LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL 300

2008 Centennial Year

Date: 4-27-10
Submitted in PLUM Committee
Council File No: 10-0468
Item No.: 13
~~Deputy~~: Submitted by Public

April 27, 2010

Hon. Councilman Ed Reyes
Chairman, Planning Land Use Management Committee
Los Angeles City Council
City Hall, Room 410
200 N. Spring Street
Los Angeles, CA 90012

Dear Councilman Reyes:

I am contacting you on behalf of Laborers Local 300 to express our strong support for the Sun Valley Recycling Park proposed by Waste Management. I understand that the project is scheduled to be before your committee on April 27th and I plan to be there to again state my union members' unqualified support for this important project.

The project offers many significant benefits, including keeping more than 230 plus good paying jobs in Sun Valley; providing an annual economic benefit of more than $32 million to the northeast San Fernando Valley; the more than $1million annual contribution to the City's general fund; and, the commitment to build an attractive, fully enclosed, $30 million dollar recycling and transfer facility. This facility will be the only LEED certified facility of its kind in the City of Los Angeles.

In addition, the company has worked closely with Councilman Cardenas office, the Community Advisory Committee, local businesses, numerous community organizations, the community and neighbors to make the facility the best one possible. Waste Management is also proposing to provide a significant "host fee" amounting to hundreds of thousands of dollars each year to be used to provide community benefits and fund worthwhile programs and projects in Sun Valley.

The Laborers feel that especially during these tough economic times the City of Los Angeles is facing, we need to keep good businesses,

SERGIO RASCÓN
Business Manager

LUIS R. ROBLES
Secretary-Treasurer

JAVIER NUÑEZ
President

RICHARD QUEVEDO
Vice-President

SERGIO RAMOS
Recording Secretary

SEFERINO REYES
Executive Board

TONY E. OLEA III
Executive Board

businesses that want to stay in the City and provide an essential service, that pay good wages and benefits, be encouraged to stay and set a good example for other similar businesses and industry to emulate. Waste Management proposes to not only keep the jobs it has in Sun Valley, but looks to increase the size of its work force, with an eye to hiring local residents.

On behalf of the more than 8,000 men and women who make up Laborers Local 300, we strongly support this project and urge your committee to grant their appeal of the Planning Commission's decision.

Please feel free to contact me directly if you have any questions. I appreciate the opportunity to convey our strong support for this project to you and your committee.

Respectfully submitted,

Sergio Rascon
Business Manager

Cc: Councilman Tony Cardenas
Councilman Jose Huizar
Councilman Paul Krekorian

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April 27, 2010

VIA HAND DELIVERY

The Honorable Planning & Land Use
Management Committee of the
Los Angeles City Council
200 N. Spring Street, Room 350
Los Angeles, CA 90012-4801

Date: 4-27-10
Submitted in PLUM Committee
Council File No: 10-0468
Item No.: 13
~~Deputy~~ Submitted by Appellant

Re: Waste Management/ Council File 10-0468; CPC 2007-3888 CU-ZV-SPR
(Item No. 13 on the Committee's April 27, 2009 Agenda)

Dear Committee members:

We represent Waste Management, which is seeking to develop a state-of-the-art, LEED Gold-certified transfer station, material recycling facility, and expanded green and wood waste recycling facility at the now-closed Bradley landfill (the "Project"). We are writing in response to the April 19, 2010 letter from a legal aid attorney and a member of a group called One LA-IAF. This letter consists entirely of a rehash of meritless arguments that this group has previously made regarding the EIR and the Project. All of these arguments have been thoroughly refuted in the Response to Comments section of the Final EIR, the City Staff Reports, and our prior letters. We are nonetheless writing to summarize these prior responses for the Committee's convenience and easy reference.

1. The Host Fee Condition is Fully Enforceable.

Waste Management has negotiated an innovative and precedent-setting Host Fee condition with Councilmember Tony Cardenas, with input from the Community Advisory Committee, Neighborhood Councils, and other community leaders. Under this condition, Waste Management will charge all vehicles arriving at the Project site a Host Fee. In order to provide incentives for third party haulers to retrofit their trucks (all of Waste Management's trucks already meet or exceed CARB requirements), clean fuel trucks will pay the lowest fee, CARB-compliant trucks will pay a higher fee, and non-CARB compliant trucks will pay the highest fee ($3.00 per ton). The Host Fee amounts will be adjusted annually based on increases in the Consumer Price Index.

The Host Fees will be deposited into a special trust fund to be disbursed as determined by the Councilmember of Council District 6, with input from the community. The Host Fees collected will be used to fund a variety of public benefits, such as subsidizing prescription drugs for respiratory related ailments at local non-profit medical clinics, environmental education, and other purposes to further environmental justice or mitigate impacts of the project. The fees accumulated will be spent entirely within the most impacted Sun Valley neighborhoods.

One LA-IAF asserts that the City will not be able to enforce the Host Fee condition.

In our prior correspondence to the Planning Commission, we stated that the Host Fee condition is fully enforceable as a project design feature, irrespective of whether there is a legally sufficient nexus to support the imposition of the condition. Since that prior letter, we have worked with the City Attorney and Councilmember Cardenas' office to further refine the condition and the accompanying findings. We now concur with the City Attorney that there exists a clear nexus between the Host Fee condition and the Project-specific and cumulative air quality and land use compatibility impacts. Therefore, the City clearly has the ability to enforce the condition and can revoke the Project's entitlements based on non-compliance with the condition. See LAMC Section 12.24 Z and 12.27.1.

To remove any possibility of doubt, Waste Management will execute and record the attached covenant (copy attached) requiring compliance with the Host Fee condition and waiving Waste Management's rights to contest the condition. This covenant will run with the land and be binding on all future owners and operators of the Project.

2. <u>The EIR's Baseline for Evaluating Environmental Impacts is Correct</u>.

One LA-IAF asserts that the EIR used an improper baseline from which to compare Project impacts. We previously responded to this assertion in Section 3 of our October 20, 2009 letter to Hearing Examiner Frank Quon (copy attached).

3. <u>The EIR Properly Rejected Infeasible Alternatives</u>.

One LA-IAF alleges that the City improperly rejected the 25% reduced intensity alternative. In fact, CEQA allows the City to reject project alternatives that do not attain most of the basic project objectives or which do not offer substantial environmental advantages over the Project. CEQA Guidelines Section 15126.6. In this case, the reduced intensity alternative would not meet most of the basic and fundamental project objectives, namely to accommodate the rapidly growing demand for such facilities within the City and the corresponding ability to efficiently consolidate and process waste. Nor would it offer substantial environmental

advantages over the Project, as the alternative would not avoid the Project's only significant impact: air quality.

4. The Nighttime Operations Will Not Result in Any Adverse Impacts.

One LA-IAF argues that the proposed hours of operation of the Project are unreasonable. While the Project does propose to operate at night, all nighttime activities will be conducted in a fully enclosed facility with all exterior doors shut. The EIR correctly concluded that noise from these nighttime activities would not be audible at the nearest residence, which is over 700 feet away.

5. The Project Will Not Result in Significant Nuisance Odors and All Feasible Mitigation of Potential Odor Impacts Have Been Identified.

One LA-IAF asserts that the EIR did not adequately address nuisance odor impacts. As set forth in Section 5 of our October 20, 2009 letter to Hearing Examiner Frank Quon, the Project will not result in any significant odor impacts. No additional analysis is warranted.

6. The Air Quality Analysis Fully Complies with CEQA.

One LA-IAF alleges that the EIR should have analyzed whether a smaller facility would avoid the Project's significant air quality impact. In fact, the EIR does include such an analysis. Alterative C would reduce the size of the facility by 25 percent. It concludes that such a reduced facility would not avoid the significant air quality impact.

During operation, only NOx emissions from the Project would exceed significance thresholds. Project operational CO, SOx, VOC and PM10 impacts would be less than significant. Moreover, as set forth the in supplemental analysis dated April 26, 2010 from Craig Fajnor of Chris Joseph & Associates, the Final EIR actually substantially ***overstates*** the Project's emission levels and impacts.

7. The EIR Adequately Addresses Cumulative Impacts.

Without any support, One LA-IAF asserts that the EIR fails to adequately consider cumulative impacts. In fact, the EIR identifies 28 related projects and considers cumulative impacts in each and every impact category, including air quality. Please refer also to Section 7 of our October 20, 2009 letter to Hearing Examiner Frank Quon.

For the foregoing reasons, no merit or substantial evidence exists in any of the claims made by One LA-IAF. We appreciate your careful consideration of the Project and the information provided in this letter. Please do not hesitate to contact us with any questions or continued concerns you may have.

Very truly yours,

Dale J. Goldsmith

cc: Councilmember Tony Cardenas
City Attorney
Waste Management

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Dale Goldsmith, Esq.
Armbruster Goldsmith & Delvac LLP
10940 Wilshire Blvd., Suite 2100
Los Angeles, CA 90024

(Space above for recorder's use only)

ENVIRONMENTAL RESTRICTION
and
COVENANT REGARDING HOST FEE FUND
and
WAIVER OF RIGHT
TO CONTEST CONDITION OF APPROVAL

1. Parties. This Environmental Restriction, Covenant Regarding Host Fee Fund, and Waiver Agreement (this "**Agreement**"), is executed as of _____, 2010 by Waste Management Recycling & Disposal Services of California, Inc. ("**Waste Management**") in favor of the City of Los Angeles (the "**City**").

