

**BEFORE THE
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
STATE OF CALIFORNIA**

In the Matter of the Appeal by:

CHIQUITA CANYON, LLC, Appellant,

v.

**LOS ANGELES COUNTY DEPARTMENT OF PUBLIC HEALTH,
SOLID WASTE MANAGEMENT PROGRAM, acting as the
LOCAL ENFORCEMENT AGENCY, Respondent**

DECISION AND ORDER

I. INTRODUCTION

This matter came before the Department of Resources Recycling and Recovery (CalRecycle) based on an appeal filed under Public Resources Code (PRC) section 45030 (Appeal). Kaitlyn D. Shannon, Jacob P. Duginski, Megan L. Morgan, Louis J. Manzo, and James B. Slaughter of Beveridge & Diamond, P.C. represented Chiquita Canyon, LLC (Chiquita). Renee E. Jensen of Behar Gibbs Savage Paulson LLP and Blaine D. McPhillips of the Los Angeles County Office of the County Counsel represented the Los Angeles County Department of Public Health, Solid Waste Management Program, acting as the Local Enforcement Agency (“the LEA”).

The Appeal seeks CalRecycle’s review of Directive 4.1 of the LEA’s “Compliance Order Pertaining to 27 California Code of Regulations (CCR) § 20750” (“2025 Order”), as modified by the letter titled, “LEA Comments on the Response Letters and the Draft Removal Action Workplan to Address the Extension of Covered Area Submitted by Chiquita Canyon Landfill” (“2025 Letter”).

CalRecycle, as the successor of the California Integrated Waste Management Board (CIWMB), has jurisdiction over this Appeal. (PRC, §§ 40401, 45030.) Having considered the record and legal arguments submitted by the parties, and for good cause appearing, CalRecycle makes the following determinations and finds there is substantial evidence that Directive 4.1 is consistent with the California Integrated Waste Management Act of 1989 (“the Act”).

II. RULING ON EXTRA-RECORD EVIDENCE

In reviewing the evidence in an appeal under PRC section 45030, CalRecycle considers (1) the record before the hearing panel, (2) relevant facts about any actions or inactions not subject to review by the hearing panel, (3) the record before the LEA, (4) written and oral arguments submitted by the parties, and (5) any other relevant evidence that, in CalRecycle’s judgment, should be considered to effectuate the Act’s policies. (PRC, § 45032, subd. (a).)

In this case, the record before the hearing panel consisted of each party’s briefing, exhibits, and presentations, along with the hearing transcripts and the written decision, collectively totaling over 13,500 pages. Both sides now seek to add additional post-hearing evidence and analysis about conditions and events that occurred after the relevant enforcement action. The existing record is sufficient. The two requests to consider post-hearing evidence are denied.

III. FACTUAL FINDINGS

A. Procedural Background

1. The Chiquita Canyon Sanitary Landfill (Site) is a permitted Class III municipal solid waste landfill in northern Los Angeles County. (B872, 3594.)¹ CalRecycle identifies the Site by Solid Waste Information System (SWIS) Number 19-

¹ The Appeal record is cited by section, with Hearing Office records beginning with the letter “H,” appellant records beginning with the letter “A,” and respondent records and the record from the hearing below beginning with the letter “B.”

AA-0052. (B872.) The Site is located at 29201 Henry Mayo Drive in Castaic, California, 91384, near industrial, agricultural, and residential properties. (B3593.) Chiquita owns and operates the Site. (B3592.)

2. On May 1, 2025, the LEA issued the 2025 Order to Chiquita. (B871–883.) The 2025 Order included Directive 4.1, which is at issue in this Appeal. (B877–878.) Directive 4.1 requires Chiquita to “[i]ninstall an LEA approved geomembrane cover over all areas of the Site that are not currently covered by a geomembrane and to which the reaction area has expanded or has the potential to expand.” (B877.) On November 20, 2025, the LEA sent Chiquita the 2025 Letter, clarifying that Directive 4.1 requires the “entire facility where waste is disposed (Main Canyon waste management area) [to] be covered by August 31, 2026.” (B865–867.)

3. Chiquita filed administrative hearing requests on the 2025 Order and 2025 Letter under PRC section 44307. (B1106–1117, 1371–1379.) The matter was set for a hearing before the Los Angeles County Solid Waste Facilities Hearing Board, the LEA’s Independent Hearing Panel (“the Panel”). (B853–854.) The Panel conducted a preliminary hearing on procedural issues on August 27, 2025 (B1–61), followed by an evidentiary hearing addressing Directive 4.1 on April 28, 2026 (B601–852). The Panel unanimously affirmed Directive 4.1. (B844–845.) The Panel issued its written decision on May 1, 2026. (A21–26.)

4. Chiquita filed this Appeal on May 11, 2026. (H6, A1–20.) CalRecycle accepted the appeal and determined it should be decided based on the record below and the parties’ written arguments. (H1–2, 11–12, 16–17.) On May 26, 2026, the LEA submitted the record from the Panel hearings: (1) a 600-page document containing the transcript and exhibits from the August 2025 hearing and (2) a 12,906-page document containing the transcript and exhibits from the April 2026 hearing. (H13–15, B1–13506.) Chiquita’s Appeal brief constituted its opening brief, to which it attached 11,293 pages of additional documents. (H6–10, A1–11313.) The LEA submitted its response on July 2, 2026, and asked to add 17 pages of additional evidence to the record. (H18–19, B13507–13544.) Chiquita submitted its reply on July 23, 2026, and

asked to add 378 pages of additional evidence to the record. (H24–25, A11314–11720.) The Appeal record closed, and the Appeal submitted for decision on July 23, 2026.

B. Waste Disposal at the Site

1. The 639-acre Site is a former limestone quarry that has accepted waste since 1967 and operated as a landfill since 1972. (B11014.) Chiquita manages the Site under a Conditional Use Permit, issued by Los Angeles County. (B13037–13118.) The Site stopped accepting waste on January 1, 2025, but its permit remains active. (B11867.) The permit allows the Site to receive up to 12,000 tons of waste each day. (B13070.) The Site can accept municipal solid waste, organic waste, construction and demolition debris, and e-waste for recycling. (B13022.) It is not allowed to accept hazardous waste or ignitable, corrosive, reactive, or toxic waste. (B13022.)

2. The Site's permitted waste area totals 257 acres, broken into three main canyons. (B11015.) The Primary Canyon and Canyon B both closed in the late 1980s, while the Main Canyon accepted waste until the end of 2024. (B3593.) This decision focuses on the Main Canyon, where there are no physical breaks or barriers dividing the different waste units. (B3594.)

3. The Site contains approximately 17,000,000 cubic yards of waste in the 231 acres used for disposal. (B11015.) The waste is 320 feet thick, spanning from 80 feet above the ground to 240 feet below it. (B11015.) When liquid percolates through landfill waste, it forms leachate. (B4374.) Leachate can contain toxic contaminants like benzene, a known human carcinogen. (B3599, 11034.) Extraction wells remove leachate from the waste and pipe it to collection tanks before being trucked off-site. (B11015.) Additionally, as the waste decomposes, it releases landfill gases. (B4374.) These gases are captured and collected through extraction wells and may be burned by a flare. (B11015.) Chiquita is required to operate and maintain adequate systems to control the Site's leachate and landfill gases. (CCR, tit. 27, §§ 20921, 20790.)

4. The law also requires that landfill waste be contained through low-permeability layers at the top and bottom. The waste sits atop a liner to prevent leachate from seeping into the ground and contaminating groundwater. (CCR, tit. 27, § 20330.) The waste must be topped with daily cover during active disposal, intermediate cover during prolonged pauses in disposal, and a final cover when disposal has permanently ceased. (CCR, tit. 27, §§ 20680, 20700, 21140.) Intermediate cover is typically made of compacted soil, at least 12 inches thick, unless an alternative cover has been approved. (CCR, tit. 27, § 20700.) Soil cover can sustain damage through weather-based erosion or fissures and cracking as the decomposing waste sinks downward, known as settlement. (B11886.) When subsurface gases are under high pressure, they follow the path of least resistance and may migrate upward to vent out of thin or damaged areas of the cover. (B11886.) Maintaining an adequate cover is critical to avoiding foul odors, minimizing emissions, and preventing liquids from entering the waste and increasing the volume of leachate.

