



County of San Diego

AMY HARBERT
DIRECT04

DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY
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HEATHER BUONOMO, REHS
DIRECTOR OF ENVIRONMENTAL HEALTH

SOLID WASTE LOCAL ENFORCEMENT AGENCY

NOTICE AND ORDER No. 2021-03 Corrective Action Order for APN 613-080-40-00

IN THE MATTER OF:

**ADMINISTRATIVE ORDER
ISSUED PURSUANT TO:**

SECV Inc.
Assessor Parcel Number
613-080-40-00

Public Resources Code (PRC), Division 30, Part
5, Chapter 1, Article 1 §45000 and §45011

TO PROPERTY OWNER:

Mr. Samad Attisha
SECV Inc.
7640 University Avenue, Suite A
La Mesa, CA 91942

The County of San Diego, Department of Environmental Health and Quality (DEHQ), Solid Waste Local Enforcement Agency (LEA) regulates solid waste activities throughout the County of San Diego (except for within the City of San Diego) pursuant to Public Resources Code (PRC) and Titles 14 and 27 of the California Code of Regulations (CCR). In accordance with §45011 of the PRC, the LEA has authority to issue orders to the owners of disposal sites to take corrective action as necessary to abate a nuisance or to protect human health and safety or the environment.

- I. PLEASE TAKE NOTICE** that the following condition has been found to exist with regard to the above identified parcel:

The property has been found to have illegal disposed of solid waste at 42748 Old Highway 80 Jacumba, CA 91934, Assessor Parcel Number (APN) 613-080-40-00 without a solid waste facility permit or LEA approval.

Based on the facts set forth below the LEA has determined that the following violations have occurred:



VIOLATION:**APPLICABLE
STATUTE/REGULATION:**

- | | |
|--|--|
| 1. Solid Waste Facility Permit | PRC §44000.5(a) A person shall not dispose of solid waste, cause solid waste to be disposed of, arrange for the disposal of solid waste, transport solid waste for purpose of disposal, or accept solid waste for disposal, except at a solid waste disposal facility for which a solid waste facility permit has been issued. |
| 2. Operation of a Solid Waste Facility without a Solid Waste Facility Permit | PRC §44002(a)(1) No person shall operate a solid waste facility without a solid waste facility permit if that facility is required to have a permit pursuant to this division. |

II. THE COUNTY OF SAN DIEGO SOLID WASTE LOCAL ENFORCEMENT AGENCY HAS MADE THE FOLLOWING FINDINGS REGARDING THE VIOLATIONS:

1. On March 17, 2020, SECV Inc. became the legal property owner of 42748 Old Highway 80 Jacumba, CA 91934, APN# 613-080-40-00 as recorded with the County of San Diego Assessor/Recorder Department.
2. On May 21, 2020, the LEA received an email from Mr. Michael Johnson with County of San Diego Planning and Development Services Code Compliance (PDS Codes) that Mr. Vince Kattoula was the current point of contact for the above property owner and provided the LEA with Mr. Kattoula's email.
3. On June 24, 2020, the LEA emailed Mr. Kattoula requesting a site inspection to evaluate current site conditions. The LEA did not receive a written response directly from Mr. Kattoula to the LEA request for an on-site LEA inspection.
4. On July 8, 2020, July 10, 2020, and August 28, 2020, Mr. Michael Johnson, PDS Codes, had emailed Mr. Kattoula about scheduling a site inspection. The LEA was copied on the July 10, 2020, and August 28, 2020, emails. Mr. Johnson's email stated the Department of Environmental Health (DEH) would also be included in the site inspection.
5. On August 28, 2020, Mr. Kattoula responded to Mr. Johnson that carbon copied the LEA and stated "We've been trying to get Dan off the property, however due to COVID, the court closure has made it impossible for us to evict him. Staff can go ahead and drive by the property but it's my understanding that the site is locked up and you will not be able to enter. If staff does drive out, could you please send me pictures of the additional material?"
6. On September 30, 2021, Mr. Johnson with PDS Codes provided Mr. Kattoula with the photographs taken from their drive by inspection. Mr. Johnson stated that based on

thier review, it appears that the solid waste is expanding and requested a virtual meeting with Mr. Kattoula and the property owner to discuss next steps.

