

Gregory Canyon Question and Answers regarding the Solid Waste Hearing Panel – February 2016

1) Who is the Local Enforcement Agency?

The Department of Environmental Health (DEH) is the Solid Waste Local Enforcement Agency (LEA) for the County of San Diego. The LEA is responsible for implementation of state laws and regulations at solid waste facilities within the County of San Diego - excluding the City of San Diego—with oversight by CalRecycle, a State agency.

2) Where is the authority found to have a Solid Waste Hearing Panel?

The Solid Waste Hearing Panel was created pursuant to California Public Resources Code (PRC), section 44308 and Title 14, California Code of Regulations, section 18060. On January 21, 1992, the Board of Supervisors adopted Ordinance No. 8031 establishing the Solid Waste Hearing Panel (or appointment of a Hearing Officer) for San Diego County. Establishment and maintenance of the Panel is a statutory requirement of the Department of Environmental Health's certification as the Local Enforcement Agency for solid waste issues.

3) What does the Solid Waste Hearing Panel do?

The Solid Waste Hearing Panel meets when a facility operator, permit applicant, or other person requests a hearing to challenge an LEA decision or action. PRC section 44307 allows these appeals on permit conditions, on the denial, suspension and revocation of permits, or when it is claimed that the LEA has not followed State solid waste laws or regulations.

4) Who are the members of the Solid Waste Hearing Panel?

The Solid Waste Hearing Panel consists of three members: 1) a member from the Board of Supervisors: Supervisor Ron Roberts, 2) a technical expert: Mr. Jeff Ritchie, and 3) a member from the public at large: Mr. Paul Manasjan. There is a provision for an alternate member who shall be a County Hearing Officer appointed pursuant to Section 650 et seq. of the County Administrative Code.

5) What was the February 2016 hearing by this panel about?

The agenda notice was based on the allegations in the Petition. The Petition and the agenda notice misstate the LEA's decisions and positions. The agenda notice states that the Panel will review:

- a) the LEA's decision that the solid waste facility permit for the landfill does not require compliance with four specific permit conditions prior to the removal/demolition of buildings and other facilities on the landfill property, and
- b) [the LEA's decision that] the LEA has no authority to regulate activities on all of the 1,783 acres identified in the "Description of Facility" in Block 12 of the permit.

6) What was the LEA position on the raised issues?

The LEA's position was set out in detail in the LEA's Response to the Petition. Very briefly, the LEA agreed that the conditions and mitigation measures included the LEA-issued permit (either directly or by reference) are enforceable by the LEA, on all of the acres included in Proposition C. But the LEA has determined that those conditions and mitigations have not been triggered by the proposed demolition. The proposed demolition therefore does not trigger the permit conditions or mitigation measures cited by Petitioner and, these permit conditions and mitigation measures do not implement the Waste Act.

7) What was the decision of the Solid Waste Hearing Panel?

In a 3-0 decision, the Solid Waste Hearing Panel decided that the proposed demolition/removal of numerous buildings as work proposed by GCL, LLC does not constitute the start of construction of the proposed landfill.

8) Since the Solid Waste Hearing Panel did not decide in favor of the petitioner, what is next?

The Pala Band of Mission Indian appealed the decision of the Solid Waste Hearing Panel to CalRecycle on February 23, 2016.

9) What has CalRecycle done in response to the appeal?

On February 29, 2016, Calrecycle accepted the appeal filed by the Pala Band of Mission Indians and has determined that they will decide the matter based on written arguments. Opening written arguments are due to be submitted to CalRecycle by April 5, 2016, with any rebuttal arguments due by April 19, 2016. These dates may change. The Director of CalRecycle has also reserved the right to schedule a live hearing if he determines it necessary based on the review of the written arguments.

10) After CalRecycle makes a decision, are there any next steps?

CalRecycle could reverse the hearing panel and direct the LEA to take further action consistent with State solid waste laws and regulations. Or, CalRecycle could find that the LEA has complied with those law and regulations. In either case, within 30 days of CalRecycle decision and order, any aggrieved party may file with the superior court a petition for writ of mandate for review of the decision made.

11) Do recent activities allow the proposed Gregory Canyon Landfill to start operations any sooner?

No, the owner/operator will still need separate approvals from several state and federal agencies for the proposed landfill, including.

- i. San Diego Regional Water Quality Control Board
- ii. San Diego County Air Pollution Control District
- iii. California Department of Fish and Wildlife
- iv. United States Army Corps of Engineers (including consultation with United States Fish and Wildlife Service)

12) Has the new Owner/Operator made any changes to the site?

Yes, the new Owner/Operator started work to clean up and better secure the site. This includes placing a highly visible construction chain link fence along Highway 76, cleaning up trash and overgrown vegetation, and securing some of the existing abandoned structures on the site. The new Owner/Operator also plans to demolish the old houses and dairy facilities on the property.

13) Are there any proposed actions involving the solid waste facility permit pending?

A five year review of the permit is due in August 2016 which will involve the LEA preparing a 5-year permit review report.

14) Additional information and FAQ's are available at:

http://www.sandiegocounty.gov/content/sdc/deh/waste/landfills/chd_gregory.html