

BEFORE THE TUOLUMNE COUNTY SOLID WASTE HEARING PANEL

RE: CLAIM – LOCAL ENFORCEMENT AGENCY (“LEA”) FAILURE TO ACT IN RE: SITE: 18955 Industry Way, Sonora, CA. 95370, APN: 097-090-010; SWIS No. 55-AA-0017

I. INTRODUCTION

The Petition at issue was brought by a group of private citizens, namely: Dorriya Anderson, Craig Anderson, James Roberts, Joann Roberts, Frank Fernandez, Antonio Fernandez, Jim Fernandez, Julia Britt, and Patricia Reh.

The allegation in the Petition lists several items that Petitioner contends constitute a “Failure to Act” by the Respondent, Tuolumne County Local Enforcement Agency (“LEA”), and is brought pursuant to California Public Resources Code sections 44307-44310. The Petition contends that the LEA failed to act as required in relation to the site: 18955 Industry Way, Sonora, California (APN 097-090-10) SWIS No. 55-AA-0017 (hereinafter “site”).

Additionally, Petitioners contend that the violations claimed are part of a continuing violation pattern of Respondent in relation to its enforcement actions and/or failures to act as required in relation to the identified site.

Respondent contends that the Petition is time-barred as to several of the listed “issues” cited by Petitioner, and contends the parties failed to act within 30 days of specified items listed in Petitioner’s claims.

Finally, the owner/operator of the site, Mr. Bruce Slaton (hereinafter “Operator”), sought to join the action as an “interested party” on October 14, 2026. That request was denied and is addressed below.

II. ORDER DENYING PARTY STATUS TO BRUCE SLATON

Counsel, on behalf of Mr. Slaton, submitted a brief arguing that the Operator should have been served a copy of the petition at issue so it may timely join and respond to the petition on the grounds that it has an “interest” in the results. However, that is not the standard for determination of 1) whether it was a “party” entitled to notice; 2) from which party was the notice required; 3) and whether it was entitled to respond at the hearing as a party.

In short, Mr. Slaton is not a party to this administrative action brought pursuant to California Public Resources (“PR”) Code Sections 44307, et seq. as those statutory provisions are directed to the Agency required to act pursuant to the applicable PR Code and

Title 14, California Code of Regulations (“CCR”), Division 30. Although Mr. Slaton is subject to the actions and decisions of the LEA, it is not a party to an enforcement action directed at the Administrative Agency. Although Mr. Slaton, as a member of the public, was free to attend the hearing pursuant to Government Code sections 11445.10, et seq. he is not a party to the Administrative Action.

Additionally, either party could call Mr. Slaton and or his counsel to testify if called by a party representative. His representative, present at the hearing, was advised that the informal hearing procedure can accommodate a member of the public participating without appearing or intervening as a party. Consequently, the late filed October 14, 2026, motion to intervene as a party is denied. Mr. Slaton, present through his attorney, was free to participate by making a statement.

Mr. Slaton’s arguments regarding his party status were accepted and he submitted his closing brief on Monday, October 19.

The motion to intervene as a party is denied.

III. ISSUES DETERMINED IN DECISION, FINDINGS

The record was closed pursuant to Public Resources Code section 44310 after the parties, Petitioner and Respondent, submitted closing briefs and arguments on October 20, 2026.

The Request by the Petitioner to submit additional evidence and argument was denied.

The hearing concluded on October 20, 2026.

A. Timeliness of Petitioner’s Action

California Public Resources Code section 44310 (a)(1)(B) requires that a petition be filed within 30 days of “discovery” of the facts supporting the petition allegations. The Petitioners herein are a group of nine individuals that reside near the “site” at issue and allege harm and potential harm from the operation of the facility in violation of the stated provisions. It is found that the Petitioner’s timely filed the Petition given the continuing failures of the LEA.

Additionally, the Petition was filed within 30 days of August 19, 2026, notice that to date no sampling information, nor any other response to the LEA enforcement attempts were obtained. As of August 19, given the more than 2 years of continued failures by the LEA to act, it was determined that the LEA had yet to perform any sampling or other actions as described in the most recent May 11, 2026, directive. Thus, given the continuing nature of

failures from in or about June 2024, when LEA was initially informed of concerns at the site, to August 19, 2026, when Petitioner's counsel informed the LEA of continued failure to access. Accordingly, the September 15, 2026, petition is timely filed.

There was a failure to consistently, timely enforcement action designed to ensure compliance by the Operator: no issuance of a cease-and-desist order with immediate follow-up if the operator refuses to comply, and other failures identified in the petition. The evidence in the record supports that the LEA has continued in its failure to act by not engaging in enhanced enforcement action after the Operator evinced a pattern of failing to cease filling, processing and stockpiling even after the LEA's September 18, 2024, identification and documentation of its concerns and notice to the operator.