7. On October 27, 2020, the LEA filed documentation with the California Department of Resource Recycling and Recovery (CalRecycle) to register the illegal disposal site referred to as Old HWY 80 illegal Disposal Site (IDS) in the Solid Waste Information System (SWIS). Per Calrecycle direction, the LEA listed Daniel Miller as the landfill operator and SVCE Inc. as the current property owner and identified a quarterly site inspection frequency.
8. On October 28, 2020, CalRecycle issued SWIS# 37-CR-0132 for the Old HWY 80 illegal Disposal Site (IDS) that is currently subject to quarterly site inspections.
9. On December 18, 2020, the LEA conducted a drive-by inspection and issued a violation for 27 CCR 21190 - Post Closure Land Use for excess storage of processed and unprocessed inert debris, accepting and processing solid waste debris or inert debris. A violation was also issued for 27 CCR 20530 - Site Security for the solid waste debris and other regulated waste illegally dumped along the front of the property and public right-of-way. Corrective actions included immediate cease and desist of the acceptance of solid waste debris and other regulated waste without LEA approval, arrange for a site inspection and within 45 days submit a Change of Ownership Notice form 675.
10. On March 3, 2021, the LEA issued Notice and Order 2021-01 Cease and Desist Order to the property owner, SECV Inc. for accepting solid waste and operating an illegal disposal site without a permit in violation of PRC §44002. Also, operating a Limited Volume Transfer Operation (LVTO) and a Construction, Demolition and Inert Debris (CDI) processing facility in violation of 14 CCR Section §18103.1 Filing Requirements and §17383.4 Small Volume Construction and Demolition/Inert Debris Processing Operation. Notice and Order 2021-01 required corrective actions by April 2, 2021, and June 1, 2021. To date, SECV Inc. has not provided the LEA with documentation or a written response to demonstrate compliance with Notice and Order 2021-01 Cease and Desist Order items A, B, and D through J listed below and is now subject to administrative and/or civil penalties.
 - A. Immediately cease and desist receiving any solid waste.
 - B. Immediately cease the operation of a Small Volume CDI Debris Processing Operation and a Limited Volume Transfer Operation.
 - D. Within 30 days of receipt of the order, provide a plan for review and approval that contains the necessary steps to direct haul of all surface waste to a permitted solid waste disposal site or approved recycling facility. Retain receipts of all waste and recyclable material removed off-site for submittal to the LEA to document proper disposal. Submit DEH-LEA application (DEH: LEA-990) including associated fees \$612.00 for plan review and approval.
 - E. Within 90 days after the receipt of this order, remove all municipal solid waste, electronic waste, appliances, waste tires, metals, construction and demolition debris, etc. to a permitted solid waste disposal site or recycling facility and provide the LEA with documentation for the proper management of the municipal solid waste and recyclables.

- F. If you want to operate a Small Volume CDI debris operation and a LVTO, submit within 30 days the following items to the LEA for review and approval.
- G. Two EA Notification packages, one for the Small Volume CDI debris processing operation and one for the LVTO (CIWMB Form 169 attached for your convenience).
- H. For the Small Volume CDI debris processing operation, include an operations plan pursuant to 14 CCR §17386 – Operations Plans.
- I. Two DEH-LEA applications (DEH: LEA-990) including associated fees for LEA review of each EA notification package. The fee is \$612.00 for each application plus a \$50.00 filing cost for the California Environmental Quality Act Notice of Exemption for each operation
- J. Provide a written notification to the local planning department of the operator's intent to commence one or both of these operations.

