San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING™

MAY 2 3 2014

Paul Turek
Chemical Waste Management, Inc
P.O. Box 471
Kettleman City, CA 93239

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Turek:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

Notice of the District's preliminary decision to issue the Authority to Construct permit was published on August 21, 2013. The District's analysis of the proposal was also sent to CARB on August 16, 2013. All comments received following the District's preliminary decision on this project were considered.

Also enclosed is an invoice for the engineering evaluation fees pursuant to District Rule 3010. Please remit the amount owed, along with a copy of the attached invoice, within 60 days.

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: 661-392-5500 FAX: 661-392-5585

www.valleyair.org www.healthyairliving.com

Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

cc: Wayne Lorentzen, DTSC (w/ enclosure) via email
Gerardo Rios, EPA (w/ enclosure) via email
Mike Tollstrup, CARB (w/enclosure) via email

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

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AUTHORITY TO CONSTRUCT

PERMIT NO: C-283-11-6 **ISSUANCE DATE:** 05/22/2014

LEGAL OWNER OR OPERATOR: CHEMICAL WASTE MANAGEMENT, INC
MAILING ADDRESS: PO BOX 471
KETTLEMAN CITY, CA 93239-0471

LOCATION: 35251 OLD SKYLINE ROAD
KETTLEMAN CITY, CA 93239

EQUIPMENT DESCRIPTION:
MODIFICATION OF HAZARDOUS WASTE LANDFILL (B-18), 10.7 (GROSS) MILLION CUBIC YARD CAPACITY, USED FOR DISPOSAL OF BULK SOLIDS OF EMPTY CONTAINERS, SOLIDS, AND CONTAMINATED SOIL, (APPROXIMATELY 53 ACRES): EXPAND LANDFILL VERTICALLY BY APPROXIMATELY 53 FEET AND LATERALLY BY 14 ACRES WHICH INCREASES THE CAPACITY APPROXIMATELY 4.9 MILLION CUBIC YARDS

CONDITIONS

1. The facility shall submit an application to modify the Title V permit in accordance with the timeframes and procedures of District Rule 2520. [District Rule 2520] Federally Enforceable Through Title V Permit
2. Prior to operating equipment under this Authority to Construct, permittee shall surrender VOC emission reduction credits for the following quantities of emissions: 1st quarter - 810 lb, 2nd quarter - 810 lb, 3rd quarter - 810 lb, and fourth quarter - 810 lb. Offsets shall be provided at the applicable offset ratio specified in Table 4-2 of Rule 2201 (as amended 09/21/06). [District Rule 2201]
3. ERC Certificate Numbers S-2645-1 and/or N-663-1 (or certificates split from these certificates) shall be used to supply the required offsets, unless a revised offsetting proposal is received and approved by the District, upon which this Authority to Construct shall be reissued, administratively specifying the new offsetting proposal. Original public noticing requirements, if any, shall be duplicated prior to reissuance of this Authority to Construct [District Rule 2201]
4. The District shall be notified in writing 10 days prior to the acceptance of any new waste stream causing, or having the potential to cause, emissions of pollutants designated under the National Emissions Standards for Hazardous Air Pollutants which are not already addressed in this permit. [District Rule 2201] Federally Enforceable Through Title V Permit
5. The District shall be notified in writing 10 days prior to the acceptance of new types of waste streams, or waste streams with significant malodorous qualities. [District Rules 2201 and 4102] Federally Enforceable Through Title V Permit

CONDITIONS CONTINUE ON NEXT PAGE

YOU MUST NOTIFY THE DISTRICT COMPLIANCE DIVISION AT (559) 230-5950 WHEN CONSTRUCTION IS COMPLETED AND PRIOR TO OPERATING THE EQUIPMENT OR MODIFICATIONS AUTHORIZED BY THIS AUTHORITY TO CONSTRUCT. This is NOT a PERMIT TO OPERATE. Approval or denial of a PERMIT TO OPERATE will be made after an inspection to verify that the equipment has been constructed in accordance with the approved plans, specifications and conditions of this Authority to Construct, and to determine if the equipment can be operated in compliance with all Rules and Regulations of the San Joaquin Valley Unified Air Pollution Control District. Unless construction has commenced pursuant to Rule 2050, this Authority to Construct shall expire and application shall be cancelled two years from the date of issuance. The applicant is responsible for complying with all laws, ordinances and regulations of all other governmental agencies which may pertain to the above equipment.

Seyed Sadredin, Executive Director / APCO

Arnaud Marjollet, Director of Permit Services

Central Regional Office • 1990 E. Gettysburg Ave. • Fresno, CA 93726 • (559) 230-5900 • Fax (559) 230-6061

