

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ADDENDUM NO. 4 TO
CLEANUP AND ABATEMENT ORDER NO 95-66
AS AMENDED BY STATE BOARD RESOLUTION WQ 96-02

BOULEVARD INVESTORS, THE CITY OF NATIONAL CITY, THE COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY,
CV VENTURES LLC., RHODE ISLAND ACQUISITION No. 1 LLC.,
SD COMMERCIAL LLC. AND NATIONAL ENTERPRISES, INC.

DUCK POND LANDFILL
SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter
“*Regional Board*”), finds that:

1. On May 5, 1995, Boulevard Investors, the City of National City, Community Development Commission of the City of National City, and the County of San Diego were determined to be “dischargers” responsible for the cleanup and abatement of pollution and threatened pollution associated with discharges of solid waste at the Duck Pond Landfill in the City of National City (Cleanup and Abatement Order (CAO) No. 95-66 of the Regional Board).
2. On February 22, 1996, the State Water Resources Control Board adopted Order No. WQ-96-02 rescinding Regional Board Order No. 87-55 and addenda for the Duck Pond Landfill. Order WQ-96-02 requires that all of the terms and provisions of Order No. 87-55, and its addenda, shall be incorporated into CAO No. 95-66.
3. On October 15, 1999, CV Ventures LLC, Rhode Island Acquisition No. 1 LLC, SD Commercial LLC and National Enterprises, Inc became the new owners of the property encompassing the Duck Pond Landfill and were identified as dischargers subject to CAO No. 95-66 (Addendum No. 1 to Order No. 95-66).
4. On March 10, 2000, the Court of Appeals, Fourth Appellate District, Division One, State of California, reversed the Superior Court decision, granting the County of San Diego’s petition for a writ of mandamus to remove the County as a responsible party for the Duck Pond Landfill. The court ruled that the County is not liable for and cannot be held responsible for current releases of pollutants resulting from its pre-1981 conduct in operating the landfill. On July 20, 2000, the County of San Diego was removed from CAO No. 95-66 (see Addendum No. 2 to order No. 95-66).

5. Compliance with the directives of Cleanup and Abatement Order No. 95-66, as amended by Order No. WQ 96-02 from the State Water Resources Control Board shall remain in effect and be applicable to CV Ventures LLC, Rhode Island Acquisition No. 1 LLC, SD Commercial LLC, National Enterprises Inc., Boulevard Investors, the City of National City, and the Community Development Commission of the City of National City.
6. On March 29, 2002, the Regional Board received a letter from Cozen and O'Connor Attorneys at law. Enclosed with the letter were photographs alleged to document the disassembled gas collection system and construction activities being conducted at the site.
7. On April 3, 2002, the Regional Board received a verbal complaint regarding construction activities, including excavation trenches into the landfill cover, being conducted at the Duck Pond Landfill.
8. On April 4, 2002, the Regional Board conducted a field inspection noting that the lines/piping for the gas extraction system had been placed underground and that work was continuing on the above ground headers for the gas extraction system. The Regional Board also noted areas of concern including ponding of water from overland flow via 30th Street and evidence of subsidence.
9. On April 28, 2002, the County of San Diego provided the Regional Board Executive Officer with additional photographs depicting site conditions during the time period March 27, 2002 to April 4, 2002. The color photos clearly shows the disassembled gas collection lines and trenches being excavated into the landfill cover at the site.
8. This enforcement action is being taken for the protection of the environment and, as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, that Cleanup and Abatement Order 95-66 (including Order 87-55 and Monitoring and Reporting Program 87-55 incorporated by reference) be modified as follows:

1. CHANGE IN DISCHARGE

The dischargers shall file the following reports in accordance with the following schedule:

a. Report of Waste Discharge

The dischargers shall file a new Report of Waste Discharge at least 120 days prior to the following:

- 1) Significant change in post-closure maintenance activities which would significantly alter existing drainage patterns and slope configurations, or pose a potential threat to the integrity of the site;
- 2) Change in land use;
- 3) Significant change in disposal area, e.g. excavation and relocation of waste on site; or
- 4) Any planned change in the regulated facility or activity which may result in noncompliance with this Order.

b. Workplan

The dischargers shall submit a workplan at least 30 days prior to any maintenance activities that could alter existing surface drainage patterns or change existing slope configurations. These activities may include, but not be limited to, significant grading activities, the importation of fill material, the design and installation of soil borings, ground water monitoring wells and other devices for site investigation purposes.

c. Written Notification

The dischargers shall provide written notification at least 2 working days prior to any maintenance activities that are minor and/or routine in nature, do not add a significant amount of water, do not inhibit drainage, have limited potential for impacts to beneficial use of water, and will not interfere with future routine maintenance. These activities may include, but not be limited to:

- 1) routine maintenance grading and dust control;
- 2) landscaping with minimal/no water application;
- 3) gas surveys with temporary probes; or
- 4) replacement/removal of gas collection wells.

2. TECHNICAL REPORT

By **July 15, 2002**, the dischargers shall provide the Regional Board with a technical report containing an evaluation of the integrity of the landfill cover system. The written evaluation must include:

- a. As built plans for the underground configuration for conductor piping connected to the gas extraction system,

- b. A written description and available photographs to document the nature and extent of the excavations performed to install the gas extraction piping underground, and
- c. A technical evaluation of the integrity of the current landfill cover, including potential effects from preferential pathways for water infiltration that may have been created during the installation underground piping for the gas extraction system.
- d. A technical evaluation of the potential for the underground piping trenches to facilitate landfill gas migration and thereby cause a condition of nuisance to the surrounding community.

3. REGIONAL BOARD APPROVAL OF PROPOSED WORK

The dischargers must receive written concurrence from the Regional Board before implementing any proposed changes or workplan submitted in compliance with Directive No. 1, above.

- 4. All other provisions, prohibitions, and requirements of Order 95-66 and addenda thereto, Order 87-55, and Monitoring and Reporting Program 87-55 (incorporated by reference) shall remain in effect.

Ordered By: _____
JOHN H. ROBERTUS
Executive Officer
June 5, 2002