2. Recitals.

2.1. Waste Management owns that certain real property commonly known as the Bradley Landfill, located at 9227 N. Tujunga Avenue, Los Angeles, California (the "**Property**"), which Property is legally described on Exhibit "A," attached hereto and made a part hereof.

2.2. Waste Management has applied to the City for various approvals under Case No. CPC 2007-3888-CU-ZV-SPR (the "**Entitlements**") to develop and operate at the Property a state-of-the-art transfer station/material sorting facility (the "**Project**").

2.3. The operation of the Project will include the receipt and handling by Waste Management of hazardous materials, as defined in Section 25260 of the California Health and Safety Code ("**Hazardous Materials**"). In connection with approval of the Entitlements, Waste Management has agreed to certain conditions of approval regarding operation of the Project. The particular condition of approval included below in this Agreement, and each act that Waste Management will do or refrain from doing pursuant to this Agreement, relates to the use of the Property and each act is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the Property of Hazardous Materials.

2.4. Waste Management has agreed to a condition of approval as part of the Entitlements that will require Waste Management to impose a host fee on each ton of materials delivered to the Project (the "**Host Fee Condition**"). In accordance with this Agreement, Waste

Management will cause the host fee to be deposited into a City trust fund and disbursed to the City to fund a variety of public benefits, including without limitation the following: (i) providing environmental education, (ii) subsidizing prescription drugs for respiratory related ailments in local non-profit medical clinics, and (iii) other purposes to further environmental justice in the Sun Valley area and/or mitigate Project impacts.

2.5. The City has determined that the possible uses of the host fee have a nexus to the Project. However, the City is concerned that future owners may challenge the enforceability of the Host Fee Condition based on a claim that the Host Fee Condition does not meet the legal requirements of *Nollan v. California Coastal Commission*, 483 U.S. 825, 841 (1987), *Dolan v. City of Tigard* 512 U.S. 374 (1994), and similar case law.

2.6. Waste Management desires to (a) set forth the specific terms and conditions of the Host Fee Condition in this Agreement and cause the Property to be bound by the same, (b) confirm that the Host Fee Condition is acceptable to Waste Management, and (c) agree that the Host Fee Condition is fully enforceable by the City against the Property, Waste Management, and its successors and assigns.

In consideration of the City's approval of the requested Entitlements and the City's adoption of a statement of overriding considerations in connection therewith, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Waste Management makes all of the covenants and agreements set forth below in this Agreement.

3. Host Fee. Waste Management, and its successors and assigns, shall at all times during operation of the Project comply with the Host Fee Condition as set forth in Condition Nos. A.16. a and A16.b of the Entitlements

4. Waiver of Right to Contest Host Fee Condition. Waste Management agrees to be bound by the Host Fee Condition and that the City may enforce any failure to comply with such condition in accordance with applicable law, including but not limited to LAMC Sections 12.24 Z and 12.27.1. Waste Management, on behalf of itself and its directors, officers, employees, agents, shareholders, successors, assigns and affiliates hereby fully and forever waives and releases all rights, claims, actions, causes of action (at law, in equity or otherwise), and remedies of any nature whatsoever to contest or challenge the validity or enforceability of the Host Fee Condition based on a claim that the Host Fee Condition does not meet the legal requirements of *Nollan v. California Coastal Commission*, 483 U.S. 825, 841 (1987), *Dolan v. City of Tigard* 512 U.S. 374 (1994), and similar case law.

5. Successors and Assigns. This Agreement complies in all respects with the provisions of California Civil Code Section 1471(a). Accordingly, this Agreement runs with the land, encumbers the Property, and shall bind and apply to all successors and assigns of Waste Management, including without limitation all subsequent owners of the Property. All such successors and assigns of Waste Management and all subsequent owners of the Property are expressly bound by the terms of this Agreement for the benefit of the City.

Waste Management Recycling & Disposal Services of California, Inc.

By: _____
Name: _____
Title: _____

State of California }
} ss.
County of Los Angeles }

On _____, 2010 before me, _____
(Insert Name of Notary Public and Title)
personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf on which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ (Seal)
Signature

Exhibit "A"
Legal Description

ARMBRUSTER GOLDSMITH & DELVAC LLP

LAND USE ENTITLEMENTS □ MUNICIPAL ADVOCACY

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October 20, 2009

VIA E-MAIL and U.S. MAIL

Frank Quon
Hearing Examiner
City Planning Department
Valley District Office
6262 Van Nuys Boulevard, Suite 430
Van Nuys, California 91401

Re: Bradley Landfill (CPC 2007-3888-CU-ZV-SPR)

Dear Frank:

As you know, we represent Waste Management, which owns and operates the Bradley Landfill site in the Sun Valley area of the City of Los Angeles (the "City"). Waste Management is the applicant in the above-referenced case ("Project"). This letter responds to issues and comments raised in the following letters previously delivered to the City:

- October 31, 2008 from Neighborhood Legal Services of Los Angeles County ("NLS") to you ;
- June 2, 2009 from NLS to you;
- April 17, 2009 from NLS to City Planning Commission ("CPC");
- April 22, 2009 from Michael O'Gara to the CPC; and
- April 26, 2009 (email) from Michael O'Gara to you.

NLS raises 9 issues in its October 31 letter, which are then repeated in each of the subsequent letters. None of the subsequent letters raise an issue that is not raised in the October 31 letter. Consequently, our analysis responds to the issues set forth in NLS's October 31 letter. Each of our responses applies equally to the corresponding issue appearing in any of the subsequent letters.

In their totality, none of the claims made by NLS's attorney or Michael O'Gara in their various letters constitute substantial evidence of significant environmental impacts different or more severe than those identified in the Project Environmental Impact Report ("EIR"). NLS and Mr. O'Gara fail to cite any substantial evidence to support their assertions. Mere "argument, speculation, unsubstantiated opinion or narrative . . . does not constitute substantial evidence."[1]

1. **The City Fully Complied with the Notice Requirements of the California Environmental Quality Act.**

The City issued all notices required by the California Environmental Quality Act ("CEQA").[2] Furthermore, the City's notice procedures for the November 3, 2008 CPC hearing complied with all applicable laws and regulations. NLS claims that it did not receive formal notice of the November 3, 2008 CPC hearing and that this failure of notice violated CEQA because NLS registered as an interested party pursuant to Public Resources Code section 21092.2. Contrary to NLS's claim, CEQA only requires certain notices to those who register as interested parties—notices regarding the preparation and availability of a CEQA document for public review and notices regarding final determinations to carry out a project subject to CEQA. The November 3, 2008 CPC hearing is not one of the actions for which notice to an interested party is required under CEQA.

Nevertheless, NLS attended the November 3, 2008 CPC hearing, testified at the hearing, and has been afforded ample opportunity to submit multiple comment letters after November 3, 2008. The City committed no error of notice, and NLS suffered no prejudice.

2. **Environmental Justice Concerns Have Been Fully Addressed.**

CEQA neither requires an evaluation of environmental justice impacts nor economic or social impacts. Contrary to NLS's contentions that environmental justice concerns must be "mitigated," they do not. Nevertheless, as set forth in the Draft EIR pages 5-8 through 5-10 and as also thoroughly addressed in the Final EIR, including but

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[1] 14 Cal. Code Regs. § 15384; *see, e.g., Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 571 (unfounded conclusions stated by opponent's attorneys are not substantial evidence).

[2] Pub. Res. Code §§ 21000 *et seq.*; 14 Cal. Code Regs. ("CEQA Guidelines") §§ 15000 *et seq.*

not limited to Response to Comment 16-4, the EIR included a thorough discussion of environmental justice. The discussion of environmental justice in the Draft EIR complied with the analysis called for in federal Executive Order 12898 (requiring federal projects to analyze environmental justice impacts). The EIR included this analysis to acknowledge that the Bradley Landfill is but one of several manufacturing and waste-related facilities in the area and in reference to the Sun Valley Environmental Justice Improvement Area ("SVEJIA"). However, discussion of environmental justice in the EIR does not transform environmental justice concerns into environmental impacts. The discussion is included to inform the public and guide decision-makers.

As set forth in the Draft EIR, the Bradley Landfill is located within the SVEJIA boundaries, but the SVEJIA has not yet been fully implemented. August 12, 2008 is the date of the most recent action taken by the City Council regarding the SVEJIA. On that date the City Council instructed the Environmental Affairs Department and City Planning Department to report back on the feasibility of creating a CEQA mitigation monitoring and inspection program for solid waste facilities including waste transfer stations, open or closed landfills, and solid waste vehicle yards. This requested analysis is expected to include an estimated scope of work and cost analyses for the work to be performed by City staff and recommendations regarding a fee for service/cost reimbursement paid by waste facilities within City limits and specifically within the SVEJIA. The report has not been completed and has not been returned to the City Council for review. Consequently, the City has not yet identified any mitigation measures of requirements specific to waste or recycling facilities within the SVEJIA.