Finally, the LEA did not respond to the July 26, 2026, Public Record Act request of Petitioner until September 14, 2026. Thus, it is found that the Petition was timely filed.

B. Findings

As to each of the stated issues raised by Petitioner, the Panel generally finds that yes, the LEA did act; however, as to most issues it failed to follow through on those actions that rendered the enforcement a failure as several pending issues remain outstanding. Suspect material has been removed despite the May 11, 2026, directive. Additionally, it should be noted that the facility status continues to be "an unpermitted solid waste disposal site or operation.

1. LEA failed to investigate, inspect, document and enforce at site it determined was an unpermitted solid-waste disposal site or operation, despite violations.

Finding: The LEA did not entirely fail to act; however, enforcement was inadequate. After making the initial findings as to the site, the LEA failed to take sufficient enforcement action. The LEA should have officially designated the site as a "CIA" (closed, illegal, or abandoned) disposal site, and thereafter it should have followed through with any Cal Recycle directive, and Title 14 regulations.

The LEA designated the site as an "unpermitted disposal site" and took appropriate steps, i.e.: assignment of a SWIS number, a multi-agency site visit, enforcement letters, operating limits, and a removal-and-testing directive. However, after taking these initial appropriate actions there was no follow-through; thus, a failure to act. Once a site is designated as an illegal (or closed) disposal site, Title 14, CCR sets fixed inspection frequency, and inspection reports should be submitted to Cal Recycle within 30 days. There was no evidence of inspection reports made through SWIS for this site.

2. LEA failed to timely implement sampling and characterization measures described in LEA's May 11, 2026, letter as required.

Finding: The LEA failed to act in that although the LEA implemented sampling and characterization measures, the LEA did not follow through with its duty to ensure the implementation of sampling, and a sampling protocol on more than one occasion and within a reasonable time. Thus, the response was not sufficient to ensure public health and safety.

The LEA found that the crushed material "may pose a respirable asbestos concern", and committed to initiate sampling, to using a third-party consultant, to split samples, keep chain of custody, test the crushed concrete for crystalline silica, and would contact to schedule sample collection.

The necessity for sampling was previously identified and never completed by the LEA: 1) at the September 18, 2024, joint visit; in the May 11, 2026, directive; at the time the crushed concrete pile that was slated for silica testing left the site in late May 2026; in the May 29, 2026, LEA email; and on September 4, 2026, when the LEA director was present during removal. Nevertheless, as of October 15, the hearing date, no LEA sample was collected.

3. Whether LEA adequately pursued access to "the site", and other enforcement action pursuant to CA. Public Resources Code sections 43209, 44100, and 44101, and pursuant to CA. Code of Regulations, Title 14, sections 18101, 18084, and 18303.

Finding: Although LEA attempted to access the site, the response was not sufficient to meet its enforcement duties. The evidence reflects that by May 14, 2025, the LEA had determined the site was an unpermitted disposal site. Title 14 CCR, Division 30, lists a cease-and-desist order as a mandated action when an operation is running without proper notification. The letters and oral directives relied on by LEA are not orders and were clearly ineffective with this site operator.

4. Whether the LEA appropriately enforced the removal conditions outlined in its May 11, 2026, correspondence to the site owner(s).

Finding: The LEA failed to act by not following through on May 11, 2026, directive and require the operator to produce tonnage, records or samples. Although it is

acknowledged that the LEA was prevented, at least as of September 4, 2026, due to the operator removing the material and refusing LEA access; there was no evidence produced by the LEA of any demands, follow-up letters, or subsequent orders despite the fact the record shows the first removal was 15 days after the May 11, directive, on May 26, and the asphalt was removed almost 4 months later on September 4, or 8.

The operator had the burden to prove to the LEA that the material was excluded “inert debris”; nevertheless, the operator was not required to produce records and test results to ensure that burden was met.

5. Did the LEA fail to follow the statutory provisions of PR sections 44002, and 45000, and Title 14 CCR section 18304.

Finding: PR section 44002(b) requires an enforcement agency to issue an immediate cease-and-desist order when it is determined that one is operating a solid waste facility in violation of section 44002(a). Thus, the LEA failed to act in accordance with the code provision.

Further, Title 14, CCR section 18304.3(a) requires the LEA “shall immediately issue a cease-and-desist order” when a solid waste facility operates without a required permit.

While the LEA evidence is that “enforcement letters” were sent, there were no orders; i.e., no real enforcement action. On May 14, 2025, the LEA had provided notice that the fill “is considered by the local LEA as an Unpermitted Inert Debris Solid Waste Disposal Site” and advised that the operation required Notification-tier authorization. The operator failed to obtain notification such that in May 2026 the LEA stated that the operator had “chosen not to obtain LEA permits”. Thus, the LEA’s response was not sufficient to obtain compliance.

