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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Waste Management Department

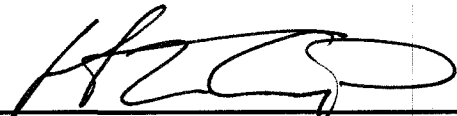
SUBMITTAL DATE:
October 20, 2009

SUBJECT: Lakeview Disposal Site Clean Closure Agreement

RECOMMENDED MOTION: That the Board of Supervisors approve the "Lakeview Site Clean Closure Agreement" between Nuevo Development Company, LLC and the County of Riverside, and authorize the Chairman to execute it on behalf of the Board.

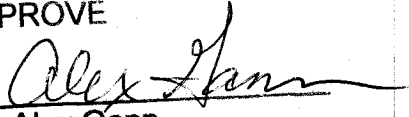
BACKGROUND: The Lakeview Disposal Site is a closed burn site that was operated by the County and accepted waste from 1951 to 1971. The site is currently owned and maintained by the Riverside County Waste Management Department (Department) and has been declared surplus property under Board Resolution No. 2008-355. As part of this agreement, Nuevo Development Company, LLC (NUEVO) will fund and implement a site Clean Closure project to remove, transport and properly dispose of the estimated 40,000 cubic yards of waste that are in place at the approximately seven (7) acre site. In exchange for completing the Clean Closure project, NUEVO will receive an option to purchase the site from the County at a cost based on the positive difference between funds expended by NUEVO to complete the project and the appraised value of the site in a clean closed condition. Results from a property appraisal performed in July 2009 indicate that the site has an "as is" negative market value of \$2.7 million. (Continued)

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel 10-21-09
DATE
SYNTHIA M. GUNZEL
Departmental Counsel


Hans W. Kernkamp, General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:
APPROVE
BY: 
Alex Gann
County Executive Office Signature

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 7/29/08 (12.3 and 12.6) | **District:** 5 | **Agenda Number:**

12.1

If NUEVO decides to exercise the option to purchase the site, conveyance of the surplus property will be executed by the Director of Facilities Management in accordance with Ordinance No. 598.

On July 29, 2008, the Board approved the Clean Closure project and adopted the Mitigated Negative Declaration for Environmental Assessment (EA) No. 41223. In addition, the Department has determined that this agreement is exempt under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15061, subdivision (b)(3), and 15262. The Department shall file a Notice of Exemption within 72 hours of County approval of this agreement.

The Department recommends that the Board of Supervisors approve the "Lakeview Disposal Site Clean Closure" agreement as a no-cost option to the County to clean close the site and assist the unincorporated community of Lakeview.

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AGREEMENT

1. **Recitals.** The **PARTIES** agree that the recitals above are true and correct, which recitals are incorporated into this **AGREEMENT** as if fully set forth herein.

2. **Environmental Conditions.** For purposes of **AGREEMENT**, and based on the data available as of the date of **AGREEMENT**, including but not limited to the public records and soil sample testing performed at the **SITE** as set forth in **Exhibit B**, which is attached hereto and by reference made a part hereof, the **PARTIES** agree that surface and subsurface soils on the **SITE** have been impacted by historic waste burning operations. This material measures approximately forty thousand (40,000) cubic yards and covers approximately six (6) acres of the **SITE**, with the thickness of the cross section ranging from approximately one (1) foot at its edge to about ten (10) feet in the middle (the "**REMOVAL LAYER**"). Sampling was conducted at the **SITE**, within the **REMOVAL LAYER**, and in native soil immediately underlying the **REMOVAL LAYER**. The compounds of concern detected in the **REMOVAL LAYER** primarily consisted of metals, including lead. The native soil samples immediately below and at the edges of the **REMOVAL LAYER** had concentrations of metals and other constituents that were consistent with background levels.

3. **Remedial Work Plan.** The **PARTIES** agree that the **LAKEVIEW BURN AREA** should be clean closed in accordance with California Code of Regulations (CCR) Title 27, Sections 21090 (f) and 21810 in order to remediate soil conditions at the **SITE** pursuant to the **AGREEMENT** and that **NUEVO** shall submit a **Remedial Work Plan** ("**WORK PLAN**"), signed by a registered engineer(s) or certified engineering geologist(s), that will, at a minimum, address excavation, removal, loading, and transportation of the **REMOVAL LAYER** to an authorized disposal facility; confirmatory environmental sampling and testing, including but not limited to air and water testing as required by appropriate regulatory agencies; quality assurance and control; final grading; a monitoring and reporting plan; storm water pollution prevention plan; haul route and traffic plan; and a health and safety plan for **WORK PLAN** activities. The health and safety plan for **WORK PLAN** activities shall, at a minimum, address construction methods and procedures, job specific hazard analysis, worker protection measures and provide

1 an environmental monitoring and testing plan prepared by an appropriately credentialed
2 environmental professional or industrial hygienists. The **PARTIES** agree that any and all off-
3 site disposal of contaminated soils shall mean that the contaminated soils will be transported by a
4 licensed hazardous waste hauler to a facility authorized and permitted to receive materials
5 deemed as hazardous waste under State of California law, with **COUNTY** listed as the waste
6 generator on the waste manifest. During the project, **NUEVO**, its officers, employees,
7 contractors, subcontractors, consultants, agents or representatives (**NUEVO PARTIES**) shall
8 submit copies of waste manifests on a weekly basis and no later than ten (10) days after
9 manifests have been received by permitted hazardous waste facility. The **WORK PLAN** may
10 include value-engineering components that allow for non-hazardous waste to be diverted or
11 disposed at facilities authorized to receive these materials and/or allow for otherwise hazardous
12 materials to be rendered non-hazardous (such as through use of a pug mill or similar device),
13 upon approval of supporting sampling data and clearance by the **Santa Ana Regional Water**
14 **Quality Control Board ("SARWQCB")**, or other regulatory agencies with jurisdiction to do so.

15 **4. Required Actions to Implement WORK PLAN.** The **PARTIES** agree that the
16 following actions are required prior to implementation of the **WORK PLAN**:

- 17 a. Approval of the **WORK PLAN**, and any modifications thereto, by **County**
18 **Waste Management Department ("WMD")**, **County Department of**
19 **Environmental Health, Solid Waste Enforcement Agency ("LEA")**, and
20 **SARWQCB**; and
 - 21 i. **South Coast Air Quality Management District ("SCAQMD") Rule**
22 **1150 Excavation Permit and Management Plan and Rule 403 Fugitive**
23 **Dust Plan**; and
 - 24 ii. **SARWQCB Report of Waste Discharge to assure appropriate storm water**
25 **management at construction sites pursuant to State Water Resources**
26 **Control Board General Order 97-10-DWQ**; and

- 1 iii. National Pollutant Discharge Elimination System Permit required for
2 protection of surface water quality from storm water discharge at the
3 **SITE** during clean closure activities; and
- 4 b. **WMD** approval of final grading and drainage plans to ensure that the **SITE** is
5 restored to a final condition that does not present an environmental hazard, a
6 public nuisance, or a threat to public health; and
- 7 c. Approval by **WMD** and **LEA** of a detailed schedule of operation, including hours
8 and days of operation, to be coordinated between all **PARTIES** involved in clean-
9 up activities; and
- 10 d. Written notification and transmittal of approved **WORK PLAN** to **California**
11 **Integrated Waste Management Board** ("**CIWMB**") and **LEA** at least ten (10)
12 days prior to implementation of approved **WORK PLAN**; and,
- 13 e. Approval by **WMD** of a detailed clean closure cost estimate, including but not
14 limited to construction, transportation, hazardous waste disposal, final grading,
15 final drainage installation, construction management, quality assurance/quality
16 control oversight, environmental testing, and final reporting for regulatory
17 approval.
- 18 f. Development of a plan for the complete implementation of the Mitigation
19 Monitoring Program as set forth in **Exhibit C**, which is attached hereto and by
20 this reference made a part hereof.

21 **WMD** shall review application packages to **SCAQMD** and **SARWQCB** for designated permits
22 and approvals (the "**REQUIRED PERMITS**") and shall assist **NUEVO** and its contractor(s) in
23 applying for and obtaining the **REQUIRED PERMITS** as needed. **COUNTY** is and shall be
24 identified as the owner of the **SITE**, the operator of the former **LAKEVIEW BURN AREA**,
25 and the generator of the **REMOVAL LAYER** on any and all documentation for the
26 **REQUIRED PERMITS** and **WORK PLAN**.

27 **5. Implementation of WORK PLAN.** Following receipt of the **REQUIRED PERMITS**
28 and satisfaction of conditions 4.a. through 4.f. above, the **WORK PLAN** shall be implemented

1 by authorized, licensed and insured contractor(s) working for NUEVO in accordance with an
2 approved Health and Safety Plan to ensure the safety of all employees and the public, an
3 approved schedule of operation, and **REQUIRED PERMITS**. **WMD** and **LEA** shall review
4 and approve the scope of work of such contractor(s), including without limitation the location of
5 the disposal facility or facilities. **NUEVO** shall cause the approved contractor(s) to implement
6 the **WORK PLAN**, and in the event of any dispute between **NUEVO** and the contractor(s),
7 **NUEVO** shall arrange for an alternate contractor, approved by the **WMD**, to implement the
8 **WORK PLAN**. Once a contractor has commenced excavation of the **REMOVAL LAYER**,
9 **NUEVO** is and shall remain obligated under this **AGREEMENT** to cause approved
10 contractor(s) to complete implementation of the **WORK PLAN**.

11 **6. Status Reports.** During the course of implementing the **WORK PLAN**, including but
12 not limited to obtaining **REQUIRED PERMITS** and other permits, approvals, and certifications
13 from any applicable regulatory agency prior to and after completion of the **WORK PLAN**,
14 **NUEVO** shall provide periodic notifications to the following agencies ("**NOTIFYING**
15 **AGENCIES**"), as specified in the **WORK PLAN**: (1) **WMD**; (2) **SARWQCB**; (3) **LEA**; and,
16 (4) **SCAQMD**. At a minimum, Status Reports shall be provided on a quarterly basis. In
17 addition, **NUEVO** and/or its contractor(s) shall submit a Final Remediation and Certification
18 Report, signed by a registered engineer(s) or certified engineering geologist(s), to **WMD**, **LEA**,
19 **CIWMB**, and **SARWQCB** for review and approval that clean-up has been completed in
20 accordance with approved **WORK PLAN**.