Nevertheless, the City conducted significant bi-lingual outreach to the various communities within Sun Valley to assure that the public was fully informed of the proposal as well as the potential environmental impacts. The City has implemented additional protective measures based on suggested federal guidelines, including: preferential community employment; aggressive use of CNG and LNG vehicles; reduced low-cost use of the facility for local residents; and host fee to fund a community benefit fund.[3] In addition, both in response to environmental justice concerns as well as to balance significant environmental impacts under CEQA, the proposal includes substantial public benefits that directly benefit the Sun Valley Community, including: 1) Continued employment opportunities of approximate 240 jobs; and 2) a Community Improvement Fund worth several million dollars over time.

[3] Waster Transfer Stations: A Manual for Decision Making (USEPA).

3. The Project EIR Baseline for Evaluating Environmental Impacts is Correct.

NLS incorrectly claims that the EIR should use Bradley Landfill operations as of April 14, 2007 as the environmental baseline for analysis. That claim is incorrect. The proper environmental baseline for evaluating environmental impacts under CEQA is the existing condition on the project site at the time of the Notice of Preparation or when CEQA analysis is commenced. CEQA establishes the environmental baseline as:

> "the physical environmental conditions in the vicinity of the project, as they exist ***at the time the notice of preparation is published***, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."[4] [Emphasis added.]

This claim regarding the environmental baseline was fully addressed in Final EIR response 5-3, explaining the City could have used the previously evaluated and permitted levels of operation of 10,000 tons per day ("tpd) as the baseline, but did not. Instead, the City took the more conservative approach of establishing the baseline at the 2003 average of 1,592 tpd. Consequently, the baseline is not improperly understated.

Furthermore, courts have upheld a less conservative approach than the approach taken by the City in this case. In *Fairview Neighbors v. County of Ventura*,[5] the court upheld an agency determination to use as the environmental baseline the level of operation authorized by prior permits rather than the actual level of current operations at the time the Final EIR was certified. NLS's reliance on *Christward Ministry v. Superior Court*[6] and *Woodward Park Homeowners Ass'n v. City of Fresno*[7] is misplaced. These

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[4] CEQA Guidelines §15125(a); *see also* § 15126.2 ("the lead agency should normally limit its examination to changes in the physical conditions in the affected area as they exist at the time the notice of preparation is published").

[5] (1999) 70 Cal.App.4th 238, 242-243.

[6] (1986) 184 Cal.App.3d 180.

cases hold that the respective agencies in each case improperly hypothesized future operations of permitted yet not-yet-built environments as the environmental baselines. The Project Draft EIR did not do this, but instead established a conservative baseline relative to a known, measurable, and quantified previous use on site at the time the NOP was published.

Within the context of its argument, NLS also claims that by understating the baseline, the EIR understates the health risk assessment of criteria pollutants. NLS misunderstands the South Coast Air Quality Management District ("SCAQMD") maximum exposure level criteria. First, the 9.56 in one million risk factor forth in the EIR data relates to exposed workers, not residents. The risk factor for residents is only 8.36 in one million, which is well below the 10 in one million significance threshold.

Furthermore, neither the California Air Resources Board nor SCAQMD have established a specific significance threshold for mobile sources. SCAQMD Rule 1401 regulates stationary source emissions and allows a cancer risk of 10 in one million as long as all equipment used has Best Available Control Technology for Toxics. Waste trucks are currently required to be retrofitted to reduce PM_{10} emissions and regulations require that facilities notify the public if the risk factor exceeds 10 in one million. Consistent with long-standing practice, the Draft EIR set forth a risk factor of 10 in one million as the threshold of significance. The residents' risk factor from the Project is well below this threshold standard, and the environmental baseline was not understated. Consequently, NLS's claim of a significant health risk impact is incorrect.

4. The EIR Fully Addresses Potential Noise Impacts of 24-Hour Operations.

NLS fallaciously claims that 24-hour Monday through Saturday operation of TS/MRF and acceptance of trash beginning at 6:00 am will result in significant noise impacts not previously addressed in the EIR. This claim is made by NLS without any evidence of impact and is, therefore, speculative.

All noise-generating operations, including noise resulting from extended operations of the facility were analyzed in the Draft and Final EIR under Impact 4.5-7. Although the average noise generated by equipment would be 91.7 dBA (considered significant to sensitive receptors), this equipment would be operated within the enclosed

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[7] (2007) 150 Cal.App.4th 683.

structure of the TS/MRF—thereby reducing noise by at least 20 dBA. Further noise attenuation over distance would reduce noise to approximately 49 dBA at the nearest residential use 700 feet away[8]—which is less-than-significant even under the more stringent nighttime thresholds. Furthermore, Mitigation Measure 4.5-5 requires documentation and verification of that the structure of the TS/MRF will provide the requisite noise reduction of at least 20 dBA.

With regard to truck noise, the circulation pattern has been revised to route trucks to the south side of the TS/MRF via north roadway between the building and the adjacent closed landfill, making use of intervening structures to attenuate noise and keeping the circulation pattern and resulting noise away from the nearest residences.

5. <u>The Project Will Not Result in Significant Nuisance Odors and All Feasible Mitigation of Potential Odor Impacts Have Been Identified</u>.

NLS claims that the TS/MRF and increased green and wood waste will result in significant nuisance odors. NLS also claims that the Final EIR does not identify any mitigation measures beyond a 24-hour call-in line to reduce potential odors. NLS, however, proceeds from a false assumption. NLS references the additional odor control measures imposed in a 2005 Settlement Agreement of past odor complaints between Bradley Landfill and SCAQMD, but NLS then ignores the effectiveness and enforceability of these existing measures. The odor control measures mandated by the 2005 Settlement Agreement are incorporated into the Solid Waste Facilities Permit for the site. They are Project Design Features that have proven to be effective: Since their implementation, complaints related to odors at the Sun Valley site have declined from 21 in 2005, to 7 in 2006, to 2 in 2007, and to 1 in 2008. Therefore, they are not identified as mitigation measures because they are set forth as components of the Project itself. These odor suppressant systems are set forth on pages 4.4-15 through 4.4-17 of the Draft EIR in Final EIR Responses 9-21 and 47-7.

NLS incorrectly claims that truck transportation materials to the TS/MRF will cause odors as the trucks drive to the Project site. All such trucks are required by existing regulations to be fully enclosed. Therefore, no odors will be caused by trucks en route the facility.

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[8] The EIR preparer, Christopher A. Joseph & Associates, recently conducted more accurate measurements and determined that the nearest residence is actually <u>900</u> feet distant from the proposed facility. As a result, actual noise impacts will be less than set forth in the EIR.

With respect to increases in green and wood waste capacity, NLS engages in a fallacy that twice as much material generates twice as much odor. The odor suppressant measures required by the 2005 Settlement Agreement and incorporated into the design of the Project as well as the hot line do not lose effectiveness if the potentially odor-generating material increases to historic levels.

Odor from green waste is caused by decomposition (composting). Composting occurs if green material is allowed to remain in stockpiles for an excessive period of time. Composting does not occur during processing on conveyors, or through screening and grinding equipment. It also does not occur if material is moved in a timely manner. Odor generation, therefore, is a function of the length of time material is stored in stockpiles, not a function of the overall quantity of material received. Minimizing the period of time that material is stored in stockpiles on-site prevents the material from composting and generating excessive odors. The Solid Waste Facilities Permit, which was issued by the City of Los Angeles Environmental Affairs Department ("EAD"), governs the facility's operations. It prohibits the site from allowing green material to compost. As part of the regular EAD inspections, the inspector must verify that no composting is spontaneously occurring. Efficient and timely processing and removal of green material, therefore, is both an effective mitigation of odors regardless of the quantity received, and a permit requirement.

6. **The City Need Not Require that the Green and Wood Waste Facility be Within an Enclosed Building.**

NLS urges the City to require that the green and wood waste operations take place within an enclosed building, implying that this will reduce potentially significant environmental impacts that NLS has failed to demonstrate would occur.

With regard to NLS's analysis of the City's Zoning Code, please refer to our previous letter dated July 16, 2009 in which we set forth the reasons why the enclosed building requirement is inapplicable in the M3 Zone. No purpose is served by repeating those arguments to refute NLS's incorrect interpretation of the Zoning Code. Please note, however, that NLS fails to acknowledge the important fact that the existing green and wood waste operation at Bradley Landfill (established in 1986) is not in an enclosed building and has not resulted in any significant odor, noise, or air quality impacts. Furthermore, there is no limit in Bradley's contract with the Bureau of Sanitation on the amount of green and wood waste to be delivered to this facility. As set forth in our July

16, 2009 letter, no discretionary approval of any kind is required from the City to allow increased green and wood waste operations at Bradley to historical levels.

7. <u>The Cumulative Air Quality Impact Analysis Fully Complies with CEQA</u>.

NLS's assertions regarding cumulative air quality impacts appear confused and seem argue that the same level of analysis is required for cumulative impacts as for project-specific impacts.