6. Whether the LEA failed to enforce the Notification-tier, storage time, record keeping, inspection, and minimum standard requirements of CCR, Title 14, sections 17382, 17383, 17383.4, and 17383.7.

Finding: Yes, the LEA failed to enforce the cited provisions, and the minimum standards for a Notification-tier site. There was no follow-up or enforcement, or at a minimum there is no record to establish enforcement occurred as required by regulations. There were no records produced of an LEA inspection report and the LEA witness could not testify to how many inspections occurred.

The regulations require both inspection and records to verify the inspection.

7. Whether the LEA appropriately increased its enforcement response pursuant to CCR, Title 14, Section 18084(d).

Finding: The LEA failed to appropriately increase its enforcement as required by the regulations. Although the letters from the LEA to the operator were more specific over time, there were no increased enforcement actions.

8. Was the LEA required to refer the site for enforcement to other Government agencies, i.e., Air Pollution Control District, CUPA, hazardous waste authorities, Cal Recycle, pursuant to PR code section 43209(b).

Finding: The LEA did not fail to act as to this issue. The LEA made referrals as demonstrated on the March 19, 2024, Opportunity to Correct letter issued by Code Compliance, and the September 18, 2024, report. The LEA's actions in this regard were timely although not sufficient to obtain compliance from the Operator.

9. Whether the LEA proposed protections regarding the "site" in its September 2025 correspondence to Cal Recycle; did the letter to Cal Recycle require or suggest that the LEA would record a Notice of Action, or some other legally sufficient document; and, if so, was this a failure to act that supports the petition and requested remedy.

Finding: The LEA did fail to follow through with its own proposed recording of a Notice of Action. The recorded Notice of Action would have provided protection to the public regarding conditions on the site, and more importantly would demonstrate the LEA commitment to enforce actions as to the site operations. However, recording was not required.

10. RESPONDENT HAS CONCEDED THIS ISSUE IS MOOT GIVEN THE EXPIRATION OF THE SUPERIOR COURT'S TRO ON SEPTEMBER 23, 2026.

Finding: Despite the above, issue is whether there is an immediate need for preservation, testing and dust control at the site.

11. Whether the LEA and other County officials were present, aware, and failed to halt the removal of materials, and if so, whether that failure constitutes a failure to act pursuant to the relevant PR code provisions and CCR Title 14, directives and regulations, or its own May 11, 2026, directives.

Finding: This was not an LEA failure because there is no specific authority to take action to stop the activity, removal of material. The LEA is not law enforcement. The presence of the LEA Director, the CDD Director, and an APCD official provides evidence of the operator's actions in violation of prior correspondence and notice; but the regulations do not provide tools for addressing the operator's intentional disregard of directives in the presence of the officials. The LEA's authority is administrative.

12. Whether February 11, 2022, APCD email is evidence of notice to the County; thus LEA, that the site operator misrepresented the extent of serpentine contamination; thus, requiring the LEA to verify characterization of site material and pursue independent testing.

Finding: This issue as phrased is not evidence of a failure to act on the part of LEA in February 2022, nor is it evidence that the LEA was required to reject all of operator's subsequent characterizations of the site. While it is a viable argument that perhaps the LEA was forewarned when it became aware of the site in or about June 13, 2024, two years later, it is not sufficient to establish a failure to act. The LEA did order another sampling.

13. Whether the LEA failed to act by not following CalRecycle's July 2024 recommendation to issue a cease-and-desist order, and contrary to the provisions of PR Code section 44002(b).

Finding: The failure to issue a cease-and-desist order based on CalRecycle's recommendation is not a failure to act as the LEA. The LEA took alternative actions based on the evidence. However, it is acknowledged that the alternative responses by the LEA were not sufficient to ensure compliance: the September 18, 2024, joint inspection found that there were no source records, no testing, organic debris in the fill, and possible serpentine in the unprocessed asphalt. The LEA's verbal order to pause, without a written order, was not sufficient given those observations.

14. Whether the LEA failed to order that operations cease and allowed continued operations based in part on a “pretextual building permit”, and in contravention of Title 14, CCR, “Division 30”.

Finding: The LEA approach to the site in not following Cal Recycle’s guidance that “the fill must cease and be closed in place” is not necessarily a failure to act; however, its actions were not sufficient: LEA classified the fill as an unpermitted disposal site, required a plot map and post-closure land-use plan (May 14, 2025); requested operator stop covering the face (July 18, 2025); proposed protections (Sept. 12, 2025); and barred new fill (Dec. 19, 2025). The actions were not timely or sufficient enforcement for the site operator.

15. Whether the LEA mis-classified the site material as “inert debris” consistent with CCR, Title 14, section 17382; despite evidence to the contrary, and a failure to test site material.

