the year since their approval and with only 5 months left before they become effective. This is important because since 1992-1993 the Board (predecessors to the current members) had the wisdom to impose restrictions on direct haul activities to the landfill and for some uncertain reason it took approximately 22 years to get those restrictions incorporated into KCL's permit.⁸ This is really distressing to my family, my friends and neighbors and me.

The apparent lack of effort on the part of KCL regarding compliance with Conditions 8.5-8.8 of KCL's LUP is concerning because the deadline for compliance is *March 22, 2017* and the next permit review, as recommended by staff⁹, will likely occur in October of 2017. At this rate it will take another year before the

⁵ *Id.* at 16.

⁶ *Id.*

⁷ Agenda Report for Agenda Item D.6 for the meeting of the Board of Supervisors scheduled for November 1, 2016, p. 3.

⁸ It is also not clear whether the direct haul parameters adopted by the Board in 1992-1993 were ever enforced by County staff or otherwise complied with by KCL.

⁹ Staff Report, p. 2.

Board has a chance to address KCL's compliance with direct haul limitations and the 22 plus years of free flowing direct haul will be further compounded.

Notably, staff indicates that “[a]s a result of AB939 and associated revisions to the Public Resources Code (PRC), counties are burdened with the responsibility of maintaining at least a 15-year supply of disposal capacity for all of the waste generated throughout each county.”¹⁰

The timely enforcement and implementation of Conditions 8.5-8.8 of KCL's LUP has a direct impact on the disposal capacity of the landfill because the enforcement of said conditions will limit the directly hauled waste that can be accepted by the landfill to material that cannot be recovered at a transfer station. Effectively, said conditions will work to prevent the disposal of otherwise recoverable material thereby preserving the disposal capacity of the landfill.

I urge the Board to take proactive measures to ensure that KCL meets the compliance deadline of March 22, 2017. Perhaps the Board could order the immediate enforcement of penalties for each day that KCL is out of compliance beginning March 22, 2017. Alternatively, or in conjunction with said penalties, the Board could direct staff to provide daily enforcement of these conditions by stopping all direct haul at the gate until KCL is able to comply on its own. The bottom line is that further delay in the implementation of the Board's direct haul policies is unacceptable.

MATERIAL RECOVERY

With regard to material recovery operations, there are three conditions of approval that Keller Canyon Landfill was not in compliance with at the 2014 Permit Review. In 2014, staff reported that Keller Canyon was not in compliance with conditions 31.4, 31.5, and 31.6.¹¹ Today, staff states the compliance status of condition 31.5 as “In Process” and conditions 31.4 and 31.6 as “Further Review Required”¹².

The fact that compliance with these three conditions continues in varied pending states is concerning because these conditions have been in place since the inception of the landfill yet somehow, over 20 years later, KCL has managed to avoid both complying with these conditions and being penalized for such failure. The Board cannot let the same thing happen to Conditions 8.5-8.8.

In any event, Condition 31.4 relates to the implementation of a Material Recovery Program for recovering recyclables from refuse loads brought directly to the landfill. Such a program, if finally implemented, would have the potential to extend the disposal capacity of the landfill so that expansion of the landfill or siting of a new landfill would not be needed for many years to come.

However, as a resident living nearby and using the roads by Keller Canyon Landfill, I have several concerns regarding the expansion of activities at the landfill. For one, I am concerned that allowing material recovery operations at the landfill would have significant environmental impacts. An on-site material recovery program would likely require the use of heavy equipment to process material loads and additional transport trucks to take

¹⁰ Staff Report, p. 8.

¹¹ 2014 Permit Review, p. 11.

¹² Staff Report, Exhibit D, pp. 57-58.

the material to proper recovery facilities. These activities would increase air pollution, water pollution, and noise from the operation of heavy equipment and from the increase of traffic in and around Bailey Road. In addition, the increase in traffic, in and around Bailey Road, would potentially increase hazards, accidents, and accelerate the deterioration of streets near and around that area.

Interestingly, Conditions 8.5 - 8.8 would work to restrict the acceptance of directly hauled waste loads containing material that would be recoverable. It is, therefore, not clear whether an onsite material recovery operation would even be needed at the landfill if KCL were to comply with Conditions 8.5-8.8.

Whatever material recovery program is ultimately implemented at the landfill, if any, it is important that it be limited in scope so that it is consistent with the existing environmental impact review or that a new environmental review be performed to ensure that needed mitigation is imposed for the safety and wellbeing of the surrounding communities. With that in mind it is all the more important that staff update the Board on just how far along the review of the new plans and any related environmental review is.

FURTHER REVIEW AND CONSIDERATION REQUIRED

In closing, further review and consideration of these issues is needed in order to ensure that Keller Canyon Landfill's operations, which deeply impact local communities such as mine, are properly monitored for compliance with the conditions of approval to its land use permit. Otherwise, residents such as me will have to deal with the negative impacts from those activities when it is the responsibility of the County to address and resolve such issues.

I appreciate the opportunity to comment on this matter and look forward to the Board of Supervisors taking action to address these concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa Della Rocca". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lisa Della Rocca