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9.9.17 DATE Ballinger BY

Report Title: Loss of Composting in Sonoma County

Report Date: June 16, 2017

Response By: Susan Klassen, Director

Agency/Department Name: Sonoma County Department of Transportation and Public works

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

SEP 18 2017

BY [Signature]
Deputy Clerk

FINDINGS

The I/Department agrees with these finding(s): F5, F6 and F7

The I/Department disagree wholly or partially with the following finding(s): F1 – F4 see discussion below:

F1. While the County attempted to negotiate the best Master Operations Agreement possible, it appears that they did not have the industry-specific expertise that Republic Services demonstrated. The County consigned to Republic the heavy equipment and the methane gas plant before the full extent of the potential value was determined. The County did not identify, and therefore lost, the financial benefits of below market electricity for the Sonoma County Water Agency, increased methane yields, improved compaction rates and the increased longevity of the landfill itself.

The Department agrees that County staff doesn't have the level of industry-specific expertise that Republic Services has demonstrated, their expertise and reputation within California is one of the many reasons the County chose them from a competitive process to operate our landfill and transfer stations.

The County disagrees that the heavy equipment and the methane gas plant were not valued before they were "consigned" in the Master Operations Agreement. The equipment was valued by our heavy Fleet Operations and the County did commission a study of the long term expected gas extraction from the landfill. The Sonoma County Operations Agreement Review dated March 2013, by Capitol Public Finance Group, shows that they valued Energy Sales over the life of the agreement at \$44 million. There are two reasons they were "consigned" to Republic Services, first the operations of the methane plant and the operations of the methane gas extraction field on the landfill are integrally tied together one cannot operate without the other. While the methane gas extraction field provides gas to the power generating plant, its highest purpose is to control methane from migrating into the atmosphere and the ground water. This highest purpose is often inherently averse to maximizing the revenue from power generation. To maximize power generation you want best quality gas, while to control migration all gas must be captured whether it is high enough quality for generation or not. The power generation facility and the gas field must be operated by the same interest and that interest must rest with the party that is responsible for the *environmental liabilities* of the landfill, Republic Services is that party. The County had the existing system set up to have the power plant operate with a sole

focus to generate power. This caused conflict and problems between the County as landfill operator and as responsible party for environmental control and the methane plant operator. Secondly Republic Services was consigned the equipment and the methane plant to provide an offset to the costs incurred by Republic Services in the operation, closure and post closure maintenance of the landfill, thereby, driving down the negotiated initial service fee charged by Republic. With the determination made to include the power plant within the scope of the Master Operation Agreement, the decision as to who the power should be sold to over the long term of the agreement rests with Republic Services.

Finally, the citizens of Sonoma County have not lost the benefit from improved compaction rates and increased longevity of the landfill. As it is unlikely, that a new landfill will ever be sited in Sonoma County, the longer the landfill stays open the longer residents reap the benefit of in-county disposal versus out-haul.

F2. The County's failure to adhere to industry best practices in the operation of the landfill led to a 5 year closure that Republic resolved in a manner of months.

The Sonoma County Central Disposal Site technically was never closed, but ceased operations for an interim period. The cessation of operations was attributable to concerns regarding low levels of volatile organic compounds (VOCs) detected within the internal workings of the landfill underdrain, which caused the Regional Water Quality Control Board to have concerns that the Landfill Liner design was inadequate. No groundwater monitoring compliance points based on site monitoring requirements were ever impacted as a result of these detections, nor was there ever a documented impact off-site, however; because of this perceived issue, new design implementation criteria was required at the time by the Regional Water Quality Control Board for future landfill expansion that was prohibitively expensive. In response, the County took the conservative approach of temporarily ceasing operations and exploring viable options for waste disposal rather than commit into long term liner investments that may not have been in the interest of the residents of the County.

Republic Services had no part in the identification or repair of issues related to groundwater impacts at the Central Disposal Site. The problem was identified/diagnosed by the County and its consultants¹, and later found to be an industry problem affecting not just the County of Sonoma facility but also two of the larger landfill operators in the State, where a design flaw was found in the construction of the landfill anchor trench at multiple landfill sites. The County technical staff documented the identification and repair of the design flaws associated with groundwater impacts in 2007².

The Grand Jury report incorrectly states that a daily covering of waste with dirt was the cause of the leachate found at the liner edge which was a practice that was not consistent with the then California Integrated Waste Management Board's (now CalRecycle) published best practices for landfill operations. The information obtained and published by the Grand Jury is inaccurate and inconsistent with documented records, applicable codes and regulations and state and federal laws

¹ Pacific GeoScience "Report of Waste Discharge Update for Landfill 2, Central Landfill, Sonoma County, California.", April 30, 2004.