The March 3, 2021, Notice and Order 2021-01 Cease and Desist Order (Order) further identified the LEA has authority to administratively impose civil penalties not to exceed five thousand dollars (\$5,000) for each day on which the violation occurs if compliance is not achieved within the time scheduled set forth in the Order. As of this notice, required corrective actions have not been submitted to the LEA for review. A total of 151 day have passed from the first scheduled compliance date of April 3, 2021. Penalties in the amount of \$755,000 can be assessed for non-compliance with the Order.

- 11. On March 25, 2021, the LEA, Certified Unified Program Agency (CUPA) and PDS Codes staff met with you and Mr. Vince Kattoula to conduct a site inspection. During the inspection, the LEA observed additional illegally dumped solid waste debris along the County right-of-way and SECV Inc. property that included mattresses, waste tires, solid waste debris, household hazardous waste, furniture, electronic waste, cathode ray tubes, appliance and other metal. Additional waste observed within SECV Inc. property included approximately 5,000 cubic yards of unprocessed and processed inert debris, 1,500 cubic yards of construction debris, 350 waste tires, recycled metal, regulated waste such as 100+ broken fluorescent light tubes, compressed cylinders, used oil, oil filters, and universal waste at the surface. Additional solid waste debris was observed partially buried along the site drainage course and buried waste had been exposed due to soil erosion along the north side slope of the asphalt top deck.
- 12. On June 29, 2021, the LEA conducted a drive by site inspection and observed additional solid waste debris had been illegally dump along the right-of-way and on the adjacent property. Signs had not been posted as directed by the LEA March 25, 2021, inspection report in attempt to minimize the illegal dumping activities. Some appliances and other metal had been placed within two roll-off boxes and stored on the property. Mr. Kattoula stated its the on-site caretaker waste consolidation efforts. The unprocessed and processed inert debris and the construction and demolition waste debris on the property was observed to have remained on-site unchanged.
- 13. On July 15, 2021, staff with the LEA, CUPA, DPW and PDS Codes had a conference call with Mr. Vince Kattoula. The LEA summerized the Cease and Desist Order Corrective Action requirements, pending civil penalties and summarized the results of the June 29, 2021 drive by inspection. Mr. Kattoula was requested to provide a status update on the

Cease and Desist Order Corrective Actions. Mr. Kattoula stated the property is not receiving any waste debris or operating a disposal site and the waste on the right-of-way will not be disposed. Mr. Kattoula was willing to work with CUPA on their permit and PDS to arrange for a site inspection.

14. On August 23, 2021, the LEA conducted a site inspection with staff from the Department of Environmental Health and Quality (DEHQ), County Planning and Development Services, District Attorney office and Mr. Kattoula and the property owner Samad Attisha. Mr. Attisha authorized the County agencies to conduct a site inspection, take samples and photographs. Mr. Leon Wirschem with DEHQ took samples from the construction debris piles and from other unknown hazardous material containers. Some additional solid waste debris was observed to have been illegally dumped along the right-of-way. The unprocessed and processed inert debris and the construction debris piles remained on-site as observed during the previous LEA site inspections. The County Department of Public Works had posted "Dumping Prohibited" signs along the right-of-way.
15. On November 19, 2021, the LEA conducted a drive by site inspection. Some additional solid waste debris was observed to have been illegally dumped along the right-of-way. The unprocessed and processed inert debris and construction debris piles remain on-site as observed during the previous LEA site inspection. No Dumping signs continue to be posted along the right-of-way.

The LEA has determined that this site is accepting solid waste debris and operating as an illegal disposal site without a solid waste facility permit in violation of PRC §44002.