21 **7. SITE Access.** The **PARTIES** agree that **NUEVO** and its authorized contractor(s) and
22 subcontractors shall have the right to access **SITE** as necessary to complete all actions
23 contemplated under the **WORK PLAN**, provided appropriate insurance is maintained, as
24 required by the **AGREEMENT**.

25 a. **COUNTY** hereby grants to **NUEVO**, its agents, employees, and contractor(s) the
26 temporary right to enter onto the **SITE** for the purpose of implementing the
27 **WORK PLAN**. This right of entry shall commence upon approval of the
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1 **WORK PLAN** and terminate five (5) years after the **EFFECTIVE DATE** of this
2 **AGREEMENT**.

- 3 b. **NUEVO** shall not permit to be placed against the **SITE**, or any part thereof, any
4 liens, including but not limited to, design professionals, mechanics, materialmens,
5 contractors or subcontractors, with regard to the activities undertaken pursuant to
6 this **AGREEMENT**. **NUEVO** agrees to hold **COUNTY** harmless for any loss or
7 expense, including reasonable attorneys' fees, arising from any such liens which
8 might be filed against the **SITE**.

9 **8. Default.** Without limitation, the occurrence of any of the following shall constitute a
10 default by **NUEVO** under this agreement:

- 11 a. Failure by **NUEVO** to properly and fully implement the approved **WORK**
12 **PLAN** as required under Section 5 within five (5) years of the **EFFECTIVE**
13 **DATE** of this **AGREEMENT**.
- 14 b. Failure by **NUEVO** to provide Status Reports, or submit the Final Remediation
15 and Certification Report as required under Section 6.
- 16 c. Failure by **NUEVO** to maintain the **SITE** as required by this **AGREEMENT** or
17 perform any other covenant or provision of this **AGREEMENT**, if the failure to
18 perform is not cured within thirty (30) days after written notice. If the failure to
19 perform cannot reasonably be cured within thirty (30) days, **NUEVO** shall not be
20 in default of this **AGREEMENT** if **NUEVO** cures the failure to perform within
21 the thirty (30) day period and thereafter diligently and in good faith prosecutes the
22 cure to completion, and such default is cured within a total of ninety (90) days
23 from the date of the notice.
- 24 d. The subjection of any right or interest in and to the **SITE** to attachment,
25 execution, or other levy, or to seizure under legal process, if not released within
26 forty-five (45) days after notice from **COUNTY** to **NUEVO**.
- 27 e. An assignment by **NUEVO** for the benefit of creditors or the filing of a voluntary
28 or involuntary petition by or against **NUEVO** under any law for the purpose of

1 adjudicating NUEVO bankrupt, or for extending time for payment, adjustment,
2 or satisfaction of NUEVO's liabilities hereunder, or for reorganization,
3 dissolution, or arrangement on account of or to prevent bankruptcy or insolvency;
4 unless the assignment or proceeding, and all consequent orders, adjudications,
5 custodies, and supervisions are dismissed, vacated, or otherwise permanently
6 stayed or terminated within forty-five (45) days after the assignment, filing, or
7 other initial event.

8 f. The appointment of a receiver, unless such receivership is terminated within
9 forty-five (45) days after the appointment of the receiver, to take possession of
10 NUEVO's interest in the SITE or of NUEVO's operations on the SITE for any
11 reason, including but not limited to, assignment for benefit of creditors or
12 voluntary or involuntary bankruptcy proceedings.

13 **9. Remedies to Default.** If NUEVO shall be in default as stated in Section 8 herein above,
14 then COUNTY shall have the following remedy in addition to any and all other rights and
15 remedies provided by law or equity: COUNTY may terminate this AGREEMENT. In such
16 event, NUEVO shall fully cooperate with COUNTY, including but not limited to immediately
17 remove from the SITE all equipment and other personal property related to NUEVO's work
18 under the AGREEMENT, and shall fully cooperate in supporting the transfer of any and all
19 permits related to the AGREEMENT to COUNTY or a third party as requested by COUNTY.
20 NUEVO shall also assign any and all of its rights and claims against the NUEVO to COUNTY,
21 and shall fully cooperate with the COUNTY in any COUNTY claim against NUEVO for any
22 NUEVO default under Section 8 of this AGREEMENT.

23 **10. Dispute Resolution.** In the event COUNTY believes there has arisen any problem with
24 NUEVO's performance or obligations under this AGREEMENT, COUNTY may request an
25 immediate meeting with NUEVO's project management to discuss the problem. NUEVO's
26 management shall meet with COUNTY no later than ten (10) working days following receipt of
27 COUNTY's written request for such a meeting. No later than five (5) working days after the
28 meeting, NUEVO will provide COUNTY with a written response which addresses the issues

1 raised at the meeting and NUEVO's plan to resolve the problem. If the problem persists,
2 NUEVO's management shall further meet with COUNTY no later than ten (10) working days
3 following receipt of COUNTY's written request for additional meetings. If COUNTY believes
4 that NUEVO management or executives above the project management are required to attend
5 the meeting to sufficiently address the problem, then NUEVO will have such management or
6 executives attend the meeting upon fifteen (15) working days written notice from COUNTY.
7 Nothing in this AGREEMENT shall preclude the parties from agreeing, on a voluntary and
8 informal basis, to meet-and-confer to address any issue that may arise.

9 **11. Insurance.** Without limiting or diminishing the NUEVO'S obligation to indemnify or
10 hold the COUNTY harmless as provided in Section 12. of this AGREEMENT, NUEVO shall
11 procure and maintain or cause to be procured and maintained by its contractors ("NUEVO-
12 CONTRACTOR"), at no cost and expense to the COUNTY, the following insurance coverage:

- 13 a. Workers' Compensation: If the NUEVO-CONTRACTOR has employees as
14 defined by the State of California, who will enter upon the SITE for the purposes
15 of undertaking actions required to implement this AGREEMENT, then NUEVO-
16 CONTRACTOR shall maintain statutory Workers' Compensation Insurance
17 (Coverage A) as prescribed by the laws of the State of California. Policy shall
18 include Employers' Liability (Coverage B) including Occupational Disease with
19 limits not less than \$1,000,000 per person per accident. The policy shall be
20 endorsed to waive subrogation in favor of The County of Riverside, and, if
21 applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.
22 Such insurance shall be obtained prior to such employees entering upon the SITE
23 for the purpose of undertaking action required to the implementation of this
24 AGREEMENT and shall be maintained so long as such employees need to enter
25 upon the SITE for the purposes of undertaking actions required to implement the
26 AGREEMENT.
- 27 b. Commercial General Liability: Before commencement of actions relating to the
28 implementation of this AGREEMENT, Commercial General Liability insurance

1 coverage, including but not limited to, premises liability, contractual liability,
2 products and completed operations liability, and personal and advertising injury,
3 covering claims which may arise from or out of **NUEVO-CONTRACTOR'S**
4 performance of its obligations hereunder. Policy shall name the County of
5 Riverside, its Agencies, Districts, Special Districts, and Departments, their
6 respective directors, officers, Board of Supervisors, employees, elected or
7 appointed officials, agents or representatives as Additional Insureds. Policy's
8 limit of liability shall not be less than \$1,000,000 per occurrence combined single
9 limit. If such insurance contains a general aggregate limit, it shall apply separately
10 to this agreement or be no less than two (2) times the occurrence limit.

11 c. Vehicle Liability: If vehicles or mobile equipment are used in the performance of
12 the obligations under this Agreement, then **NUEVO-CONTRACTOR** shall
13 maintain liability insurance for all owned, non-owned or hired vehicles so used in
14 an amount not less than \$1,000,000 per occurrence combined single limit. If such
15 insurance contains a general aggregate limit, it shall apply separately to this
16 agreement or be no less than two (2) times the occurrence limit. Policy shall name
17 the County of Riverside, its Agencies, Districts, Special Districts, and
18 Departments, their respective directors, officers, Board of Supervisors,
19 employees, elected or appointed officials, agents or representatives as Additional
20 Insureds.

21 d. Professional Liability. **NUEVO-CONTRACTOR** shall require any
22 environmental consultant that provides professional services involving the
23 exercise of professional judgment (i.e., confirmation sampling, Site closure report
24 preparation) to maintain Professional Liability Insurance providing coverage for
25 performance of work included within this Agreement, with a limit of liability of
26 not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If
27 **NUEVO- CONTRACTOR'S** Professional Liability Insurance is written on a
28 claims made basis rather than an occurrence basis, such insurance shall continue

1 through the term of this Agreement. Upon termination of this Agreement or the
2 expiration or cancellation of the claims made insurance policy **NUEVO-**
3 **CONTRACTOR** shall purchase at its sole expense either 1) an Extended
4 Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates
5 Coverage from a new insurer with a retroactive date back to the date of, or prior
6 to, the inception of this Agreement; or, 3) demonstrate through Certificates of
7 Insurance that Consultant has maintained continuous coverage with the same or
8 original insurer. Coverage provided under items; 1), 2) or 3) will continue for a
9 period of five (5) years beyond the termination of this Agreement.

10 e. **Pollution Liability Insurance.** **NUEVO-CONTRACTOR** shall maintain site-
11 specific and transit Pollution Liability Insurance, covering both sudden and
12 gradual pollution, with limits of not less than \$1,000,000 each pollution condition
13 and \$1,000,000 aggregate covering third party claims for bodily injury, property
14 damage and first and third party cleanup expense, for pollution conditions
15 occurring or discovered on-site or as a result of transit whether in the soil, water
16 or air, which arise out of or are related to **NUEVO-CONTRACTOR'S**
17 performance under this agreement. The policy shall name COUNTY as
18 additional insured, and shall not contain an "insured v. insured" exclusion. The
19 policy shall not contain a deductible or self-insured retention higher than \$25,000.
20 Coverage provided under this section shall continue for at least five (5) years or to
21 the extent it is commercially reasonably available, whichever is longer.

22 f. **General Insurance Provisions - All lines:**

23 i. Any insurance carrier providing insurance coverage hereunder shall be
24 admitted to or approved to do business in the State of California and have
25 an A M BEST rating of not less than A: VIII (A:8) unless such
26 requirements are waived, in writing, by the County Risk Manager. If the
27 County's Risk Manager waives a requirement for a particular insurer such
28 waiver is only valid for that specific insurer and only for one policy term.

