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8 **BEFORE THE HEARING BOARD OF THE**
9 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
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11 **In the Matter of**

Case No. 3448-14

12 SOUTH COAST AIR QUALITY MANAGEMENT
13 DISTRICT,

**[PROPOSED] FINDINGS AND DECISION
FOR AN ORDER FOR ABATEMENT**

14 Petitioner,

15 vs.

Health and Safety Code §41700 and
District Rule 402

16 BROWNING-FERRIS INDUSTRIES OF
17 CALIFORNIA, INC., a California Corporation and
18 wholly-owned subsidiary of REPUBLIC
SERVICES, INC., a California Corporation, dba
SUNSHINE CANYON LANDFILL,

Hearing Date: August 27, 2016
Time: 9:00 a.m.
Place: Valley Academy of Arts and
Sciences
Multipurpose Room
10445 Balboa Blvd
Granada Hills, CA 91344

19 [Facility ID No. 49111]

20 Respondent.
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22 This Petition for an Order for Abatement was heard on August 27, 2016, pursuant to notice in
23 accordance with the provisions of California Health and Safety Code (“H&S Code”) §40823 and District
24 Rule 812. The following members of the Hearing Board were present: Edward Camarena, Chair; Julie
25 Prussack, Vice Chair; Patricia Byrd; Hon. Nate Holden; and Roger L. Lerner, M.D., F.A.C.P. Petitioner,
26 Executive Officer, was represented by Nicholas A. Sanchez, Senior Deputy District Counsel. Respondent
27 Browning-Ferris Industries of California, Inc. (“BFI”), a wholly-owned subsidiary of Republic Services, Inc.
28 (“REPUBLIC”), both corporations authorized to do business in the State of California (collectively

hereinafter referred to as “Respondents”), was represented by Thomas M. Bruen, attorney at law, with the Law Offices of Thomas M. Bruen, P.C., and William G. Beck, attorney at law, with the law firm of Lathrop & Gage LLP. The public was given the opportunity to testify, evidence was received and the matter was submitted. The Hearing Board finds and decides as follows:

FINDINGS OF FACT

1. Petitioner is a body corporate and politic established and existing pursuant to H&S Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency with the responsibility for comprehensive air pollution control in the South Coast Basin.

2. Respondent BFI, doing business as “Sunshine Canyon Landfill,” owns and operates a landfill/solid waste disposal site located at 14747 San Fernando Road, Sylmar, California 91342 (hereinafter referred to as “Sunshine Canyon Landfill” or the “Facility”), SCAQMD Facility ID #49111, subject to the District’s jurisdiction and District Rules.

3. **California H&S Code §41700 and District Rule 402** prohibit the discharge from any source whatsoever of such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

4. Sunshine Canyon Landfill operates under a Solid Waste Facility Permit issued by the California Department of Resources Recycling and Recovery (“CalRecycle”) and handles approximately a third of the daily waste of all of Los Angeles County. Sunshine Canyon Landfill receives almost 9,000 tons of municipal solid waste per day.

5. The municipal solid waste disposed of in Sunshine Canyon Landfill generates landfill gas consisting mainly of methane (50%) and carbon dioxide (50%). Landfill gas, unless adequately collected, may escape from the landfill into the atmosphere.

6. Landfill gas collected from Sunshine Canyon Landfill is flared at multiple flare stations. The flares at Sunshine Canyon Landfill are able to operate at a maximum combined total flow rate of 18,000 standard cubic feet per minute (scfm). The collected landfill gas is also sold to a third party who operates a gas-to-energy facility and produces electricity from combustion of landfill gas in turbines.

1 7. The District alleges Respondents are insufficiently collecting the amount of landfill gas
2 currently generated at Sunshine Canyon Landfill, which can contribute to emissions of landfill gas from the
3 surface of the landfill and causes odors. The District further alleges Respondents are failing to adequately
4 treat fresh trash odors generated at the Facility, which can cause odor emissions from the landfill during
5 morning hours.

6 8. The District has received over three thousand odor complaints beginning in October 2013
7 through the present, from the public and elementary school staff working and living near Sunshine Canyon
8 Landfill alleging the Facility as the source of the odor. The District has traced the odors back to Sunshine
9 Canyon Landfill on numerous occasions.

10 9. The District alleges the odors are the result of insufficient gas collection, inadequate
11 treatment of incoming daily waste, and inadequate daily and intermediate cover procedures.