C. The Subsurface Elevated Temperature Event at the Site

i. Background on Subsurface Elevated Temperature Events

5. As municipal solid waste decomposes in a landfill, the process generates heat. Under normal conditions, a landfill's temperature stays below the regulatory threshold of 131 or 145 degrees Fahrenheit.² (B7354.) When landfill temperatures exceed that threshold, it stresses biochemical decomposition processes. (B11033.) This is called a Subsurface Elevated Temperature (SET) event. (B11817.) The term "SET event" encompasses all causes of the elevated temperature below the surface.

² All temperatures hereafter are in Fahrenheit. The threshold temperatures of 131 degrees and 145 degrees come from the National Emissions Standards for Hazardous Air Pollutants regulations, 40 Code of Federal Regulations part 63, section 63.1958, subdivision (c). The regulation requires a landfill operate each interior wellhead with a landfill gas temperature of less than 145 degrees, an increase from 131 degrees required before 2021. CalRecycle recommends using the temperature threshold of 131 degrees to initiate a root cause analysis, restrict oxygen to less than two percent, and repair the cover to prevent a SET Event.

(B740–741.) It includes Elevated Temperature Landfills (ETLFs) (B740), which are high temperature landfills experiencing a subsurface exothermic reaction not caused by fire, combustion, or smoldering.

6. The increase in waste temperature during a SET event changes the composition of landfill gases. Temperatures above 160 degrees significantly inhibit methane production. (B11038.) Meanwhile, carbon dioxide, carbon monoxide, and hydrogen increase as methane decreases. (B3595.) Malodorous sulfur compounds, like hydrogen sulfide, also rise and lead to severe odor issues around the landfill surface. (B2569, 3595.)

7. SET events cause a landfill to experience extreme temperature increases, high volumes of leachate production, and significant gas emissions and odors. (B1014.) Once a SET event occurs in a landfill, it can be difficult to isolate and contain. (B11863.) A SET event can (1) damage the integrity of a landfill's liner, (2) soften or melt the gas and leachate control infrastructure, (3) transform leachate into hazardous waste due to an increase in the benzene level, (4) cause slopes to become unstable and collapse, and (5) result in rapid and excessive settlement of the landfill surface. (B11033–11034.) Operating temperatures should not exceed 140 degrees to prevent failure of certain plastic pipes and a decrease in the landfill liner's service life. (B11036.)

8. Tracking a SET event involves collecting data from several sources. (B11035.) Temperature is the most important metric. (B11035.) Landfill temperatures can be measured using gas temperatures at wellheads, vertical profiles in gas wells, temperature monitoring probes in the waste, liquid temperatures in leachate pumps, and surface temperatures with thermal cameras. (B11035.) The SET event can also be tracked by collecting data about the landfill's gas composition, the amount of settlement that occurs over time, damage to the cover, leachate increases and leaks, increased emissions and a change in odor, and an increase in gas and leachate pressure. (B11035.)

ii. The Initial Odor Complaints and Violations

9. Since about May 2022, Chiquita has been experiencing a SET event in the Main Canyon's subsurface waste. (B3594.) This incident has generated noxious odors, which spread to nearby residential communities around April 2023. (B4358.)

10. In 2023, the South Coast Air Quality Management District ("Air District") received nearly 6,800 odor complaints about the Site, compared to 77 complaints in 2022. (B13196.) The complaints reflected the many adverse health effects the nearby community reported experiencing since the SET event began, including eye irritation, nosebleeds, tinnitus, nausea, migraines, vomiting, vertigo, respiratory symptoms, cardiac issues, and skin issues. (B10001.) Odors kept the residents from spending time outside and concerned campus communities at the multiple schools near the Site. (B10001.)

11. The Air District investigated the complaints, verified the odors, and confirmed that the Site was the source. (B9664.) Air sampling found elevated benzene and hydrogen sulfide levels in nearby communities. (B9665.) Between April and December 2023, the Air District issued over 100 Notices of Violation (NOVs) to Chiquita under Rule 402 and Health and Safety Code section 41700, finding the odors to constitute a public nuisance. (B9664.)

12. On September 7, 2023, Chiquita entered into a Stipulated Order for Abatement (Stipulated Order) with the Air District to mitigate Site conditions. (B9666.) The Stipulated Order required, among other measures, that Chiquita establish a committee of subject matter experts to aid in the investigation and remediation of the event, known as the Reaction Committee. (B1735.) The committee was to review available data, estimate the extent of the reaction, and determine the reaction area. (B11036.) Chiquita was also required to expand the landfill gas collection and control system to mitigate the odors. (B2265.) Despite the Stipulated Order's mitigation measures, the odors persisted and Chiquita received another 53 NOVs based on noxious odors over the following six months. (B10002.)

iii. CalRecycle's Preliminary Investigation of the Odor's Source

13. Meanwhile, the LEA requested technical assistance from CalRecycle to determine the cause of the odors. (B884.) Todd Thalhamer, Professional Engineer (P.E.), reviewed available data and documented CalRecycle's findings in an October 2023 letter. (B884–902.)

14. CalRecycle's analysis found irregularities around the northwest area of the Main Canyon. (B888–891, 896–898.) CalRecycle concluded that the Site was experiencing an active, expanding heating/smoldering event. (B893.) The event was causing the Site to experience cover integrity issues, increased gas pressure, landfill gas temperatures over 170 degrees, subsurface temperatures over 195 degrees, decreased methane production, elevated carbon monoxide concentrations, and an unusually high rate of settlement. (B900.) The Site's gas collection system showed systemic performance problems from positive-pressure wells, excessive oxygen, zero-flow wells, and oxygen overdraw. (B900, 11870.) Those failures explained the surge in odors and emissions. (B900.) Additionally, CalRecycle's analysis revealed that the SET event was expanding in size and intensity over the preceding 18 months. (B900.)

15. The LEA sent CalRecycle's letter to Chiquita, urging prompt action to protect public health and the environment. (B903–906.) The LEA directed Chiquita to take immediate and long-term corrective action measures. (B904–906.) The measures included installing a geomembrane cover over the settlement area and other Site areas with high gas temperatures and carbon monoxide concentrations above 1,000 parts per million (ppm). (B905.)

iv. The Multi-Agency Site Tour and Mitigation Measures

16. In November 2023, local, state and federal agencies formed a Multi-Agency Critical Action Team (MCAT) to coordinate investigations and enforcement efforts related to Site's SET event. (B10007.) The MCAT includes the LEA, CalRecycle, the Air District, the Department of Toxic Substances Control (DTSC), and the United States Environmental Protection Agency (EPA), among other agencies.

(B3596–3597.) Staff from MCAT agencies toured the Site on November 2, 2023. (B10004.)

17. As required by the Stipulated Order, Chiquita had installed 48 additional gas extraction wells. (B10130.) During installation, pressurized leachate had spewed out of the ground at several locations. (B10130.) Additionally, oversaturated waste had caused leachate to seep out of the ground and pool in multiple locations. (B10138–10140.) The Site had also experienced significant settlement. The ground around one gas well had sunk 25 to 30 feet since 2022. (B10130.) The SET event had expanded in all directions between July 2023 and September 2023. (B10130.) By November 2023, the SET event totaled approximately 30 to 35 acres. (B10130.)

18. During the November 2023 tour, Mr. Thalhamer detected odors onsite. (B10130.) CalRecycle concluded the Site’s intermediate cover was not adequate for controlling odors and preventing oxygen intrusion. (B10133–10134.) CalRecycle recommended that Chiquita install a 24-inch soil cover or a flexible membrane cover over the existing intermediate soil cover to mitigate odors. (B10133–10134.)