1 ii. The **NUEVO-CONTRACTOR'S** insurance carrier(s) must declare its
2 insurance self-insured retentions. If such self-insured retentions exceed
3 \$500,000 per occurrence such retentions shall have the prior written
4 consent of the County Risk Manager before the commencement of
5 operations under this **AGREEMENT**. Upon notification of self insured
6 retention unacceptable to the **COUNTY**, and at the election of the
7 Country's Risk Manager, **NUEVO-CONTRACTOR'S** carriers shall
8 either; 1) reduce or eliminate such self insured retention as respects this
9 **AGREEMENT** with the **COUNTY**, or 2) procure a bond which
10 guarantees payment of losses and related investigations, claims
11 administration, and defense costs and expenses.

12 iii. **NUEVO** shall cause **NUEVO-CONTRACTOR'S** insurance carrier(s) to
13 furnish the County of Riverside with either 1) a properly executed original
14 Certificate(s) of Insurance and certified original copies of Endorsements
15 effecting coverage as required herein, and 2) if requested to do so orally or
16 in writing by the County Risk Manager, provide original Certified copies
17 of policies including all Endorsements and all attachments thereto,
18 showing such insurance is in full force and effect. Further, said
19 Certificate(s) and policies of insurance shall contain the covenant of the
20 insurance carrier(s) that thirty (30) days written notice shall be given to the
21 County of Riverside prior to any material modification, cancellation,
22 expiration or reduction in coverage of such insurance. **NUEVO-**
23 **CONTRACTOR** *shall not commence operations until the COUNTY has*
24 *been furnished original Certificate (s) of Insurance and certified original*
25 *copies of endorsements and if requested, certified original policies of*
26 *insurance including all endorsements and any and all other attachments*
27 *as required in this Section. An individual authorized by the insurance*
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carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

- iv. It is understood and agreed to by the parties hereto that the **NUEVO-CONTRACTOR'S** insurance shall be construed as primary insurance, and the **COUNTY'S** insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
- v. If, during the term of this **AGREEMENT** or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or, the term of this **AGREEMENT**, including any extensions thereof, exceeds five (5) years the **COUNTY** reserves the right to adjust the types of insurance required under this **AGREEMENT** and the monetary limits of liability for the insurance coverage's currently required herein, if; in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the **NUEVO-CONTRACTOR** has become inadequate.
- vi. If for any reason **NUEVO** fails to perform any obligations or requirements specified in this section, **COUNTY** shall have the right, but not the obligation, to cure such breach of obligation or failure of requirement and to charge to the account of or recover from **NUEVO** any and all expenses to affect such cure.
- vii. **NUEVO** shall pass down the insurance obligations contained herein to all tiers of contractors or subcontractors working under this **AGREEMENT**.
- viii. The insurance requirements contained in this **AGREEMENT** may be met with a program(s) of self-insurance acceptable to the **COUNTY**.

1 ix. NUEVO agrees to notify COUNTY of any claim by a third party or any
2 incident or event that may give rise to a claim arising from the
3 performance of this AGREEMENT.

4 x. Certificates of insurance satisfactory to WMD evidencing the maintenance
5 of such insurance coverage shall be required prior to the start of services
6 under this AGREEMENT. WMD shall be given notice, in writing, at
7 least thirty (30) days in advance of cancellation, modification or reduction
8 in coverage. All insurance shall be with companies admitted to issue such
9 coverage in the State of California.

10 **12. Indemnity.** While COUNTY is owner of the SITE, the COUNTY is and shall at all
11 times remain fully liable for the environmental conditions existing at the SITE, and is and shall
12 at all times remain fully liable as the Generator of the waste materials on and removed from the
13 SITE except in the event that the actions or conduct of NUEVO, its officers, employees,
14 contractors, subcontractors, consultants, agents or representatives (individually and collectively
15 hereinafter referred to as "NUEVO PARTIES") adversely affect the current condition of the
16 SITE. NUEVO shall indemnify and hold harmless the County of Riverside, its Agencies,
17 Districts, Special Districts and Departments, their respective directors, officers, Board of
18 Supervisors, elected and appointed officials, employees, agents and representatives (individually
19 and collectively hereinafter referred to as "INDEMNIFIED PARTIES") from any liability
20 whatsoever, based or asserted upon any services or actions of NUEVO PARTIES, except
21 liability based on the COUNTY'S past conduct, arising out of or in any way relating to this
22 AGREEMENT, including but not limited to property damage, bodily injury, or death or any
23 other element of any kind or nature whatsoever arising from the performance of NUEVO
24 PARTIES under this AGREEMENT. NUEVO shall defend, at its sole expense, all costs and
25 fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or
26 awards, the INDEMNIFIED PARTIES in any claim or action based upon such alleged acts or
27 omissions.

- 1 a. With respect to any action or claim subject to indemnification herein by **NUEVO**,
2 **NUEVO** shall, at their sole cost, have the right to use counsel of their own choice
3 and shall have the right to adjust, settle, or compromise any such action or claim
4 without the prior consent of **COUNTY**; provided, however, that any such
5 adjustment, settlement or compromise in no manner whatsoever limits or
6 circumscribes **NUEVO**'s indemnification to **INDEMNIFIED PARTIES** as set
7 forth herein.
- 8 b. **NUEVO**'S obligation hereunder shall be satisfied when **NUEVO** has provided to
9 **COUNTY** the appropriate form of dismissal relieving **COUNTY** from any
10 liability for the action or claim involved.
- 11 c. The specified insurance limits required in this **AGREEMENT** shall in no way
12 limit or circumscribe **NUEVO**'S obligations to indemnify and hold harmless the
13 **INDEMNIFIED PARTIES** herein from third party claims.
- 14 d. **NUEVO** shall at all times indemnify and save harmless **COUNTY** against and
15 pay in full all losses, damages, claims, actions, or expenses that **COUNTY** may
16 sustain, incur or become liable for, relating to **NUEVO**'S negligent or intentional
17 failure to implement the **WORK PLAN** in compliance with this **AGREEMENT**
18 or any of the required permits. **NUEVO**'S indemnification and other obligations
19 under this section shall cease upon 1) approval of the Final Remediation and
20 Certification Report by **WMD, LEA, SARWQCB, and CIWMB** and 2)
21 obtaining a Release from Post-Closure Maintenance from the **LEA, SARWQCB,**
22 and **CIWMB** in accordance with CCR Title 27, Section 21900.

23 **13. Prevailing Wage.** **NUEVO** shall require their contractor(s) implementing the **WORK**
24 **PLAN** pursuant to this Agreement to pay prevailing wages to the extent required and in
25 accordance with California Labor Code and other applicable laws and regulations.

26 **14. Bonding.** In order to assure completion of the matters contemplated under the **WORK**
27 **PLAN**, **NUEVO** shall provide or cause to be provided a performance and payment bond (the
28 "**BONDS**") equal to one hundred percent (100%) of the cost estimated by such contractor to

1 complete the **WORK PLAN** and equal to one hundred percent (100%) of the cost estimated by
2 such contractor to compensate subcontractors and supplies associated with the **WORK PLAN**.
3 Such **BONDS** will name **COUNTY** as the beneficiary and may be reduced as work under the
4 **WORK PLAN** is completed. **BONDS** will be released by **COUNTY** upon 1) approval of the
5 Final Remediation and Certification Report by **WMD, LEA, SARWQCB, and CIWMB** and 2)
6 obtaining a Release from Post-Closure Maintenance from the **LEA, SARWQCB, and CIWMB**
7 in accordance with CCR Title 27, Section 21900. The **BONDS** shall be issued by a surety
8 licensed and admitted in the State of California.

9 **15. Cost Allocation.** In consideration for the option on the **SITE** granted to **NUEVO** under
10 Section 16 herein, **NUEVO** agrees that it shall bear all direct costs of preparation and
11 implementation of the **WORK PLAN**, specifically including contractor expenses, **BONDS** fees,
12 transportation expenses, disposal permit fees, and similar matters.

13 **16. Option.** In exchange for agreeing to implement the **WORK PLAN**, **NUEVO** shall
14 receive an option to purchase the **SITE** at a cost set according to the following formula: the
15 positive difference between (1) the total funds expended by **NUEVO** to complete and fully
16 implement the **WORK PLAN** and (2) the appraised value of the **SITE**, if improved with a
17 **PERMITTED USE**, as defined under Section 17 herein. If the total funds expended by
18 **NUEVO** to complete and fully implement the **WORK PLAN** are greater than the appraised
19 value of the **SITE**, if improved with a **PERMITTED USE**, then **NUEVO** shall not be required
20 to provide additional compensation for the option. The option may be exercised (a) after
21 completion and full implementation of the **WORK PLAN** and filing and approval of the Final
22 Remediation and Certification Report and (b) for a period of up to one (1) year after **NUEVO**
23 receives all necessary discretionary approvals for development of the **NUEVO PROPERTY**
24 (**"OPTION PERIOD"**).

25 **17. Exercise of the Option.** The **PARTIES** acknowledge that following clean closure of the
26 **LAKEVIEW BURN AREA**, the **SITE** shall be retained as open space in perpetuity, as that
27 term is used in the Riverside County General Plan (the **"PERMITTED USE"**), including but not
28 limited to development and use of natural and artificial bodies of water as drainage corridors. If

1 NUEVO exercises its option, then the real property transfer documents shall include the
2 PERMITTED USE requirement and shall apply to all future owners, including NUEVO, of the
3 SITE. The PARTIES agree that the SITE will not be developed with a PERMITTED USE
4 until NUEVO or its assigns receive appropriate zoning and other regulatory authorizations from
5 COUNTY and/or other agencies with jurisdiction over the PERMITTED USE, in conformance
6 with applicable laws, including, but not limited to, the California Environmental Quality Act
7 (California Public Resources Code §21000 *et seq.*). If COUNTY retains ownership of the SITE,
8 the PARTIES acknowledge that COUNTY will control its use. In the event that NUEVO
9 chooses not to exercise its option to purchase and the OPTION PERIOD has expired, this
10 AGREEMENT shall be fully executed and the PARTIES shall not have any further obligations
11 under this AGREEMENT except as provided herein.

12 18. Assignment. This AGREEMENT may not be assigned by NUEVO or COUNTY
13 without the written consent of the other PARTY. This AGREEMENT shall be binding upon
14 and inure to the benefit of the PARTIES and their respective successors and assigns.

