

December 20, 2005

Supervisor Harold C. Brown, Jr. President
Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

By Hand-Delivery

Re: Redwood Landfill Land Use Permit

Dear Supervisor Brown:

We write in advance of a meeting with you that we are requesting to discuss the Redwood Landfill and, in particular, its 1958 Land Use Permit. Given the extraordinary circumstances of the Redwood Landfill's location immediately adjacent to sensitive wetlands that comprise the tidal marsh and the Petaluma River Estuary, it is imperative that Marin County itself – not just the state through its various permitting agencies for solid waste, air quality, and water quality – have an enforceable means to address potential and actual spillover effects from the landfill's operations. The Conditional Use Permit, or CUP, is that means. Land use regulation is the method by which the county assures that industrial and commercial activities such as the landfill are subject to appropriate conditions that promote the health, welfare, and interests of our local citizenry including protection of the environment.

As the attached opinion letter from respected counsel, Howard Ellman, states: "Contrary to the assessment of County Counsel, the County's authority to review permit conditions, scope, and compliance rests on solid ground. As the land use authority, the County may and should conduct hearings to consider evidence that a permit holder, especially one of this magnitude, is violating critical permit conditions." As Mr. Ellman's letter makes clear, the Board of Supervisors "may employ one of a number of non-exclusive procedures to address the issues raised by the landfill's CUP."

Accordingly, we respectfully request that you, or the County Planning Commission, initiate a review of the Redwood Landfill's CUP that would cover:

- The intent and requirements of the 1958 permit;
- Whether the Redwood Landfill's operations have exceeded the intended scope of the 1958 permit;
- Whether the Redwood Landfill has met all of the 1958 permit conditions, such as "conform in all particulars to all provisions of all applicable laws and ordinances" including its various operating permits;

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- Current and future landfill operations' consistency with the Countywide Plan and nearby current and future land uses;
- Possible establishment of additional conditions necessary to assure protection of the public and the environment, including an independent monitor subject to a community oversight committee.

An independent monitor, paid for by the landfill operator, is an imperative, in light of Waste Management, Inc.'s repeated violations and misrepresentations to the public and elected officials across the country spanning the last several decades. The county's limited resources are unable to adequately monitor the current situation at the landfill, let alone any future expansion.

The county should include Waste Management, Inc., as well as concerned citizens and environmental groups, in the permit review process to determine additional conditions for a revised CUP to address the above issues and public concerns with the landfill's current and future operations.

We believe that you have the power and the duty to act now. As Mr. Ellman's letter indicates, the Board of Supervisors' state police powers to impose conditions on land use is extremely broad, going well beyond what the Department of Environmental Health Services can impose acting as the state's "local enforcement agency" for the solid waste facility permit. In a similar situation, in 1999 as part of the settlement of a lawsuit, the County of Alameda adopted a 40-plus page land use permit governing Waste Management, Inc.'s operation of the Altamont Landfill, covering among other things: limitations on waste and waste types, tonnage caps, periodic permit compliance reviews, "best technology" requirements, monthly reporting protocols, limitations on traffic impacts, fees, footprint requirements, buffer zones, visual impacts, biological resources, wetlands mitigation, closure plans, insurance requirements, and independent monitoring and reporting. The Land Use Permit is the appropriate way to negotiate these issues, rather than through a solid waste facility permit proceeding which is not designed to address local land use issues and conflicts with the community.

Over the last 47 years, much has changed in terms of land use policy especially as relates to wetlands. We ask you, for the protection of Marin's residents and the wetlands that are on our eastern flank, to act now to review the Redwood Landfill's Land Use Permit in a way that addresses the community's and environmental groups' concerns. This should be done prior to any county certification of the Final Environmental Impact Report on the landfill's proposed solid waste facility expansion plan.

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We look forward to meeting with you soon to discuss these issues.

Very truly yours,
/s

Christopher Gilkerson
Chair
No Wetlands Landfill Expansion

Gordon Bennett
Chair
Sierra Club Marin Group

Harry Moore
President
Sustainable Marin

Edward A. Mainland
Secretary
Sustainable Novato

John Alden
Chair
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