19. The LEA sent a detailed letter to Chiquita about its concerns on November 21, 2023. (B8891–8895.) The LEA said it appeared “unlikely that [Chiquita’s] current mitigation measures will be sufficient to control and contain the reaction, which is expanding toward other areas of the landfill.” (B8892.) The letter required Chiquita to implement mitigation measures similar to those CalRecycle recommended, which included: (1) constructing a soil reaction break or barrier if the reaction expanded beyond an action line; (2) installing temperature monitoring probes by January 8, 2024; (3) installing a compacted 24-inch soil cover in areas showing signs of reaction; (4) tracking and documenting all fissures, settlement, and cracks in the soil cover with a weekly report to the LEA; (5) performing a slope stability analysis; and (6) ensuring that the temperatures do not exceed the drain manufacturer’s design specifications. (B8892–8894.)

20. By December 2023, the temperature of uncontrolled leachate condensate waste coming out of gas extraction wellheads was as high as 180

degrees. (B10005.) Additionally, the Site's leachate production had increased dramatically from 151,187 gallons per week in January 2022 to 1,014,532 gallons per week in December 2023. (B9998.) The Site's leachate contained benzene in levels that exceeded the hazardous waste threshold. (B10005–10007.)

21. Chiquita contracted with SCS Engineers, Inc. (SCS) to assist with both the root cause analysis and operating the Site's gas and leachate collection and control systems. (B4123, 12772–12785, 11885.) SCS prepared a report titled, "Elevated Temperature Landfill Causation Investigation Report" dated December 8, 2023. (B12772–12789.) SCS decided the Site was undergoing an ETLF event instead of a subsurface oxidation or subsurface landfill fire event. (B12783.) SCS concluded that "the causes of the ETLF conditions at [the Site] cannot be definitively identified." (B12782.)

22. Over the coming months, the LEA and Chiquita communicated about how to mitigate the SET event's impact on the intermediate cover. (B1490, 8913, 10160–10164.) They determined it would be faster to install a geosynthetic cover than a thicker layer of soil cover. (B10161.) The company agreed to install 30-mil geomembrane cover over the reaction area. (B10161.) Chiquita estimated it could install the cover at the rate of 1.5 acres per day "based on actual production rates for the west slope" installation, so coverage could be completed within eight weeks. (B1491.) The LEA approved Chiquita's plan, scheduling a completion date of March 25, 2024 (eight weeks from the start date of January 29, 2024). (B11226.)

v. The LEA's 2024 Compliance Order

23. Local agencies must inspect active solid waste facilities monthly to verify compliance with state minimum standards. (CCR, tit. 14, § 18083, subd. (a)(2).) The LEA conducted Site inspections on September 19, 2023; October 25, 2023; November 28, 2023; December 19, 2023; and January 17, 2024. (B11925–11952.) Based on those inspections, the LEA found that Chiquita had violated the state minimum standards for Gas Monitoring and Control (CCR, tit. 27, § 20921) and Site Maintenance (CCR, tit. 27, § 20750). (B11925–11952.)

24. On February 8, 2024, CalRecycle sent Chiquita a Notice of Intent letter, informing Chiquita that the Site could be added to the inventory of solid waste facilities which violate state minimum standards. (B935–936.) This letter gave Chiquita 90 days to bring the Site into compliance. (B935.)

25. In March 2024, Chiquita submitted a soil reaction break/barrier plan, as required by the LEA's November 2023 letter. (B8917–8939.) The plan stated that Chiquita was implementing corrective measures it believed would reduce the need to construct the required soil reaction break/barrier. (B8938.) Those measures included increased gas and leachate removal, as well as improvement to cover integrity. (B8938–8939.) Chiquita stated that improving the cover would reduce surface emissions and resulting odors as well as liquid infiltration, limiting “the amount of excess liquids available to sustain various chemical reactions.” (B8939.)

26. Chiquita failed to correct the violations by May 10, 2024, and CalRecycle listed the Site on the inventory, effective May 15, 2024. (B933–934.) Based on the Site's inventory listing, the law required the LEA develop a compliance schedule to ensure Chiquita made diligent progress to bring the Site into compliance. (CCR, tit. 14, § 18365.)

27. The LEA issued a Compliance Order to Chiquita on June 6, 2024 (“2024 Order”). (B937–973.) The 2024 Order contained 87 paragraphs of factual findings in support of the conclusion that the Site's intermediate cover was inadequate and not performing to the standard necessary to keep the Site in reasonable repair. (B938–959.) Chiquita's compliance with the Site Maintenance regulation was categorized by mitigation measures (B942), which included the installation of a geosynthetic cover in the reaction area and around any wells showing signs of reaction, including high temperatures and carbon monoxide concentrations. (B951–955.) There is no evidence that Chiquita requested an administrative hearing to contest the factual allegations in the 2024 Order.

28. By the time the 2024 Order issued, Chiquita was already behind schedule in installing the geomembrane cover. (B953–955.) The initial deadline of

March 25, 2024, was moved to April 26, 2024, based on an increase in the coverage area to 30 acres, wet weather, and safety reasons. (B954.) In April, the deadline was extended again to July 12, 2024, citing weather and safety. (B954–955.) The cover acreage expanded from 30 acres to 43.9 acres. (B954.) The 2024 Order set August 2, 2024, as the final deadline to finish installing the geosynthetic cover but also allowed Chiquita to submit extension requests. (B962, 968.) After several more extensions, Chiquita completed installation of 44.6 acres of 30-mil cover on December 27, 2024, nine months after the initial deadline. (B11184.)

vi. Technical Memorandum by Dr. Timothy Stark

29. Timothy Stark, Ph.D., P.E., reviewed reports and data about the Site under his contract with the Engineering/Remediation Resources Group, Inc. (ERRG). (B993.) He issued a Technical Memorandum, dated February 26, 2025, with findings about the SET event and recommendations to mitigate its expansion. (B993–1006.)

30. Dr. Stark’s memorandum first reviewed the Site history and Chiquita’s Revised Barrier Plan. (B993–996.) In that plan, Chiquita rejected four reaction break options as “implausible” or “uncertain,” preferring the option to place more soil over the top of the landfill. (B995.) Dr. Stark determined that a thicker soil cover would be less effective at controlling odors and emissions than a geomembrane cover because of inadequate soil compaction, differential settlement, and cracks in the intermediate cover. (B995.)

31. Dr. Stark disagreed with Chiquita’s claim that their “best management practices” were slowing the SET event and impeding its spread. (B996.) He reviewed recent temperature data from early 2025 and found a significant increase in the size of the reaction. (B996–998.) He proposed installing a vertical thermal barrier to prevent the reaction from reaching the southernmost 13 acres of the Site. (B1004–1006.) Among other reasons, Dr. Stark explained that a barrier would reduce the amount of waste that the SET event could consume and thus the duration of odors and emissions impacting the surrounding communities. (B1005.)

32. Dr. Stark also evaluated reports regarding fissures and cracks in the intermediate cover, along with tears in the existing geomembrane cover. (B999–1004.) Settlement was occurring around the existing leachate tank farm, which he found reinforced the recommendation that the tank farm be moved off the waste and onto native soil. (B999.) Dr. Stark expected the SET event would continue generating odors and emissions for years to come, so he proposed covering 100 acres of the landfill with an Ethylene Vinyl Alcohol (EVOH) geomembrane. (B1102–1003.) This type of geomembrane has proved effective at containing odors and emissions at other landfills experiencing SET events. (B1102.)

vii. CalRecycle Technical Assistance in March 2025

33. On March 28, 2025, Mr. Thalhamer provided additional technical assistance to the LEA on behalf of CalRecycle, commenting on Chiquita's proposed plans. (B1010–1037.) CalRecycle had requested certain data from Chiquita in December 2024, but Chiquita did not provide all the information as requested. (B1011–1012.) The data sets Chiquita did provide were not sufficient to adequately track the reaction. (B1012.) CalRecycle noted the Reaction Committee's conservative approach in determining the reaction area, which disregarded carbon monoxide results. (B1015–1016.)

