



October 14, 2019

Steve Lederer  
Executive Director  
Upper Valley Waste Management Agency  
1195 Third Street  
Napa, CA 94559

*Delivery via email to: [steve.lederer@countyofnapa.org](mailto:steve.lederer@countyofnapa.org)*

RE: Clover Flat Landfill – Notice of Breach of Contract

Dear Mr. Lederer,

As described in your letter dated April 9, 2019, the Board of the Upper Valley Water Management Agency (the "Agency") voted on April 5, 2019 to find Clover Flat Landfill, Inc. ("CFL") in breach of the operative contract between the Agency and CFL. CFL respectfully requests that the Agency Board find that CFL has cured the breach described in your April 9<sup>th</sup> letter.

The April 9<sup>th</sup> Breach Notification letter listed a number of corrective actions necessary to cure the breach while acknowledging "that CFL has already complied with many of the corrective actions requested". These Agency's corrective actions are listed below along with a description of how CFL has accomplished each item.

**A. Corrective Actions for 2013-2018 fires:**

1. Use only soil as daily cover for the working face of the landfill, with a minimum of two days of material available, and with no use of alternative daily cover such as green waste or wood chips.

*CFL complied with this corrective action on March 28, 2019.*

2. Use only soil for intermediate cover and replacement of all areas of green waste and wood chips with soil.

*CFL complied with this corrective action on March 28, 2019.*

3. Cover all existing slopes of the active landfill with soil.

*CFL complied on September 17, 2018.*

4. No spreading of green waste or wood chips allowed.

*CFL complied on September 17, 2018.*

5. All green waste and wood waste must be removed from the facility.

*CFL complied on September 17, 2018.*

6. All green waste must be transferred or buried by the end of each day.

*CFL complied on September 17, 2018.*

7. No processing of green waste, food waste or wood waste is allowed onsite.

*CFL complied on September 17, 2018.*

8. Construction wood must be separated from the construction and demolition processing pad and shall be transferred off-site.

*CFL complied on September 17, 2018.*

9. Have a full-time spotter working at the landfill face at all times to identify contaminants in incoming loads and to conduct load checks.

*CFL complied on or before September 17, 2018.*

10. Hire a full-time permanent landfill site operations manager.

*CFL re-assigned an existing employee to serve as site operations manager on March 28, 2019. A permanent site operations manager was hired and assumed responsibility for the site on May 20, 2019.*

11. Provide fire prevention infrastructure and adequate water supply, which requirements are described in greater detail in the Fire Marshall's letter that accompanied the NOV, including:

- a. Comply with the requirements of Chapter 28 of the California Fire Code.

*CFL has coordinated with the Fire Department to obtain approval of a Fire Protection Plan. Fire protection improvements related to the approved plan are being installed, and the Napa County Fire Marshal issued temporary approval of those improvements on May 24, 2019. Pending permit submittals to Napa County (F19-00160 & B19-01237), CFL will provide the remaining fire protection infrastructure per the approved Fire Protection Plan. CFL anticipates those improvements will be fully installed by May 1, 2020.*

- b. Provide a 24-hour fire watch.

*CFL implemented 24-hour fire watch in August 2018. Per direction from the Napa County Fire Marshal, 24-hour fire watch has continued during fire season.*

- c. Cover all landfill units with a minimum of 6 inches of soil at the end of each day, or more frequently depending on conditions.

*CFL achieved compliance with this corrective action on or before August 6, 2019. While CFL took action on this issue much earlier in the year, cover issues remained through May 7, 2019. Upon the LEA's inspection on August 6, 2019, cover issues were resolved. (Please find the LEA's August 6, 2019 inspection report enclosed with this letter. That inspection report states on page 4 that "the facility has either corrected all Violations and/or continued to comply with corrective actions required by the LEA issued Notice and Order.")*

- d. Submit a plan showing how fire flow requirements will be met.

*CFL submitted and obtained Fire Department approval of a Fire Protection Plan, including fire flow requirements, as described above.*

- e. Provide fire prevention measures, including temperature monitoring of windrows and piles, fire suppression water supply, fire lanes, and isolation of ignition sources from combustible materials.