12 10. Pursuant to District Rule 1150.1(e)(3), Respondents must conduct instantaneous and
13 integrated monitoring of the landfill's surface. Monitoring conducted by Respondent demonstrates that
14 Respondents are not controlling surface emissions sufficiently at the Facility based on the frequency of high
15 surface emissions reported in Sunshine Canyon Landfill's District Rule 1150.1 monitoring reports.

16 11. As a result of the odors emanating from Sunshine Canyon Landfill, a considerable number
17 of persons living in the community and elementary school staff and students near the Facility have been
18 forced to remain indoors.

19 12. From October 25, 2013, through present, the District has issued over ninety Notices of
20 Violation ("NOVs") against the Respondents for violating District Rule 402 and H&S Code § 41700.

21 13. Respondents have implemented numerous odor control measures through several previous
22 Stipulated Order for Abatement proceedings with this Board. However, despite these measures, Respondents
23 have been unable to conduct operations at the Sunshine Canyon Landfill without being in violation of state
24 law and SCAQMD Rules and Regulations regarding odor nuisance.

25 14. The City of Los Angeles City Council and the County of Los Angeles Board of Supervisors
26 designated the Sunshine Canyon Landfill Local Enforcement Agency (SCL-LEA) to be the primary local
27 agency that provides the regulatory permitting, enforcement, and operational compliance oversight at
28

1 Sunshine Canyon Landfill on behalf of the California Environmental Protection Agency's Cal Recycle.¹

2 15. Numerous regulatory agencies, including the South Coast Air Quality Management District,
3 SCL-LEA, Los Angeles County Department of Public Works, City of Los Angeles Bureau of Sanitation, the
4 Los Angeles Regional Water Quality Control Board, the California Department of Toxics Substances Control,
5 and other state or local agencies, have jurisdiction over Respondent and/or Respondent's affiliates' transfer
6 stations.

7 16. Given the number of regulatory agencies involved and potential for events beyond the control
8 of Respondent, the SCAQMD recognizes that the necessity to modify this Order may arise. In the event that
9 a petition for modification of the requested Order is filed that asks this Hearing Board to make a finding that
10 delay in performance or non-performance of any requirement of this Order was the result of a Force Majeure,
11 the SCAQMD proposes the following definition: Force Majeure includes any act of God, war, fire,
12 earthquake, flood, or natural catastrophe; civil disturbance, vandalism, sabotage, or terrorism; restraint by
13 court order or public authority or agency; or the inability, despite Respondent's demonstration that it exercised
14 due diligence and best efforts, to obtain a consent, permit or approval necessary for Respondent's performance
15 of any of the requirements of this Order. Force Majeure shall not include normal inclement weather,
16 economic hardship, or inability to pay.

17 17. On April 2, 2015, the SCL-LEA Board of Directors passed a motion directing the SCL-LEA
18 Program Manager, "upon completion of the review of both SCAQMD consultants' reports, to provide the
19 Board members with a report of the SCL-LEA recommendations along with the technical backup,
20 documentation and reasoning for those recommendations."

21 18. In response to the direction provided by its governing board, the SCL-LEA produced a report
22 entitled "SUNSHINE CANYON LANDFILL LOCAL ENFORCEMENT AGENCY COMPILATION OF
23 POTENTIAL MITIGATION PRACTICES AND PROGRAMS," dated September 2015. (A true and correct
24 copy of Section 3 of the report, titled "Sunshine Canyon Landfill Local Enforcement Agency Compilation of
25 Potential Mitigation Practices and Programs" is attached hereto as Exhibit A.) The report in its entirety is
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27 ¹ An LEA is an entity designated by the governing body of a county or city and is empowered to implement delegated
28 California Environmental Protection Agency's Cal Recycle programs and locally designated activities.

1 available at

2 [http://docs.google.com/viewer?a=v&pid=sites&srcid=c2NsbGVhLm9yZ3xzY2xsZWZ3ZWJzaXRlfGd4Oj](http://docs.google.com/viewer?a=v&pid=sites&srcid=c2NsbGVhLm9yZ3xzY2xsZWZ3ZWJzaXRlfGd4OjNlMmlyYjQ1ZWNmNjAxMDE)
3 [NlMmlyYjQ1ZWNmNjAxMDE](http://docs.google.com/viewer?a=v&pid=sites&srcid=c2NsbGVhLm9yZ3xzY2xsZWZ3ZWJzaXRlfGd4OjNlMmlyYjQ1ZWNmNjAxMDE).