III. THE OWNER/OPERATOR IS HEREBY ORDERED TO:

1. Cease and Desist operating a solid waste disposal site on APN **613-080-40-00** pursuant to the PRC §44002(b);
2. **Within 60 calendar days:** Submit a corrective action plan designed and stamped by a California licensed civil or environmental engineer within sixty (60) calendar days (**February 6, 2022**) upon receipt of this order and/or the LEA posting of the order on or near the property;
3. The plan shall include a scope of work that includes the proposed methods, equipment, sampling methodologies, permitting requirements, soil and solid waste management plan for conducting a below ground site investigation primarily within the north, and northeast asphalt capped area, the circular soil area surrounded with waste tires north of the asphalt capped area and the partially buried waste piles observed along the northern access road and northeast drainage channel to determine the vertical and horizontal extent of the buried waste for proper characterization, management and disposal. The plan shall also address the proposed methods to manage the unprocessed and processed inert debris (concrete/asphalt) at the surface including the proposed inert debris end use to comply with 14 CCR §17381.1(e) storage requirements. The plan shall include estimated timelines to complete the site investigation activities.
4. Submit a Community Health and Safety Plan for the proposed subsurface investigation to minimize potential community exposures to dust and other potential hazards from site excavation activities and/or releases which may migrate off-site and to assure

community awareness associated with the excavation activities. A description of this kind of plan can be found in Section 4.0 Site Assessment Process of the Site Assessment and Mitigation Manual, which can be downloaded at:

https://www.sandiegocounty.gov/content/dam/sdc/deh/water/docs/sam_section_4.pdf

5. The final disposition of solid waste or recycled materials removed off-site for disposal or further processing will need to be identified within the plan and accepted at a permitted or approved recycling facility;
6. The treated wood waste, household hazardous waste, universal waste, appliances, waste tires and other regulated waste shall also be managed in accordance with state and federal regulations, and
7. Complete and submit an LEA application that includes an initial application processing fee of \$662.00 for the LEA to review the plan for approval.

Additional information on solid waste management and disposal can be found in Public Resources Code and California Code of Regulations, Title 14 and 27.

<https://www.calrecycle.ca.gov/Laws/Regulations/>

Quarterly site inspections will be conducted pursuant to PRC 43209. Failure to allow the LEA to conduct on-site inspections will result in the issuance of an inspection warrant.

The LEA's directives and consideration of the proposed corrective action plan does not relieve you from seeking approval from other regulatory agencies with oversight of these activities.

IV. PLEASE TAKE FURTHER NOTICE THAT:

Failure to remedy the aforementioned violation(s) by the required date(s) may result in the LEA and/or CalRecycle expending available funds to perform any cleanup, abatement, or remedial work needed to protect public health and safety or the environment pursuant to Public Resources Code § 45000 and §48020. If the LEA and/or CalRecycle expend(s) funds to perform any cleanup, abatement, or remedial work, the LEA and/or CalRecycle may seek repayment from responsible parties pursuant to Public Resources Code §48020 et seq. Moreover, funds so expended by CalRecycle constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to Public Resources Code §48023.5.

If the owner of the property upon which solid waste is unlawfully stored, stockpiled, or disposed refuses to allow the LEA or its designee, and/or CalRecycle or contractors for the LEA access to enter onto the property and perform all necessary cleanup, abatement, or remedial work may result in the LEA pursuing a warrant from the court to permit reasonable access to the property to perform the activity(ies), pursuant to Public Resources Code §44100.

- Continued non-compliance may cause the LEA to contract with a commercial service provider for corrective action. The amount expended plus cost of administration of the remediation and interest which would have been earned on the funds expended would be recovered under a civil suit pursuant to PRC §45000; OR
- Pursuant to 48020 et seq, the California Department of Resource Recycling and Recovery (CalRecycle) may remediate said properties if the Owner fails to correct the aforementioned violations by the specific dates and may seek repayment from the Owner for the amount

expended for remediation, cost of administration of the remediation and interest which would have been earned on the funds expended.