> "The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion ***need not provide as great detail as is provided for the affect attributable to the project alone***. The discussion should be guided by the standards of practicality and reasonableness...." (Emphasis added.)[9]

Perhaps what is confusing NLS is that NLS somehow overlooked or is dissatisfied that the EIR identifies significant cumulative CO, ozone, and PM_{10} impacts resulting from the Project's air quality emission in combination with 28 related projects. NLS does not dispute the impact conclusion, but instead expresses doubts regarding the effectiveness of some of the cumulative impact off-sets. Contrary to NLS' assertion, the EIR does not claim that future reductions in air basin emissions or the net air quality benefits of the TS/MRF *mitigate* the cumulative air quality impacts; rather, the EIR is merely showing that the significant impact may be reduced over time.

Next, NLS argues that the EIR failed to discuss cumulative impacts on human health and the physical environment. However, the EIR contains a detailed discussion of both human health consequences and impacts to the physical environment are discussed. This discussion satisfies CEQA.

NLS next complains that the EIR does not mitigate cumulative impacts. There is no requirement in CEQA to mitigate cumulative impacts, and it is almost always infeasible to do so because the impact is caused by a number of projects and facilities on which additional mitigations cannot be imposed. Rather, CEQA requires that "[a]n EIR shall examine reasonable, feasible options for mitigating or avoiding ***the project's***

[9] CEQA Guidelines § 15130(b).

contribution to any significant cumulative effects." (Emphasis added.)[10] Thus, NLS claims that the Project must mitigate cumulative impacts are misplaced. In full compliance with CEQA, every feasible mitigation measure has been identified to substantially reduce significant air quality impacts. NLS provides no evidence whatsoever that these mitigations are insufficient or that other feasible mitigations measures exist that have not been included in the EIR.

8. **The Alternatives Analysis Complies with CEQA; Withdrawal of the Vertical Expansion Does Not Require Recirculating the Final EIR Alternatives Analysis.**

NLS makes two incorrect claims regarding the alternatives analysis: 1) that withdrawing the vertical height increase component rendered two alternatives "obsolete" and, therefore, the alternatives analysis in the Final EIR impermissibly narrow; and 2) that the EIR contains no analysis of a reduced TS/MRF alternative. Both claims are incorrect.

CEQA requires a reasonable range of alternatives to substantially reduce or avoid the significant impacts of the proposed project. The Draft EIR included a reasonable range of such alternatives. Although the vertical height limit component is no longer a component of the proposed Project, elimination of this component does not render Alternative C obsolete. **Alternative C *is* the reduced TS/MRF alternative**. Under this alternative, the proposed TS/MRF capacity (throughput) would be reduced by 25 percent, to a 3,000 tpd TS and 750 tpd MRF. As analyzed in the EIR, Alternative C included the transitional vertical expansion. However, as the applicant has withdrawn the vertical expansion request, the decision-makers could approve the reduced transfer station only. The impacts relating to the vertical expansion in Alternative C are not codependent or inextricably comingled with the impacts of the reduced TS/MRF in Alternative C such that the analysis of a reduced TS/MRF is rendered obsolete by eliminating the vertical expansion. Nor does NLS provide any evidence or analysis that this is the case.

The Final EIR expressly set forth that Alternative B is no longer applicable and included a new alternative, Alternative D2—TS/MRF Only, Revised Design, No Vertical Expansion. The number and range of the alternatives in the Final EIR are equal to the number of range of alternatives in the Draft EIR and fully comply with CEQA.

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[10] CEQA Guidelines § 15130(b)(5).

9. Analysis of Greenhouse Gas ("GHG") Emissions Complies with CEQA.

NLS engages in the sophistry that failure to address an issue is evidence of significant impact relative to that issue. With regard to GHG impact analysis, NLS claims that the EIR is defective for failing to discuss GHG impacts on the surrounding community—thereby implying an unstated significant GHG impact. CEQA does not require a community impact analysis of GHG emissions. The very term "Global Warming," which underlies the purpose of GHG analysis, implies that the appropriate geographic impact is global—not local.

NLS also argues that because GHG impacts were not analyzed in the Draft EIR, the GHG analysis in the Final EIR should be recirculated for public review. Recirculation would only be required if the analysis disclosed a new or more severe environmental impact.[11] It does not. Furthermore, the public has ample time to read and comment on the GHG analysis in the Final EIR. It was published in July, 2008.

Finally, NLS claims that the GHG reduction benefit of the TS/MRF is speculative. Prevailing expert opinion is contrary to NLS's skepticism. A May 8, 2007 presentation by the California Resource Recovery Association to the California Integrated Waste Management Board includes MRFs as part of a plan to reduce Greenhouse Gasses by 25 percent in California.[12] The California Climate Action Team includes MRFs as primary tool to reduce GHGs in California.[13] Consequently, substantial evidence supports the EIR conclusion that the TS/MRF may have a GHG reduction benefit over time.

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[11] CEQA Guidelines § 15088.5.

[12] http://www.crra.com/crranews/pressreleases/pdf/rrpghg.pdf

[13] http://www.climatechange.ca.gov/climate_action_team/reports/CAT_subgroup_reports/Recycling_Waste_Mngmt_Summary_and_Analyses.pdf

As previously-stated, no merit or substantial evidence exists in any of the nine claims made by NLS in its October 31, 2008 letter, claims which are repeated by NLS and Mr. O'Gara in their subsequent letters—again without any evidence to support claims. We appreciate your careful consideration of the Project and the information provided in this letter. Please do not hesitate to contact me with any questions or continued concerns you may have.

Sincerely,

Dale J. Goldsmith

cc: Waste Management

CHRISTOPHER A. JOSEPH & ASSOCIATES
Environmental Planning and Research

MEMORANDUM

To: *Dale Goldsmith, Armbruster, Goldsmith & Delvac*

From: *Craig Fajnor*

Date: *April 26, 2010*

Subject: *Bradley Landfill and Recycling Center EIR Regional Operational Emissions Analysis*

The purpose of this memorandum is to provide additional clarification regarding the analysis of regional operational air emissions presented in the Draft and Final Environmental Impact Reports (EIR) for the Bradley Landfill and Recycling Center Transition Master Plan Project (Project). The clarifications address changes in the timing of various phases of the Project, as the processing of the EIR and Project entitlements has taken considerably more time than initially envisioned.

Background

The Draft EIR analysis of regional operational emissions was conducted in accordance with methodologies established by the South Coast Air Quality Management District (SCAQMD). The Draft EIR calculated projected emission levels for a four-phased project. These phases and the activities included in each phase were as follows:

- Phase I Operation – included a 43-foot transitional vertical expansion of the existing landfill, an expanded green and wood waste processing operation and a temporary increase in the capacity of an existing recycling operation.

- Phase I Construction – included all of the above activities, along with construction of a new 4,000 tons per day capacity Transfer Station (TS) and 1,000 tons per day Materials Recycling Facility (MRF).

- Phase II Construction – projected to occur after closure of the landfill when the facility's land use permits expired on April 7, 2007. Included operation of the TS/MRF constructed in Phase I, installation of final cover, drainage and landfill gas systems on the closed landfill, and continued operation of the expanded green and wood waste processing facility.

- Phase II Complete – would occur after completion of the installation of final cover, drainage and landfill gas systems on the closed landfill, leaving operation of the TS/MRF constructed in

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Los Angeles • Downtown Los Angeles • Santa Clarita • Agoura Hills • San Francisco • Mammoth Lakes

Phase I, and operation of the expanded green and wood waste processing facility as the long-term operations to be conducted on the Project site.

Changes in the Project Phasing

As a result of the substantial time required by the City of Los Angeles to process the EIR and entitlements for the Project, the order of activities listed above has been affected as follows:

- On April 7, 2007, the existing landfill closed when its land use permits expired. The transitional vertical expansion was never implemented, and temporary expansion of an existing recycling facility was not initiated.

- Subsequent to the closure of the landfill, the Project Applicant, as required by state law and regulation, initiated the installation of final cover, drainage and landfill gas systems on the closed landfill. This activity is expected to be complete in June, 2010, prior to commencement of construction or operation of other project components.

- Construction of the TS/MRF and initiation of the expanded green and wood waste processing operation has been delayed until the City approves the Project.