34. Chiquita's first 20 temperature monitoring probes at the Site began operating in late April 2024. (B1017.) Eight more probes were installed adjacent to the reaction area in January 2025. (B1017.) CalRecycle explained that the Reaction Committee had disregarded a significant number of probe readings and did not consider shallow temperature spikes indicative of the reaction. (B1019.) Review of the new temperature data from the probes showed that the new probes exceeded the regulatory threshold of 145 degrees. (B1020.) Additionally, Chiquita had installed the new probes at unapproved depths, impeding the ability to track shallow temperature changes. (B1020.)

35. CalRecycle was concerned that Chiquita was overdrawing the gas collection and control system, which can pull in outside oxygen and cause a smolder.

(B1022.) There was a 55 percent increase in gas wells with over five percent oxygen between 2023 and 2024, accompanied by an increase in high temperature wells and wells with positive pressure. (B1024.) This indicated to CalRecycle that the SET event had intensified in magnitude between July 2023 to December 2024. (B1024.)

36. Chiquita's third Soil Reaction Break/Barrier Plan lacked the barrier or break specified in the LEA's 2024 Compliance Order. (B1025.) Instead, Chiquita relied on the removal of gas and leachate as a control and containment strategy. (B1025.) Chiquita had not provided any technical thermodynamic analysis demonstrating that leachate and gas removal had contained the Site's reaction. (B1025.) CalRecycle was not aware of any published studies indicating that gas and leachate removal has contained a reaction like the Site's, and CalRecycle does not recognize gas and leachate removal as a standalone containment strategy for a SET event. (B1025.)

37. At the end of the letter, CalRecycle summarized the known Site conditions as of Spring 2025. (B1026–1027.) The Site's subsurface waste was inundated with leachate. Chiquita removed over 77 million gallons of leachate from the Site between January 2024 to February 2025 and was currently extracting 228,624 gallons of leachate per day. (B1025–1026.) A portion of the leachate contained hazardous levels of benzene, and the Site had several leachate outbreaks and releases, including geysering leachate at 13 gas wells. (B1026–1027.) The gas wells and temperature monitoring probes showed high temperatures and increasing trends. (B1027.) Methane production had decreased, while carbon monoxide concentrations increased. (B1027.) Accelerated settlement continued, and the Site's west slope was unstable. (B1027.) Odors and emissions continued to permeate nearby communities. In the first three months of 2025, the Air District received 1,493 complaints about Chiquita and issued Chiquita 16 NOVs. (B1026.)

38. Based on the evidence reviewed, CalRecycle concluded that Chiquita's proposed plan would not contain or control the SET event. (B1027.) Because the plan omitted a barrier, there was nothing to prevent the expanding reaction from consuming the entire facility. (B1027–1028.) CalRecycle recognized that removal of leachate and

gas was critical in a SET event, but found it was insufficient without additional mitigation measures. (B1028.) CalRecycle recommended installation of an EVOH geomembrane over 100 acres outside the current geomembrane cover, among other measures. (B1028.)

viii. Enforcement Actions by MCAT Agencies

39. The Air District's Stipulated Order has remained in effect, with modifications, since September 2023. (B1140.) The next agency to order corrective action was EPA. On February 21, 2024, EPA issued Chiquita a Unilateral Administrative Order (UAO), finding that Chiquita's activities at the Site may present an imminent and substantial endangerment to health or the environment. (B1130–1174.) EPA found that the Site's cover integrity issues created surface gas emissions that exceeded regulatory limits. (B1137.) It ordered Chiquita to create a cover installation plan to install a 30-mil geomembrane cover over the settlement area. (B1152.)

40. On April 1, 2025, DTSC issued Chiquita an Imminent and Substantial Endangerment Determination and Order (DTSC Order). (B3591–3615.) DTSC found the expanding SET event and hazardous leachate releases posed an imminent and substantial endangerment to public health, safety, or the environment. (B3600.) The DTSC Order concluded that expanding the membrane cover was necessary to control infiltration of oxygen and water into the waste and to control the gas emissions, odors, and leachate. (B3601–3602.) DTSC required Chiquita to install a 40-mil geomembrane cover on all areas of the Site which are not presently covered by geomembrane and to which the reaction area had expanded or had the potential to expand. (B3601–3602.)

ix. The LEA's May 2025 Compliance Order

41. Mitigation Milestone 1A-1 of the 2024 Order required that Chiquita submit a revised air/soil break plan to the LEA for approval. (B962–963.) On April 1, 2025, the LEA rejected Chiquita's third revision of its proposed plan. (B1007–1009.) The LEA did not find that Chiquita's proposed mitigation was appropriate to contain

the SET event given the ongoing activity. (B1007.) The materials Chiquita submitted confirmed that no internal barrier existed to prevent the event from spreading throughout the Site. (B1007.)

42. On May 1, 2025, the LEA issued the 2025 Order, finding Chiquita remained in violation of the Site Maintenance regulation. (B871–883.) The 2025 Order summarized the facts underlying the violation, incorporating the 2024 Order by reference, adding 11 factual findings, and citing a dozen more letters and analyses of Site data. (B872–876.) The order stated: “Given the evidence of ongoing reaction activity, the new temperature data provided by [Chiquita] on February 20, 2025, and no thermodynamic analysis, the LEA does not believe that gas and leachate removal alone is appropriate to contain the reaction.” (B876.)

43. The 2025 Order imposed four requirements, which took effect immediately upon service (B877–879):

- Directive 4.1: Chiquita must install an LEA-approved geomembrane cover over all areas of the Site that are not currently covered and to which the reaction area has expanded or has the potential to expand, with a completion schedule due June 2, 2025;
- Directive 4.2: Chiquita must relocate Leachate Tank Farm 9, with an LEA-approved workplan due June 2, 2025;
- Directive 4.3: Chiquita must implement measures to prevent the reaction from spreading into Cell 8A, with a workplan due July 15, 2025; and
- Directive 4.4: Chiquita must install five new temperature monitoring probes at specified locations by August 4, 2025.

44. On May 16, 2025, Chiquita filed a statement of issues to request a hearing on the 2025 Order under PRC section 44307. (B1106–1117.) Chiquita also filed a stay petition with CalRecycle, seeking to halt compliance requirements imposed by the 2025 Order until the end of its administrative appeal. (B1114–1115.) CalRecycle

denied the stay petition, finding that Chiquita failed to establish the extraordinary circumstances necessary to justify a stay. (B9345–9350.) Specifically, CalRecycle found that Chiquita did not provide that the order would interfere with an essential public service because the noxious odors, risk of destabilization, and potential for watershed contamination were preexisting conditions at the Site because of the SET event, not immediate consequences of the order. (B9349.) The requirements and deadlines of the 2025 Order remained in effect during the pendency of the administrative appeal process. (PRC, § 45017.)

x. The Panel’s August 2025 Procedural Hearing

45. Chiquita’s hearing request was sent to the Panel. The Panel held a preliminary hearing on procedural issues before scheduling the evidentiary hearing.³ (B1–60.) The parties’ prehearing briefing addressed Chiquita’s preference for a formal hearing and PRC section 44310’s provision that the local hearing be held in accordance with the informal article of the Administrative Procedure Act (APA) (Gov. Code, § 11445.10 et seq.). (B62–69, 339–348.) The briefing also addressed whether Panel member Martins Aiyetiwa should be recused from the Panel because he previously served as a Senior Civil Engineer with Los Angeles County and was involved in a 2017 enforcement order against Chiquita. (B69–72.)

46. The parties convened with the Panel to discuss procedural issues on August 27, 2025. (B1–60.) The Panel was composed of three individuals: Richard Ludt, the chairperson; Maurice Pantoja, the vice chairperson, and Mr. Aiyetiwa. (B2.) The Panel decided that cross-examination would not aid its decision and requested the local hearing include a full day of testimony and questioning. (B37–40.) Mr. Aiyetiwa did not recuse himself, stating his employment with the county had ended three years earlier and the prior order was completely different than the present case. (B35.)