² Sonoma County "Final Design Report, CQA of Retrofit, Repair Maintenance and Performance Monitoring" October 31, 2007

related to landfills. Pursuant to CCR Title 27 20680, CIWMB - Daily Cover. [T14:§17682, 17258.21] the prescriptive state standard for daily cover is identified as follows:

(a) Except as provided in ¶(b), (f) and §20690, the owners or operators of all municipal solid waste landfill units shall cover disposed solid waste with a minimum of six inches of compacted earthen material at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous.

It is also important to point out that there is significant discrepancy in the timeline of events in the Grand Jury's report, as Republic did not come onto the Central site in any operating capacity until 2010, by that time, all issues relative to Landfill 2 had already been addressed and resolved.

F3. The Board of Supervisors issued The Ratto Group an unusual, no-bid, 20-year Franchise for waste hauling and transfer station contract.

The Department agrees that The Ratto Group was issued a no-bid 20-year Franchise for waste collection services in the unincorporated County. The franchise agreement does not include in its scope the operation of the transfer stations, which is part of Republic Services' scope of work under the Master Operations Agreement. What the Department disagrees with is that this was "unusual".

In fact, the County's Franchise agreement with The Ratto Group was primarily modeled after existing Franchise agreements that The Ratto Group had with the other cities in Sonoma County, and at the time the Agreement was approved by the Board of Supervisors, 8 out of 9 Cities in Sonoma County had long term Franchise agreements with the Ratto Group and only 2 out of those 8 cities had *ever* issued a competitive bid for waste collection services.

Prior to the issuance of the County's Franchise Agreement the County had a "licensing system" that had no detailed scope of work or requirements, and the County collected no franchise fee. As a result of issuing the Franchise agreement the County now is collecting over \$3M of annual revenue in franchise fees, the majority of which is used to repair the County Road system, garbage collection vehicles are among the heaviest vehicles on most neighborhood streets. In addition the County also negotiated a similar 20 year term Franchise Agreement with Sonoma Garbage Collectors, who services an unincorporated area of Sonoma Valley, under similar terms and conditions, which was executed by the Board of Supervisors in July, 2010.

F4. The BOS effort to preserve the MOA placed it in conflict with the SCWMA and its mandate to promote and manage composting as called for in AB 939.

The continued discharge of non-compliant storm water from the Compost facility, and the failure to get the compost facility to a full state of zero-discharge, put the future of the landfill at risk. The issue is related to the fact that the storm water from both the compost facility and the

landfill were mixed together by the time the water discharged off the County property. This occurred simply because the two facilities were located within the same storm water collection basin. Therefore, if the compost facility was non-compliant, by extension the landfill storm water could be asserted to be non-compliant as well, and putting the landfill permit at risk. This is the issue that Republic Services was concerned about as they were about to take on all the operations and liability associated with the Landfill under the Master Operations Agreement. That being said, if the MOA process was not in the plans, and the County of Sonoma was planning to operate the landfill itself long term, the concern for the County of Sonoma would have been the same. The County had invested millions of ratepayer money to permit the landfill for long term-in county waste disposal, and the litigation associated with the compost facility had the potential to jeopardize the future of the permit for the landfill operations. In which case the outcome could have resulted in both green waste and municipal garbage being out-hauled at an even greater impact to the community.

Therefore, F4. Should more accurately be stated as: The County and Cities desire to keep the Landfill open for long term municipal waste disposal put it in conflict with the SCWMA and its mandate to promote and manage composting as called for in AB 939 because of the litigation associated with the Compost Facility.

DEPARTMENT RESPONSE TO RECOMMENDATIONS R2 and R3.

R2. The County review and reinforce its internal policies for reviewing contracts, operations, and interagency cooperation. (F1, F2, F3, F4, F5).

Response: Recommendation R2 has been implemented and will continue to be implemented in the future.

The Department is in a continuous process of improvement as it relates to the review and oversight of its contracts for operations. As it relates to the interagency cooperation necessary to re-establish composting within Sonoma County, the Sonoma County Waste Management Agency (SCWMA), which is a separate legal entity from the County of Sonoma, is the lead agency for the project. The Department believes that the County of Sonoma continues to be an engaged and active supporter and participant on the SCWMA Board. The Department of Transportation believes that there is a high level of positive communication and cooperation between the SCWMA Executive Director, the County Transportation and Public Works Director and all of the staff.

R3. The BOS and SCWMA make it a high priority to bring composting back to Sonoma County.

Response: Recommendation R3 has been implemented and will continue to be implemented in the future.

The County Board of Supervisors on many occasions have expressed their strong desire and commitment to work cooperatively with the Sonoma County Waste Management Agency and its

member Cities to re-establish an in-county composting facility(s). The SCWMA as the lead agency on this process is implementing a procurement process, which is currently underway. The SCWMA has included Transportation and Public Works Department staff in the process thus far, and Department staff is committed to continuing to participate in this on-going process as requested by both the County Board of Supervisors and the SCWMA Agency. The procurement process appears to be generating significant interest from potential service providers, and the Department remains optimistic that the desired goal of in-county composting will be achieved in the near term.

Date: 8/8/17 Signed: 