15 19. Related Agreements. Each PARTY agrees to cooperate in order to obtain any and all
16 related and necessary agreements in connection with the remedial measures contemplated in this
17 AGREEMENT.

18 20. Notices to the PARTIES. Any notice or other communication required or permitted to
19 be given under this AGREEMENT to the PARTIES shall be in writing, and may be served by
20 personal delivery, by sending the notice by overnight courier service, addressed to the PARTY
21 to be notified, or by depositing the notice in the United States mail, addressed to the PARTY to
22 be notified, postage prepaid, and registered or certified with a return receipt requested. Any
23 notice or other communication served in the manner hereinabove described shall be deemed to
24 have been given and received upon the date of delivery to the addressee or refusal by the
25 addressee to accept delivery. Alternatively, any notice or other communication required or
26 permitted to be given to the PARTIES under this AGREEMENT may be served by facsimile
27 and, in such event, shall be deemed to have been given and received upon the date of delivery to
28 the addressee by facsimile provided that a copy of any such notice or communication is also sent

1 by overnight courier service, addressed to the **PARTY** to be so notified. For purposes of notice
2 to the **PARTIES**, the contact persons, addresses, and phone and facsimile numbers of the
3 **PARTIES** shall be as follows:

4 **NUEVO:**

Nuevo Development Company, LLC
1156 North Mountain Avenue
Upland, CA 91786
Attention: Andy Petitjean
Telephone: (909) 946-7540
Fax: (909) 331-5525

WMD:

Riverside County Waste Management Department
14310 Frederick Street
Moreno Valley, CA 92553
Attention: Hans Kernkamp
Telephone: (951) 486-3232
Fax: (951) 486-3250

9 **21. Notices to the Notifying Agencies.** Notices to the **NOTIFYING AGENCIES** pursuant
10 to Section 6 shall be in a form and method reasonable to **NUEVO** and may include notices in
11 writing, by telephone, and/or by facsimile. For purposes of providing notices to the
12 **NOTIFYING AGENCIES**, the addresses, phone numbers, and facsimile numbers of the
13 remaining **NOTIFYING AGENCIES** shall be as follows:

14 **LEA:**

Riverside County Department of Environmental Health
4065 County Circle Drive
Riverside, CA 92503
Attention: [John Watkins]
Telephone: (951) 358-5055
Fax: (951) 358-5017

18 **SARWQCB:**

Santa Ana Regional Water Quality Control Board
3737 Main St., Suite 500
Riverside, CA 92501
Attention: [Dixie Lass]
Telephone: (951) 782-4130
Fax: (951) 781-6288

22 **SCAQMD:**

South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765
Telephone: (909) 396-2000

26 **CIWMB:**

California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814
Attention: Michael Wochnick
Telephone: (916) 341-6318

1 **22. Entire Agreement.** This AGREEMENT supersedes any and all other prior agreements
2 and understandings, either oral or in writing, between the PARTIES with respect to the subject
3 matter of this AGREEMENT, and no other prior agreement, statement, or promise relating to
4 the subject matter of this AGREEMENT which is not contained herein shall be valid and
5 binding. Each PARTY acknowledges and agrees that upon execution of this AGREEMENT by
6 the PARTIES (i) this AGREEMENT shall constitute the entire agreement between the
7 PARTIES concerning the subject matter of this AGREEMENT, (ii) no promises or
8 representations not reflected in this AGREEMENT have been made by any PARTY in order to
9 induce any other PARTY to enter into this AGREEMENT, (iii) the PARTIES have not relied
10 upon any such promises or representations, and (iv) there are no other prior conditions, promises,
11 representations, understandings or agreements between the PARTIES that relate to the subject
12 matter of this AGREEMENT.

13 **23. Governing Law.** This AGREEMENT shall be governed by, interpreted, construed, and
14 enforced in accordance with the laws of the State of California without regard to the principles of
15 conflicts of law thereof. NUEVO shall comply with all applicable laws and regulations.

16 **24. Effective Date.** The AGREEMENT shall become effective as of the last date that each
17 of the PARTIES has duly executed and delivered this AGREEMENT to the other PARTIES
18 (the "EFFECTIVE DATE"); provided, however, that no failure to do so shall in any way
19 invalidate this AGREEMENT. In such event, "EFFECTIVE DATE" shall mean the date as of
20 which all PARTIES shall have executed this AGREEMENT and delivered it to the other
21 PARTIES.

22 **25. Survival.** The rights and obligations created by Sections 11 and 12 will survive the
23 termination or expiration of this AGREEMENT.

24 **26. Interpretation.** The PARTIES acknowledge and agree that this AGREEMENT is the
25 result of negotiations that they have each been represented by legal counsel in such negotiations,
26 and each PARTY and its legal counsel have participated fully in the review and revision of this
27 AGREEMENT. The PARTIES further acknowledge and agree that the provisions of this
28 AGREEMENT shall be construed and enforced in accordance with their fair meaning, and any

1 rule of construction to the effect that ambiguities are to be resolved against the drafting party
2 shall not apply in interpreting this **AGREEMENT**. The captions and headings contained herein
3 are for convenience only, and shall not affect the meaning or interpretation of this
4 **AGREEMENT**. Nothing in this **AGREEMENT** which requires or allows the **COUNTY** or
5 any other entity to review or approve **NUEVO**'s work shall in any way relieve **NUEVO** of its
6 obligations under this **AGREEMENT**.

7 **27. Severability.** The **PARTIES** acknowledge and agree that if any agreement, covenant,
8 provision, term or condition in this **AGREEMENT** is invalid, illegal or incapable of being
9 enforced under any applicable rule or law of the State of California by a court of competent
10 jurisdiction, such agreement, covenant, provision, term or condition shall be ineffective only to
11 the extent of such invalidity, illegality or unenforceability and all other agreements, covenants,
12 provisions, terms and conditions in this **AGREEMENT** shall nevertheless remain in full force
13 and effect; provided that the elimination or invalidity of such agreement, covenant, provision,
14 term or condition does not materially alter the intent of the **AGREEMENT** or the consideration
15 received by any **PARTY**.

16 **28. Venue.** Any action at law or in equity brought by either of the **PARTIES** related in any
17 way to the performance or interpretation of this **AGREEMENT** shall be filed only in the
18 Superior Court of the State of California located in Riverside, California, and the parties hereto
19 waive all provisions of law providing for a change of venue in such proceedings to any other
20 county. Prior to the filing of any legal action, the **PARTIES** shall be obligated to attend a
21 mediation session with a neutral third party mediator in an attempt to resolve the dispute.

22 **29. Cooperation Clause.** The **PARTIES** agree to take such actions as may be necessary
23 and otherwise cooperate in order to effectuate the purposes and intent of this **AGREEMENT**.

24 **30. No Third Party Beneficiaries.** Nothing in this **AGREEMENT**, whether expressed or
25 implied, is intended to confer any rights or remedies under or by reason of this **AGREEMENT**
26 on any person other than the **PARTIES** and their respective successors and assigns, if any, nor
27 shall any agreements, covenants, provisions, terms or conditions in this **AGREEMENT** give any
28 third **PARTIES** any right of subrogation or action against the **PARTIES**.

1 **31. Authority.** Each person signing this **AGREEMENT** represents that he or she has the
2 authority to do so on behalf of the **PARTY** for whom he or she is signing.

3
4 **IN WITNESS WHEREOF**, the **PARTIES** have caused this **LAKEVIEW SITE CLEAN**
5 **CLOSURE AGREEMENT** to be executed on the date set forth next to their respective
6 signatures below.

7
8 **NUEVO DEVELOPMENT COMPANY, LLC**, a Delaware limited liability company
9 **By: LEWIS OPERATING CORPORATION**, a California Corporation - Its Manager

10 **By:** John M Goodman
11 **Name:** John M. Goodman
12 **Its:** Sr. VP/CEO/CFO
13 **Date:** 10-19-09

14
15 **RECOMMENDED FOR APPROVAL:**
16 **RIVERSIDE COUNTY WASTE**
17 **MANAGEMENT DEPARTMENT**

COUNTY OF RIVERSIDE, A political
subdivision of the State of California

18 **By:** Hans W. Kernkamp
19 **Hans W. Kernkamp**
20 **General Manager-Chief Engineer**

By: _____
Jeff Stone, Chairman
Board of Supervisors

21 **Date:** 10/21/09

Date: _____

22 **ATTEST:**
23 **KECIA HARPER-IHEM**
24 **CLERK OF THE BOARD**

25 **By:** _____
26 **Deputy**

27 **FORM APPROVED COUNTY COUNSEL**
28 **BY:** Synthia M. Gunzel 10-21-09
SYNTHIA M. GUNZEL **DATE**

PD#80149/v7

Exhibit A

Section 6 T4SR2W
Section 7 T4SR2W

MARVIN RD.

Section 5 T4SR2W
Section 8 T4SR2W

"LAKEVIEW BURN AREA" Limits
Approximately 6 acres

DAVIS RD.

Lakeview "SITE" Limits
Approximately 7.1 acres
(A.P.N. 426-030-022)

LEGEND



— SITE Limits
(Approx. 7.1 acres)

- - - BURN AREA Limits
(Approx. 6 acres)

Scale: 1" = 200'



0 200



Riverside County

Waste Management Department

Lakeview Site
Clean Closure Agreement
Exhibit A

Exhibit B

The trash samples collected were tested by a State Certified Hazardous Waste Analytical Laboratory according to the following schedule.

TRASH SAMPLES	
ANALYTE	FREQUENCY
CAM Metals*	All Samples
pH	All Samples
Pesticides/PCB's (8081)	One Per Trench (11 Total)
Semi-VOC's (8270L)	One Per Trench (11 Total)
Dioxins/Furans (8280)	One Every Other Trench (5 Total)
TRPH (418.1)	One Per Trench (11 Total)
*All samples with results greater than 10 times the STLC value were analyzed for their STLC, (CA-Wet), TCLP, and DI-Wet Values.	

No samples were taken of the native sandy silt soil underlying the trash layer based on the lack of reported or background concentrations of constituents found in the Initial Draft Waste Characterization.

A copy of the Trench Location Map, which shows the previous trenches and the current trench locations is provided within Appendix A. Cross sections of the site, as obtained from all the trenches placed at the site, are also provided within Appendix A.