6. A District approved anemometer shall be continuously operated on site with permanent data available to the District. [District Rule 2201] Federally Enforceable Through Title V Permit
7. Wastes with the potential to release hazardous gases, mists, or vapors in excess of existing air quality standards shall not be exposed to the atmosphere, and combustion of flammable wastes in the landfill shall be prevented. [District Rule 2201] Federally Enforceable Through Title V Permit
8. Vehicle speeds on all roads shall be limited to fifteen miles per hour. [District Rule 2201] Federally Enforceable Through Title V Permit
9. Materials handling operations associated with landfill construction and operation shall be curtailed when wind and moisture conditions make it likely that any resulting visible emissions will exceed 40% opacity at an elevation of 25 feet. [District Rule 2201] Federally Enforceable Through Title V Permit
10. Any malodorous material received at the B-18 Landfill which exhibits odors detectable at or beyond the facility property boundary shall be covered at the end of the working day with acceptable cover material. [District Rule 4102]
11. Truck operating areas, including roadways within the boundaries of landfill B-18, shall be watered to maintain moisture content such that the generation of dust is controlled. [District Rule 2201]
12. Each owner or operator shall comply with applicable paragraphs of section 40 CFR 61.154. [40 CFR 61.154]
13. For purposes of complying with conditions 14 through 18, below, applicable definitions are found from section 40 CFR 61.341. [40 CFR 61.341]
14. Each owner or operator shall comply with applicable paragraphs of section 40 CFR 61.342 (a), (f), and (g). Prior to accepting benzene waste in excess of 10 Mg/yr, facility shall apply for modification of this operating permit to satisfy the applicable requirements of 40 CFR 61.342 (b) through (e) and (h). [40 CFR 61.342]
15. Prior to accepting benzene waste in excess of 10 Mg/yr, facility shall apply for modification of this operating permit to satisfy the applicable sections of 40 CFR 61.343 through 61.354. [40 CFR 61.343 through 61.354]
16. Each owner or operator shall comply with applicable paragraphs of section 40 CFR 61.355 (a), (b), and (c). Prior to accepting benzene waste in excess of 10 Mg/yr, facility shall apply for modification of this operating permit to satisfy the applicable requirements of 40 CFR 61.355 (d) through (k). [40 CFR 61.355]
17. Each owner or operator shall comply with applicable paragraphs of section 40 CFR 61.356 (a), (b) and (c). Prior to accepting benzene waste in excess of 10 Mg/yr, facility shall apply for modification of this operating permit to satisfy the applicable requirements of 40 CFR 61.356 (d) through (n). [40 CFR 61.356]
18. Each owner or operator shall comply with applicable paragraphs of section 40 CFR 61.357 (a), (b), and (c). Prior to accepting benzene waste in excess of 10 Mg/yr, facility shall apply for modification of this operating permit to satisfy the applicable requirements of 40 CFR 61.357 (d) through (g). [40 CFR 61.357]
19. With the exception of non-exposed waste (such as containers, drums, macrovaults, transformers, other large objects, etc.), the open face area shall be covered with a minimum of one inch of clean soil, or other alternative daily cover material, or soils permitted for use as daily cover, before the end of each working day. [District Rule 2201]
20. Records of the type of daily cover material used, along with testing results for alternative daily cover materials, such as Class II soils, shall be maintained onsite. [District Rules 1070 and 2201]
21. No more than 7,200 cubic yards per day of waste shall be received for placement into landfill B-18. [District Rule 2201]
22. No more than 1,800 cubic yards per day of daily cover shall be received for placement onto landfill B-18. [District Rule 2201]
23. Daily weighted average VOC content of non-containerized landfilled waste shall not exceed any of the following: 10,000 ppmw for the active face or 1,834 ppmw for the landfill (combined active face plus inactive area). [District Rule 2201]
24. Annual weighted average VOC content of non-containerized landfilled waste shall not exceed 1,834 ppmw for the active face or inactive area. [District Rule 2201]

CONDITIONS CONTINUE ON NEXT PAGE

25. VOC content of non-containerized landfilled waste shall be determined according to the procedures described in the document entitled "Determination of VOC Content for Bulk Direct Landfilled Waste Destined for Landfill B-18, SDP Number ET-400". [District Rule 2201]
26. Permittee shall maintain daily records of the weight of wastes, the corresponding ppmw VOC in waste, lab and method used to analyze the sample(s). The VOC content of the waste shall be determined using a combination of generator knowledge and the procedures described in the document entitled "Determination of VOC Content for Bulk Direct Landfilled Waste Destined for Landfill B-18, SDP Number ET-400". Permittee shall also compute and record the daily and annual weighted-average VOC content of non-containerized wastes. [District Rules 1070 and 2201]
27. Before the end of each day, the daily weighted-average VOC content for wastes landfilled shall be determined by dividing the sum of all the individual loads VOC's (summation of ppmw x tons) placed in the landfill by the tons of waste placed into the landfill. The VOC content may be determined using the generator analysis and the amount of the materials added to the landfill. [District Rule 2201]
28. Total PM10 emissions from handling of solid waste and daily cover shall not exceed 0.000453 pounds per ton material handled. [District Rule 2201]
29. The active open face area, defined as the area where exposed waste is being worked, shall not exceed 0.64 acres in size. [District Rule 2201]
30. Soil with VOC content of 50 ppm by weight or greater shall not be used as daily cover. [District Rule 4651]
31. Soil or other alternative daily cover material that registers 50 ppm by volume or greater when measured as hexane at a distance of three (3) inches above the surface of the soil shall not be used as daily cover. [District Rule 4651]
32. Contaminated wastes containing organic constituents, with the potential to be used for daily cover, shall be analyzed for VOC content using District approved Organic Vapor Analyzer (OVA) at a distance 3 inches above the surface. These waste materials shall be analyzed at the facility receiving area prior to being transported to the landfill for direct waste disposal or stockpiled and/or used as alternative daily cover. [District Rule 2201]
33. An OVA reading shall be taken for a minimum of 10 seconds and the highest reading in this 10 second period shall be recorded. [District Rule 2201]
34. Permittee shall maintain daily records of the volume of wastes received for placement into landfill B-18 and daily records of the volume of daily cover used for placement onto landfill B-18. [District Rule 1070]
35. Permittee shall maintain records of all OVA readings for waste materials that were considered for use as daily cover. [District Rule 1070]
36. Permittee shall maintain daily records of size of active open face area. [District Rules 1070 and 2201]
37. All records shall be maintained and retained on-site for a period of at least 5 years and shall be made available for District inspection upon request. [District Rule 1070]

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING™

MAY 2 3 2014

George Torgun
Irene Gutierrez
Earth Justice
50 California Street, Suite 500
San Francisco, CA 94111

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Torgun and Ms. Gutierrez:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

Notice of the District's preliminary decision to issue the Authority to Construct permit was published on August 21, 2013. The District's analysis of the proposal was also sent to CARB on August 16, 2013. All comments received following the District's preliminary decision on this project were considered.

Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

Seyed Sadredin
Executive Director/Air Pollution Control Officer

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MAY 2 3 2014

Jane Williams
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Ms. Williams:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

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MAY 2 3 2014

Maricela Mares Alatorre
El Pueblo Para El Aire y Agua Limpio
P.O. Box 262
Kettleman City, CA 93239

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Ms. Alatorre:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

Notice of the District's preliminary decision to issue the Authority to Construct permit was published on August 21, 2013. The District's analysis of the proposal was also sent to CARB on August 16, 2013. All comments received following the District's preliminary decision on this project were considered.

Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

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MAY 2 3 2014

Caroline Farrel
CRPE
1012 Jefferson Street
Delano, CA 93215

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Ms. Farrel:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

Seyed Sadredin
Executive Director/Air Pollution Control Officer

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AIR POLLUTION CONTROL DISTRICT

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MAY 2 3 2014

Anna Martinez
Greenaction for Health and Environemental Justice
P.O. Box 277
Kettleman City, CA 93239

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Ms. Martinez:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

Notice of the District's preliminary decision to issue the Authority to Construct permit was published on August 21, 2013. The District's analysis of the proposal was also sent to CARB on August 16, 2013. All comments received following the District's preliminary decision on this project were considered.

Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

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MAY 2 3 2014

Ingrid Brostrom
Center on Race, Poverty, and the Environment
47 Kearny Street, Suite 804
San Francisco, CA 94108

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Ms. Brostrom:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

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Executive Director/Air Pollution Control Officer

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AIR POLLUTION CONTROL DISTRICT

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MAY 2 3 2014

Bradley Angel
Greenaction for Health and Environmental Justice
703 Market Street, Suite 501
San Francisco, CA 94103

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Angel:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Thank you for your cooperation in this matter. If you have any questions, please contact Mr. Jim Swaney at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services

AM:st

Enclosures

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AIR POLLUTION CONTROL DISTRICT

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MAY 2 3 2014

Miguel Alatorre
Kids Protecting Our Planet
P.O. Box 262
Kettleman City, CA 93239

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Alatorre:

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Arnaud Marjollet
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MAY 2 3 2014

John Lehn
john.lehn@co.kings.ca.us

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Lehn:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Arnaud Marjollet
Director of Permit Services

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MAY 2 3 2014

Jim Sook
jsool@wm.com

RE: Notice of Final Action - Authority to Construct
Facility Number: C-283
Project Number: C-1083923

Dear Mr. Sook:

The Air Pollution Control Officer has issued the Authority to Construct permit to Chemical Waste Management, Inc. for the increase of the useful life of hazardous waste landfill B-18, at 35251 Old Skyline Road, Kettleman City, CA. Enclosed are the Authority to Construct permit and a copy of the notice of final action to be published approximately three days from the date of this letter.

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Director of Permit Services

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Chemical Waste Management

Comments to SJVAPCD on Chemical Waste Management
ATC Project C-1083923

October 2, 2013

Commenter: Earthjustice

Comment #1

The Chemical Waste Management, Inc. (CWM) facility is located approximately 3.5 miles southwest of Kettleman City. According to the U.S. Census, some 96% of Kettleman City's population is Hispanic or Latino, and the per capita income of that population is $15,081.

Kettleman City is located in Kings County, a region with notoriously poor air quality. In particular, the County is in extreme nonattainment of current 8-hour and 1-hour ozone standards, and is in non-attainment of 24-hour particulate matter (PM2.5) standards.

CWM proposes to expand its hazardous waste landfill B-18 both vertically and laterally – the expansion would increase the footprint of the landfill from 53 acres to 67 acres, and would increase the volume of the landfill from 9.7 million cubic yards to 15.6 million cubic yards. This expansion will extend the life of the landfill by 8-9 years.

CWM's facility is already the largest hazardous waste facility in the West. There have been a number of birth defects in recent years in the community, and the facility has also been fined for repeated and chronic violations of proper disposed procedures. For example, U.S. Environmental Protection Agency ("EPA") and California Department of Toxic Substances Control records show that over the years, CWM has repeatedly failed to report toxic spills, improperly disposed of PCBs and other hazardous waste, and failed to conduct required monitoring. There has been a pattern of chronic and repeated violations at CWM's facility, some spanning a period of several years.

Expanding CWM's landfill would enable the facility to continue its violation of environmental laws, and would negatively impact a low-income, community of color whose health is already heavily burdened by proximity to the landfill and other environmental factors.

District Response

Comment noted.

Comment #2a

The Air District's Assumptions in Calculating the Emissions Increase After Expansion Are Inaccurate

The Air District bases its calculation of current facility emissions, "Pre-Project Potential to Emit (PE1)", on the faulty assumption that the facility accepts the maximum of 400 truckloads of waste per day (or 7,200 cubic yards per day). This assumption vastly overstates the amount of waste that is presently accepted by the facility. Currently, CWM's facility accepts no more than 10 trucks per week. At its peak, the facility would accept 575,000 tons of hazardous waste annually, or 100 trucks each day.

In calculating the emissions after expansion, "Post-Project Potential to Emit (PE2)", the Air District assumes that the facility will continue to accept 400 truckloads of waste per day after the expansion.

By artificially assuming that the facility currently accepts the maximum amount of 400 truckloads per day and that it will continue to accept this amount of waste after expansion, the Air District obscures and understates the effects of expansion on the facility's emissions profile. This method of calculation makes it appear as if the expansion will not result in any significant increase in emissions. Furthermore, by understating the post-expansion emission increase, the Air District also avoids classification of the expansion as a "major modification", and avoids the additional reporting and mitigation requirements that such a classification would entail.

Greenaction and El Pueblo therefore request that the Air District revise its analysis of emissions in order to more accurately reflect the current state of emissions at the facility, and to accurately reflect the significant environmental and public health effects of expanding the CWM facility.

District Response

The District disagrees with Earthjustice's assertion that the District's assumptions in calculating the project's emissions are inaccurate. Applications to modify operations at permitted sources are subject to District Rule 2201 – New and Modified Stationary Source Review Rule (NSR). Rule 2201 sets forth the procedure for calculating emissions for District permitting requirements.

Rule 2201 Section 3.27 defines Potential to Emit as "the maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is incorporated into the applicable permit as an enforceable permit condition".

As shown on page 5 of the application review, the facility had a maximum capacity of 400 trucks per day prior to the proposed modification; the Pre-Project Potential to Emit is based upon this maximum capacity value. As this capacity is not changing, the Post-Project Potential to Emit is also based on this maximum capacity value. Therefore, no changes have been made to the evaluation.

Comment #2b

The Air District's assumption that the facility currently accepts 400 truckloads of waste per day affects its modeling of post-expansion changes in emissions for NOx, SOx, PM10, CO, and volatile organic compounds (VOCs). This inaccuracy is particularly significant for its treatment of VOC emissions, as the CWM facility is current categorized as a "major source" for these emissions since it presently emits 279,829 lbs/year, which is well over the 50,000 lb/year threshold.