³ Throughout this proceeding, the LEA and Chiquita repeatedly stipulated to continuances beyond the Act’s statutory deadlines.

xi. Modification to MCAT Agency Orders

47. EPA modified the UAO's coverage requirement on July 24, 2025. (B1178–1182.) Similar to DTSC and the LEA, EPA required Chiquita to install a geomembrane cover on all areas of the Site that were not already covered by geomembrane and to which the reaction area had the potential to expand. (B1178–1179.) EPA specified that the additional cover must be installed over “at least 100 acres outside the existing geomembrane cover.” (B1179.) It also made clear that the installation could not be conditioned on the findings of Chiquita's Reaction Committee, as the committee's conservative approach and findings were at odds with regulatory agencies. (B1179.)

48. EPA's July 2025 amendment was based on extensive analysis of temperature monitoring data that determined the reaction had migrated beyond the existing geomembrane cover. (B1179–1180.) EPA concurred “with the state and local regulatory agencies that covering the remaining uncovered portion of the Landfill with geomembrane cover is a necessary and appropriate measure to control the Landfill reaction and related odors.” (B1181.) Additionally, EPA noted how extending the geomembrane cover will control oxygen and water infiltration into the waste, which can help prevent the expansion of a smoldering or subsurface reaction. (B1181.)

xii. The LEA's November 2025 Letter

49. CalRecycle reviewed Chiquita's geomembrane cover schedule for the LEA and provided a letter of its conclusions on October 3, 2025. (B868–869.) The letter warned that since Chiquita had “chosen not to install any barriers in the main fill, the Subsurface Elevated Temperature (SET) Event has the potential to expand to the entire waste area.” (B868.) It further documented how the SET event had continued to impact the local community, with the Air District receiving over 4,600 complaints about the Site and issuing 80 NOVs to Chiquita since January 2025. (B868.) CalRecycle expressed that Chiquita's “current strategy of using an unproven heat exchange and pressure control methodology” was not adequately controlling emissions and odors. (B868.)

50. CalRecycle recommended that the entire Main Canyon disposal area be covered with geomembrane cover. (B869.) CalRecycle identified the fact that Chiquita was using a single drill rig and a single liner crew as a possible bottleneck and proposed that the company dedicate additional resources to installation. (B869.)

51. On November 20, 2025, the LEA sent Chiquita three letters regarding workplan reviews. (B857–867.) Relevant to this Appeal, the 2025 Letter summarized Chiquita’s proposal to install geomembrane cover in five-acre segments, pause installation during the rainy season, and use “To Be Determined” as its completion date. (B866.) The LEA found this proposal to be unacceptable. (B866.) It wrote:

[S]ince CCL has failed to install a vertical soil barrier and the reaction continues to expand, the LEA’s current directive is for CCL to install the approved geomembrane cover over all areas to which the reaction has expanded or has the potential to expand as stated in Section 4.1 of LEA’s Order. The entire facility where waste is disposed (Main Canyon waste management area) shall be covered by August 31, 2026. (B866.)

52. The 2025 Letter directed Chiquita to provide an estimated completion schedule by December 15, 2025. (B866.) It further required Chiquita to employ the necessary resources to finish cover installation by the August 2026 deadline, including installing geomembrane during winter months to ensure timely completion. (B866.) The LEA reserved the right to issue a new directive or order if conditions indicated that additional corrective actions were needed to protect public health and the environment. (B866.)

53. On December 19, 2025, Chiquita filed a second statement of issues to request a PRC 44307 hearing on the 2025 Letter. (B1371–1379.) Chiquita also filed another stay petition with CalRecycle to pause the 2025 Letter’s required compliance measures until the end of the administrative appeal. (B1371.) CalRecycle denied the second stay petition. (B9898–9901.)

54. The parties continued the scheduled evidentiary hearing so Chiquita's two hearing requests could be consolidated. They agreed to limit the issues addressed at the hearing to Directive 4.1 (Extend the Covered Area), deferring Chiquita's challenges to the other directives. (A7–8.) At present, Chiquita is not disputing the additional 100 acres that EPA has also ordered the company to cover with geomembrane. (A7.) This leaves only the final 66 acres in the southern end and eastern of the Main Canyon as the "disputed acres." (A7.)

D. The Parties' Arguments and Evidence on Directive 4.1

55. The evidentiary hearing on Directive 4.1 took place on April 28, 2026. (B601.) It lasted approximately seven hours, during which the Panel heard testimony from three witnesses for Chiquita and four witnesses for the LEA. (B601–851.) The public was also offered an opportunity to comment. (B719–731, 845–850.) The Panel also received two exhibits (B606, 851): Chiquita's Exhibit 1 (6,465 pages) and the LEA's Exhibit A (6,186 pages). (B856–13506.)

i. Chiquita's Issues and Arguments

56. Three witnesses testified in support of Chiquita's arguments and evidence. Chiquita's first witness was Craig H. Benson, Ph.D., P.E., an emeritus professor and dean of engineering, who has worked on multiple ETLF events in the United States. (B625–671, 812–816.) Chiquita's second witness was Patrick Sullivan, Senior Vice President at SCS. (B672–693.) Chiquita's third witness was Srividhya Viswanathan, P.E., SCS's Senior Vice President and Director of Engineering of the Southwest Region. (B694–711, 806–811.)

57. Chiquita maintains that the Site is experiencing an ETLF event. (B632–635.) Its experts contend the Site has not experienced smoldering because there is no evidence there has been a combustion event or fire event. (B640.)

58. From Chiquita's perspective, it has applied "best management practices" in mitigating the ETLF event by aggressively removing gases and liquids. (B635–637.) Dr. Benson cited a Chicago landfill where these practices restored the site to normal

conditions after 10 to 15 years as an example of their efficacy. (B637.) Chiquita argues that these strategies have already improved the conditions at the Site. (B679.) Specifically, Dr. Benson disputes that the Site is still emitting strong odors and testified he smelled no odors in the nearby community during his visit the day before the hearing. (B638–639.)

59. Chiquita's experts believe that the reaction has reached a state of equilibrium but could not rule out the possibility of the reaction expanding. (B640, 664.) Citing data from temperature monitoring probes, Chiquita reasoned that temperatures increased in one region, cooled in another, and were overall stable. (B644.) Its experts attributed a spike in temperature data to be a consequence of taking extraction systems offline to install the existing geomembrane cover. (B644, 700.)

60. Chiquita contends that additional cover over the disputed acres will be harmful. (B679.) Because of the way Chiquita designed the gas collection and control system (B699), they have to take many wells offline at once to install more cover. (B679.) Shutting down the extraction system interferes with Chiquita's effort to remove heat through extraction. (B644–645.) Chiquita's experts detailed the "massive undertaking" it would take to move the new Tank Farm 13 (B647, 656–658, 698, 704), the leachate treatment facility Chiquita recently constructed on top of the waste in Cell 8a. They later agreed Tank Farm 13 would not need to be moved if Chiquita welded the new and existing geomembrane. (B671, 711.) Chiquita was also in the process of installing thermal oxidizers in the disputed acres that would need to be relocated before cover installation. (698, 703.)

61. While Chiquita's experts agree that the geomembrane cover is effective at controlling odors (B649), they maintain it does not mitigate the heat below. (B648.) They believe the disputed acres have adequate soil cover and are not generating sufficient gases and emissions to necessitate the geomembrane cover. (B647, 654–655, 674.) The soil cover in the disputed area does crack and settle, but at a more typical rate. (B688.) Sometimes Chiquita is able to repair damage before a regulatory

inspection, and other times the inspections find damage Chiquita had not noticed. (B690.) If the reaction expands, Chiquita thinks that the 100 acres of geomembrane cover ordered by EPA will provide a sufficient buffer zone. (B649.)

62. Chiquita also argued it was impossible to comply with the LEA's deadline to install the additional cover based on its previous installation rate in the reaction area. (B1479–1482.) It took Chiquita a year to install 46 acres of cover, then another six months to install an additional 22 acres of cover. (B1480.) Based on these prior coverage rates, Chiquita argues that it was impossible to cover 166 acres by August 31, 2026. (B1480–1481.)