Revised Project Phasing

With the changes listed above, the initial four-phase project has now become a two-phase project consisting of the following activities:

- Construction – operation of the expanded green and wood waste processing operation and construction of the new TS/MRF

- Operation – operation of the expanded green and wood waste processing operation and operation of the new TS/MRF

Regional Operational Emissions Analysis for the Project

Draft EIR

The Draft EIR included an analysis of the four-phase project described above. The calculated emissions for each of the phases were presented in the Draft EIR as follows:

Table 4.4-7

Phase I Operational Emissions (lbs/day)

Sources	VOC	CO	NO_x	SO_x	PM_{10}
Transitional Vertical Landfill Expansion, Expansion of Green and Wood Waste Processing, Expansion of Existing MRF	74	314	954	4	187
SCAQMD Significance Threshold	**55**	**550**	**55**	**150**	**150**
Significant?	**Yes**	No	**Yes**	No	**Yes**

The numbers shown reflect the increased emissions associated with Phase I activities. See Appendix F-3 for a complete discussion of the processes involved in Phase I operations. All figures presented above are prior to mitigation.
Source: Environmental Compliance Solutions, 2005

Table 4.4-8

Phase I Peak Day Emissions (lbs/day)

Activity	VOC	CO	NO_x	SO_x	PM_{10}
Construction	18	107	137	0.9	392
Operation	74	314	954	4	187
Max Daily Emissions	**92**	**441**	**1,091**	**4.9**	**579**
SCAQMD Threshold Level	55	550	55	150	150
Significant?	**Yes**	No	**Yes**	No	**Yes**

Source: Environmental Compliance Solutions, 2005

Table 4.4-12

Phase II Peak Day Emissions (lbs/day)

Activity	VOC	CO	NO_x	SO_x	PM_{10}
Construction	18	93	215	---	140
Operation	46	287	567	3	114
Max Daily Emissions	**64**	**380**	**782**	**3**	**254**
SCAQMD Threshold Level	55	550	55	150	150
Significant?	**Yes**	No	**Yes**	No	**Yes**

Source: Environmental Compliance Solutions, 2005

Table 4.4-11

Phase II Operational Emissions (lbs/day)

Sources	VOC	CO	NO_x	SO_x	PM_{10}
TS/MRF, Expanded Green and Wood Waste	46	287	567	3	114
SCAQMD Significance Threshold	**55**	**550**	**55**	**150**	**150**
Significant?	No	No	**Yes**	No	No

The numbers shown reflect the increased emissions associated with Phase II activities. Please see Appendix F-3 for a complete discussion of the processes involved in Phase II operations. These calculations are primarily based on the operation of a 4,000 tpd TS, a production increase for wood grinding operations and 1,000 tpd MRF to replace the landfill activities. All figures presented above are prior to mitigation.

Final EIR

As a result of comments raised during the public and agency review of the Draft EIR, the regional operational emissions analysis was revised in the Final EIR. The results of these revisions were presented in the Final EIR as follows:

Table 4.4-7

Phase I Operation – Regional Operational Emissions (lbs/day)

Sources	VOC	CO	NO_x	SO_x	PM_{10}
Transitional Vertical Landfill Expansion, Expansion of Green and Wood Waste Processing, Expansion of Existing MRF	~~74~~120	~~314~~500	~~954~~1,555	47	~~187~~466
SCAQMD Significance Threshold	**55**	**550**	**55**	**150**	**150**
Significant?	**Yes**	No	**Yes**	No	**Yes**

The numbers shown reflect the increased emissions associated with Phase I Operation activities. See Appendix F-3 for a complete discussion of the processes involved in Phase I operations. All figures presented above are prior to mitigation.
Source: Environmental Compliance Solutions, ~~2005~~2006

Table 4.4-8

Phase I Construction - Peak Day Total Emissions (lbs/day)

Activity	VOC	CO	NO_x	SO_x	PM_{10}
Construction	18	107	137	0.9	392
Operation	~~74~~120	~~314~~500	~~954~~1,555	47	~~187~~466
Max Daily Emissions	~~92~~138	~~441~~607	~~1,091~~1,792	~~4~~97.9	~~579~~858
SCAQMD Threshold Level - Construction	75	550	100	150	150
SCAQMD Threshold Level - Operation	55	550	55	150	150
Cumulative SCAQMD Threshold – Construction and Operations	130	1,100	155	300	300
Significant?	**Yes**	No	**Yes**	No	**Yes**

Source: Environmental Compliance Solutions, ~~2005~~2006

Table 4.4-12

Phase II Construction - Peak Day Total Emissions (lbs/day)

Activity	VOC	CO	NO_x	SO_x	PM_{10}
Construction	~~18~~15	~~93~~74	~~215~~182	---	~~140~~116
Operation	46116	~~287~~452	~~567~~1,702	~~3~~10	~~114~~228
Max Daily Emissions	~~64~~131	~~380~~526	~~782~~1,884	~~3~~10	~~254~~344
SCAQMD Threshold Level – Construction	75	550	100	150	150
SCAQMD Threshold Level – Operations	55	550	55	150	150
Cumulative SCAQMD Threshold – Construction and Operations	130	1,100	155	300	300
Significant?	**Yes**	No	**Yes**	No	**Yes**

Source: Environmental Compliance Solutions, ~~2005~~2006
Note: Operation total for Phase II Construction includes truck activity associated with import of dirt for landfill closure.

Table 4.4-11

Phase II Complete - Operational Emissions (lbs/day)

Sources	VOC	CO	NO_x	SO_x	PM_{10}
TS/MRF, Expanded Green and Wood Waste	~~4640~~	~~287~~210	~~567~~813	~~36~~	~~114~~149
SCAQMD Significance Threshold	**55**	**550**	**55**	**150**	**150**
Significant?	No	No	**Yes**	No	No

The numbers shown reflect the increased emissions associated with Phase II activities. Please see Appendix F-3 for a complete discussion of the processes involved in Phase II operations. These calculations are primarily based on the operation of a 4,000 tpd TS, a production increase for wood grinding operations and 1,000 tpd MRF to replace the landfill activities. All figures presented above are prior to mitigation.

Regional Operational Emissions Analysis for Revised Phasing

As a result of the changes in the phasing of the Project activities described above, emissions associated with the overlapping of activities as originally set forth in the four-phased project would no long occur. Specifically, the transitional vertical expansion would not occur at all, and the landfill closure activities would not overlap with any of the construction or operational activities associated with the Project. As such, the Phase I Operations scenario above, which includes the transitional vertical expansion, and the Phase II Construction scenario, which includes the operation of the new TS/MRF overlapping with the landfill closure activity (which will be completed in June 2010), will now never occur.

The phases that will be implemented are (a) the Phase I Construction scenario, which would need to be adjusted to remove the transitional vertical expansion that was originally expected to occur as part of this phase ,leaving only the expanded green and wood waste processing operation occurring concurrently with construction activities, and (b) the Phase II complete scenario, which would be the same end state for the Project site as originally envisioned.

Under the Phase I Construction scenario, including the activity associated with the transitional vertical expansion, the Project's traffic study projected that a total of 1,505 trucks per day would access the facility (Draft EIR, Appendix E). This level of truck traffic was used to calculated the regional operational emissions associated with this phase. Of this total, only 516 trucks would be associated with the expanded green and wood waste processing operation. This level of daily truck traffic would be below the existing daily level of 899 trucks associated with the baseline operation. Moreover, the operation of equipment associated with the landfill operation within the transitional vertical expansion areas would not occur under this scenario. As such, there would be a substantial net decrease in regional operational emissions, compared to the original estimates for the Phase I Construction scenario, that would be associated with the ongoing operations on the Project site during the revised Construction phase that will now take place under the Project. However, to be conservative, the operational emissions during the Construction phase were only adjusted to zero.

Thus, in accordance with the two-phased project which the Project has now become, the emissions levels and changes between the Draft and Final EIR analysis would be as follows:

Construction (lbs/day)

Activity	VOC	CO	NO_x	SO_x	PM_{10}
Construction	18	107	137	0.9	392
Operation	~~74~~ ~~120~~ 0	~~344~~ ~~500~~ 0	~~954~~ ~~1,555~~ 0	~~4~~ ~~7~~ 0	~~187~~ ~~466~~ 0
Max Daily Emissions	~~92~~ ~~138~~ 18	~~441~~ ~~607~~ 107	~~1,091~~ ~~1,792~~ 137	~~4.9~~ ~~7.9~~ 0.9	~~579~~ ~~858~~ 392
SCAQMD Threshold Level - Construction	75	550	100	150	150
SCAQMD Threshold Level - Operation	55	550	55	150	150
Cumulative SCAQMD Threshold – Construction and Operations	130	1,100	155	300	300
Significant?	~~Yes~~No	No	**Yes**	No	**Yes**

Operations (lbs/day)

Sources	VOC	CO	NO_x	SO_x	PM_{10}
TS/MRF, Expanded Green and Wood Waste	~~46~~40	~~287~~210	~~567~~813	36	~~114~~149
SCAQMD Significance Threshold	**55**	**550**	**55**	**150**	**150**
Significant?	No	No	**Yes**	No	No

Please feel free to contact me if you have any questions or require any additional information.

#13

Date: 4-27-10
Submitted in PLUM Committee
Council File No: 10-0468
Item No.: 13
Deputy: Submitted by Public

April 27, 2010

Hon. Councilman Ed Reyes
Chairman, Planning Land Use and Management Committee
City of Los Angeles
Los Angeles City Council
200 N. Spring Street City Hall, Room 410
Los Angeles, CA 90012

RE: WM-Sun-Valley Recycling Park Appeal- File – CPC- 2007-3888

Dear Chairman Reyes,

My name is Rosanne McTyre and I am a Ph. D. Epidemiologist with 23 years of experience consulting for private and public clients. At the request of Waste Management, and in response to community questions about the density of manufacturing facilities and the incidence of asthma, I conducted research based on 2008 California data.

I examined the latest available data on the incidence of asthma (Asthma Hospitalizations and Emergency Department visits) obtained from the California Department of Public Health, for Sun Valley and four surrounding communities with similar demographics (Pacoima, San Fernando, Panorama City and Boyle Heights).