As noted above, the Air District falsely assumes that the facility presently receives 400 truckloads of waste per day, and that it will continue to receive this amount of waste after expansion. Consequently, it projects only a slight increase in daily and yearly VOC emissions – from 381.6 lbs/day to 390.4 lbs/day, and from 139,280 lbs/year to 142,520 lbs/year – due to the increase in surface area of the landfill from 52.36 acres to 66.2 acres. However, the Air District's calculation of "baseline emissions" for VOCs is inaccurate. Similarly, the Air District's calculation of the "quarterly net emission increase (QNEC)" is also inaccurate. The increase in VOC emissions after expansion will likely be much greater than what is projected by the Air District, since the amount of waste the facility actually receives could increase from present levels of 10 trucks a week, to anywhere up to 400 trucks per day.

The Air District's faulty assumption regarding the baseline affects other aspects of the Air District's analysis of VOC emissions. For example, the Air District has concluded that the expansion would not constitute a "major modification" of the facility. Under Clean Air Act regulations, a "major modification" is "any physical change in or change in the method of operation of a major stationary source that would result in...a significant net emissions increase of that pollutant from the major stationary source". Where an area is in "extreme ozone nonattainment", like Kings County, a "significant increase" is "any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source". Likewise, under Air District Rule 2201, Section 3.18.14, any increase in VOC emissions is deemed to be "significant". As stated above, the faulty baseline assumption understates the actual emissions increase from the expansion, and it is likely that there will be a significant increase in VOC emissions. Therefore, the expansion should be classified as a "major modification".

The Air District also incorrectly concludes that the emissions from the expanded landfill will not constitute "fugitive emissions", and therefore should not be included in the "major modification" calculation. "Fugitive emissions" are "those emissions

which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening", and they shall not be included when determining whether there has been a "major modification". Certain categories of sources, such as coal cleaning plants and pump mills, are excluded from this exemption, and emissions from these types of sources must be counted when calculating whether there has been a "major modification". Among the sources-exempted are source of "hazardous air pollutants", which are regulated by Section 112 of the Clean Air Act. The CWM landfill contains a number of hazardous air pollutants regulated by Section 112, including acrylonitrile, benzene, dixoane 1,4, methy methancrylate, and toluene. Because the CWM landfill emits hazardous air pollutants, the Air District must consider such emissions when evaluating whether the expansion constitutes a "major modification". Considering such emissions will likely result in the finding that the post-expansion emissions increases are greater than those currently projected by the Air District.

The Air District also concludes that offsets will be needed for VOCs, since the amount of VOCs that will be emitted after expansion will exceed the thresholds levels set forth in District Rule 2201. In calculating the amount of offsets required, the district relies on the baseline and post-project emissions figures, which use the 400 truck per day figure. Thus, the quantity of offsets required is inaccurate, and it is questionable whether the offsets will be covered by the ERC certificates held by CWM.

Greenaction and El Pueblo therefore request that the Air District revise its analysis of increases in VOC emissions, as well as the associated analyses regarding whether the facility expansion constitutes a "major modification" and the number of offsets that will be needed.

District Response

Please refer to the response to comment #2a for the basis of emissions calculations within Rule 2201.

This project (Project C-1083923) was received on October 20, 2008 and was deemed complete on August 5, 2009. The applicable New Source Review (NSR) rule (Rule 2201) for the project is based upon the rule in effect at the time the project is deemed complete (Rule 2201 Section 2.0). Based on the complete date for this project, the applicable NSR rule is the version amended September 21, 2006.

Rule 2201 (version amended September 21, 2006) Section 3.23 defines "Major Modification" as "as defined in 40 CFR Part 51.165 (as in effect on December 19, 2002) and part D of Title I of the CAA. For the purposes of this definition, the major modification thresholds for existing major sources are listed as follows ... " and Section 3.17 defines "Federal Major Modification" as "Major modifications are also federal major modifications, unless they meet the criteria of at least one of the following exclusions ... ". As shown on page 17 in the application review for this

project, this project does not constitute a "Major Modification" or a "Federal Major Modification" as defined in Rule 2201 (version amended September 21, 2006).

Concerning whether fugitive emissions should or should not have been included in the Major Modification calculations, per 40 CFR 51.165(a)(4)(xxvii), fugitive emissions are excluded unless the source was being regulated under Section 112 of the Federal Clean Air Act as of August 7, 1980. While this source is subject to regulation under Section 112, it was not subject to regulation until after August 7, 1980 (the landfill is regulated under Subparts M and FF – Subpart M was adopted April 5, 1984 (49 Federal Register 13661) and Subpart FF was adopted May 7, 1990 (55 Federal Register 8346)). Therefore, as stated on page 17 in the application review, this source is not enumerated in 40 CFR 41.165(a)(4), fugitive emissions are not included in the Major Modification calculations, and this project does not constitute a "Major Modification" or a "Federal Major Modification".

Rule 2201 Section 4.7.1.1 states emission offsets shall be provided for "All increases in Stationary Source emissions, calculated as the sum of differences between the post-project Potential to Emit (PE2) and the Baseline Emissions (BE) of all new and modified emissions units, ... ". As shown on pages 15-17 in the application review, the Baseline Emissions are equal to the Pre-Project Potential to Emit for this project. As explained above, the Pre-Project Potential to Emit in this project is correctly based upon 400 trucks per day. Therefore, the offset requirement for this project is correct and does not require adjustment.

Therefore, no changes have been made to the evaluation.

Comment #2c

The Air District's erroneous calculations also affect the analysis of the "best available control technology ("BACT") to be applied at the facility.

The Air District acknowledges that the expansion of the facility will trigger the application of BACT to control VOC emissions. BACT Guideline 2.2.2 provides several options for controlling VOC emissions – use of daily clean-fill cover, enclosing the landfill and venting vapors to a control device, and the use of vapor suppressant foam. The Air District concludes that BACT Guideline 2.2.2 will be satisfied by the use of a "daily clean-fill cover", consisting of application of a minimum of one inch of compacted, District-approved soil onto the exposed VOC contaminated soil, finding that only the daily soil cover option meets the cost-effectiveness threshold of $17,500/ton VOC. However, the Air District's cost-effectiveness calculations are all based on the erroneous assumption that the facility currently receives, and will continue to receive, 400 trucks of waste per day. Fixing this erroneous assumption would mean that the use of vapor suppressant foam (currently estimated to cost $17,954/ton VOC) is likely to be a cost-effective measure. Depending on the true extent of emissions increases, enclosing the landfill and venting could also be a cost-effective measure.

