

SOUTH COAST AIR QUALITY  
CLERK OF THE BOARDS

2025 DEC -3 AM 9:03

BEFORE THE HEARING BOARD OF THE

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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**In The Matter Of**  
  
SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT,  
  
Petitioner,  
  
vs.  
  
CHIQUITA CANYON, LLC a Delaware  
Corporation,  
[Facility ID No. 119219]  
  
Respondent.

Case No. 6177-4  
  
**CHIQUITA CANYON, LLC'S MOTION  
FOR HEARING BOARD SITE VISIT TO  
THE CHIQUITA CANYON LANDFILL**  
  
Health and Safety Code § 41700, and District  
Rules 402, 431.1, 3002, 203, 1150  
  
Hearing Date: December 9 and 11, 2025  
Time: 9:30 A.M.  
Place: Hearing Board  
South Coast Air Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Pursuant to South Coast Air Quality Management District ("South Coast AQMD")  
Hearing Board Rule 6, Respondent Chiquita Canyon, LLC ("Chiquita"), hereby submits this  
motion for a site visit to the Chiquita Canyon Landfill (the "Landfill"), along with the nearby  
communities, consistent with the Hearing Board's discussion at the June 24, 2025 hearing in this  
matter.

**I. A LANDFILL SITE VISIT IS APPROPRIATE AND RELEVANT TO THESE  
PROCEEDINGS.**

A site visit to the Landfill and the surrounding community is critical for the Hearing Board  
to fully understand the ongoing elevated temperature landfill event ("ETLF event" or "reaction"),  
the scale and scope of the mitigation measures implemented at the Landfill, and the alleged offsite  
odor impacts—all of which are the subject of these ongoing hearings. The Hearing Board initially  
issued the underlying Stipulated Order for Abatement ("Stipulated Order") on September 6, 2023,  
with the goal of addressing alleged odors associated with the ETLF event. Since the issuance of  
the Stipulated Order, the parties have since appeared before the Hearing Board eight times for  
proceedings regarding Chiquita's implementation of the Stipulated Order and progress toward

1 mitigating the reaction and alleged impacts. The parties have submitted dozens of declarations,  
2 tens of thousands of pages of exhibits, and presented live witness testimony related to, among  
3 other topics, landfill operations, Chiquita's implementation of cutting-edge mitigation  
4 technologies and equipment, and alleged odor impacts in the community. The Hearing Board  
5 members, however, have not yet had the opportunity to visit the Landfill and neighboring  
6 communities for themselves, evaluate the situation with their own eyes, and experience the  
7 progress made by Chiquita's diligent mitigation efforts in real time.

8 Members of the Hearing Board have previously acknowledged the need for and benefits of  
9 a site visit. Most recently, at the proceedings in June 2025, Hearing Board member Mr.

10 Balagopalan stated that a site visit would "be very useful." (June 4, 2025, Hr. Tr. at 226:13-19.)

11 Chairman Ali acknowledged this request, mentioning potentially scheduling a site visit where all

12 the members of the Hearing Board go on site at the Landfill. (June 24, 2025, Hr. Tr. at 213:25-

13 214:6.) To accommodate the Hearing Board's desire to visit the Landfill, Chiquita submits this

14 motion for a site visit. Attached hereto as **Exhibit A** is a proposed site visit protocol for the

15 Hearing Board's consideration. In July 2025, Chiquita hosted a judicial site visit for similar

16 purposes for a separate judicial proceeding. As part of that site visit, Chiquita prepared a protocol

17 outlining essential logistical information, including, without limitation, administrative procedures

18 and safety information. The protocol attached hereto is intentionally similar to the protocol used

19 for the judicial site visit. Chiquita welcomes additional input from the Hearing Board regarding

20 desired locations and subject matter for the site visit.

## 21 **II. THE SITE VISIT WILL COMPLY WITH THE BROWN ACT.**

22 Respondent's proposal is specifically designed to allow the site visit to comply with the  
23 Brown Act.

24 **A. Respondent proposes less than a majority of the Hearing Board attend**  
25 **multiple site visits to avoid logistical challenges associated with a Brown Act**  
26 **"meeting".**

27 As a result of Chiquita's efforts to mitigate the reaction, there is ongoing and active  
28 construction at the Landfill with limited space to host visitors. To ensure the safety of all visitors,

1 it is imperative to stagger any site visit(s) with less than a majority of the Hearing Board.  
2 Staggering site visits will also ensure that the Landfill can accommodate the Parties, their counsel,  
3 and essential Landfill personnel who will accompany the Hearing Board and the Parties  
4 throughout the site visit. The Brown Act requires meetings of the Hearing Board to be “open and  
5 public” and requires that “all persons [] be entitled to attend any meeting of the legislative body of  
6 a local agency . . .” (Cal. Gov. Code, § 54953(a).) Under the Brown Act, a meeting of the Hearing  
7 Board is defined as “any congregation of a *majority* of the members of a legislative body at the  
8 same time and location, including teleconference. . .” (Cal. Gov. Code, § 54952.2(a) [emphasis  
9 added]. If there is “less than a quorum” then it is “not [a] legislative bod[y]” for purposes of a  
10 meeting. (Cal. Gov. Code, § 54952(b).) If less than a majority of the Hearing Board attends a site  
11 visit, then that event would not constitute a meeting and thus avoiding the safety and logistical  
12 concerns with holding a Brown Act meeting at the Landfill.