I selected these communities because of their proximity to Sun Valley and similar demographic profiles. As asthma incidence varies greatly by demographics and socioeconomic factors, it is important to compare similar communities to make sure the conclusions are not biased. I then correlated incidence of asthma to the concentration of manufacturing companies per 1,000 people in each of the five areas.

As the attached table shows, I found no correlation between the incidence of Asthma Hospitalizations and Emergency Department visits for asthma episodes and the concentration of manufacturing.

Compared to Sun Valley, all of the comparable areas had similar – or higher - incidences of asthma, despite manufacturing densities that ranged from 0.7 to 5.2 companies per 1,000 people.

Should you have any questions about this information, please do not hesitate to contact me directly at (301) 318-8088.

Sincerely,

Rosanne B. McTyre, Ph.D.
President
Semafore Scientific Strategies LLC

Density of Manufacturing, Asthma Hospitalizations and Emergency Department Visits (2008)

Area (Zip Code)	Asthma Hospitalizations* (Adjusted for Age and Socioeconomic factors)* (95% Confidence Interval)	Statistically Different than Sun Valley?	Asthma Emergency Department Visits* (Adjusted for Age and Socioeconomic factors)* (95% Confidence Interval)	Statistically Different than Sun Valley?	Manufacturing Companies per 1,000 People
Sun Valley (91352)	**14.6 (9.6 – 19.6)**		**52.9 (50.0-55.7)**		**5.2**
Pacoima (91331)	13.7 (8.7 – 18.8)	No	60.2 (57.4-63.1)	Yes- higher	1.2
San Fernando (91340)	14.7 (9.7 – 19.7)	No	51.5 (48.7-54.4)	No	3.0
Panorama City (91402)	11.8 (6.7 – 16.8)	No	61.2 (58.3-64.0)	Yes- higher	0.8
Boyle Heights (90033)	15.7 (10.7 – 20.7)	No	59.5 (56.7-62.4)	Yes-higher	0.7

*Rates per 10,000 residents adjusted to the 2000 U.S. Standard Population and ESRI Community Sourcebook of Zip Code Demographics.

Data Sources: California Office of Statewide Planning and Development (OSHPD) Patient Discharge and Emergency Department Databases, 2008

TESTIMONY OF DR. ROSANNE MCTYRE
CITY OF LOS ANGELES PLUM COMMITTEE
April 27, 2010

Good afternoon, Mister Chairman and Councilmembers.

My name is Dr. Rosanne McTyre. I have a Masters Degree in Epidemiology from Yale University and a Ph.D. in Epidemiology from the Johns Hopkins School of Public Health.

I have been a consultant epidemiologist for 23 years.

Buenas tardes, soy Rosana McTyre y tengo un Doctorado en Epidemiologia.

I am a bilingual Spanish speaker and my remarks today are based on research and personal experience working in Spanish speaking communities.

My testimony today is about asthma incidence and a perceived correlation with higher concentrations of manufacturing or industrial facilities, and concludes that this perception is not accurate.

I looked at the latest available data on the incidence of asthma from the California Department of Public Health, for Sun Valley and 4 surrounding communities with similar demographics (Pacoima, San Fernando, Panorama City, and Boyle Heights), and compared these with the concentration of manufacturing companies per 1,000 people in each of the 5 areas.

This analysis showed that there is no correlation between the incidence of asthma hospitalizations or Emergency Department visits for asthma episodes and the concentration of manufacturing. All of the comparable areas had similar incidences of asthma despite a range of manufacturing ranging from 0.7 to 5.2 companies per 1,000 people.

So, to conclude, best available data show that there is no correlation between incidence of asthma and density of manufacturing use in this area.

Rosanne B. McTyre, PhD, MPH
3700 Van Ness Street, NW
Washington, DC 20016
301-318-8088, rbmctyre@yahoo.com

EDUCATION

1987	PhD, Epidemiology (Chronic Diseases), The Johns Hopkins School of Hygiene and Public Health, The Johns Hopkins University, Baltimore, Maryland
1977	MPH, Epidemiology (Infectious Diseases), Yale University School of Medicine, Department of Epidemiology and Public Health, New Haven, Connecticut
1974	BA, Biology, Swarthmore College, Swarthmore, Pennsylvania

EXPERIENCE

Current

Semafore Scientific Strategies LLC

Dr. McTyre is the President of Semafore Scientific Strategies LLC, a firm that provides strategic scientific consulting services for commercial clients and regulated industries, as well as legal counsel.

Dr. McTyre is an epidemiologist with more than 20 years of experience focusing on the design and implementation of a wide range of technical solutions to resolve business issues involving data on human health. She provides strategic evaluation and analysis of data utilizing innovative epidemiologic and biostatistical techniques. She has extensive experience in the application of epidemiology and biostatistics in a variety of settings, including drugs and pharmaceuticals; implanted medical devices; lifestyle habits; healthcare products; and chemical, occupational, and environmental exposures. She currently performs work for commercial clients and regulated industries, as well as legal counsel.

Dr. McTyre has extensive experience in the design of observational epidemiology studies, including development of questionnaires, data collection, quantitative data analysis, and report preparation. She has been involved in data audits of observational studies. She has performed analyses of existing or newly published epidemiologic data, including comprehensive reviews of the literature, critical reviews, systematic reviews, and weight-of-the-evidence analyses. She has provided strategic advice and technical expertise in the analysis and interpretation of public health program data, and the

evaluation of public health interventions. She has also applied her skills in the design, analysis, and interpretation of occupational and environmental health studies and the strategic evaluation of workplace cancer and other disease clusters.

In the clinical and regulatory arena, she has prepared submissions on the impact of human health data in the regulatory process for agencies such as the Food and Drug Administration (FDA), Environmental Protection Agency (EPA), and the Centers for Medicare and Medicaid Services (CMS). She has expertise in the design of clinical trial analysis plans, data management programs, biostatistical analysis, and interpretation of clinical data. She has also been involved in pharmacovigilance and post-marketing surveillance programs both for pharmaceuticals and medical devices. She has participated in the development of technology assessments including cost-effectiveness analyses of new technologies for reimbursement purposes, and in the design and interpretation of marketing and label comprehension studies in support of regulatory submissions.

Dr. McTyre has presented results of her work to a variety of audiences, including attorneys, companies, employees, public citizens, and other governmental and private organizations. She prepares articles on topics related to health, with an emphasis on epidemiological principles, for publication in professional and technical journals, as well as periodicals. She also prepares and delivers presentations to national and technical meetings and conferences.

Academic Appointment

Adjunct Professor of Epidemiology and Biostatistics
George Washington University
School of Public Health and Health Services
Washington, DC

Previous Positions

2006-2010	Director, Epidemiology and Biostatistics Practice Becker and Associates Consulting Inc. Washington, DC
2001-2006	Vice President, Epidemiology and Biostatistics The Weinberg Group Inc. Washington, DC

Previous positions at The Weinberg Group are as follows:

1995	Managing Consultant
1993	Senior Consultant
1988 to 1992	Independent Epidemiology and Biostatistics Consultant

Representative examples of the scope of Dr. McTyre's experience:

Strategic and Technical Support on Occupational and Environmental Health Issues

- Worked as a member of a team that strategically evaluated and provided advice to a large chemical company on a possible testicular cancer cluster in the workplace. This involved the comprehensive analysis and interpretation of epidemiologic literature, review of the data on affected cases, analysis of all the data, and communication of recommendations to management and groups of workers.

- Assisted an attorney representing a product manufacturer on the investigation of a potential cancer cluster involving several cases of head and neck cancer. Conducted a descriptive epidemiology study, and prepared a report that was presented to the company on the findings and recommendations for future action.

- Conducted a descriptive epidemiology study of potential asthma and cancer associated with a waste-to-energy incinerator in Massachusetts. Provided support to management and to the company's occupational physician in explaining the study results to the health department and others. Participated in town meetings and submitted a publication on the subject on behalf of the client.

- Provided technical support to an inter-industry group concerned about an ongoing pesticide epidemiology study in North Carolina. Analyzed data, conducted a literature review, and participated in town meetings to explain epidemiologic methods and the study results.

- Provided expertise and worked with an occupational health medical expert to prepare presentations on the health effects of exposure to waste-to-energy incinerators. These presentations were made to various organizations in Puerto Rico in support of prospective new waste management incinerators to be built on the island.

- Provided epidemiology expertise to a large chemical company that did not have an epidemiology department. Served on various committees, worked with the Medical Director to develop a study of the effect of one of their products on the health of workers in a plant in Louisiana, and provided support on TSCA reporting of adverse events related to their chemicals. Also involved in the analysis of chamber and epidemiology studies of one of their products.

- Provided strategic analysis and advice to various industries involved in environmental disputes related to superfund site exposures, toxic spills, and other environmental contamination including water runoffs, and air emissions. Critically reviewed studies from ATSDR, health departments, and other regulatory agencies.

- Worked with a landfill operation to respond to allegations of increased risk of illness in the community surrounding the facility. Served as a scientific expert and spokesperson in public relation efforts and in anticipation of litigation.

Strategic and Technical Support to Regulated Industries

- Provided technical support and strategic guidance to medical device clients in biostatistics and clinical science involving FDA regulatory issues for a variety of innovative healthcare products.