63. Additionally, Chiquita argued in briefing that EPA's UAO preempts Directive 4.1. (B1483–1484.) The month before Chiquita filed its opening brief, EPA had sent Chiquita a letter disagreeing with that argument. (B10717–10721.) In the January 2026 letter, EPA stated, "the directives in the [2025 Order and 2025 Letter] do not conflict with the EPA's directives in the Additional Work Letter or the UAO." (B10718.) The 100-acre requirement was a minimum, not a maximum. (B10718.) EPA expressed that covering the entire Main Canyon would simultaneously satisfy both the LEA's and EPA's requirements "because the entire Landfill represents the maximum areal extent to which the reaction has the potential to expand." (B10719.)

ii. The LEA's Issues and Arguments

64. Four witnesses testified in support of the LEA's arguments and evidence. The LEA's first witness was Dr. Stark, a civil and environmental engineering professor who has worked on landfills for 35 years and on elevated temperature events for 20 to 25 years. (B712–719, 739–766.) The LEA's second witness was Mr. Thalhamer, a Senior Waste Management Engineer at CalRecycle. (B766–791.) The LEA's third witness was Karen Gork, the Chief Environmental Health Specialist at the LEA. (B792–794.) The LEA's fourth witness was Wessel Mindermann, P.E., a Supervising Waste Management Engineer at CalRecycle. (B795–805.)

65. The LEA offered evidence that the Site has been in violation of state minimum standards for over two years and its existing intermediate soil cover is inadequate and deteriorated. (B750–754, 797–799.) Its experts testified about how the soil cover suffers from compaction issues because of the difficulty of compacting a slope, which allows for oxygen intrusion. (B754.) The soil cover has also experienced significant settlement and slope movement, creating cracks from which odors can get out. (B752–753.) Additionally, the intermediate soil cover has eroded because of rainfall, which reduces the cover’s thickness and allows gases to escape. (B753–754.) The LEA also cites the high daily leachate extraction volume as evidence of the intermediate cover’s deteriorated condition. (B11908.)

66. According to the LEA’s experts, the SET event continued to expand in 2025. (B743–750, 772–776.) Dr. Stark explained how the Site’s temperature monitoring probes experienced an increase in temperature before Chiquita installed the geomembrane. (B715.) This led him to conclude that the geomembrane installation could not be responsible for the increase in temperature in those areas, as Chiquita alleged. (B715–716.) The number of wells experiencing high temperatures also rose during 2025, with 98 wells over 170 degrees and four over 200 degrees by October 2025. (B743–745.) Mr. Thalhamer explained how the Site’s gas composition has changed and carbon monoxide levels increased, a sign of incomplete combustion. (B770.) The LEA estimated the reaction was still growing in October 2025 (B717) and continued to grow in the months after the LEA issued the 2025 Letter. (B718.) Dr. Stark projected the SET event was expanding two to five acres per month, 36 acres per year. (B718.) The lack of a barrier means that the SET event could consume all the connected waste at the Site, as has happened at other facilities. (B776–777.) As of the hearing date, Chiquita’s experts still had not provided the LEA with published studies that support using gas and leachate removal as a standalone containment strategy for a SET event. (B802.)

67. The LEA also reasoned that the continued odors experienced by the community are evidence that the Site’s conditions remain severe and require mitigation. (B771.) Odor complaints continued throughout 2025, with higher

complaints in November 2025 than November 2024. (B751–752.) The Air District has continued to verify the complaints and issue Chiquita NOVs. (B752.) In the experts' experience at other SET events, odors and complaints dropped dramatically when the facility was completely covered with geomembrane. (B781.) This led them to conclude that a full geomembrane cover was necessary and appropriate to prevent emissions and odors as the intermediate cover continues to crack. (B753.)

68. The LEA's experts further testified that the August 31, 2026, installation deadline was feasible. Dr. Stark explained that industry's typical installation rate for geomembrane is two to three acres per day per crew. (B756.) He also provided a lower estimate of 0.55 acres per day, including the time needed for preparation, performed by another landfill experiencing a SET event. (B762.) The disputed acres would be faster and easier to cover because the reaction had not spread throughout that area yet and there were fewer existing gas wells to accommodate. (B713–714, 756.) Dr. Stark said that if Chiquita hired more crews and matched the installation rates of other landfills experiencing SET events, the company would have been able to finish installation by August 31, 2026. (B756, 758, 762.)

69. Mr. Thalhamer disagreed with Chiquita's argument that it would need to shut down the Site's gas and leachate infrastructure for a prolonged installation period. (B779, 784–785.) Instead, Chiquita could recreate these systems with new infrastructure and construct temporary bypass lines, then switch over and demobilize systems in the disputed acres during installation. (B779, 784–785.) The LEA's experts attributed the deadline challenges to Chiquita's decision to challenge the Directive rather than comply and begin the installation process in May 2025. (B760, 778, 781, 793.) They still thought it was possible to finish installation between April 28, 2026, and August 31, 2026, if Chiquita hired more crews. (B759–760, 778.)

70. Finally, the LEA's experts provided additional context for the discussion about Tank Farm 13. Chiquita had to move the original tank farm after the ground under it began to settle. (B767.) The company chose to construct Tank Farm 13, a hazardous waste treatment facility, on top of the waste in Cell 8a using an emergency

exemption from permitting requirements. (B767, 780, 788–790.) The LEA's experts explained that Chiquita had been told not to construct Tank Farm 13 on top of the waste because the ground below it can sink or the reaction could spread to that area. (B763–764, 790.) Still, they agreed that Tank Farm 13's existing location does not prevent cover installation because Chiquita can weld the new geomembrane to the existing geomembrane installed under Tank Farm 13. (B764.)

iii. Public Comment at the Panel Hearing

71. Several community members provided public comments on the impact of the SET event, urging the Panel to uphold Directive 4.1. (B720–731, 846–849.) They detailed how the Site's odors and emissions continued to cause them daily suffering. (B721.) Commenters spoke about being unable to open their doors and windows or spend time outdoors with their children. (B721, 731.) They described how “horrific odors” had ruined recent holidays. (B724–725.) Additionally, they told the Panel about adverse health conditions temporally associated with the SET event. (B721, 730.)

72. The community members described Chiquita's current Site mitigation as “the bare minimum” (B726) and “cutting corners” (B729). They disputed Chiquita's representation that it cares about public health and safety. (B729.) Commenters also disagreed with Dr. Benson's claim that there were no odors in the community the day before the hearing, detailing the multiple NOV's issued by the Air District in the prior month, including one the day before. (B720.) They urged the Panel to be proactive and cover the Site before the reaction spreads. (B731.)

iv. The Panel's Vote and Written Decision

73. After receiving presentations and exhibits, listening to testimony, and considering legal arguments, each Panelist discussed his opinions before the Panel's vote. (B840–844.) Mr. Aiyetiwa went first. (B840–842.) He did not believe that the LEA was required to wait for the reaction to spread before acting because regulations authorized preventative measures. (B841.) After reviewing the data, Mr. Aiyetiwa felt

there was evidence that the reaction could spread and that the cover could mitigate the impacts by preventing emissions and odors. (B842.)

74. Vice Chair Pantoja spoke second. (B842–843.) He believed the LEA had an obligation to prevent harm to public health and the environment. (B842.) Although he understood that it took time to address and correct a SET event, he thought that waiting to cover the whole landfill would be an injustice. (B842.) Vice Chair Pantoja also expressed that the testimony had provided solutions to some of the problems Chiquita had cited as reasons not to install the additional cover. (B843.)

75. Chairperson Ludt spoke last. (B843–844.) He felt Chiquita’s statement that public safety was its first priority conflicted with its statement that the company had to be ordered to expand its testing systems. (B843.) Chairperson Ludt described Chiquita’s objections to installing the cover as “scare tactics,” as its own experts had testified that additional cover could be installed without moving Tank Farm 13. (B843–844.) He also thought that it would cause less damage to install the additional cover before the reaction spread than waiting until it did. (B844.)

