



California Regional Water Quality Control Board

San Diego Region



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Secretary for
Environmental Protection

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TO: Michael P. McCann, P.E.
Assistant Executive Officer

FROM: Amy L. Grove
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DATE: November 17, 2008

**SUBJECT: SUMMARY OF OWNERSHIP INFORMATION AND SITE HISTORY FOR
THE BRADLY PARK LANDFILL**

Since the issuance of Water Quality Investigative Order No. R9-2006-0044 until March 2008, the City of San Marcos (City) has argued that the County of San Diego, Department of Public Works (County), the former operator of the Landfill, is also responsible for waste discharges from the site and should have been included in the Order. The Regional Board has steadfastly held the City responsible for discharges of waste from the Landfill, and not the County because the City is the owner of the property. Further, California Water Code section 13304(j) limits the Regional Board's authority to impose any new liability for acts occurring before January 1, 1981, if the acts were not in violation of existing laws or regulations at the time they occurred. The County of San Diego owned, operated and discharged wastes into the Bradley Park Landfill between the years 1948 and 1968. The Landfill was closed and became the property of the City in 1968.

The following is a chronology of events related to ownership of the Landfill, and responsibility for discharges from the Landfill.

1948 – 1968: The County of San Diego owned, operated and discharged wastes into the Bradley Park Landfill. The Landfill was closed in 1968.

December 1968: The City obtained ownership of the Bradley Park Landfill.

August 1968: The City and County entered into a Joint Exercise Powers of Agreement (JPA), which allocates responsibility for Bradley Park and the associated Landfill between the two agencies. The Regional Board is not a party to the JPA and is not required to uphold it.

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- June 2000:** The Regional Board adopted Addendum No. 1 to Order No. 97-11, "*General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills within the San Diego Region*" identifying the City of San Marcos as the "discharger" responsible for compliance with post-closure maintenance and monitoring requirements. The City did not object to or seek an administrative review of the Regional Board's finding that the City was responsible for discharges of waste from the Bradley Park Landfill in Addendum No. 1 to Order No. 97-11.
- April 2006:** The Regional Board issued Water Quality Investigative Order No. R9-2006-0044 in response to the discovery of a discharge of liquid waste/water in an unnamed creek located at Bradley Park. The Order required the City to submit technical information to the Regional Board to assess the extent of impacts, characterize the site, and eventually, implement corrective actions.
- May 2006:** The City of San Marcos requested a hearing for the review of responsibility for discharges from Bradley Park Landfill by the Regional Board and requested the addition of the County of San Diego as a responsible discharger on Order No. R9-2006-0044.
- June 2006:** The City requested its appeal for a hearing before the Regional Board be held in abeyance while the County and City attempted to reconcile the issue of responsibility.
- August 2006:** The City of San Marcos reactivated its request for a hearing before the Regional Board.
- September 2006:** The Regional Board issued Addendum No. 1 to Order No. R9-2006-0044, modifying the due date of the work plan to October 31, 2006.
- January 2007:** The Regional Board issued Addendum No. 2 to Order No. R9-2006-0044, modifying the due date for the technical report from December 18, 2006, to May 18, 2007.
- May 2007:** A panel of the Regional Board recommended affirmation of Order No. R9-2006-0044. Due to lack of a quorum, the Regional Board never took action regarding the Panel's recommendation.

March 2008: The City withdrew its administrative appeal and request for a hearing on adding the County to Order No. R9-2006-0044 as a responsible discharger.