The Air District's analysis of the soil cover control mechanism is also questionable. In contrast to the Buttonwillow, the other waste disposal facility in the Air District using soil cover as BACT, the CWM facility would use VOC-tainted soil instead of clean soil. According to the ATC, CWM "does not have clean, virgin soil at the location and proposes to utilize soil that registers less than 50 ppmv of VOC concentration". The Air District concludes that this option is more environmentally beneficial, since transporting clean soil to the site would result in an increase in NOx, SOx, PM10, and other emissions, which would negatively offset the VOC reductions that would be achieved. The District's calculations regarding VOC reductions and the environmentally beneficial alternative are again flawed, since they rely on the 400 truck/day baseline.

Greenaction and El Pueblo request that the Air District revise its analysis of BACT, particularly with respect to the cost-effectiveness and feasibility of other alternatives.

District Response

Please refer to the response to comment #2a for the basis of emissions calculations within Rule 2201.

As explained above, the Pre-Project Potential to Emit in this project is correctly based upon 400 trucks per day. Therefore, the BACT analysis found in Attachment C of the application review for this project is valid and does not require adjustment.

Therefore, no changes have been made to the evaluation.

Comment #2d

The Air District's faulty assumption also improperly relieves CWM of various procedural obligations which are triggered when emissions increases surpass a particular threshold. For example, public notice is required for any "major modification", as well as for a Stationary Source Increase in Permitted Emissions (SSIPE) of more than 20,000 lb/year. As noted above, the expansion will constitute a major modification, which will trigger the public notice requirement. The SSIPE calculation is based on the 400 truck per day baseline, which as previously noted is inaccurate, and thus, the SSIPE threshold for public notice could also be triggered.

The Air District also erroneously concludes that the expansion will constitute a "minor modification" for the purposes of receiving and modifying the facility's Title V Permit, and for the purposes of Air District's Rule 2520, which governs Federally Mandated Operating permits. Under Rule 2520, Section 3.20.5, a "minor permit modification" is defined as: "not Title I modifications defined in this rule, modification as defined in section 111 or 112 of the Federal Clean Air Act, or major modifications under the prevention of significant deterioration (PSD) provisions of Title I of the CAA or under EPA PSD regulations".

Under Section 111 of the Clean Air Act, a "modification" is "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source which results in the emission of any air pollutant not previously emitted". Likewise, under Section 112, a "modification" is defined as "any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimus amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimus amount". As previously noted, the expansion of the facility will constitute a "major modification", and CWM cannot simply go through the "minor permit modification" process to renew and modify the facility's Title V permit.

The Air District also concludes that no health risk assessment is needed since the expansion does not meet the threshold requirements that would trigger the need for such an analysis. In making this calculation, the Air District relies on the emissions figures based on the 400 truck per day baseline. These calculations are inaccurate, and a health risk assessment may also be needed.

Greenaction and El Pueblo further request that when revising its analysis of VOC emissions, the Air District revisit whether the thresholds requiring public notice, permitting for a major modification, and a health risk assessment, have been met.

District Response

Please refer to the response to comment #2a for the basis of emissions calculations within Rule 2201.

As explained above, the Pre-Project Potential to Emit in this project is correctly based upon 400 trucks per day. Therefore, this project is not a "major modification" (as shown in the response to comment #2b) and the SSIPE values in the application review do not require adjustment. The risk does not need to be reevaluated - a health risk assessment was performed, as the project passed a screening tool for risk called prioritization (see Attachment E of the application review).

Rule 2520 Section 3.20.5 states Minor Permit Modifications are permit modifications that "are not Title I modifications as defined in this rule, or modifications as defined in section 111 or 112 of the Federal Clean Air Act, or major modifications under the prevention of significant deterioration (PSD) provisions of Title I of the CAA or under EPA PSD regulations". Section 111 of the Federal Clean Air Act authorized the USEPA to develop technology based standards which apply to specific categories of stationary sources. These standards are referred to as New Source Performance Standards (NSPS) and are found in 40 CFR Part 60. 40 CFR 60.2 defines modification as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission

of any air pollutant (to which a standard applies) into the atmosphere not previously emitted. Section 112 of the Federal Clean Air Act addresses emissions of hazardous air pollutants and require issuance of technology-based standards for major sources and certain area sources. These standards are referred to as National Emission Standards of Hazardous Air Pollutants (NESHAP) and are found in 40 CFR Part 61.

This project is not proposing a physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant to which a standard applies. There are no applicable NSPS standards for this project. The facility is currently in compliance with all applicable NESHAP subparts and the requirements will be listed as part of the facility Title V Permit. Therefore, this project is not a Title I modification, is not a modification as defined in section 111 or 112 of the Federal Clean Air Act, or a major modification under the prevention of significant deterioration provisions of Title I of the CAA or under EPA PSD regulations and this project qualifies as a Minor Permit Modification to the Title V Permit.

Therefore, no changes have been made to the evaluation.

Comment #3

The Air District Has Improperly Restricted Public Participation for the CWM Facility.

In the original public notice for the CWM facility, issued on July 2, 2013, the Air District scheduled a public hearing for the project to be held on August 27, 2013. On August 16, 2013, however, the Air District issued a revised notice finding that "the emission increases associated with this project are minimal, and no public hearing or noticing process is required under applicable regulations". However, the Air District has no basis for cancelling this public hearing.

First, the Air District's own analysis in the ATC demonstrates that the emission increases associated with the CWM facility are anything but "minimal". For example, the ATC admits that the project "is an existing Major Source for VOC emissions and will remain a Major Source for VOC" given that the expansion will extend the life of the facility for almost a decade. The calculated emissions from the project are significant enough to trigger BACT requirements for VOCs and offset requirements for VOC and NOx. In fact, under Air District Rule 2201, Section 3.18.1.4, any increase in VOC emissions is considered to be "significant". Moreover, as discussed above, the estimated emissions from the CWM facility expansion would have been even greater for all pollutants had the Air District used an appropriate baseline and made proper assumptions regarding the number of truck trips in its calculations.