*CFL submitted and obtained Fire Department approval of a Fire Protection Plan, including fire prevention measures, as described above.*

**B. Corrective Actions for 2019 leachate violations:**

1. As previously directed verbally by RWQCB and LEA inspectors on March 26, 2019, all contaminated storm water runoff, black oily water, and leachate shall be captured, collected and transported (by a permitted wastewater hauler) offsite to an approved wastewater disposal facility. The operator shall employ measures to prevent contaminated storm water, black oily water, and leachate from entering the creek as identified and cited in the Notice of

Violation issued by the RWQCB (Exhibit C). Any additional or continued discharges shall be documented and reported to all local and state Authorities as required by law, regulations, or other applicable terms and conditions.

*CFL completed repairs to the site's leachate collection system on April 4, 2019, and secondary containment was constructed by April 19, 2019. CFL has stopped all leachate and contaminated storm water runoff from entering the creek. Leachate and contaminated storm water runoff are hauled offsite or used on the landfill as dust control with RWQCB and LEA express approval. CFL and LEA are negotiating a Stipulated First Amended Notice and Order documenting that CFL has taken the corrective actions listed in this letter and the resolution of all LEA notices and orders.*

2. The black 12-1 8" storm water pipe currently discharging into the creek shall be re-routed to a collection tank and contaminated storm water shall be hauled offsite by an approved wastewater hauler.

*CFL removed the pipe and storm water has been re-routed to a collection tank. All contaminated stormwater has been hauled offsite or used onsite as dust control with the express approval of RWQCB and LEA.*

3. All previously identified locations of the active landfilling area with insufficient intermediate cover shall be covered with approved soil.

*CFL complied with this corrective action on by August 6, 2019 as described above.*

4. All sources of suspected leachate contaminated runoff shall be identified and marked.

*CFL has identified and marked all sources of suspected contaminated runoff. That information has been shared with RWQCB, LEA, and CDFW.*

5. The operator shall submit a to-scale site plan identifying those sources to the LEA.

*CFL has submitted the required plan as described above.*

6. The operator shall implement and maintain daily logs to track all of the following information:

- a. Daily inspection of all leachate/condensate collection tanks, pumps, and temporary and permanent storm water and leachate collection infrastructure.
- b. Amounts of leachate pumped, collected, stored and transported offsite.

*CFL has implemented and maintained the required logs, which are provided to the LEA and RWQCB regularly.*

7. The operator shall provide the LEA with a plan to employ measures to prevent immediate erosion on the eastern slopes of the landfill and efficiently manage storm water onsite.

*On April 12, 2019, CFL submitted a plan to prevent immediate erosion on the landfill's eastern slopes.*

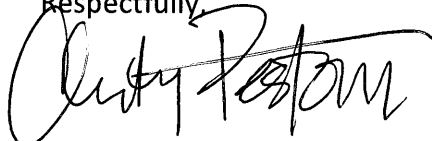
8. The operator shall hire a permanent facility manager, or designate an existing employee or contractor as a permanent or interim facility manager, to serve as the LEA's point of contact for all inspections and for compliance with this Notice and Order.

*CFL re-assigned an existing employee to serve as site operations manager on March 28, 2019. A permanent site operations manager was hired and assumed responsibility for the site on May 20, 2019.*

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As described above, CFL has taken correction action in relation to all the items listed in the April 9<sup>th</sup> Breach Notification. In broader terms, CFL has greatly improved the site and mitigated the operational issues that contributed to the 2013-18 fires and 2019 leachate issue. Leachate collection systems have been repaired and tanks have been brought onsite to prevent leachate discharge. The LEA's August 6, 2019 inspection report states "the facility has either corrected all Violations and/or continued to comply with corrective actions required by the LEA issued Notice and Order." CFL is working with the LEA to enter into a Stipulated Notice and Order that would document the full resolution of the 2019 leachate issues. CFL hopes to have that Stipulated Notice and Order fully executed by the Agency Board's October 21<sup>st</sup> meeting.

Please feel free to contact me with any questions. Thank you.