- Supported a large pharmaceutical company in preparing for an FDA hearing to discuss implications of life-threatening liver disease with one of their drugs. Worked with the company's safety surveillance, clinical, and regulatory departments to develop a comprehensive and convincing strategy that included analysis of epidemiologic data.

- Provided strategic expertise and assistance in the analysis, interpretation, and presentation of safety data of a medical device in preparation for the first FDA Medical Devices Dispute Resolution Panel. Assembled group of expert biostatisticians to develop and present expert opinions on statistical underpinnings of the study. Assisted the company in post-marketing surveillance efforts, including evaluation of reports of adverse events under the MedWatch program.

- Conducted due diligence evaluations of an over-the-counter pharmaceutical in support of potential acquisition, and of clinical data supporting external cardiac defibrillators for a major venture capital investment.

- Supported New Hampshire Health Department in the strategy and analysis of data involving an outbreak of disease implicated in eating popcorn.

- Provided strategic support to a pharmaceutical company seeking to gain approval for a primary indication of a previously approved brain cancer therapy for recurrent brain cancer, where the issues were contentious. Based on this strategy the product was successfully approved.

- Devised and implemented a strategy for analyzing and presenting previously collected clinical data in support of a technology assessment of a wound healing device to obtain CPT code reimbursement from the Health Care Financing Administration (HCFA).

- Provided strategic technical support to sunscreen manufacturer in the process of a New Drug Application (NDA) submission of a novel wavelength protection methodology. Supported the company in conducting marketing and label comprehension studies in support of their product.

- Provided strategic support to a medical device manufacturer who was trying to find a narrow FDA approvable indication for an antibiotic bone cement.

- Directed an audit of an observational epidemiologic study of an over-the-counter product implicated in increasing the risk of hemorrhagic stroke. Supported a trade association on the FDA panel meeting on this issue.

- Conducted systematic and weight-of-the-evidence analyses on a variety of different consumer products, pharmaceutical drugs, and medical devices. Representative examples include: calcium in milk, hair dyes in occupational health, fertility drugs and ovarian cancer, alcoholic beverages and various health outcomes, topical antimicrobials in wound healing, smokeless tobacco and various health outcomes, penile implants and orthopedic implants and cancer.

Litigation Support and Technical Advice to Counsel for Product Defense and Toxic Tort Issues

- Provided strategic and scientific technical support to defendant in breast implant litigation. This included design, analysis, and interpretation of existing epidemiologic studies, and monitoring of ongoing epidemiology studies. Provided weight-of-the evidence analysis on existing literature, and supported major publication. Prepared expert witnesses in epidemiology.

- Prepared critical and systematic reviews of literature and weight-of-the-evidence analyses of alcoholic beverage use and a variety of different health outcomes in support of strategy development by a major manufacturer in anticipation of litigation.

- Provided strategic and technical scientific support to defendant on superfund issue involving insulin resistance.

- Provided strategic and scientific technical support to defendant in fen-phen litigation. This effort involved preparation and presentation of tutorials in epidemiologic methods, review and analysis of existing and ongoing epidemiology studies, support to counsel in all aspects of litigation, including retention of epidemiology experts and preparation of arguments and scientific data in support of a Daubert hearing and other legal proceedings.

- Prepared and presented a systematic review of the literature on smokeless tobacco use in the U.S. and abroad, as well as a variety of health outcomes to counsel in support of litigation.

- Provided support to product defense efforts for various products and substances, including Class III medical devices, cosmetics and other consumer products, as well as chemical exposures including lead, asbestos, and environmental tobacco smoke.

PROFESSIONAL AFFILIATIONS

American Public Health Association

American College of Epidemiology:

- Past Member of the Board of Directors, elected to second three-year term in 2001, Co-chair of the Education Committee
- Past Member of the Ethics and Standards of Practice Committee writing group charged with writing ethics guidelines for members of the College
- Chair of Subtask on teaching epidemiology to non-epidemiologists
- American College of Epidemiology representative to the Planning Committee for 2001 Epidemiology Congress, Toronto, Canada
- American College of Epidemiology Fellow of the College 2005
- American College of Epidemiology representative to the Planning Committee for 2006 Epidemiology Congress, Seattle, WA

The Cosmetic, Toiletry, and Fragrance Association

- Member of the Scientific Advisory Committee (SAC)

Society for Epidemiological Research

Manuscript Reviewer for the American Journal of Epidemiology and Annals of Epidemiology

Drug Information Association

- Member of Clinical Safety and Pharmacovigilance Special Interest Area Committee (SIAC)
- Member of Planning Committee for Medical Devices Workshop held in February 2002

INVITED PRESENTATIONS AND PROFESSIONAL ACTIVITIES

2009: Problem of Missing Data in Medical Device Trials. 2009 FDA/Industry Statistics Workshop; Washington, DC.

2002: Healthcare Technology Assessment and Outcomes Data: When and How To Obtain and Use This Information To Support Reimbursement Strategies. Drug Information Association Workshop, The Medical Device World: From Regulatory Requirements and Clinical Studies to Technology Assessment and Reimbursement. Philadelphia, PA.

1998: Designing Post-market Surveillance Research for Implanted Devices. Food and Drug Administration on Epidemiology of Medical Devices in Women. Rockville, MD.

1998: How to Evaluate and Respond to Epidemiology Studies . Cosmetic, Toiletry & Fragrance Association Epidemiology Seminar. Washington, DC. Published: *CTFA Newsletter* 98(9):6.

1994: Clinical Follow-up (Retrospective) Studies: What Are They and What Can They Achieve? Society for Biomaterials Short Course: Approaches to the Clinical Evaluation of Medical Devices. Rockville, MD.

PUBLICATIONS AND PRESENTATIONS

Hilton S, McTyre RB, Perfetto EM. 2008. Corporate risk, crisis, and reputation management: Minimizing corporate risks and responding to product crises. In *Pharmaco Epidemiology and Therapeutic Risk Management.* Hartzema AG, Tilson HH, Chan KA. Harvey Whitney Books Company

McTyre RB, Hilton S, Falk J. 2003. The many faces of risk management: Why is it important to industry? *Regulatory Affairs Journal.*

Hoffman B, McTyre RB, Pastides H. Evaluation of cancer incidence and mortality in the vicinity of waste combustion sources. Submitted for publication, *Journal of Occupational and Environmental Medicine.* Bryn Mawr, PA: American College of Occupational and Environmental Medicine.

McTyre RB. Pottern L. 1998. Observational research: The nonexperimental approach. In, *Clinical Evaluation of Medical Devices: Principles and Case Studies.* Witkin KM (ed). Totowa, New Jersey: Humana Press, Inc.

Mandell DE, McTyre RB, DeLustro F, Erickson R. 1998. Injectable collagen and a rare adverse event - true association or artifact? In, *Clinical Evaluation of Medical Devices: Principles and Case Studies.* Witkin, KM (ed). Totowa, New Jersey: Humana Press, Inc.

Osborne CG, McTyre RB, Dudek J, Roche KE, Scheuplein R, Silverstein B, Weinberg MS, Salkeld AA. 1996. Evidence for the relationship of calcium to blood pressure. *Nutrition Reviews* 54:365-381.

McTyre RB. 1991. Tobacco. In, *Healthy People 2000: Citizens Chart the Course.* Stoto MA, Behrens R, Rosemont C (eds). Washington, DC: National Academy Press. Pp. 99-103.

McTyre, R.B. 1991. Alcohol and drug abuse. In, *Healthy People 2000: Citizens Chart the Course.* Stoto MA, Behrens R, Rosemont C (eds). Washington, DC: National Academy Press. Pp. 104-109.

McTyre RB. 1987. An evaluation of the short-term impact of a health risk appraisal instrument. Ph.D. diss., The Johns Hopkins University, Baltimore, Maryland.

Goetz AA, McTyre RB. 1981. Health risk appraisal: Some methodological considerations. *Nursing Research* 30:307-313.

Boldman R, Reed DM. 1977. Worldwide variations in low birth weight. In, *The Epidemiology of Prematurity.* Reed DM and Stanley FJ (eds). Baltimore: Urban and Schwarzenberg.

Boldman R. 1975. A post-1975 dengue epidemic serological survey of the metropolitan area and eastern Puerto Rico. Master's thesis, Yale University, New Haven, Connecticut.

WASTE MANAGEMENT

Date: 4-27-10
Submitted in PLUM Committee
Council File No: 10-0468
Item No.: 13
~~Deputy~~: Submitted by Appellant

April 27, 2010

WASTE MANAGEMENT
9081 Tujunga Avenue
Sun Valley, CA 91352
(818) 767-6180
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VIA EMAIL & HAND DELIVERY

Hon. Ed Reyes
Los Angeles City Council
Planning & Land Use Management Committee
City of Los Angeles
200 N. Spring Street, Room 350
Los Angeles, CA 90012-4801

Re: **Sun Valley Recycling Park/Council File 10-0468; CPC 2007-3888**
CU-ZV-SPR (Item No. 13 on the Committee's April 27, 2009 Agenda)

Dear Committee Members:

For the past few months, Waste Management has been working closely with Councilmember Tony Cardenas, with input from the Community Advisory Committee, to develop a Host Fee for the Sun Valley Recycling Park (SVRP). Waste Management will charge all vehicles arriving at the SVRP a Host Fee. In order to provide incentives for third party haulers to retrofit their trucks (all of Waste Management's trucks already meet or exceed CARB requirements), clean fuel trucks will pay the lowest fee, CARB-compliant trucks will pay a higher fee, and non-CARB compliant trucks will pay the highest fee ($3.00 per ton). The Host Fee amounts will be adjusted annually based on increases in the Consumer Price Index.