13 For these reasons, and given Landfill space constraints and ongoing reaction mitigation  
14 activities, Chiquita proposes that the Hearing Board conduct the site visit in a series of smaller  
15 visits. For each visit, members of the Hearing Board can tour the Landfill individually or in pairs,  
16 depending on their availability, until all members who wish to attend have had an opportunity to  
17 visit the Landfill. Alternatively, Chiquita proposes that the Hearing Board conduct a singular site  
18 visit composed of the 1-2 members of the Hearing Board most interested in visiting the Landfill in  
19 person.

20 **B. Following the site visit, the attending Hearing Board members would report**  
21 **their findings to the rest of the Hearing Board and the public.**

22 The members of the Hearing Board who attended the site visit would subsequently report  
23 back to the public and any non-attending Hearing Board members during the next hearing with  
24 any written memoranda or notes from their site visit, to be included in the public record, and  
25 briefly described in the hearing agenda.

26 The Hearing Board can use information collected outside of a meeting – i.e., at the site  
27 visit – during a hearing if such information and/or writings are made available for public  
28 inspection as part of the public record. (Cal. Gov. Code, §§ 54957.5(b)(1), 54954.2(a)(1).) Notes

1 from the site visit can and must be distributed to a majority of the Hearing Board at least 72 hours  
2 before the next hearing and must be made available for public inspection. (Cal. Gov. Code, §  
3 54957.5(b).) Additionally, Chiquita proposes recording and photographing the site visit and  
4 ensuring all photos and a transcript of the recording are submitted as exhibits in advance of the  
5 next hearing. These submissions could then be discussed by the Hearing Board, and the site visit  
6 could be considered as part of the evidence in these hearings. (South Coast AQMD Hr. Board R.  
7 9(b)(3); South Coast AQMD Rule 511 [both stating that “[a]ny relevant evidence shall be  
8 admitted if it is the sort of evidence on which responsible persons are accustomed to rely on...”].)

9 In summary, Chiquita’s site visit proposal ensures that: (1) the site visit will comply with  
10 the Brown Act; and (2) the Hearing Board members who visit the Landfill will have an  
11 opportunity to report substantive information obtained during the site visit to both the public and  
12 the other members of the Hearing Board, and the public (and any non-attending members) will  
13 have an opportunity to hear about the site visit and provide public comment or ask questions at the  
14 subsequent hearing so that all information and writings from the site visit can be considered by the  
15 Hearing Board during subsequent hearings.

### 16 **III. CONCLUSION**

17 Chiquita respectfully requests the Hearing Board grant this motion. Chiquita believes that a  
18 site visit will provide the Hearing Board with the opportunity to ascertain information about the  
19 Landfill that would otherwise be unattainable. Such information would be invaluable to both  
20 parties and the public. Chiquita welcomes any input from the Hearing Board and South Coast  
21 AQMD on logistics and procedures for the site visit. Chiquita will coordinate with the Hearing  
22 Board and South Coast AQMD regarding next steps for scheduling the site visit.  
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1 Dated: December 2, 2025

BEVERIDGE & DIAMOND, P.C.

2  
3 By:  \_\_\_\_\_

4 Jacob P. Duginski  
5 Megan L. Morgan  
6 Leigh S. Barton

7 *Attorneys for Chiquita Canyon, LLC*

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# EXHIBIT A

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**BEFORE THE HEARING BOARD OF THE  
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

**In The Matter Of**

SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT,

Petitioner,

vs.

CHIQUITA CANYON, LLC a Delaware  
Corporation,  
[Facility ID No. 119219]

Respondent.

**Case No. 6177-4**

**HEARING BOARD SITE VISIT  
PROTOCOL**

Health and Safety Code § 41700, and District  
Rules 402, 431.1, 3002, 203, 1150

Hearing Date: December 9 and 11, 2025

Time: 9:30 A.M.

Place: Hearing Board  
South Coast Air Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Chiquita Canyon, LLC (“Chiquita”) presents this protocol for a site visit to the Chiquita Canyon Landfill (the “Landfill”) and nearby communities by the South Coast AQMD Hearing Board (“Hearing Board”) at the dates and times to be determined and agreed-upon with the Hearing Board.