The Air District's statement that emissions from the CWM landfill expansion are "minimal" is also inconsistent with the conclusions in the Final Supplemental EIR for the facility. The EIR, which the Air District acknowledges and adopts as its own,

"concludes that emissions from mobile sources and operational greenhouse gases would have a significant impact on air quality". Specifically, the EIR found that the proposed Project would result in both Project-specific and cumulatively specific ozone, PM10, and PM2.5 air quality impacts that would remain significant and unavoidable even after implementation of feasible mitigation measures. In addition, the EIR concluded that the project would result in an incremental contribution to the significant impact on global climate change on a cumulative basis and that such impacts were significant and unavoidable.

Furthermore, the Air District's notices for the CWM facility violated the express requirements of a Mediated Settlement Agreement ("Settlement") that the District signed on February 1, 2013 to resolve a Title VI Civil Rights Complaint regarding the proposed Avenal Power Plant. As provided in that Settlement, "All basic [Public Comment] notices will be distributed in English and Spanish languages, on a single notice". However, the Air District's notices for the CWM facility failed to meet this standard. In particular, the published newspaper notices for the project appeared in English only. The only permit-related documents translated into Spanish were a notice and a one-page project summary. In contrast, the English-only Authority to Construct Application Review is approximately 111 pages.

When confronted with this violation, the Air District maintained that the CWM facility is "not covered by the settlement agreement" because the Settlement "covers only those projects that trigger public notice requirements under the District's existing regulations". Yet the Air District's own analysis demonstrates that public notice is required for the CWM facility under District Rule 2201, Sections 5.4.4, 5.5, because the post-project Stationary Source Potential to Emit exceeded the emissions offset threshold level for two pollutants (NOx and VOCs). The Air District's later attempt to deny that public notice was required by "compar[ing] the SSPE1 with the SSPE2 in order to determine if any offset thresholds have been surpassed" is contrary to the plain language of its own regulations for making such a determination. In addition, as discussed above, public notice would have been triggered for the project under several other provisions had the Air District used a proper baseline in calculating the increased emissions from the CWM landfill expansion.

The Air District's failure to translate documents related to the ATC into Spanish has a discriminatory and disproportionate impact on the Latino and Spanish-speaking residents by denying them, the people most affected by the proposed ATC decision, the right to meaningful and equal participation in the Air District's permit process. As a recipient of state and federal funding, the Air District is required to comply with Title VI of the United States Civil Rights Act of 1964 and California Government Code Section 11135, which prohibit the Air District from taking actions that have a discriminatory and disproportionate impact on protected classes of people, including Latinos and Spanish-speakers. The failure to translate key permit documents into Spanish violates the civil rights of Spanish-speaking residents, contrary to the requirements of Title VI and California Government Code Section 11135.

In sum, the above violations regarding a controversial expansion of the largest hazardous waste landfill in the western United States have deprived the public of meaningful and equal opportunities for involvement in government decision-making processes, especially for environmental justice communities and non-English speaking residents. These violations much be remedied.

District Response

The District disagrees with Earthjustice's assertion that public participation in this permitting action has been improperly restricted. As demonstrated in the application review (section VIII, 2201, C.), this project does not require public noticing pursuant to Rule 2201, yet the District provided public notification as if it did, and went beyond those requirements, in order to provide opportunities for public participation.

Concerning a public hearing, the District coordinated with the California Department of Toxic Substances Control (DTSC), to take part in DTSC's extensive public participation process, including an evening public open house on July 31, 2013, where DTSC, the District, and several other agencies were available for the public to ask questions and obtain information from, a day-time open house on August 1, 2013, for those who could not attend the evening open house to ask questions and receive information, and to take part in the DTSC public hearing, where both agencies would make a short presentation and take public comment. This hearing was originally scheduled for August 27, 2013, then rescheduled by DTSC to September 18, 2013.

On July 19, 2013, DTSC informed the District that it would not allow the District to take part in its public hearing, following their receipt of an e-mail from Mr. Bradley Angel of Greenaction (attached) that essentially demanded that the District not be allowed to take part in the hearing. The District published a number of public notices (July 2, July 23, and August 16, 2013) to notify the public of our interest in receiving comments on our proposed action, and of our intention to take part in many of DTSC's public presentations. After being dis-invited by DTSC to take part in their public hearing, the District determined that instead of holding a separate public hearing (a hearing that was not required to be held in the first place), the District would attend the DTSC hearing as an observer, and would record any comments that dealt with air quality and consider those as comments pertaining to the District project.

As explained in the response to comment #2d, this project did not trigger any public noticing requirements, and therefore has no requirement to hold a public hearing. The fact that this project triggers BACT (meaning an increase in permitted emissions greater than 2 pounds in any one day, equivalent to an auto body shop spraying one gallon of paint), or that the facility will remain a Major Source, does not mean that a public notice was required. As explained in the response to comment #2b, this project is not a Federal Major Modification, and so public noticing for that purpose is not required.

It should be noted that emissions calculations and noticing requirements for District permitting projects are governed by Federal, State and District Rules, which expressly do not include regulations for mobile source and greenhouse gas emissions.

The District also disagrees with the assertion that the noticing performed for this project violated the terms of the Mediated Settlement Agreement between the District and Greenaction, specifically concerning Section A of the Agreement, which provides:

> "Translation of Basic Notices: All basic notices will be distributed in English and Spanish, on a single notice."

First it's important to note that this project did not trigger public noticing requirements, and therefore is not even subject to the agreement. Second, contrary to Earthjustice's claims, the District is translating every permitting notice into Spanish, and distributing that notice, with both languages on a single notice, through multiple distribution processes, including to all who have signed up to receive Spanish language notices. We followed the same process with this project, even though the noticing process was not required by our rules or by the agreement. These bilingual notices, called "Aviso en Espanol", are also placed on the District's public notices section of its website (http://www.valleyair.org/notices/public_notices_idx.htm#PermittingandEmissionReductionCreditCertificateNotices) All notices, whether in English or Spanish, are essentially identical and provide significant information about the District's proposed action, and provide opportunities for learning more about the project and for providing comments.