4 19. The two (2) reports prepared at the direction of the District by experts in the field of trash
5 odor and landfill gas collection, concluded that Sunshine Canyon Landfill required improvements in:
6 intermediate cover, daily cover, use of alternative daily cover, additional baropneumatic field testing, enhance
7 drainage of leachate, investigation of landfill gas migration and surface leakage on sideslopes, and landfill
8 gas quality monitoring. The District is relying on these recommendations in the reports for the proposed
9 conditions in this Order for Abatement.

10 20. The District alleges that Respondent is unable to conduct operations at the Facility without
11 being in violation of H&S Code §41700 and District Rule 402.

12 **CONCLUSIONS**

13 21. The Order set forth hereinafter is likely to mitigate the conditions contributing to the odor
14 nuisance and further compliance with SCAQMD rules and regulations. This Order is intended to help reduce
15 air emissions impacts to the nearby communities, implement steps to reduce any public health impacts that
16 may exist, and alleviate odors while a more permanent solution is achieved.

17 22. The District, by this Petition, seeks an Order for Abatement to impose certain conditions on
18 Respondent's operation of its Facility. The District believes that such conditions will bring Respondent's
19 operation in compliance with the District's rules.

20 23. It is not unreasonable to require Respondent to comply with District rules and regulations.

21 24. The issuance of an Order for Abatement upon a fully noticed hearing would not constitute a
22 taking of property without due process of law.

23 25. This Order for Abatement is not intended to be nor does it act as a variance.

24 **ORDER**

25 THEREFORE, subject to the aforesaid statements and good cause appearing, the Hearing Board
26 hereby orders Respondent to immediately cease and desist from operating the Facility in a manner that
27 violates H&S Code §41700 and District Rule 402, or in the alternative comply with the following conditions
28 and increments of progress:

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- 1 a. The tonnage limitation shall be implemented following a status hearing before the
2 Hearing Board within forty-five (45) business days from the issuance of this Order to
3 determine how the limitation will be implemented, including the timing of
4 implementation.

5 **Landfill Cover**

6 3. Respondent shall continue the use of an Alternative Daily Cover (ADC), in lieu of using a
7 nine inch daily compacted soil cover, throughout the duration of the approved one-year pilot demonstration
8 project that began in October 2015, in order to promote horizontal permeability in the landfill mass for the
9 purposes of improving collection of landfill gas and improving the leachate collection system's ability to
10 drain properly.

- 11 a. Respondent shall provide to the District copies of all data provided to the SCL-LEA
12 generated as a result of the pilot demonstration project and such other information as
13 reasonably requested by the District. Respondent shall also provide any analysis used to
14 determine the success or obstacles of the pilot demonstration project within ten (10)
15 business days of finalizing the information.

- 16 b. Respondent shall submit to the District within ten (10) business days of the conclusion
17 of the pilot program, all reports generated from the pilot program and evidence
18 demonstrating that it has satisfied the Los Angeles County Departments of Public Works
19 and Regional Planning requirements. Respondent shall also submit to the District within
20 ten (10) business days of the conclusion of the pilot program written confirmation from
21 the SCL-LEA that Respondent has duly completed the pilot program.

22 4. Respondent shall implement the intermediate cover enhancement pilot program as directed
23 by the SCL-LEA.

- 24 a. Respondent shall provide District staff with copies of all reports on the status and/or
25 results of the program submitted by Respondent to the SCL-LEA and such other
26 information as reasonably requested by the District.

27 5. Respondent shall conduct the intermediate cover program in a manner consistent with Los
28 Angeles County's Conditional Use Permit ("CUP"), section 44A, and the landfill Implementation and

1 Monitoring Plan, as pertains to application of temporary hydroseed vegetation cover on any inactive slope or
2 other landfill area projected to be inactive for a period greater than 180 days.

3 6. Respondent shall submit monthly District Rule 1150.1 surface monitoring results
4 (instantaneous and integrated readings) to the District for the enhanced monitoring grids that are involved in
5 the SCL-LEA intermediate cover enhancement pilot program and for the baseline comparative reference
6 control grid (Grid L11) within fourteen (14) business days after completion of the physical landfill monitoring
7 activities. This condition does not relieve Respondent from performing Quarterly District Rule 1150.1
8 surface emission reports on the overall landfill.