LABORATORY ANALYTICAL RESULTS

The laboratory analytical results for all samples collected from the trash layer and native soil during the initial draft and current additional waste characterizations are provided in the following tables.

pH

The pH was conducted only on the most recent samples of the trash taken in trenches 8 through 18. The pH of the samples ranges from a low of 6.6 to a high of 8.5 with an average of 7.7. The pH of the samples is well within the normal range for soil with the majority of the samples slightly alkaline.

TABLE 1 - PH			
SAMPLE ID	SAMPLE DATE	DEPTH (FT)	pH
T-8-3.5	4/1/04	3.5	7.2
T-9-3	4/1/04	3.0	7.3
T-9-6	4/1/04	6.0	7.8
T-9-8	4/1/04	8.0	6.6
T-10-3	4/1/04	3.0	7.4
T-11-4	4/1/04	4.0	7.0
T-11-6	4/1/04	6.0	7.9
T-11-8	4/1/04	8.0	7.7
T-12-2.5	4/1/04	2.5	8.1
T-12-4	4/1/04	4.0	8.0
T-13-1.5	4/1/04	1.5	7.9
T-14-3.5	4/1/04	3.5	7.7
T-15-3	4/1/04	3.0	7.8
T-16-4.5	4/1/04	4.5	7.7
T-17-3.5	4/1/04	3.5	7.9
T-18-3.5	4/1/04	3.5	8.5

Metals

Testing for metals was conducted on native soil and trash samples. The native soil samples obtained immediately below the trash layer had concentrations of metal consistent with background levels. The samples of trash had elevated concentrations of lead in most samples with some elevated levels of copper and zinc. Two samples contained lead and zinc at concentrations above their Total Threshold Limit Concentration (TTLC) values at 1,900 mg/kg, lead in T-13-1.5 and 13,000 mg/kg, zinc in T-11-8. All the other trash samples had concentrations of metals below their TTLC values. Several samples, mostly lead with some cadmium, copper, chromium, and zinc were at levels of 10 times their Soluble Threshold Limit Concentration (STLC). For these samples the STLC, TCLP, and Di-Wet were run on the most recent samples (Trenches 8-18). One sample of the zinc, (T-16-4.5); copper, (T-16-4.5); and cadmium, (T-8-3.5) were above their STLC limit, however, the TCLP and Di-Wet tests were minimal to non-detected. Most of the lead samples were above their STLC limit, but all were below their TCLP limit and non-detected in the Di-Wet test.

TABLE 2 - TITLE 22 METALS
MG/KG (PPM)

SAMPLE ID	DATE	DEPTH (FT)	As	Ba	Be	Cd	Cr	Co	Cu	Pb	Mo	Ni	Vn	Zn
T-1-1	8/21/03	1.0	ND	210	ND	0.61	7.9	9.4	36	190*	ND	6.3	37	390
T-1-4	8/21/03	4.0	ND	320	ND	ND	12	16	25	3.8	ND	7.4	82	62
T-2-4	8/21/03	4.0	2.5	200	ND	2.5	42	18	240	810*	ND	64	72	440
T-2-6	8/21/03	6.0	1.1	250	0.60	ND	12	11	13	2.9	ND	6.4	68	81
T-3-2.5	8/21/03	2.5	2.9	130	ND	3.1	26	9.5	130	150*	ND	40	66	770
T-3-7	8/21/03	7.0	2.5	250	0.60	ND	12	12	18	3.2	ND	7.8	87	75
T-5-4	8/21/03	4.0	4.0	420	ND	6.4	33	10	300*	540*	ND	18	31	1,600
T-5-11	8/21/03	11.0	ND	230	ND	ND	11	12	22	3.5	ND	6.3	50	66
T-6-3	8/21/03	3.0	ND	130	ND	0.82	11	7.6	47	92*	ND	7.3	26	200
T-6-7	8/21/03	7.0	2.2	300	0.53	ND	12	14	27	3.4	ND	8.4	88	68
T-8-3.5	4/1/04	3.5	3.2	430	ND	12*	20	8.6	72	190*	ND	12	33	1,600
T-9-3	4/1/04	3.0	5.5	200	ND	1.5	14	9.3	53	170*	ND	69	32	490
T-9-6	4/1/04	6.0	1.5	130	ND	0.82	10	6.7	110	58*	ND	5	26	180
T-9-8	4/1/04	8.0	1.8	320	ND	1.8	12	8.1	60	620*	ND	12	29	760
T-10-3	4/1/04	3.0	3.3	280	ND	1.7	18	8.9	120	840*	5.2	27	34	860
T-11-4	4/1/04	4.0	20	360	ND	8.7	58*	24	80	430*	ND	180	30	1,700
T-11-6	4/1/04	6.0	5.5	91	ND	1.8	4.7	6.2	45	61*	ND	5	6	2,700*
T-11-8	4/1/04	8.0	2.6	250	ND	12*	26	12	550*	440*	ND	66	25	12,000*
T-12-2.5	4/1/04	2.5	3.1	51	ND	ND	10	4.9	9.8	3.5	ND	7	20	30
T-12-4	4/1/04	4.0	2.2	160	ND	1.4	15	6.6	33	110*	ND	9	30	270
T-13-1.5	4/1/04	1.5	4.1	380	ND	2.8	20	88	77	1,900*	ND	14	33	2,100

TABLE 2 - TITLE 22 METALS
MG/KG (PPM)

SAMPLE ID	DATE	DEPTH (FT)	As	Ba	Be	Cd	Cr	Co	Cu	Pb	Mo	Ni	Vn	Zn
T-14-3.5	4/1/04	3.5	1.1	170	ND	1	12	10	27	73*	ND	7.6	36	310
T-15-3	4/1/04	3.0	2.2	190	ND	2	13	7.7	110	270*	ND	11	27	650
T-16-4.5	4/1/04	4.5	14	540	ND	15*	47	14	470*	890*	ND	44	31	4,200*
T-17-3.5	4/1/04	3.5	ND	60	ND	ND	6	2.8	13	28	ND	4.6	13	170
T-18-3.5	4/1/04	3.5	ND	400	ND	1.4	11	7.4	43	220*	ND	8.6	30	2,100
TTLC			500	10,000	75	100	500	8,000	2,500	1,000	3,500	2,000	2,400	5,000
STLC			5	100	0.75	1	5	80	25	5	35	20	24	250
EPA PRG for Industrial Soil			260	67,000	1,900	450	450	1,900	41,000	150	5,100	20,000	7,200	100,000

*Samples with values 10 times greater than STLC were additionally tested for their STLC. Trenches 8-18 were also tested for their TCLP, and Di-Wet Value

TABLE 3 - TABLE OF ADDITIONAL METALS TESTING - STLC, TCLP, AND DI-WET MG/L (PPM)

SAMPLE ID	DATE	DEPTH (FT)	Pb			Cd			Cr			Cu			Zn		
			STLC	TCLP	DI-WET	STLC	TCLP	DI-WET	STLC	TCLP	DI-WET	STLC	TCLP	DI-WET	STLC	TCLP	DI-WET
T-1-1	8/21/03	1.0	11	-	-	-	-	-	-	-	-	-	-	-	-	-	-
T-1-4	8/21/03	4.0	23	-	-	-	-	-	-	-	-	-	-	-	-	-	-
T-3-2.5	8/21/03	2.5	8.2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
T-5-4	8/21/03	4.0	17	-	-	-	-	-	-	-	24	-	-	-	-	-	-
T-6-3	8/21/03	3.0	3.9	-	-	-	-	-	-	-	-	-	-	-	-	-	-
T-8-3.5	4/1/04	3.5	6.8	ND	ND	2.7	0.11	ND	-	-	-	-	-	-	-	-	-
T-9-3	4/1/04	3.0	13	ND	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-9-6	4/1/04	6.0	2.9	ND	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-9-8	4/1/04	8.0	38	0.36	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-10-3	4/1/04	3.0	150	0.18	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-11-4	4/1/04	4.0	29	2.3	ND	-	-	-	ND	ND	ND	-	-	-	-	-	-
T-11-6	4/1/04	6.0	4.6	0.19	ND	-	-	-	-	-	-	-	-	-	120	28	ND
T-11-8	4/1/04	8.0	200	ND	ND	ND	0.20	ND	-	-	4.4	ND	ND	110	9.1	ND	ND
T-12-4	4/1/04	4.0	11	ND	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-13-1.5	4/1/04	1.5	170	2.1	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-14-3.5	4/1/04	3.5	34	ND	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-15-3	4/1/04	3.0	25	0.24	ND	-	-	-	-	-	-	-	-	-	-	-	-
T-16-4.5	4/1/04	4.5	29	ND	ND	ND	0.057	ND	-	-	31	0.68	ND	300	26	ND	ND
T-18-3.5	4/1/04	3.5	ND	0.11	ND	-	-	-	-	-	-	-	-	-	-	-	-
REGULATORY LEVELS			5	5	-	1	1	-	5	5	25	N/A	-	250	N/A	-	-

BOLD - Samples exceed regulatory values for STLC or TCLP

Total Recoverable Petroleum Hydrocarbon

Total Recoverable Petroleum Hydrocarbons (TRPH) were detected in all the samples tested. The results varied from a low of 12 mg/kg to a high of 2,700 mg/kg. The result of 2,700 mg/kg was encountered in the initial trench T-3-2.5 placed at the site. The second set of trenches did not show any TRPH above 310 mg/kg. Based on the volatile organic compounds test results, the petroleum hydrocarbons encountered throughout the site are in the diesel to waste oil range. The one result of 2,700 mg/kg is considered a hot spot that should be expected on these types of old landfills.

TABLE 4 - TOTAL RECOVERABLE PETROLEUM HYDROCARBONS (418.1)			
MG/KG (PPM)			
SAMPLE ID	DATE	DEPTH (FT)	TRPH MG/KG (ppm)
T-1-1	8/21/03	1.0	660
T-3-2.5	8/21/03	2.5	2,700*
T-3-7	8/21/03	7.0	12
T-5-4	8/21/03	4.0	260
T-6-3	8/21/03	3.0	38
T-8-3.5	4/1/04	3.5	40
T-9-3	4/1/04	3.0	46
T-10-3	4/1/04	3.0	140
T-12-2.5	4/1/04	2.5	26
T-13-1.5	4/1/04	1.5	20
T-14-3.5	4/1/04	3.5	14
T-15-3	4/1/04	3.0	260
T-16-4.5	4/1/04	4.5	310

BOLD* - Regulatory levels for diesel and waste oil are site specific and typically vary between 100 and 10,000 mg/kg

Organochlorine Pesticides and PCB's

Organochlorine pesticides were detected in twelve of the trenches placed at the site. With the exception of one location, T-16-4.5, with DDT and DDE at approximately 4 mg/kg, all the results were below California Code of Regulatory (CCR) level for characterization as a hazardous waste. PCB's were detected in two

trenches at concentrations below the CCR level for characterization as hazardous waste. Again, we appear to have a localized hot spot of DDT/DDE.