Additionally, as Earthjustice noted, for this project the District also prepared a Spanish language project summary, called "Resumen del Proyecto", in which the District offered to discuss the project in Spanish with any interested party, and provided the phone number for a Spanish-speaking District permitting engineer familiar with the project.

In their comment, Earthjustice also misquotes sections of District Rule 2201. The comment references Section 5.4.4, which is as follows:

> "New Stationary Sources with post-project Stationary Source Potential to Emit (SSPE2) exceeding the emissions offset threshold for one or more pollutants".

As is clearly shown, this section is for "New Stationary Sources", and as this facility is not a new source, this section does not apply.

Based on the comment, the District believes the applicable section is actually Section 5.4.3, which states:

> "Modifications that increase the Stationary Source Potential to Emit (SSPE1) from a level below the emissions offset threshold level to a level exceeding the emissions offset threshold level for one or more pollutants".

As shown on page 27 of the application review for this project, this noticing threshold is not triggered. Additionally, as shown in the responses to comments #2a and #2d, the emissions calculations were performed correctly, and no public noticing was required, pursuant to Rule 2201.

While the District's regulations do not require public notification of this project, the District, recognizing the public's interest in this project, took many steps to go far beyond the requirements of the District's regulations, and in fact, far beyond the requirements of the settlement agreement, which also did not apply, to provide opportunities for public participation in this permitting process.

As stated above, the District took part in the DTSC open houses on July 31 and August 1, 2013, and at these open houses had bilingual staff present to describe the permitting process and answer questions. Also as stated above, the District published a number of public notices (July 2, July 23 and August 16, 2013), to notify the public of our interest in receiving comments on our proposed action, and of our intention to take part in many of DTSC's public presentations. These notices were published in the local newspaper of general circulation (the Hanford Sentinel), posted on the District's website, and sent to all parties who had requested notifications related to the facility and to all parties who had requested notifications of permitting actions in the District or actions in the Central Region of the District, where this facility resides.

Each of these notices was translated into Spanish, and the Spanish language and bilingual notices were posted on the District's website and sent to all those who have requested to receive such notices in Spanish, and were even available through a link on all emailed English language notices.

In addition, the District posted each of these Spanish language bilingual notices in approximately 13 public locations throughout Kettleman City. Each of these notices described the opportunities that the District provided for interested parties to take part in the process, regardless of the language they speak. Through these notices, the District invited comments or questions, in English or Spanish, in writing or verbally, and even provided phone numbers and staff names for direct discussions with bilingual District permitting staff. Regardless of the lack of regulatory requirement for any public outreach for this permit action, the District took the extraordinary bilingual steps detailed above to provide for public participation and comment by any interested party.

In conclusion, the District has gone far beyond regulatory requirements, and in fact far beyond the requirements of the settlement agreement with Greenaction, in providing opportunities for all interested parties to take part in the process, to provide written or verbal comments, and to ask questions about the project. These opportunities have been bilingual, in Spanish and English, and have been widely distributed. Contrary to Earthjustice's assertion, there has been no civil rights violation.

Comment #4

The Air District Has Failed to Comply With Its Duties As A Responsible Agency Under the California Environmental Quality Act.

In the ATC Application Review, the Air District admits that it is "a Responsible Agency for the project because of its discretionary approval power over the project" and states that it reviewed the Final Subsequent EIR certified by Kings County (the "Lead Agency"). While noting that the EIR found significant and unavoidable impacts on air quality and global climate change, the Air District claims that it "does not believe it should overrule the decisions made by the Lead Agency" and "adopts the Lead Agency's [Statement of Overriding Consideration] as its own". However, such an approach fails to fulfill the basic requirements of the California Environmental Quality Act ("CEQA") for a responsible agency.

As described in the CEQA Guidelines, "[a] Responsible Agency complies with CEQA by considering the EIR ... prepared by the Lead Agency and be reaching its own conclusions on whether and how to approve the project involved". Pursuant to CEQA Guidelines section 15096(h), a Responsible Agency "shall make the findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 [Statement of Overriding Considerations] if necessary". The Air District cannot avoid these requirements by claiming it lacks authority "over mobile sources emissions" or greenhouse gases. In fact, the mitigation measures imposed on these significant impacts in the EIR (AQ-MM.1 and AQ-MM.2) are explicitly based on Air District regulations, including SJVUAPCD Regulation VIII (Fugitive PM10 Prohibitions), and the Air District is identified as the agency responsible for monitoring compliance with these measures. The Air District is simply wrong that it has no authority over mobile source emissions. Consequently, the Air District must remedy these violations by reaching its own findings regarding the CWM landfill expansion and its compliance with CEQA.

District Response

The District disagrees with Earthjustice's characterization of the District's compliance with CEQA. In some cases, Earthjustice's own statements disprove their allegations. For instance, Earthjustice claims that the District did not adopt overriding considerations even after they quoted from the District's CEQA evaluation

that the District "adopts the Lead Agency's [Statement of Overriding Considerations] as its own".

In other cases, Earthjustice is making false statements. For instance, Earthjustice claims that the Air District has authority over mobile sources, but federal law clearly prohibits the District from developing any type of emissions standards for mobile sources. Further, Earthjustice claims that the District has authority over GHG emissions, while in fact the District's regulatory authority in that area is limited to major emitters of GHG that are subject to the Prevention of Significant Deterioration rule. This project is not subject to that rule, and so the District has no separate authority to somehow require additional mitigation of GHG emissions, as Earthjustice seems to imply.

With that background, the following are the pertinent facts and responses. The ATC project being evaluated by the District consists of the expansion of the existing B-18 landfill vertically and laterally to add 4.9 million cubic yards of gross airspace. This modification is expected to extend the life of the landfill by approximately 8 to 9 years.

The lead agency for CEQA is the County of Kings. As a Responsible Agency, the District's CEQA authority is limited to its existing areas of statutory authority, specifically that over stationary source equipment emissions' impacts on air quality. Under that authority, the District has imposed permit conditions requiring the applicant to meet BACT and mitigate VOC emissions by providing offsets. The District also performed a Risk Management Review (RMR) for the expansion of the existing B-18 landfill resulting in a prioritization score less than one indicating that the health risk associated with the operation of the stationary source permitted equipment will be less than significant; therefore, no further analysis was needed.