The Host Fees will be deposited into a special trust fund to be disbursed as determined by the Councilmember of Council District 6, with input from a community advisory committee. The Host Fees collected will be used to fund a variety of public benefits, such as subsidizing prescription drugs for respiratory related ailments at local non-profit medical clinics, environmental education, and other purposes to further environmental justice or mitigate impacts of the project. The fees accumulated will be spent entirely within the most impacted Sun Valley neighborhoods.

I have over 25 years of experience in the solid waste industry and fully understand the economics of waste hauling operations, both from the hauler's and the facility operator's perspective. Based on this experience, I am certain that the Host Fee condition will provide a powerful financial incentive for haulers to retrofit their vehicles and will result in cleaner trucks coming to and from the SVRP.

For haulers purchasing a new truck, a natural gas-powered truck currently cost about $40,000 more than a diesel truck. Under the proposed Host Fee condition, a gas powered truck or equivalent reduced- emission truck would pay $2.00/ton less than the Host Fee for a standard diesel with no retrofit or newer engine. Additionally, we are proposing a 5 percent discount off the tip fee (that is the fee to dump less the Host Fee) for natural gas or equivalent trucks. As we anticipate the tip fee to be in the $60/ton range, a 5 percent discount would amount to $3.00/ton. The sum of the two discounts is $5.00/ton.

Most solid waste trucks in the San Fernando Valley collect approximately 25 tons per day. Therefore, the clean vehicle discounts would save a trucker $125.00/day (25 tons/day x $5.00/ton= $125/day). On average, most trucks operate 260 days/year, for a total annual savings of $32,500. This means that a hauler could recoup the $40,000 additional cost of a natural gas vehicle in about 1 ¼ years and would save additional amounts thereafter.

For existing trucks, the cost to retrofit a non-CARB compliant truck is between $10,000 to $20,000, depending on the model, the year built, and some other factors. This retrofitting would entitle the hauler to a total discount of $3.00/ton ($1.50/ton on the Host Fee plus $1.50/ton on the tip fee). At 25 tons/day per truck, this would generate a daily savings of $75.00 (25 tons/day x $3.00/ton= $75/day). Over a 260 operational day year, the discount for retrofitting would generate a savings of $19,500. This means that a hauler could recoup the $10,000 to $20,000 retrofit cost in 6 months to less than a year and would save additional amounts thereafter.

The foregoing analysis shows that, due to the clean vehicle discounts, it is in the hauler's best economic interest to purchase clean vehicles or retrofit their trucks.

I am available to answer any questions you may have.

Very truly yours,

Doug Corcoran

cc: Councilman Tony Cardenas
City Attorney
Dale J. Goldsmith

Date: 4-27-10
Submitted in PLUM Committee
Council File No: 10-0468
Item No.: 13
Deputy: submitted by Ridie

Sun Valley Recycling Park Community Outreach

We believe in community participation and keeping the community involved and updated on what's happening at our Sun Valley facility. We respect and value our neighbors' input and suggestions and are taking unprecedented steps to make sure Sun Valley residents, business owners, community leaders, educators and other stakeholders are kept up-to-date with our current operations and future plans.

Here's what we've done to inform and obtain input from the community:

Community Advisory Committee
Starting in June 2002 and continuing into 2008, a group of committed residents and community leaders have served on a Community Advisory Committee overseen by Councilman Tony Cardenas. The Committee has been studying all aspects of WM's current operations and future plans to offer input and advice to the Council office. WM has assisted the Committee by providing information, identifying expert speakers on subjects such as air quality, water quality and transportation, and providing $125,000 per year for four years to support the Committee's operations.

Neighborhood Council and Community Organization Outreach
WM representatives have made dozens of presentations to community groups, homeowner associations, and schools in Sun Valley and neighboring communities about current operations and future plans. The Sun Valley Area Neighborhood Council, as well as its Land Use Committee, has been extensively involved in reviewing plans for the Sun Valley Recycling Park.

Open House at WM of Sun Valley/Sun Valley Recycling Park
In the summer of 2005, over 500 neighbors spent an afternoon with us at the Sun Valley facility and more than 250 of those took a tour of both the proposed Recycling Center location and existing operations including our green and wood waste recycling, e-waste recycling, and "green" energy generators. Director of Operations, Doug Corcoran, along with environmental specialists addressed technical questions, while translators provided information and answered questions in Spanish.

Door-to-Door, Neighborhood Information Campaign
Thousands of households within a mile and a half radius of our facility have been visited at least once by bilingual outreach workers who distributed information on the Sun Valley Recycling Park and answered questions about WM's current/planned operations.

Open Houses at Sun Valley Library
In the late summer of 2005, on four consecutive Wednesday evenings, a bilingual WM employee provided information to and answered questions from Sun Valley neighbors. Invitations to the open houses were hand-delivered to the local neighbors and leafleted at nearby churches and grocery stores.

Waste Management–Sponsored, Voluntary Community Meetings on the EIR
In 2006, WM voluntarily held two community meetings in Sun Valley in both English and Spanish (with simultaneous translation) to answer questions and obtain community input. Experts in areas such as air quality, water quality, transportation and recycling were present to assist the more than 250 people who attended these public meetings.

Government-Sponsored Public Hearings and Community Meetings
WM attended and provided information at a public hearing conducted by the City of Los Angeles in 2006, as well as a community informational meeting hosted by Councilman Tony Cardenas at Byrd Middle School.

Elected Official Briefings
WM has been updating elected and appointed officials from throughout the Sun Valley/Northeast San Fernando Valley area such as the Los Angeles City Council and their staffs, state legislators, the City Board of Public Works, and County Supervisors and their staffs on an ongoing basis about our current operations, future plans and the EIR.

Business-to-Business Outreach
The local business community is an important stakeholder in Sun Valley. Therefore, we have kept business groups apprised of our plans. Groups we meet with regularly include the Los Angeles Chamber of Commerce, the Valley Industry and Commerce Association (VICA), and Sun Valley Chamber of Commerce. We also meet with community groups such as Sun Valley Beautiful, The Rotary Club of Sun Valley and the Sun Valley Area Neighborhood Council.

Here's what we've done to provide and make factual information available to the community:

Environmental Impact Report (EIR) Easily Available to Sun Valley Community
The EIR for the Sun Valley Recycling Park is available for community review at the Sun Valley Library, and the offices of Los Angeles City Council members Tony Cardenas (CD6), Richard Alarcon (CD7) and Wendy Greuel (CD2). We provided members of the Community Advisory Committee and other community leaders and residents with their own copies of the EIR in disk form to enable their detailed review of the document and our future plans. The EIR may also be viewed at our website: www.keepingsunvalleyclean.com.

90-day Review Period for EIR
The EIR for the Sun Valley Recycling Park was available for community review and comment for 90 days. By law, most EIRs are only available for community review for 30 to 45 days.

EIR Executive Summary Printed in English and Spanish
For the first time in the history of the City of Los Angeles, through WM's support, the executive summary of a project Environmental Impact Report was printed in English and Spanish to assist our neighbors in understanding the most technical aspects of the extensive environmental review.

Public Information Series in the *Los Angeles Daily News* and the *San Fernando Valley Sun*
WM sponsored a 13-week public information series in local English and Spanish-language newspapers to explain current operations, future plans, and key findings of the EIR. Reprints of the informational ads are available upon request and are posted on the web site www.keepingsunvalleyclean.com.

Direct Mailings to the Sun Valley Community
Waste Management has mailed several project updates (written in English and Spanish) to more than 3,000 local residents and businesses, the most recent of which was mailed in December 2007.

E-newsletters and Updates
We keep our neighbors and other Sun Valley stakeholders informed through frequent informational e-mails, the most recent of which was sent to approximately 2,000 local residents and businesses in December 2007.

Project Web Site Posts Information and Upcoming Events
The web site, www.keepingsunvalleyclean.com, has been maintained for approximately four years as an on-line means of allowing residents the opportunity to obtain information about current operations and future plans, learn of important upcoming dates/events, view site photos and illustrations, review the project's Environmental Impact Report, contact local elected officials and the City, and provide comments and input.

Upcoming Community Information and Outreach Activities:

- Continued E-Newsletters and Updates
- Continued operation of project web site: www.keepingsunvalleyclean.com
- Public hearings will be conducted by City of Los Angeles Zoning Administrator and Planning Commission
- Project information and site tours are available upon request

If you would like to learn more about Waste Management's Sun Valley operations, future plans, or community outreach programs please contact Doug Corcoran (818-252-3147; dcorcoran@wm.com) or Kit Cole (818-822-6378; kcole@wm.com), or visit www.keepingsunvalleyclean.com.