Finding: Yes, the LEA failed to act in regard to the material classification as “inert debris”. Pursuant to Title 14, to classify the material as “inert debris” requires source records, tonnage, and sampling. Given all of the types of material present at the site not possible to determine if in fact “inert debris” without records and sampling. There is no evidence to support the classification, and the LEA confirmed that the question is still open.

16. Whether the LEA failed to act when notified “crushed concrete”, which was slated for testing as noted in the May 11, 2026, letter, was removed from the site by the operator in late May.

Finding: The LEA failed to act in that despite the details in its May 11, letter, there was no action to enforce its directives in the letter, and the directive was not followed. Consequently, the material that required testing has been removed.

IV. DECISION AND ORDER

As to each issue raised by the petition, the Findings listed above provide the panel’s decision. As to a remedy and order:

- A. In summary, the LEA is ordered to take enforcement actions pursuant to its duties as outlined in California Code of Regulations, Title 14, Section 18084 as appropriate given the findings herein.
- B. LEA is directed to enforce its May 11, 2026, directive to Operator; to inform the Petitioner, members of the public entitled to the protections, of its actions to ensure enforcement. The LEA is to inspect, enforce, complete sampling and other measures to protect the Petitioner's, and the general public, impacted by the actions at the site.
- C. Specifically, pursuant to the request of the Petitioner's herein, Respondent is ordered to take enforcement action resulting in the preservation of site materials for testing, abatement, and corrective actions designed to ensure compliance with Regulations.
- D. Further, the LEA is to develop specific orders that direct the facility to ensure compliance with its Orders, timely respond with escalated enforcement measures designed to ensure conformance from the operator as provided in the Title 14 Regulations up to and including cease and desist orders, penalty assessments, and other measures to ensure compliance with the May 11, 2026, abatement requirements.
- E. Given the identification of the parties to this proceeding, the LEA should develop a means of assuring Notice to the Petitioners of its efforts for compliance of the site operator; i.e., penalty and other abatement proceedings.
- F. LEA must conduct "escalated" performance measures to ensure compliance with its prior directives, particularly those identified in the May 11, 2026, directive.
- G. LEA must follow-up on the enforcement steps previously committed to: obtain site access; complete a documented inspection and investigation; implement a sampling plan; arrange testing of material; require a compliance schedule with deadlines; public disclosure of enforcement records; and adopt long term protections for the site.
- H. Attorneys' fees are denied, and fees and costs are to be borne by the parties.

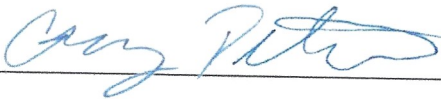
V. APPEAL RIGHTS

The parties may appeal this decision by filing an appeal in accordance with Public Resources Code section 45030 to Cal Recycle in writing either by email to: HearingOffice@calrecycle.ca.gov or by service to: 1001 I Street, 25th floor, Sacramento, CA 95814 Within 10 days of decision.

BY SIGNATURE BELOW EACH PANEL MEMBER ACCEPTS THE DECISION AS ITS OWN IN THE PROCEEDING:

PANEL SIGNATURES

DATED: OCTOBER 26, 2026



COREY PETERS, PANEL CHAIR

JENNIFER BARDENHEUER, PANEL MEMBER

FIDELIS GINES, PANEL MEMBER

APPROVED AS TO FORM:

SANDRA L. SMITH, ATTORNEY AT LAW

V. APPEAL RIGHTS

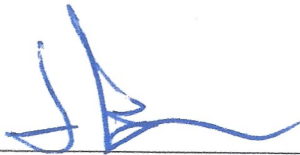
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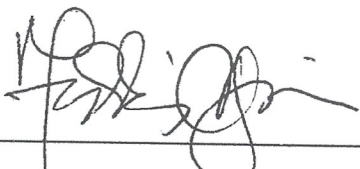
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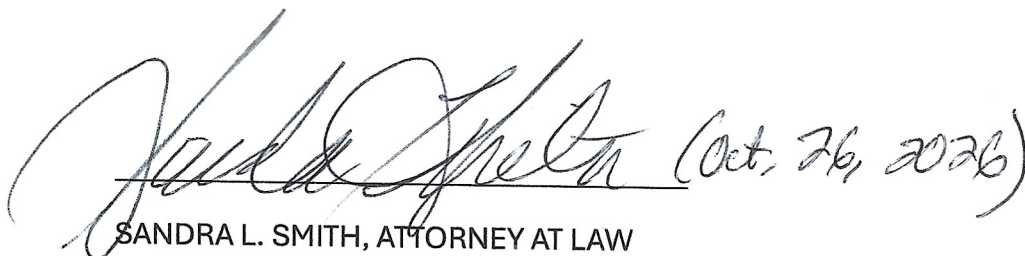
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