- Pursuant to PRC §45011 the LEA has the authority to administratively impose a civil penalty not to exceed five thousand dollars (\$5,000) for each day on which each violation occurs if compliance is not achieved within the time schedule set forth in Section III. In addition, pursuant to the San Diego County Code of Regulatory Ordinance, Title 6, Division 5, §65.107(j)(9-10), the LEA can recover cost calculated at the approved rate, currently for Fiscal Years 2020-21 and 2021-22 is at \$153.00 hour, for conducting the site investigation for which no fee is specifically indicated.
- Pursuant to PRC §45014, upon failure to comply with this Corrective Action Order the County of San Diego Solid Waste Local Enforcement Agency may petition the Superior Court for an injunction to restrain the Owner/Operator from continuing to violate the order and to impose, assess, and recover civil penalties.
- Illegal disposal of hazardous waste is a crime under state law. Fines upon conviction range from no less than \$5,000 per day up to \$100,000 per day, for each day of the violation, pursuant to Health and Safety Code §25189.5.
- Pursuant to PRC §45023, a person who owns a solid waste disposal site and who intentionally or negligently violates an LEA order or a regulation applicable to that site is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
- Pursuant to PRC §44005 and 27 CCR §21200, any owner or operator of a solid waste disposal site who plans to encumber, sell, transfer, or convey the ownership to a new owner or operator, shall notify the LEA and the California Department of Resource Recycling and Recovery (CalRecycle), 45 days prior to the anticipated transfer. The notification shall be in writing and shall include the name(s), address(es) and phone number(s) of the new owner or operator.

Nothing in this Corrective Action Order shall constitute or be construed as a satisfaction or release from liability for any condition or claims arising as a result of past, current or future operations of the owner/operator. Notwithstanding compliance with the terms of this Corrective Action Order, the owner/operator may be required to take further actions as are necessary to protect human health and safety and the environment.

This Corrective Action Order does not relieve the Owner/Operator from complying with all other local, state, and federal requirements. The LEA will consult with other agencies concerning any disposal that was outside the jurisdiction of the LEA.

This Corrective Action Order may only be amended in writing by an appropriate representative of the County of San Diego Solid Waste Local Enforcement Agency.

This Corrective Action Order is supported by the accompanying declaration of Mr. Anthony Torres, Environmental Health Specialist III for the County of San Diego Solid Waste Local Enforcement Agency.

You have the right to appeal this order to the County Solid Waste Hearing Panel, pursuant to §§45002, 44307 and 44310 of the Public Resources Code and Article LIV (§§960 and following) of the County Code of Administrative Ordinances. It is the County's position that an appeal to this body is required before any judicial challenge to these orders may be made. However, if you

intend to appeal or to judicially challenge these orders, we recommend you seek the advice of an attorney concerning your options.

If you have any questions or would like to arrange for an office meeting, please contact me at (858) 495-5810 or Anthony Torres at (858) 694-2608.

Sincerely,



RICARDO M. SERRANO, MS, REHS, Supervising EHS
Local Enforcement Agency



Date

Attachment: Notice and Order Cease and Desist Order 2021-01
LEA Application (Rev. 10-20)

cc: LEA file

ec: Vince Kattoula, Property Owner Point of Contact
Daniel Miller, Previous Property Owner
Glenn Young, CalRecycle CIA Sites
Paul Saldana, CalRecycle Waste Tire Program
Jose Cortez, Regional Water Quality Control Board
William Jacques, San Diego County Air Pollution Control District
Conor McGee, Planning Development Services Code Compliance
Christine Tolchin, Watershed Protection Program
Kelly Robertson, Certified Unified Program Agency
Heather Buonomo, DEHQ Director
Gregory Lusitana, County Counsel

DECLARATION

I, Anthony Torres, declare under penalty of perjury that the following is true and correct:

1. I am currently, and was at all times referenced herein, employed as an Environmental Health Specialist, with the Solid Waste Local Enforcement Agency (LEA) for the County of San Diego.
2. The allegations of the foregoing Corrective Action Order 2021-02 are known to me of my personal knowledge to be correct. This knowledge was obtained by observing conditions at the site during site inspections, LEA records, office meeting and phone conversations.

Executed at 5500 Overland Ave., Suite 110, San Diego, California on December 8, 2021.

By Anthony Torres

Anthony Torres, REHS

Environmental Health Specialist III

County of San Diego

Solid Waste Local Enforcement Agency

