

SOLID WASTE INDEPENDENT HEARING PANEL
COUNTY OF SOLANO

JUNE GUIDOTTI,

Petitioner

vs.

SOLANO COUNTY LEA,

Respondent

Case No. LEA-2011-01

DECISION ON SUBMITTED MATTER

On June 13, 2011, in the Hearing Room of the Solano County Administration Center, the Solano County Solid Waste Independent Hearing Panel ("Hearing Panel")¹ heard this matter pursuant to Section 44307 of the Public Resources Code.²

Petitioner June Guidotti appeared in pro per. Respondent Solano County Department of Resource Management, the local enforcement agency (the "LEA") under the California Integrated Waste Management Act of 1989 (Division 30), was represented by Deputy County Counsel Lori Mazzella. Various members of the public also appeared, including George Guynn, Jr., Christina Hughes, and Richard Giddens. Potrero Hills Landfill, Inc. ("Potrero Hills"), the real party in interest, was not present.

Evidence was received and the hearing was closed.³

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¹ This Hearing Panel has been established by the Solano County Board of Supervisors in accordance with Public Resources Code section 44308 and is comprised of Solano County Supervisor Linda Seifert (the chairperson), Bruce DuClair and Christopher Fong.

² All further statutory references shall be to the Public Resources Code, unless otherwise indicated.

³ Although both parties were given the opportunity to brief the matter, only the LEA submitted a brief. Potrero Hills filed a joinder in the LEA's response brief. Together with the documents submitted to the panel before and at the proceeding as well as the prepared recording of the hearing, these records comprise the administrative record in this proceeding.

1 **BACKGROUND**

2 The following facts are not in dispute.

3 Potrero Hills operates a landfill in Solano County pursuant to Solid Waste Facility Permit
4 No. 48-AA-0075 issued by the LEA on December 27, 2006 ("SWFP"). As part of the SWFP,
5 Potrero Hills is subject to the Potrero Hills Landfill Joint Technical Document ("JTD"), last
6 updated in October 2006.

7 On March 10, 2011, Potrero Hills submitted an application to amend the JTD for a final
8 grading plan at the landfill ("JTD Amendment"). By its own terms, the JTD Amendment does
9 not change the design or operation of the landfill, including its maximum height and acreage.
10 The LEA approved the JTD Amendment on April 8, 2011, and posted a public notice of the
11 decision on April 11, 2011. In approving the JTD Amendment, the LEA made the following
12 findings pursuant to Title 27, Section 21666 of the California Code of Regulations:

- 13 (1) The proposed change is consistent with all applicable certified and/or adopted CEQA
14 documents in that no supplemental EIR or Negative Declaration is required.
15 (2) The proposed change is acceptable and consistent with State Minimum Standards.
16 (3) The proposed change does not conflict with the terms and conditions in the current
17 Solid Waste Facility Permit.
18 (4) The slope stability and seismic analysis meets the safety factor and acceptable
19 displacement requirements for a Class III landfill.

20 On May 10, 2011, Petitioner, through her attorney William Reustle, appealed the LEA's
21 decision to this Hearing Panel. In the letter, Petitioner raises a number of issues, including that
22 the facility "continues to emit offensive odors, and flying trash to the detriment of the quality of
23 life to Mrs. Guidotti and her family," and that there is a "substantial misstatement of facts" with
24 respect to the daily allowance of vehicle trips per day.

25 In response to Petitioner's appeal, the Hearing Panel set a hearing and stated that "the
subject of the hearing shall be confined to whether [Petitioner's] appeal should be accorded a full
evidentiary hearing before the [Hearing Panel] and, if so, what the subject of that hearing should

1 be.” After a continuance (with time waived by Petitioner), the hearing was conducted in
2 accordance with Section 44307 and the Hearing Panel’s Procedures Manual.

3 **DISCUSSION**

4 **A. Findings of Fact**

5 Based on the evidence presented at the hearing, the Hearing Panel makes the
6 following findings of fact:

7 1. Petitioner is specifically objecting to the “referenced amendments [sic] to the
8 [JTD],” as stated in her petition.

9 2. In her petition and at the hearing, Petitioner does not directly address the four
10 findings made by the LEA in its April 8, 2011, letter approving the JTD Amendment.

11 **B. Determination of the Issues**

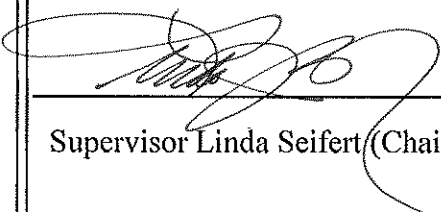
12 As noted above, the sole question before the Hearing Panel is whether Petitioner’s appeal
13 should be accorded a full evidentiary hearing and, if so, what the subject of that hearing should
14 be. As established in Finding of Fact No. 1, Petitioner is specifically appealing the decision by
15 the LEA to issue the JTD Amendment. However, as established by Finding of Fact No. 2,
16 Petitioner does not directly address the basis for the LEA’s decision. Instead, Petitioner
17 discusses issues that are not germane to the JTD Amendment, including odor, litter, and traffic
18 issues.

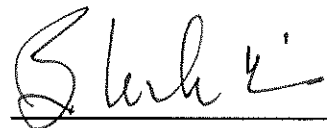
19 As a prerequisite to holding a hearing, Petitioner must file a “written request for a hearing
20 with a statement of the issues.” (Section 44310.) The Hearing Panel reads this statute to mean
21 that Petitioner must do more than simply make a written request for a hearing, which she has
22 undoubtedly done; she must also provide a statement describing why the LEA’s issuance of the
23 JTD Amendment was improper. Although the points made by Petitioner in her petition and at
24 the hearing concerning odor, litter and traffic are certainly valid, they are not germane to the
25 subject of Petitioner’s appeal – the JTD Amendment.

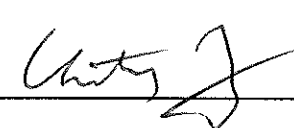
1 **DISPOSITION**

2 For the reasons above, the Hearing Panel rejects Petitioner's appeal. This decision shall
3 take effect immediately upon service, as provided in Section 45017.

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5 DATED: June 16, 2011

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9 Supervisor Linda Seifert (Chair)

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11 Bruce DuClair

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13 Christopher Fong
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