**A. Logistics for the site visit.**

1. The site visit will accommodate a maximum of 25 attendees between Chiquita, South Coast Air Quality Management District (“South Coast AQMD”) (together “the Parties”) and the Hearing Board (collectively the “Site Visit Attendees”).

2. Site Visit Attendees must wear closed-toed shoes to the site visit. It is recommended to wear long pants.

3. Site Visit Attendees will enter the Landfill at the main gate off Henry Mayo Drive and park near the scale house near the entrance of the Landfill.

4. All Site Visit Attendees will sign into the Landfill visitor log. The Landfill staff will provide safety vests to all Site Visit Attendees. No other personal protective equipment (“PPE”) will be needed for the areas visited. No bathrooms are available on site.

5. The Landfill is an active construction site. All Site Visit Attendees will attend a

1 safety briefing organized by the Landfill staff. The Site Visit Attendees will be required to listen to  
2 the safety briefing and comply with all safety directions provided by the Landfill staff. All Site  
3 Visit Attendees will further comply with any additional safety requirements conveyed by the  
4 Landfill staff for the duration of the site visit, including any necessary relocation to accommodate  
5 any work being conducted at the Landfill during the visit, and any particular safety requirements at  
6 certain stops during the visit. Failure to comply with safety protocols and other instruction from  
7 Landfill staff will be grounds for removal from the Landfill.

8         6. All Site Visit Attendees will proceed to the designated stops at the Landfill with the  
9 Landfill staff and will be accompanied by Landfill staff at all times during the on-site portion of  
10 the visit. Site Visit Attendees will remain at the designated stops and will not separate from the  
11 group.

12         7. At the conclusion of the on-Landfill portion of the site visit, the Site Visit  
13 Attendees will return all provided PPE equipment to the Landfill staff, will sign out on the  
14 Landfill's visitor log, and will proceed out of the Landfill at the main entrance on Henry Mayo  
15 Drive.

16         8. Following the on-Landfill visit, the Site Visit Attendees will visit agreed-upon  
17 neighboring community locations. When the visit to community locations is complete, the Site  
18 Visit Attendees will return to the Landfill only to return to the parked personal vehicles, and the  
19 Site Visit will conclude.

20         **B. Permissible recording during the site visit.**

21         9. Only Hearing Board members may ask questions during the site visit.

22         10. There shall be a single record of the on-Landfill site visit to ensure all Site Visit  
23 Attendees can revisit the site visit through audio, transcribed, and photographic methods. Upon  
24 completion of the site visit, this record shall be entered as evidence in Case No. 6177-4. In the  
25 event there is more than one visit, the record for each visit shall be entered as evidence:

26             a. The parties shall take a single audio recording of the site visit, including any  
27 questions from the Hearing Board and responses from the Parties. The Parties shall  
28 use a shared audio recording device, which will be subsequently transcribed, and a


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copy of the transcription shall be provided to the Hearing Board and entered as evidence in Case No. 6177-4;

- b. Respondent shall provide a professional photographer to take photographs of the site visit stops to aid the Site Visit Attendees' memories. Courtesy hard copy of the photographs shall be provided to the Hearing Board and entered as evidence in Case No. 6177-4.

Dated: December 2, 2025

BEVERIDGE & DIAMOND, P.C.

By:   
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Jacob P. Duginski  
Megan L. Morgan  
Leigh S. Barton

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**PROOF OF SERVICE**

*South Coast Air Quality Management District v. Chiquita Canyon, LLC*  
**Hearing Board of the South Coast Air Quality Management District, Case No. 6177-4**

At the time of this service, I was over 18 years of age and not a party to this action. I am employed in the District of Columbia. My business address is 1900 N St NW, Suite 100, Washington, DC 20036.

On December 2, 2025, I served true copies of the following document(s) as described:

- **CHIQUITA CANYON, LLC'S MOTION FOR HEARING BOARD SITE VISIT TO THE CHIQUITA CANYON LANDFILL**

on the interested parties in this action as follows:

Kathryn Roberts  
Mary Reichert  
Ryan Mansell  
OFFICE OF THE GENERAL COUNSEL  
SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT  
21865 Copley Drive  
Diamond Bar, California 91765  
Telephone: (909)-396-2000  
Email: kroberts@aqmd.gov  
mreichert@aqmd.gov  
rmansell@aqmd.gov

Attorneys for Petitioner  
SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused the above document(s) to be sent from e-mail address lbarton@bdlaw.com to the persons at the email addresses listed above.

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

Executed on December 2, 2025, at Alexandria, Virginia.

  
\_\_\_\_\_  
Leigh S. Barton