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October 19, 2020

Board of Directors  
Upper Valley Waste Management  
Agency  
c/o County Administration Building  
1195 Third Street  
Napa, CA 94559

Re: Item 6.B on agenda for board meeting of October 19, 2020

Dear Board Members:

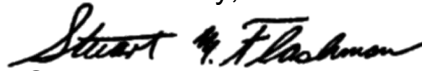
I am writing on behalf of my client, Geoffrey Ellsworth, to comment on the above-referenced agenda item, which concerns approving a restated and amended franchise agreement with the Clover Flats Landfill Facility. My client has major concerns about the Agency moving ahead with an unqualified approval of this amended agreement, especially its term, extending to 2040. That concern arises from the combination of recent events concerning the landfill facility and the County's pending consideration of a request to modify the use permit for that facility.

As you may be aware, there have been a series of violations of environmental regulations involving the landfill facility. My client will be bringing those violations to the Board's attention. In addition, the facility has applied to County for a modification of its conditional use permit to expand the allowable uses at the facility.

While the Agency has asserted that the amendment to the franchise agreement is exempt from CEQA review, the same cannot be said for the application for a use permit modification. Indeed, the environmental review of approving that modification must take into account, among other things, the environmental record of the facility, which is not good. It seems likely that consideration of that use permit application will require preparation of an Environmental Impact Report, which will take a significant amount of time. Further, given the facility's environmental record, approval of the modification cannot be assumed.

My client is concerned about the Agency's extending the franchise agreement until 2040 while that modification remains pending. I would strongly suggest that the agreement, at the moment, only be extended until the use permit decision has been made. Alternatively, the Agency could make extension of the permit beyond that time contingent on the County granting the use permit modification. If the use permit modification is not granted, the Agency should consider opening up the franchise agreement for competitive bidding.

Most sincerely,

  
Stuart M. Flashman

cc: Geoffrey Ellsworth