Respectfully,  
  
Christy Pestoni

cc: LEA - Peter Ex

## Disposal Facility Inspection Report (52)

<b>Enforcement Agency:</b>		<b>Local Inspection ID:</b>	
County of Napa			
<b>SWIS Facility File Number (99-xx-9999)</b>		<b>Inspection Date</b>	
<b>28-AA-0002</b>		<b>8/6/2019</b>	
<input checked="" type="checkbox"/> LEA Periodic	CalRecycle Closed Sites	CalRecycle Focused	
<input type="checkbox"/> LEA Focused	CalRecycle Enforcement Agent	CalRecycle Periodic	
<b>Inspection Time</b>	4.5	<b>Time In</b>	9:00 am
		<b>Time Out</b>	1:30 pm
<b>Facility Name</b>		<b>Received By</b>	
Clover Flat Resource Recovery Park		Clover Flat Landfill, Inc.	
<b>Facility Location</b>		<b>Owner Name</b>	
4380 Silverado Trail Road, Calistoga 94515		Vista Corporation	
<b>Inspector</b>		<b>Also Present (Name)</b>	
Peter Ex, Patrick Ryan		Kano Galindo, Kaye Woodworth, Evan Edgar, Steve Pe	

THE ABOVE FACILITY WAS INSPECTED FOR COMPLIANCE WITH APPLICABLE SECTIONS OF DIVISION 30 OF PUBLIC RESOURCES CODE (PRC) AND TITLE 14 AND TITLE 27 CALIFORNIA CODE OF REGULATIONS (CCR)

<input checked="" type="checkbox"/>	<b>No Violations or Areas of Concern</b>
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V	A	Permits	Comments
		PRC 44002 - Operator Authorized by SWF Permit	
		PRC 44004(a) - Significant Change	
		PRC 44014(b) - Operator Complies with Terms & Conditions	
		21640 - Title 27 Full permit review	
		21600 - Report of Disposal Site Information	
<b>V</b>	<b>A</b>	<b>Location Restrictions</b>	<b>Comments</b>
		20270 - Airport Safety	
<b>V</b>	<b>A</b>	<b>Operating Criteria</b>	<b>Comments</b>
		20510 - Disposal Site Records	
		20515 - MSWLF Unit Records	
		20517 - Document Approvals / Requirements	
		20520 - Signs	
		20530 - Site Security	
		20540 - Roads	
		20550 - Sanitary Facilities	
		20560 - Drinking Water Supply	
		20570 - Communications Facilities	
		20580 - Lighting	
<b>V</b>	<b>A</b>	<b>Personnel</b>	<b>Comments</b>
		20590 - Personnel Health and Safety	
		20610 - Training	
		20615 - Supervision	
		20620 - Site Attendant	

<b>V</b>	<b>A</b>	<b>Confined Unloading</b>	<b>Comments</b>
		20630 - Confined Unloading	
<b>V</b>	<b>A</b>	<b>Spreading/Compacting</b>	<b>Comments</b>
		20640 - Spreading/Compacting	
		20650 - Grading of Fill Surfaces	
		20660 - Stockpiling	
<b>V</b>	<b>A</b>	<b>Daily &amp; Intermediate Cover</b>	<b>Comments</b>
		20670 - Availability Cover Material	
		20680 - Daily Cover	
		20690 - Alternative Daily Cover	
		20695 - Performance Standards	
		20700 - Intermediate Cover	
		20686 - Beneficial Reuse	
<b>V</b>	<b>A</b>	<b>Handling Equipment &amp; Maintenance</b>	<b>Comments</b>
		20710 - Scavenging / Salvaging / Storage	
		20720 - Non-Salvageable Items	
		20730 - Volume Reduction/Energy Recovery	
		20740 - Equipment	
		20750 - Site Maintenance	
<b>V</b>	<b>A</b>	<b>Controls</b>	<b>Comments</b>
		20760 - Nuisance Control	
		20770 - Animal Feeding	
		20780 - Open Burning / Burning Wastes	
		20790 - Leachate Control	
		20800 - Dust Control	
		20810 - Vector and Bird Control	
		20820 - Drainage and Erosion Control	
		20830 - Litter Control	
		20840 - Noise Control	
		20860 - Traffic Control	
		20870 - Hazardous Wastes	
		20880 - Medical Wastes	
		20890 - Dead Animals	
		20900 - Air Criteria	
<b>V</b>	<b>A</b>	<b>Gas Monitoring &amp; Control</b>	<b>Comments</b>
		20918 - Exemptions	
		20919 - Gas Control	
		20921 - Gas Monitoring and Control	
		20923 - Gas Monitoring	
		20925 - Perimeter Monitoring Network	
		20931 - Structure Monitoring	
		20932 - Monitored Parameters	
		20933 - Monitoring Frequency	
		20934 - Reporting	