76. All three panel members voted to uphold Directive 4.1. (B844–845.) The Panel issued a written order to that effect on May 1, 2026. (A21–26.)

IV. LEGAL CONCLUSIONS

A. The California Integrated Waste Management Act

1. In 1989, California enacted Division 30 of the PRC, known as the Act. (PRC, § 40000 et seq.) The Legislature found that there was an urgent need for state and local agencies to implement “an aggressive new integrated waste management program” because of the threats that landfills can pose to groundwater, air quality, and public health. (PRC, § 40000, subds. (b), (d).) The Act ensures that state and local governments share the responsibility for solid waste management. (PRC, § 40001, subd. (a).)

2. The Act required the CIWMB to adopt regulations, including state minimum standards for solid waste handling and disposal. (PRC, §§ 40502, 43020.) The purpose of state minimum standards is to promote the health, safety, and welfare of the people of the State of California, and to protect the environment. (CCR, tit. 27, §§ 20005, subd. (b), 20050, subd. (a).) They require every disposal site to be operated and maintained so as to not create a public nuisance. (CCR, tit. 27, § 20760.)

3. State minimum standards include the Gas Monitoring and Control regulation, which protects public health, safety, and the environment by limiting the concentration of gases generated by the landfill. (CCR, tit. 27, § 20921.) Operators must also “implement a preventative maintenance program to monitor and promptly repair or correct deteriorated or defective conditions with respect to requirements of the CIWMB standards, and conditions established by the [local agency].” (CCR, tit. 27, § 20750.) The Site Maintenance regulation seeks to prevent future harm, requiring that “[a]ll other aspects of the disposal site shall be kept in a state of reasonable repair.” (*Ibid.*)

4. The Act also requires local agencies to fulfill certain duties. (PRC, § 43200.5, subd. (a).) One of those duties is enforcing the Act and its regulations, which include the state minimum standards. (PRC, § 43209.) If a local agency determines a violation has taken place, it can issue orders to correct the violation and impose civil penalties for noncompliance. (PRC, § 45000 et seq.)

5. The Act established an inventory of solid waste facilities that are in violation of state minimum standards. (PRC, § 44104, subd. (a).) A facility gets 90 days advance notice to correct a violation before it is listed in the inventory. (*Id.* at subd. (b).) Once a facility is listed on the inventory, the local agency must develop a compliance schedule to ensure that the facility makes diligent progress to come into compliance with state minimum standards. (PRC, § 44106, subd. (a); CCR, tit. 14, § 18304.3, subd. (b).) The facility remains on the inventory until it is no longer in violation of the state minimum standards upon which the inclusion was based. (CCR, tit. 14, § 18366.)

6. The local agency must issue a compliance schedule within 15 days of the facility's inclusion on the inventory. (CCR, tit. 14, § 18365, subd. (a).) The final compliance date must be within one year of the date of the inclusion letter. (*Id.* at subd. (b).) The compliance schedule may exceed one year but not two years unless CalRecycle's director has granted a one-year extension. (*Ibid.*) Once a facility is on the inventory, the local agency may issue enforcement orders as it deems appropriate under the Act. (CCR, tit. 14, § 18368, subd. (a).)

7. The Act authorizes a local agency to issue a compliance order for violations of the Act and its regulations or situations where a facility poses a potential or actual threat to public health, safety, or the environment. (PRC, § 45011; CCR, tit. 14, § 18304.1, subd. (a)(3).) A compliance order establishes a schedule according to which the facility must be brought into compliance with the Act. (PRC, § 45011.) If a facility fails to achieve compliance by the schedule's deadline, the Act authorizes local agencies to impose a civil penalty of up to \$5,000 per day on which a violation occurs. (*Ibid.*)

8. The person subject to an enforcement order may request a hearing to contest it. (PRC, § 44307.) PRC section 44310 provides the procedures that apply at a hearing before a local agency's independent hearing panel or hearing officer. To request a hearing, the recipient must file a statement of the issues within 15 days of receiving notice of the enforcement order. (PRC, § 44310, subd. (a)(1)(A).) If a person does not file a statement of issues within 15 days, the local agency may take the proposed action without a hearing. (PRC, § 44310, subd. (a)(3).) The local agency must provide notice of the date, time, and place of the hearing within 15 days of receiving the hearing request. (PRC, § 44310, subd. (a)(2).) The local agency's written response to the statement of issues is due no less than 15 days before the hearing. (PRC, § 44310, subd. (a)(4).)

9. In 2004, the Legislature amended section 44310 to expedite procedures at the local level, swapping out the reference to the APA's formal procedures under

Chapter 5 with the informal procedures in Article 10. (PRC, § 44310, subd. (b).)⁴ The amendment provided that the “hearing shall be held no later than 30 days after receiving the [hearing] request,” setting a quick turnaround between the hearing request and the hearing. (*Ibid.*)

10. CalRecycle may consider an appeal of a hearing panel’s written decision. (PRC, §§ 45030–45032; *Sustainability, Parks, Recycling & Wildlife Defense Fund v. Department of Resources Recycling & Recovery* (2019) 34 Cal.App.5th 676, 698, as mod. (Apr. 22, 2019) [“The Board has discretion to entertain an appeal from a LEA decision, but it need not do so.”].) In an appeal, CalRecycle considers the record below, relevant facts not subject to Panel review, written and oral arguments from the parties, and other relevant evidence that, in CalRecycle’s judgment, effectuates the Act and its policies. (PRC, § 45032, subd. (a).)

11. An enforcement order is effective immediately upon service. (PRC, § 45017, subd. (a)(1).) Since 2008, an enforcement order remains in effect during the administrative hearing process unless CalRecycle issues a stay. (PRC, § 45017, subd. (a).)⁵ Similarly, a hearing panel’s decision is effective immediately upon service. (PRC, § 44310, subd. (c).)

⁴ Compare Stats. 1995, ch. 952, § 32 (“The hearing shall be held on the merits of the issues presented, in accordance with the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code.”) with Stats. 2004, ch. 448, § 8 (“The hearing shall be held no later than 30 days after receiving the request for a hearing on the merits of the issues presented, in accordance with the procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.”). See also Sen. Com. on Environmental Quality, Analysis of Assem. Bill No. 2159 (2003–2004 Reg. Sess.) as amended June 21, 2004 (explaining that the bill sought to protect the public by streamlining the administrative hearing process so facility operators could not delay correction of violations through legal challenges to enforcement actions).

⁵ Compare Stats. 2004, ch. 448, § 11 (“a request for a hearing shall stay the effect of that provision of the order pending completion of all appeals”) with Stats. 2008, ch. 500, § 27 (“all orders and determinations ... shall take effect immediately upon service”).

B. The Standard of Review on Appeal

12. In an appeal, CalRecycle “may only overturn an enforcement action ... by a local enforcement agency if it finds, based on substantial evidence, that the action was inconsistent with [the Act].” (PRC, § 45032, subd. (b).) “Substantial evidence is defined as evidence that is reasonable, credible, and of solid value.” (*Nissan Motor Acceptance Cases* (2021) 63 Cal.App.5th 793, 811.)

C. Analysis

13. Chiquita first disputes that the LEA provided evidence or data to support Directive 4.1. The record shows that the 2024 Order contained 87 paragraphs of factual findings related to Chiquita’s Site Maintenance violation and cited its reliance on dozens of reports, letters, and memoranda reviewing Site data. The 2025 Order incorporated the 2024 Order by reference and added an additional 11 factual findings about the violation, citing a dozen more letters and analyses of Site data. The 2025 Letter cited the October 2025 comments from CalRecycle, which explained that the existing cover and strategies were not controlling emissions and recommended additional geomembrane cover to address the Site’s odor problem. Thus, the LEA provided evidence and data in support of Directive 4.1.