9 7. Respondent shall submit to the District for review and approval, within ninety (90) days of
10 issuance of this order, a proposal for additional methods/procedures for upgrading and improving the
11 additional areas of the landfill that have intermediate landfill cover, including appropriate methodologies,
12 metrics, and protocols for evaluating the performance.

13 a. Respondent's proposal shall consider and evaluate, at a minimum, the following options
14 (or combination of options): increased thickness of intermediate cover, use of lower
15 permeability intermediate/final cover materials, utilization of higher durability plastic
16 intermediate cover film material, higher compaction to increase density of the
17 intermediate cover, use of cured/mature compost to improve vegetative growth (and
18 potential biofilter affect), use of less steep intermediate slopes or other methods to
19 provide for better compaction of the side slopes, use of alternative spray on sealants,
20 (formulated for increased durability, wet weather, and odor control) to reduce
21 permeability of existing intermediate covered areas, and utilization of ClosureTurf® (or
22 product equivalent designed for intermediate cover usage).

23 b. Respondent shall implement the proposal upon approval by the District.

24 8. Respondent shall expand the application of the SCL-LEA/District approved intermediate
25 cover upgrades to additional SCL-LEA designated District Rule 1150.1 surface emissions monitoring grids
26 if the data or other performance metrics demonstrate cover performance improvements (as determined by the
27 District and the SCL-LEA).

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Improved Gas Collection Well Efficiency and Integrity

9. Respondent shall expeditiously dewater wells being impacted by liquids.
- a. Respondent shall provide monthly reports to the District and the SCL LEA on all landfill gas collection wells which have more than 30% of their overall length or more than 30% of their perforated area below grade filled with leachate or water. Respondent shall provide a graphic map showing the location of each liquid “impacted well” every other month. For the monthly reports, Respondent shall provide a description of the remedial measure(s) taken to address the landfill gas collection wells that are impacted by liquids.
- b. Respondent shall, within sixty (60) days of the issuance of this order, provide proposed methodologies and monitoring procedures to the District that determine the level of dewatering within each impacted well. Methods may include the measurement of the gas flow at each landfill gas collection well impacted by liquids. Respondent shall implement methodologies and monitoring procedures upon notification by the District.
10. Respondent shall submit to the District for review and approval (which will be conducted in consultation with other regulatory agencies) within ninety (90) days of issuance of this Order, a plan to evaluate and perform integrity tests on the landfill’s existing gas collection wells. Upon approval of the plan by the District, Respondent shall correct any well identified as ineffective or inefficient or impacted for any reason, within fourteen (14) days of such identification. The plan shall require at a minimum that no ineffective and inefficient well remain impacted for more than thirty (30) days without being decommissioned and/or replaced.

Treatment of Fresh Trash Odors

11. Respondent shall submit to the District for review and approval (which will be conducted in consultation with other regulatory agencies), within sixty (60) days of the issuance of this Order, a proposal for additional best management practices to supplement Respondent’s existing practices intended control and treat the fresh trash odors (the “Revised Best Management Practices Plan”).
- a. Such proposal shall consider and evaluate, at a minimum, the following options: use of trash truck and transfer trailer unloading practices that minimize creation of odors, use of additional misting fan units (Dust Boss or equivalent) to treat odors onsite, use of

alternative working faces located in more advantageous locations for early morning loading, consideration of special procedures (e.g., immediate covering/burying of odorous loads at the working face) and other practices to mitigate fresh trash odors.

b. Such proposal shall also consider, for use during the initial three hours of the opening of the landfill at a minimum, applications of Odor-Shell® (or equivalent product) designed for odor control for odorous loads identified during unloading and on exposed portions of the working face.

c. Such proposal shall also consider and evaluate options to control, treat, and minimize the impact of the odors that leave the site, including a methodology to identify meteorological conditions before the start of operations to determine best procedures/practices taken to minimize odor transport into the neighborhood. The proposal shall also consider the utilization of innovative technologies such as dry (waterless) vapor-phase (gas) for treatment of fresh trash and landfill gas odors, which can be employed along potential odor pathways.

d. Such proposal shall also consider and evaluate utilization, for use during the initial three hours at a minimum of the opening of the landfill, of backpack sprayer and/or other portable spray system (with odor neutralizer or equivalent product) for directed use on identified odorous loads during unloading.

e. Such proposal shall also consider and evaluate utilization of stockpiled “odor buffering/adsorbing material” (e.g., compost, ground greenwaste, soil) at the working face. Respondent’s evaluation shall also consider and analyze the potential for enhancing adsorbent material with odor adsorbents or other odor neutralizers to increase effectiveness.

f. Respondent shall, within ten (10) business days of receiving written approval from the District, implement the Revised Best Management Practices Plan. If a “conditional approval” is granted, Respondent shall implement those conditionally approved elements of the plan.