TABLE 5 - ORGANOCHLORINE PESTICIDES AND PCB'S									
MG/KG (PPM)									
SAMPLE ID	DATE	DEPTH (FT)	CHLORDANE	DDD	DDE	DDT	DIELDRIN	TOXAPHENE	PCB'S
T-1-1	8/21/03	1.0	ND	ND	ND	0.020	ND	ND	ND
T-3-2.5	8/21/03	2.5	ND	ND	0.17	0.077	ND	0.57	ND
T-5-4	8/21/03	4.0	0.073	ND	0.045	0.070	0.017	0.15	0.15
T-6-3	8/21/03	3.0	ND	ND	0.008	ND	ND	ND	ND
T-8-3.5	4/1/04	3.5	ND	ND	0.024	ND	ND	ND	ND
T-9-3	4/1/04	3.0	ND	ND	0.098	0.080	ND	ND	ND
T-10-3	4/1/04	3.0	ND	ND	0.036	0.046	ND	ND	ND
T-11-6	4/1/04	6.0	ND	ND	ND	ND	ND	ND	3.3
T-13-1.5	4/1/04	1.5	ND	ND	0.033	ND	ND	ND	ND
T-14-3.5	4/1/04	3.5	ND	ND	0.041	0.10	ND	ND	ND
T-15-3	4/1/04	3.0	ND	ND	0.042	0.053	ND	ND	ND
T-16-4.5	4/1/04	4.5	ND	ND	4.4*	4.1*	ND	ND	ND
T-18-3.5	4/1/04	3.5	ND	ND	0.014	ND	ND	ND	ND
TTLC Value			2.5	1.0	1.0	1.0	8.0	5.0	50
EPA Preliminary Remedial Goal for industrial soils is 7.0 mg/kg for DDT and DDE and 0.74 for PCB's									

Semi-Volatile Organic Compounds

Out of nineteen samples, semi-volatile organics were found in only two samples which were at concentrations that are typically below the EPA PRG's for industrial soil.

TABLE 6 - SEMI-VOLATILE ORGANICS MG/KG (PPM)											
SAMPLE ID	DATE	DEPTH (FT)	ANALYTES DETECTED MG/KG (PPM)								
			ANTHRACENE	BENZO[a]ANTHRACENE	BENZO[a]PYRENE	BENZO[b]FLUORANTHENE	BENZO[k]FLUORANTHENE	CHRYSENE	FLUORANTHENE	PHENANTHRENE	PYRENE
T-3-2.5	8/21/0	2.5	ND	ND	ND	ND	ND	0.91	ND	ND	ND
T-10-3	4/1/04	3.0	0.59	0.43	0.57	1.1	1.1	0.48	0.83	0.62	0.80
EPA PRG's for Industrial Soil			100,000	2.1	0.21	2.1	21	210	22,000	N/A	29,000
All other samples are None Detected, EPA PRG's for Industrial Soil											

Volatile Organic Compounds

Only one of ten samples (tested), had trace amounts of the VOC's Benzene, Toluene, and total Xylenes. The trace concentrations of these voc'S are below the EPA PRG's for industrial soil.

TABLE 7 - VOLATILE ORGANIC COMPOUNDS					
SAMPLE ID	DATE	DEPTH (FT)	ANALYTES DETECTED MG/KG (PPM)		
			BENZENE	TOLUENE	XYLENE
T-1-1	8/21/03	1.0	0.016	0.006	0.001
EPA PRG for Industrial Soil			1.3	520	420
All other samples are None Detected					

Dioxins/Furans

Each of the five samples listed in Table 8 above had Dioxins/Furans, with the highest Total Equivalent Quotient (TEQ) (minimum-maximum) of 0.477 to 0.529 nanograms per gram (ng/g) or parts per billion (ppb). This is below the Agency for Toxic Substances and Disease Registry (ATSDR) action level of 1.0 ppb.

TABLE 8 - DIOXINS/FURANS				
SAMPLE ID	DATE	DEPTH (FT)	2,3,7,8 TCDD	TOTAL EQUIVALENT QUOTIENT (TEQ) DATA NG/G (PPB)
T-9-6	8/21/03	1.0	0.000464	TEQ (Min-Max): 0.015 - 0.0164
T-11-6	8/21/03	4.0	ND	TEQ (Min-Max): 0.155 - 0.157
T-13-1.5	8/21/03	4.0	0.00305	TEQ (Min-Max): 0.069 - 0.072
T-16-4.5	8/21/03	6.0	ND	TEQ (Min-Max): 0.477 - 0.529
T-17-3.5	8/21/03	2.5	0.000349	TEQ (Min-Max): 0.0015 - 0.00251
TTLC Value for Dioxin (2,3,7,8 TCDD)			0.01	N/A
EPA PRG for Industrial Soil is 1.6×10^{-5} mg/kg				

Copies of the trench logs and laboratory analytical data produced during the current waste characterization are provided within Appendix D.

DISCUSSION OF RESULTS

Compounds of Concern

The only Compounds of Concern (COC) that were identified during the previous and current investigation at the Lakeview Dump are those that are to be expected in these environments. The most widespread COC is lead, which was detected in all samples. Of those samples that had a TTLC value of 10 times the STLC value or greater than 50 mg/kg, additional testing (STLC, TCLP, and Di-Wet) was conducted. These tests showed most of the samples above the STLC limit of 5.0 mg/kg, however, the TCLP values were below the 5.0 mg/kg limit. Additional testing of cadmium, copper, chromium, and zinc samples, which were above 10 times their STLC values, was also conducted. The STLC test results were below or just above the STLC limit with the TCLP and Di-Wet minimal or non-detect.

Localized compounds of concern were TRPH at 2,700 mg/kg, DDT and DDE at 4.1 and 4.4 mg/kg, respectively. The TRPH of 2,700 mg/kg is in the diesel to waste oil range and clean up goals for these petroleum hydrocarbons is on a site specific basis and is usually between 100 and 10,000 mg/kg. DDT and DDE are above the CCR level of 1.0 mg/kg that characterize the material as a hazardous waste, however, they are below the EPA PRG's for industrial soil of 7.0 mg/kg. Each of

these were detected only once in different areas and depths, which provides evidence of their localized nature. Based on our observation of the trash, there was no distinct layer or indicator in which these compounds could be distinguished. Therefore, it may be impossible to separate these materials during the excavation of the landfill material. However, an effort will be made during the excavation and removal operation to recognize and segregate these types of materials for separate disposal.

Leaching Test Discussion

The Toxicity Characteristic Leaching Procedure (TCLP) test developed by the U.S. Environmental Protection Agency is the most common type of leaching test. It simulates the worse case conditions in a municipal solid waste landfill. The Soluble Threshold Limit Concentration (STLC) or California Wet Test (CA-Wet) is similar to the TCLP in that both test use an acid (acetic or citric) to maintain a lower pH during the leaching procedure as compared to water leaching tests, such as the de-ionized water (DI-Wet). Additionally, the acetic and citric acid have the ability to chelate with metals and produce greater leaching. In general, the TCLP is more representative of a landfill, while the STLC leaches greater concentrations. The Di-Wet simulates environments outside of the landfill.

CONCLUSIONS

The review of the records and the sample testing were performed in general compliance with the 'Protocol for Burn Dump Site Investigation and Characterization.' The supplemental workplan testing regimen was also approved by the Regional Water Quality Control Board and the Local Enforcement Agency. The previous and current trench locations and the sample testing were of sufficient number and spatial placement so as to provide a reasonable estimate of the quantity of refuse, its overall composition, and the nature of any contaminants at the site.

Based on the data obtained, there is approximately 40,000 cubic yards of refuse buried at the site. The refuse covers approximately 6 acres and ranges in depth from less than one foot to about 10 feet.

Compounds of Concern (COC) typically associated with burn dumps are present. The most common COC is lead and was detected in all the samples. Additional testing using the TCLP was conducted and all the samples were below the 5.0 mg/kg limit for lead. Also detected in some of the samples was cadmium, copper, chromium, and zinc. Additional testing for these metals using the STLC, TCLP, and Di-Wet methods was performed and the results were all below the regulatory limits except for one sample of cadmium and one for copper which were just above the STLC limits.

The burn ash compounds of concern are typically not readily soluble in water and represent a low probability of leaching to groundwater.

PH testing results indicate the material is normal to slightly alkaline, further confirming a low probability of potential leaching to groundwater. This is consistent with the minimal or non-detect test results from TCLP testing, simulating the leaching characteristics of the material in a landfill.

Groundwater in the area is at least 100 feet below the surface. A more likely way for COC's to migrate from the site would be from flooding. The site is located in the 100-year flood plain and is within 1,500 feet of the San Jacinto River. The property around the site is slated for development in the next few years and, as development begins to occur in the area, the potential for human contact with the COC's from the site will increase.

No water monitoring or gas monitoring is performed at the site. Clean closure of the Lakeview site with the removal of the material to the nearest Class III landfill, such as Badlands or Lamb Canyon, would be a benefit to the environment considering that the Lakeview site is a small, isolated site located within a flood plain. Clean closure in this manner is not inconsistent with the goals of overall net benefit to the public and the environment and would be consistent with the recent Regional Board's recent acceptance of fire damaged material into Class III landfills.

LIMITATIONS

This report was prepared solely for the use and benefit of LOR's client, LG Holding Company, LLC ("Lewis") and their designates, they may release this information to

third parties, who may use and rely upon this information at their discretion. However, any use of or reliance upon this information by a party other than LG Holding Company, LLC ("Lewis") shall be solely at the risk of such third party and without legal recourse against LOR Geotechnical Group, Inc.; its subsidiaries and affiliates; or their respective employees, officers, or directors; regardless of whether the action in which recovery of damages is sought is based upon contract, statute, or otherwise. This information shall not be used or relied upon by a party which does not agree to be bound by the above statement.