14. At the hearing, both parties presented expert testimony and evidence about Site conditions and the SET event. The experts used different methodologies to interpret the vast amount of data and arrived at different conclusions. Chiquita’s experts focused on improvements at the Site since 2023 and interpreted the data to show the reaction was currently at a stable equilibrium. The LEA centered its argument on the continuing impacts to the community and interpreted the data to show the reaction was continuing to expand. Ultimately, the Panel found the LEA’s evidence and arguments more persuasive and upheld Directive 4.1.

15. Triers of fact are entitled to weigh conflicting expert opinions, and here the Panel credited the LEA’s experts over Chiquita’s. The record establishes that the LEA’s experts offered valid and reliable opinions, grounded in decades of relevant

experience and professional training, and supported by their testimony about the Site's data. The Panel questioned experts on both sides after receiving thousands of pages of data, reports, and declarations. After hearing all the evidence, the Panel agreed with the LEA's interpretation of the data, concluding that the existing soil cover was inadequate, and the SET event could expand further. They thought the likelihood of expansion was high enough to warrant action and concluded the geomembrane cover was an effective way to mitigate odors, providing the community with some relief.

16. There is substantial evidence in the record that Chiquita was in violation of the Act when the LEA issued Directive 4.1. The intermediate cover's defective condition was shown by the persistent odor complaints, which an independent regulatory agency verified. This demonstrates that the existing intermediate cover failed to adequately contain emissions. Additionally, the high volume of leachate being extracted indicates the existing intermediate cover is not in reasonable repair. These findings are consistent with the fact that the Site has been included on the inventory for a Site Maintenance violation since May 2024. Accordingly, there is substantial evidence that Chiquita was in violation of the Site Maintenance regulation at the time the LEA took the enforcement action. Thus, the LEA had authority to issue Chiquita a compliance order under PRC section 45011.

17. Similarly, there is substantial evidence that Directive 4.1 is consistent with the Act. Covering the remainder of the Main Canyon with geomembrane is a valid strategy to help bring the Site back into a state of reasonable repair by reducing odors and emissions, preventing oxygen intrusion, and limiting liquid infiltration that could generate more leachate. Installing additional geomembrane cover is consistent with regulations that require facilities to perform preventative maintenance, protect the environment, and promote the health, safety, and welfare of Californians. (CCR, tit. 27, §§ 20005, subd. (b), 20050, subd. (a), 20750.)

18. The record does not show that Chiquita met its burden in establishing the affirmative defense of impossibility. Directive 4.1 has remained in effect since

CalRecycle denied Chiquita's stay petitions. The LEA explained that the disputed acres have fewer gas wells, which makes cover installation faster, easier, and more in line with industry standards. Chiquita offered no evidence that it could not hire additional crews to install the cover at a faster rate to meet the deadline, or that it was infeasible to install bypass pipes and valves to shut down smaller areas of the extraction systems. Moreover, self-created conditions that make installation more challenging do not make a corrective measure impossible. Chiquita's experts acknowledged, in response to Panelist questions, that Tank Farm 13 would not need to be moved before installing additional cover. The record does not support the argument that installation of the additional geomembrane by August 31, 2026, was objectively impossible.

19. Chiquita's argument that Directive 4.1 is preempted by a conflict with EPA's ordered mitigation is without merit for the reasons EPA provided in its January 2026 letter. Chiquita's assertion that Directive 4.1 violates procedural due process requirements is not persuasive. The LEA provided Chiquita with notice of the geomembrane cover requirement through multiple letters and orders, similar to those issued by the other regulatory agencies that required a significant expansion in the Site's geomembrane cover. By setting the deadline in August 2026, the LEA offered Chiquita more than 15 months from Directive 4.1 and over nine months from the 2025 Letter to complete the installation. Chiquita had sufficient and reasonable notice of what conduct was expected, a meaningful opportunity to comply, and a reasonable opportunity to be heard at the administrative hearing. (See *Lent v. California Coastal Com.* (2021) 62 Cal.App.5th 812, 840, as mod. (Apr. 16, 2021).)

20. Finally, Chiquita objects to mentioning the Site's lack of a break or barrier because it deferred its appeal on Directive 4.3 and a different letter issued on November 20, 2025, beyond the 30 days authorized by PRC section 44310, subdivision (b). Nevertheless, the barrier requirement was explicitly referenced in the 2025 Letter's reasoning and cannot be omitted without excising the context for the modification. Whether a break or barrier exists to prevent the reaction from expanding is inextricable from Directive 4.1's requirement to install additional cover over all areas

where the reaction could expand. Accordingly, mentioning the Site's lack of a break or barrier was not improper because that reasoning formed a basis for requiring additional cover in the enforcement order at issue in this Appeal.

D. Conclusion

21. Based on the above facts and analysis, CalRecycle finds there is substantial evidence that Directive 4.1 is consistent with the Act. (PRC, § 45032, subd. (b).) Thus, CalRecycle must affirm the enforcement action and deny Chiquita's request to overturn it.

22. The above findings constitute the factual and legal basis for CalRecycle's decision. CalRecycle declines to address issues that are not material and necessary to the resolution of this Appeal. (*Sweeney v. California Regional Water Quality Control Bd.* (2021) 61 Cal.App.5th 1093, 1147, as mod. (Mar. 18, 2021) ["There is no requirement that the agency provide a written response to every issue raised by the parties."].) All issues not properly presented to the Panel have been forfeited. (*Sustainability, Parks, Recycling & Wildlife Defense Fund v. Dept. of Resources Recycling & Recovery* (2019) 34 Cal.App.5th 676, 695–696, as mod. (Apr. 22, 2019).)

//

//

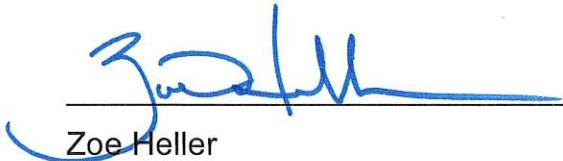
V. DECISION AND ORDER

CalRecycle AFFIRMS the decision of the Panel that Directive 4.1 is consistent with the Act and its regulations. Directive 4.1 is upheld in full.

Chiquita's appeal is DENIED.

IT IS SO ORDERED.

DATE: 8/28/2026



Zoe Heller

Director

Department of Resources Recycling
and Recovery (CalRecycle)



PROOF OF SERVICE

I, Jessica Wall, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to this action.

My business address is 1001 I Street, Sacramento, CA 95814.

On August 28, 2026, I served the following documents in this action:

Decision and Order, In the Matter of the Appeal by the Chiquita Canyon, LLC, Appellant,
v. Los Angeles County Department of Public Health, Solid Waste Management Program,
acting as the Local Enforcement Agency, Respondent;

to the address(es) set out below each name:

Renee E. Jensen, Esq.
Behar | Gibbs | Savage | Paulson LLP
One World Trade Center, 27th Floor
Long Beach, California 90831-2700
rjensen@bgsplaw.com

Blaine McPhillips, Esq.
Office of the County Counsel
Kenneth Hahn Hall of Administration
500 West Temple Street, #648
Los Angeles, CA 90012
BMcphillips@counsel.lacounty.gov

Megan L. Morgan, Esq.
Kaitlyn D. Shannon, Esq.
Louis J. Manzo, Esq.
James B. Slaughter, Esq.
Beveridge & Diamond, P.C.
1900 N Street, NW, Suite 100
Washington, DC 20036
MMorgan@bdlaw.com
KShannon@bdlaw.com
LManzo@bdlaw.com
JSlaughter@bdlaw.com

Jacob P. Duginski, Esq.
Beveridge & Diamond, P.C.
333 Bush Street, Suite 1500
San Francisco, CA 94104
JDuginski@bdlaw.com

By:

_____ **First Class Mail**, in a sealed envelope, with postage thereon fully prepaid, in the United States mail.

_____ **Certified Mail**, in a sealed envelope, return receipt requested with Postage thereon fully prepaid, in the United States mail.

 X **Electronically**, sent to the email addresses listed above.

_____ **Personal Service**, served personally to the addresses listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 28, 2026

Jessica Wall
(Name)

Jessica Wall
(Signature)