		20937 - Reporting and Control of Excessive Gas Concentrations	
		20939 - Control Excessive Gas Concentrations	
<b>V</b>	<b>A</b>	<b>Closure</b>	<b>Comments</b>
		21110 - Time Frame for Closure	
		21780 - Closure Plan	
		21860(f) - Schedule Review/Approval C/PC Plans	
<b>V</b>	<b>A</b>	<b>Corrective Action</b>	<b>Comments</b>
		22101 - Corrective Action Cost Estimate	
		22103 - Updated Corrective Action Cost Estimate	
<b>V</b>	<b>A</b>	<b>Tires</b>	<b>Comments</b>
		17351 - Fire Prevention Measures	
		17352 - Facility Access and Security	
		17353 - Vector Control Measures	
		17354 - Outdoor Storage	
		17355 - Disposal	
		17356 - Indoor Storage	
		17357 - Record Keeping	
<b>V</b>	<b>A</b>	<b>Record Keeping Requirements</b>	<b>Comments</b>
		17370.2 - Industrial Waste Codisposal Facility	
		17388.5 - CDI Waste Disposal Facility	



**Comments:**

On August 6, a routine inspection was completed with CFL Site Manager Kano Galindo, Compliance Officer Kaye Woodworth, and consultants Evan Edgar, Jeff Dobrowolski, and Steve Peterson. Napa County PBES Engineering Manager Patrick Ryan was also present on the inspection to evaluate progress and outstanding issues pertaining to erosion and sediment control, mainly in the vicinity of the soil stockpile area currently outside of the permitted solid waste boundary. No Violations or Areas of Concern were observed during the inspection.

The new Site Manager Kano Galindo with the full support of the new Board of Directors has made significant progress in dealing with past Violations and has made numerous improvements to the site including but not limited too; the installation of litter control fencing surrounding nearly the entire active landfill area, installation of K-rails for traffic control and safety, removal of various long-term stockpiled materials, advance preparation of side slopes for winter drainage control and erosion control, and obvious improvements in landfilling practices via operator training and oversight. The new management Team has quickly responded to remediate and correct Violations noted in previous inspections and the LEA issued Notice and Order. The operator continues to work with the LEA and State Agencies including the RWQCB and Fish and Wildlife to address ongoing compliance objectives and timelines.

The operator has removed all leachate previously stored in frac tanks and disposed at other approved facilities. All RV's have been properly disposed of and all metal bins with food waste based compost that were improperly managed have been removed as well.

The facility has received temporary approval from the Napa County Fire Marshal for the installation of required fire fighting infrastructure per their County approved "Fire Prevention, Control and Operations Plan". On August 12, 2019, the LEA approved an RFI amendment to incorporate this document and corresponding facility specific fire prevention, control and operations into the Joint Technical Document.

At this point in time, the facility has either corrected all Violations and/or continues to comply with all corrective actions required by the LEA issued Notice and Order. A Stipulated Notice & Order will be issued to settle outstanding penalties and to ensure the facility continues to comply with all terms and conditions of the current Solid Waste Facility permit.

Three full frac tanks full of leachate contaminated with radioactivity remain onsite and the operator is making progress to identify facilities where the material can be hauled to and disposed outside of California. These frac tanks have been labeled and are cordoned off from public and employee access. Final arrangements for removal offsite are in progress.

The facility is in the process of planning and preparing for the coming winter rains to prevent additional sediment from reaching the creek below and ensure effective stormwater and leachate controls are in place.

The facility has submitted its required 5-year permit review application and has proposed a Permit Revision to incorporate northern areas of the property currently being used for solid waste activities into the Solid Waste Boundary. F

Field investigations are underway by Golder Associates to investigate extents of waste and cap integrity for the unofficially closed areas of the landfill bordering the creek.

A joint inspection with the RWQCB and F&W is scheduled for September 10th.