The content and conclusions provided by LOR in this assessment are based on information collected during our investigation, which may include, but is not limited to, visual site inspections, interviews with the site owner, regulatory agencies and other pertinent individuals, a review of available public documents, subsurface exploration and laboratory testing of soil samples, and our professional judgement based on said information at the time of preparation of this document. Any subsurface samples results and observations presented herein are considered to be representative of the area of investigation; however, soil conditions may vary between sample locations and may not necessarily apply to the general site as a whole. If future subsurface or other conditions are revealed which may vary from these findings, the newly-revealed conditions must be evaluated and may invalidate the conclusions of this report.

This report has been prepared in accordance with generally accepted practices using standards of care and diligence normally practiced by recognized consulting firms performing services of a similar nature. LOR Geotechnical Group, Inc. (LOR) is not responsible for the accuracy of information provided by other individuals or entities which is used in this report. This report presents our professional judgement based upon data and findings identified in this report, and the interpretation of such data based upon our experience and background, and no warranty, either expressed or implied, is made. The conclusions presented are based upon the current regulatory climate and may require revision if future regulatory changes occur.

TIME LIMITATIONS

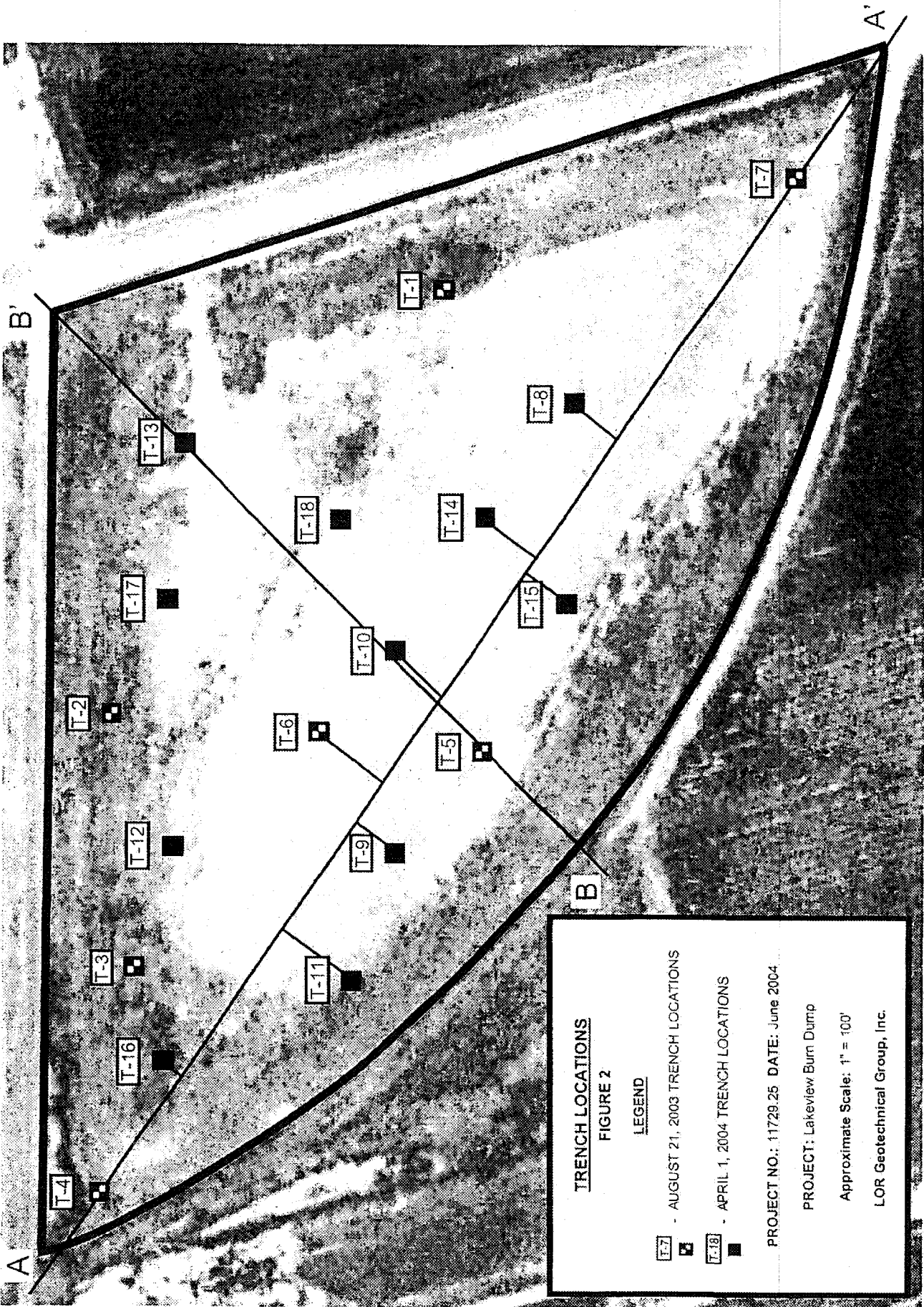
The findings of this report are valid as of this date. Changes in the condition of a property can, however, occur with the passage of time, whether they be due to

LG Holding Company, LLC
August 9, 2004

Project No. 11729.26

natural processes or the work of man on this or adjacent properties. In addition, changes in the Standards-of-Practice and/or Governmental Codes may occur. Due to such changes, the findings of this report may be invalidated wholly or in part by changes beyond our control. Therefore, this report should not be relied upon after a significant amount of time without a review by LOR Geotechnical Group, Inc., verifying the suitability of the conclusions and recommendations.

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TRENCH LOCATIONS

FIGURE 2

LEGEND

- AUGUST 21, 2003 TRENCH LOCATIONS
- APRIL 1, 2004 TRENCH LOCATIONS

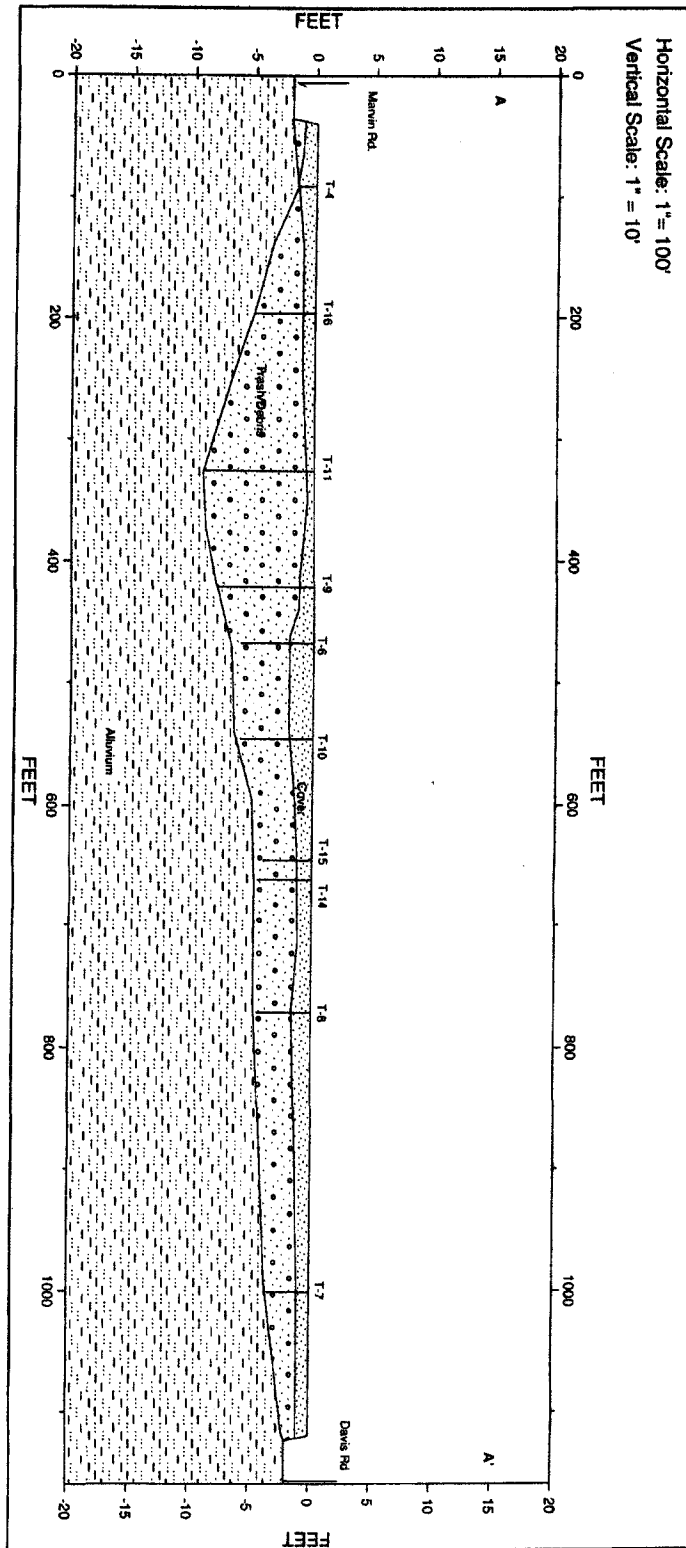
PROJECT NO.: 11729.25 DATE: June 2004

PROJECT: Lakeview Burn Dump

Approximate Scale: 1" = 100'

LOR Geotechnical Group, Inc.