12. Respondent shall submit to the District for its review and approval (which will be conducted

1 in consultation with other regulatory agencies), within thirty (30) days of Respondent's receipt of the SCL-
2 LEA findings and recommendations of programs for best management practices for odor mitigation at transfer
3 stations, an updated Odorous Load Management Plan (the "Revised Odorous Load Management Plan"). This
4 plan shall identify additional measures to supplement Respondent's existing best management practices to
5 reduce odors at the source, at transfer stations owned and/or operated by Respondent, and at the Facility. The
6 plan shall also consider periodic site assessments of each transfer station that sends waste to the Facility for
7 additional measures intended to abate odors.

- 8 a. Respondent shall, within ten (10) business days of receiving written approval from the
9 District, implement the Revised Odorous Load Management Plan. If a "conditional
10 approval" is granted, Respondent shall implement those conditionally approved elements
11 of the plan.

12 13. Respondent shall submit to the District, within ninety (90) days of the issuance of this Order,
13 an assessment on the feasibility of installing physical barriers and or dust/odor containment structures. The
14 assessment shall include an estimated timetable for improvements at the entrance road, including
15 consideration of a large physical visual berm lined with trees along the final realigned access road along with
16 other physical barriers (or containment systems) that can serve as a physical barrier to mitigate odors (e.g.,
17 controlled air movement, creating additional air turbulence or dispersion along odor travel pathways,
18 additional odor adsorption). Upon notification by the District, Respondent shall implement as expeditiously
19 as practicable any barriers or structures identified in its assessment.

20 **GENERAL CONDITIONS**

21 1. Respondent shall immediately contact the District (via email at nsanchez@aqmd.gov),
22 should the District's review of any of Respondent's submissions required hereunder cause the District to
23 conclude in writing that additional measures are necessary at the landfill to control odors and Respondent is
24 unable to agree to such measures. Such notice shall describe the reasons for the infeasibility of the provisions
25 or other concerns with the provision. Respondent shall endeavor to resolve the infeasibility with the
26 Executive Officer of his designee. If the feasibility of the provision cannot be resolved, Respondent shall
27 petition the Hearing Board for further proceedings. Such proceeding shall be limited to a hearing on the
28 imposition of the measure(s) described in the notice to the District as infeasible or otherwise problematic.

2. Any notices, reports, or other information required by this Order shall be provided to the District via email (Attn: Laki Tisopulos, ltisopulos@aqmd.gov).

3. Respondent shall submit a timely petition to modify this Order if Respondent anticipates it is unable to meet any increment of progress ordered herein, or may otherwise not comply with the terms of this Order. Respondent shall notify the District via email (Attn: Nicholas Sanchez, nsanchez@aqmd.gov) upon learning of any such anticipated delay or need to request changes in conditions or the final compliance deadline.

4. The Hearing Board shall hold a hearing on _____ to review the status of this matter and consider the modification and/or extension of this Order.

5. The Hearing Board shall retain jurisdiction over this matter until **August 31, 2017**, or until Respondent has met all Conditions and Increments of Progress hereunder, whichever occurs first, unless the Order is amended or modified.

6. The Hearing Board may modify the Order for Abatement without the stipulation of the parties upon a showing of good cause, therefore, and upon making the findings required by H&S Code §42451(a) and District Rule 806(a). Any modification of the Order shall be made only at a public hearing held upon 10 days published notice and appropriate written notice to Respondent.

7. This Order for Abatement is not and does not act as a variance, and Respondent is subject to all rules and regulations of the District, and to all applicable provisions of California law. Nothing herein shall be deemed or construed to limit the authority of the District to issue Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive relief, or to seek further orders for abatement, or other administrative or legal relief.

BOARD MEMBER: _____

DATED: _____

Prepared by Nicholas A. Sanchez