Mitigation Measures AQ-MM.1 and AQ-MM.2 are imposed by the Lead Agency to address impacts from onsite construction and operational source emissions and fugitive dust emissions. Mitigation measure AQ-MM.1 requires all purchased land fill operational equipment to meet applicable model year emissions standards; proper maintenance of onsite vehicles and equipment; and compliance with District Regulation VIII. Of all those requirements, the only reference to District rules is for dust controls required by Regulation VIII. Earthjustice's claim that the mitigation measure, because it references a District rule, somehow opens mobile source emissions to regulation by the District is just wrong. CEQA does not provide a Responsible Agency with greater regulatory authorities than otherwise provided by state and federal law.

Mitigation Measure AQ-MM.2 requires the project proponent to purchase primary heavy duty, diesel powered landfill equipment (dozer) meeting Tier 4 emission standards prior to 2014, if available, or the project proponent may retrofit its existing dozer and/or implement other options as they become available to achieve early compliance. If equipment meeting Tier 4 emission standards or a retrofit kit are not

commercially available prior to 2014, the project proponent shall purchase such equipment or retrofit kit once they become commercially available in California. Again, there is nothing, and can be nothing, in the CEQA document that somehow opens the world of mobile source regulatory authority to the District.

The District has reviewed the mitigation measures discussed in Mitigation Measures AQ-MM.1 and AQ-MM.2 and concludes that implementation will reduce construction and mobile source emissions to the extent reasonable and feasible. The County has listed the District as the agency for monitoring compliance with the mitigation measures AQ-MM.1 and AQ-MM.2, and we're happy to assist the County in those efforts. In addition, the District found that the County of Kings evaluated the GHG emission impacts of the project on the environment.

In addition, consistent with CEQA requirements, the District acting as a responsible Agency under CEQA has independently reviewed the SEIR including the Addendum & Initial Study/Environmental Checklist document dated May 21, 2013 developed by Department of Toxic Substances Control (DTSC). The District found that changes or alterations have been required in, or incorporated into, the B-18 section of the project for each of the significant effects identified in the SEIR which avoid or substantially lessen the significant environment effect as identified in the final SEIR.

The District notes that the approval of the Kettleman Hills Facility project in 2009 by the Kings County Planning Commission and the County Board of Supervisors was affirmed in a legal challenge before Kings County Superior Court, a decision which was affirmed on appeal by the Fifth District Court of Appeal, and which the California Supreme Court declined to review. (See *El Pueblo Para El Aire Y Agua Limpio, et. al. v. Kings Co. Bd. Of Supervisors*, 2012 WL 2559652, Cal.App. 5 Dist., July 3, 2012, California Supreme Court rev. denied Sept. 12, 2012.) Earthjustice, who represents El Pueblo Para El Aire y Agua Limpio and Greenaction for Environmental Health and Justice, provided comments. Earthjustice is presumably aware that the CEQA activity in this case has been found to meet all legal requirements, and that this finding has been upheld at all levels of the California judicial system, and all appeals have run their course.

Comment #5

The Air District Has Failed to Provide Proper Procedures for Addressing Nuisance Issues.

As stated by the Air District, "Odors have the potential to originate from various waste treatment and disposal units at KHF, including the B-18 landfill". In fact, as noted in the EIR, the CWM facility "does accept ammonia and other 'cover immediately loads' and designated waste that may contain petroleum hydrocarbons, so that is a potential for unpleasant odors". In order to address such odors, as required by Rules 4102 and 4105, the Air District provides that "[a]ny malodorous material received at the facility which exhibits odors detectable at or beyond the

facility property boundary shall be covered at the end of the working day with acceptable cover material". In addition, the Air District states that "KHF staff working throughout the facility will monitor odors using their sense of smell", and "[a]ny complaints received from the public regarding odors will be investigated by KHF staff".

There are several problems with this approach. First, a requirement to cover any malodorous material "at the end of the working day" means that any such material received at the CWM facility at the start of the working day could create nuisance conditions for several hours before being addressed by CWM staff. This approach makes no sense with regard to air emissions from volatile compounds, since it is well established that within a few hours after application or tilling, such emissions "will be substantially less than the maximum rate because the volatiles at the surface have been removed by the wind and the remaining volatiles must diffuse up through a layer of porous solids".

Moreover, these provisions are vague and problematic as they do not distinguish between complaints about odors received by CWM and complaints submitted to the Air District. The steps set forth in the ATC should not replace the need for the Air District to investigate odor complaints. This is of particular concern as many residents would not want the company to know their identity or address, given that some company workers have in the past intimidated and insulted residents, including through the use of racially offensive comments.

Furthermore, the stated procedures to deal with nuisance odors are weak and explicitly allow such nuisances to continue. As stated in the ATC, "If KHF is the source of the odor, operations may be modified and mitigation measures taken to reduce the nuisance odors". This condition does not actually require any modification of operations causing odors, stating only that the company "may" do so, and if they voluntarily choose to modify operations, they do not have to eliminate the nuisance, only "reduce" it. In sum, these provisions are likely result in violations of Air District 4102, which explicitly prohibits the discharge of air contaminants or other materials "which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such person or the public", and must be remedied by the Air District.

District Response

The District does not understand the background leading to this comment – this facility has historically not been a source of odor complaints. The District has the authority to enforce all odor complaints and violations as set forth in District Rule 4102. All nuisance complaints and violations will be enforced by the District such that the facility will eliminate the odor nuisance. Therefore, no changes have been made to the ATC permit.

Chemical Waste Management

Comments to SJVAPCD on Chemical Waste Management
ATC Project C-1083923

October 2, 2013

Commenter: General Members of Public

Comment #1

As a member of the public, I object to the approval of this project.

District Response

The Air District has determined that, as proposed, the project will comply with all Federal, State, and Air District rules and regulations. The District's analysis of the proposal has determined that the emissions from operation of the landfill will not pose a significant health risk to the surrounding public. Therefore, the District does not have any basis for denial of the project.

Comment #2

How can the District approve a project that allows more pollution to an already polluted area?

District Response

The air emission increases due to this project have been calculated by the District. The source has mitigated the project air emission increases by providing Emission Reduction Credits as required by District rules and regulations. A health risk evaluation has been performed by the District, and the District has determined that the air emission increases from the project do not pose a significant health risk to the public.