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CROSS SECTION A-A'

PROJECT:	LAKEVIEW BURN DUMP, LAKEVIEW, RIVERSIDE COUNTY, CALIFORNIA	PROJECT NO.:	11729.26
CLIENT:	LEWIS INVESTMENT COMPANY, LLC	ENCLOSURE:	A-3
LOR Geotechnical Group, Inc.		DATE:	AUGUST 2004
		SCALE:	AS SHOWN

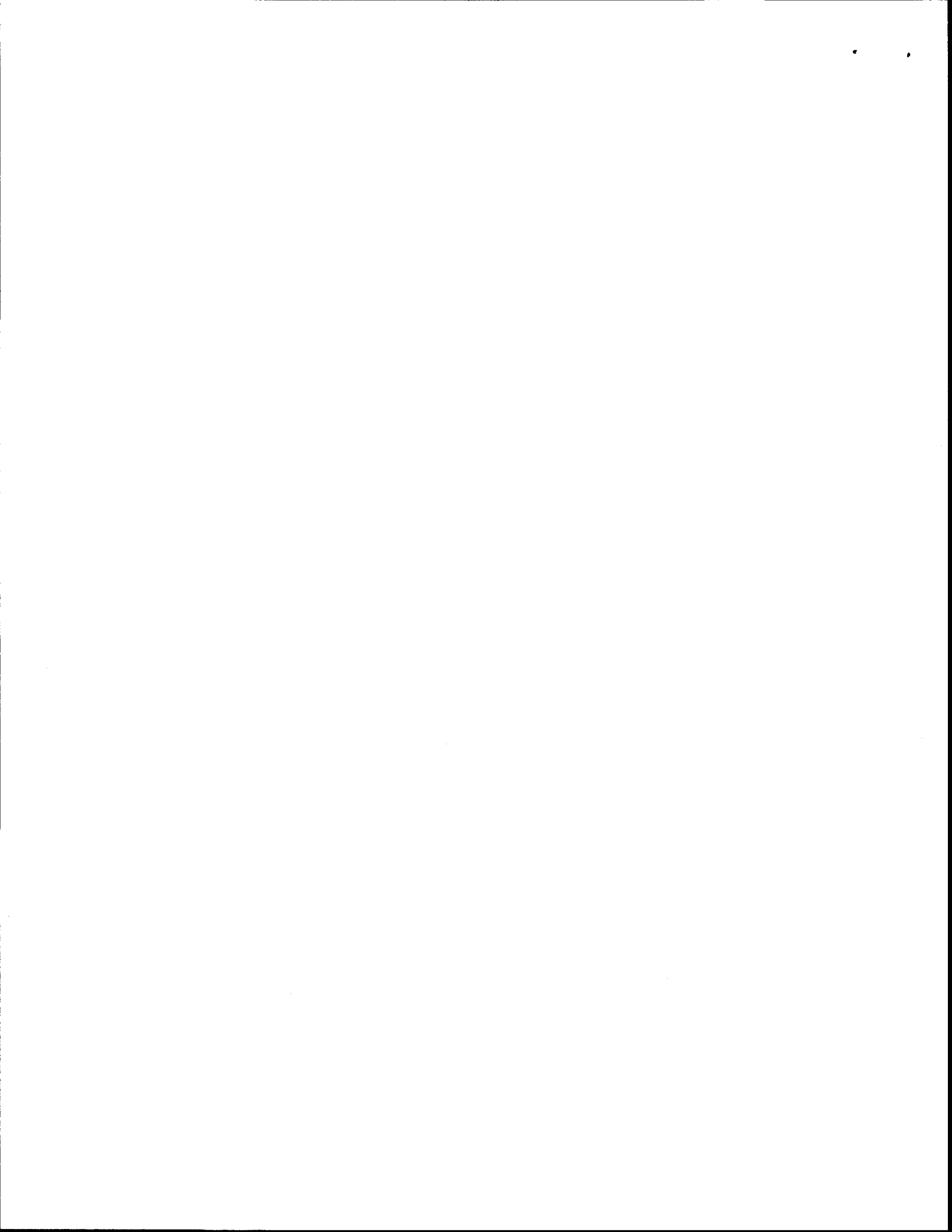




Exhibit C

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**Lakeview Disposal Site Clean
Closure Project**

Mitigation Monitoring Program

Prepared By:
Riverside County Waste Management Department
14310 Frederick Street
Moreno Valley, CA 92553

July 2008

BACKGROUND

This Mitigation Monitoring Program (MMP) has been prepared to comply with Section 21081.6 of the California Environmental Quality Act (CEQA). Section 21081.6 requires that public agencies adopt a monitoring program for measures included as part of a proposed project to mitigate or avoid significant effects to the environment.

The MMP serves three functions:

1. Assures completion of mitigation measures during implementation of the project.
2. Provides feedback to agency and decision makers regarding the effectiveness of the mitigation measures.
3. Identifies the need for enforcement action before irreversible environmental damage occurs.

In the event it is determined that a mitigation measure is not effective or feasible, the MMP can be amended on an as-needed basis to incorporate additional or revised measures that the decision makers or agencies adopt.

FORMAT OF PROGRAM

The MMP includes the following information:

Mitigation Measures: Identifies mitigation measures described in Environmental Assessment No. 41223 prepared for the Lakeview Disposal Site Clean Closure project.

Mitigation measures are numbered using the following codes:

W	=	Water
AQ	=	Air Quality
BIO	=	Biological Resources
PH	=	Public Health
N	=	Noise
AES	=	Aesthetics
PAL	=	Paleontological Resources

Implementation Responsibility: Identifies the agency or party responsible for implementing the mitigation measures. Implementation of most of the mitigation measures included in the MMP is the responsibility of the Riverside County Waste Management Department (RCWMD).

Timing: Indicates the time frame in which the mitigation measure should be completed.

Monitoring: Designates the agency responsible for overseeing and/or monitoring the implementation of the mitigation measure (s) included in the MMP. In the case of this project, RCWMD shares monitoring responsibility with various local, state, and federal agencies. The following abbreviations are used to designate the responsible agencies:

CAL/OSHA:	California Occupational Safety and Health Administration
SARWQCB:	Santa Ana Regional Water Quality Control Board
DEH:	Riverside County Department of Environmental Health
RCWMD:	Riverside County Waste Management Department
SCAQMD:	South Coast Air Quality Management District

WATER

Mitigation Measures:

- W-1 Prior to the issuance of excavation permits and approval of the Work Plan, the operator shall file a Notice of Intent with the State Water Resources Control Board, as required by the Statewide General Construction Activity Storm Water Permit.
- W-2 To comply with the requirements of the National Pollutant Discharge Elimination System and to protect receiving waters from degradation, a SWPPP will be prepared, which includes structural and nonstructural Best Management Practices, to the satisfaction of the State Water Resources Control Board.
- W-3 Any washing activities during the interim project, such as cleaning tires of vehicles leaving the site, will be conducted in areas that are designed to keep run-off onsite.
- W-4 The exposed Removal Layer shall be covered at the end of the work day with an impermeable tarp.

Agency/Individual Responsible for Implementation: RCWMD

Timing: Ongoing process during operations, as required by state and federal regulations.

Monitoring: RCWMD, SARWQCB, and DEH

AIR QUALITY

Mitigation Measures:

- AQ-1 Unpaved areas, including the site of earth-moving activities, un-paved access, and the road shoulder used for queuing, shall be watered up to once an hour.
- AQ-2 All drivers, including operators of on-site equipment, shall be required to drive no faster than 15 mph on the project site.
- AQ-3 When wind-driven dust is seen, storage piles of cover material shall be watered at least once over 70% of their surface.
- AQ-4 Inactive disturbed areas shall be watered, as necessary, when wind-driven dust is seen.
- AQ-5 Field personnel will use a flame ionization detector (FID) to monitor and detect fugitive LFG, which can be calibrated to respond to organic compounds. Each day each FID will be recalibrated using the calibration gas and air in compliance with the SCAQMD requirements.
- AQ-6 The exposed excavated areas shall be covered daily to minimize contact with water and to control for any odors.
- AQ-7 Fence-line air monitoring will be performed to identify any issues with odors.

Agency/Individual Responsible for Implementation: RCWMD

Timing: Ongoing process during operations, as required by state and federal regulations.

Monitoring: RCWMD, SCAQMD, and DEH

BIOLOGICAL RESOURCES

Mitigation Measures:

- BIO-1 Prior to initiating clean closure excavation activities, a qualified biologist shall collect smooth tarplant seed from the project site population in the Fall and redistribute the seed on an adjacent, off-site property being set aside for MSHCP Conservation, pursuant to JPR 08-04-10-01, in an area supporting an existing smooth tarplant population.
- BIO-2 Within 30 days of initiating clean closure excavation activities, a qualified biologist, retained by the Riverside County Waste Management Department, shall conduct a burrowing owl pre-construction survey on the Project Site.

Agency/Individual Responsible for Implementation: RCWMD

Timing: BIO-1: In the Fall season, prior to initiating clean closure activities.
BIO-2: Within 30 days of initiating clean closure excavation activities.

Monitoring: RCWMD, DEH

PUBLIC HEALTH AND SAFETY

Mitigation Measures:

- PH-1 Site personnel shall comply with the Health and Safety Plan developed for the project, which includes: a) basic health and safety training, addressing site hazards, proper work techniques, and emergency and evacuation procedures; b) the use and provision for personal protective equipment (i.e., earplugs, hard hats, dust masks, etc.); c) heavy equipment hazards and site traffic hazards; d) prevention preparedness, and response measures for fire, spills, and other accidents; and e) first aid and cardiopulmonary resuscitation.
- PH-2 A South Coast Air Quality Management District (SCAQMD) Rule 1150 Excavation Permit and Management Plan shall be obtained prior to excavation. Site personnel shall comply with all conditions of the permit
- PH-3 At the end of each work day, the exposed "Removal Layer" shall be adequately covered with an impermeable tarp that will prevent vectors from accessing trash and prevent wind blown litter.

Agency/Individual Responsible for Implementation: RCWMD

Timing: Ongoing process during operations, as required by state and federal regulations.

Monitoring: RCWMD, DEH, SCAQMD, CAL/OSHA

NOISE

Mitigation Measures:

N-1 All construction personnel shall adhere to the Health and Safety Plan (HASP) developed for the project. The HASP requires the use of ear plugs or ear muffs where there is the potential for site workers to be exposed to noise greater than 85 dBA (8-hour time weighted average).

Agency/Individual Responsible for Implementation: RCWMD

Timing: Ongoing process during operations, as required by state and federal regulations.

Monitoring: RCWMD, CAL/OSHA, DEH

AESTHETICS

Mitigation Measures:

AES-1 Excavation work will only be performed from 7:00 a.m. to 5:00 p.m.

Agency/Individual Responsible for Implementation: RCWMD

Timing: Ongoing process during excavation.

Monitoring: RCWMD, DEH

PALEONTOLOGICAL RESOURCES

Mitigation Measures:

PAL-1 If after the "Removal Layer" is excavated and subsequent soil sampling requires further excavation to meet the California Human Health Screening Levels-CHHSLs, then a Paleontologist for consultation and comment on the proposed excavation with respect to potential Paleontological impacts shall be retained. The Paleontologist will monitor excavation activities, identify if excavated material contains paleontological resources, and have the authority to stop work if significant resources are uncovered.

Agency/Individual Responsible for Implementation: RCWMD

Timing: After the "Removal Layer" is excavated and subsequent soil sampling requires further excavation.

Monitoring: RCWMD, DEH