



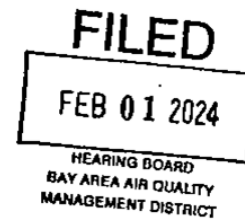
BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

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February 1, 2024



FILED & SERVED BY ELECTRONIC MAIL

Honorable Valerie Armento, Esq., Chair
Members of the Hearing Board
Bay Area Air Quality Management District Hearing Board
375 Beale Street, Suite 600
San Francisco, California 94105

Re: Cover Letter to Proposed Amended Findings and Decision – Berkeley Landfill
Hearing Board Docket No. 3747

Dear Chair Armento and Members of the Hearing Board:

Abatement Order Complainant Air Pollution Control Officer of the Bay Area Air Quality Management District (Air District) submits the enclosed Proposed Amended Findings and Decision for consideration by the Hearing Board at the February 6, 2024 hearing of the Berkeley Landfill Abatement Order case.

These Amended Findings make relatively minor corrections, improvements, and non-substantive changes to the original Proposed Findings and Decision filed by the Air District on January 18, 2024. No changes at all were made to the Proposed Order of Abatement that starts on page 7. Advance notice was given to counsel for Berkeley Landfill. Accordingly, Berkeley not only suffers no prejudice from this filing but benefits, like the Hearing Board, from the corrections and improvements made.

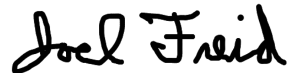
Chair & Members of the Hearing Board

February 1, 2024

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The Air District respectfully requests consideration of the enclosed Proposed Amended Findings and Decision at the February 6 Hearing.

Respectfully submitted,

A handwritten signature in black ink that reads "Joel Freid". The signature is written in a cursive, slightly slanted style.

JOEL FREID

Assistant Counsel II

Cc: Berkeley Landfill Contact Mary Skramstad (By email: MSkramstad@BerkeleyCA.gov)
Berkeley Deputy City Attorney Marc Shapp (By email: MShapp@BerkeleyCA.gov)

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BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA



In the Matter of the
AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Docket No. 3747

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

DISTRICT REGULATION 8-34-301.1

Complainant,

vs.

Hearing Date: February 6, 2024

Time: 9:30 am

BERKELEY LANDFILL

Place: Hearing Board

Respondent.

Bay Area Air Quality Mgt Dist
375 Beale Street
San Francisco, CA 94105

The Request of Complainant the Air Pollution Control Officer (hereinafter, the
“APCO”) of the Bay Area Air Quality Management District (the “Air District”) for an Order of
Abatement was heard on January 23 and February 6, 2024, in accordance with the provisions of
California Health and Safety Code (“HSC”) § 40823 and Air District Hearing Board Rule §
6.2. The following Members of the Hearing Board were present: Chair Valerie Armento, and
Members Amelia Timbers, Danny Cullenward, and Rajiv Dabir, with Members Dr. Fung Lam,
Jeffrey Lee, and Sumeet Batra just observing. Respondent Berkeley Landfill was represented
by Marc Shapp, Deputy City Attorney, City of Berkeley. Complainant APCO of the Air
District was represented by Joel Freid, Assistant Counsel II, Air District. The public was given
the opportunity to testify, evidence was received, and the matter was submitted. Testimony

1 from the hearing on Respondent’s application for a regular variance, Case No. 3741, was
2 incorporated, without objection, into the record.

3 The Hearing Board finds and decides as follows:

4 **FINDINGS OF FACT**

5 1. The Air District is the governmental agency charged with the primary
6 responsibility in the San Francisco Bay Area for controlling air pollution from all sources other
7 than motor vehicles, for enforcing laws relating to air pollution, and for maintaining healthy air
8 quality. The Air District is organized pursuant to the HSC Division 26, Part 3, Chapter 11.

9 2. The Complainant Air Pollution Control Officer (“APCO”) is appointed by the
10 Bay Area Air Quality Management District Board of Directors to enforce all orders, rules and
11 regulations prescribed by the Air District Board. (HSC § 40750 *et seq.*) The APCO is
12 authorized to request that the Hearing Board issue an Order of Abatement in accordance with
13 HSC Section 42451(a).

14 3. Respondent Berkeley Landfill (“Landfill” or “Facility”) is owned by the City of
15 Berkeley (the “City”), operated by SCS Engineers (“SCS”), and subject to the jurisdiction of
16 the Air District. Respondent owns the Landfill located at Cesar Chavez Park, at 11 Spinnaker
17 Way, Berkeley, Alameda County, California.

18 4. Air District Regulation (“Reg.”) 8-34-301.1, California Code of Regulations
19 (“CCR”) Title 17, Section 95464(b)(1)(A), a part of 17 CCR Sections 95460-94476, the State
20 Landfill Methane Rule (“State LMR”), and the Landfill’s Permit Condition (“P/C”) 1826, Part
21 3, each require continuous operation of the Landfill’s landfill Gas Collection and Control
22 System (“GCCS”).

23 5. The Facility is located within the Air District’s jurisdiction and subject to the
24 Air District’s regulations. The Landfill is a closed landfill owned by the City and currently

1 developed as Cesar Chavez Park. The City also owns the land in the Berkeley Marina adjacent
2 to Cesar Chavez Park, including the site of an operating hotel, collects gases including Methane
3 offsite, meaning off of Cesar Chavez Park, and feeds those gases to the City’s flare in the Park
4 for abatement.

5 6. The Landfill has been closed, i.e. not accepting any new solid waste, since 1983.
6 As part of required post-closure operations, the Landfill operates a GCCS, which collects
7 landfill gas from the decomposing material in the Landfill and combusts it in an enclosed flare.
8 The Landfill has contracted with SCS for the operation and maintenance of the Landfill and its
9 GCCS and for compliance monitoring and measures necessary to comply with Air District and
10 CA State Regulations.

11 7. Landfill Gas (“LFG”) is comprised of Methane which is a potent greenhouse
12 gas, Carbon Dioxide (“CO₂”), Carbon Monoxide (“CO”), Non-methane Organic Compounds
13 (“NMOCs”), Toxic Air Contaminants (“TACs”), and other compounds which can be emitted
14 when the Gas Collection System (“GCS”) and flare are not operated continuously and when
15 there are leaks of landfill gas from the landfill surface and/or from GCCS components.

16 8. Methane is a potent greenhouse gas at least 28 times more effective than
17 CO₂ at trapping heat in the atmosphere. Methane has negative effects on human health,
18 acting as an asphyxiant. When inhaled, methane displaces oxygen thus depriving the human
19 body of the oxygen needed to breathe.

20 9. LFG is extracted from the Landfill using a series of vertical landfill gas
21 collection wells, lateral piping, and a vacuum system that comprise the GCS which feeds the
22 collected LFG to a flare where the landfill gas is burned and thereby abated, as required by
23 Regulation 8, Rule 34 (“Reg. 8-34”) and the State LMR. The Landfill is required by its Air
24

1 District permit to operate a GCS consisting of 42 vertical wells, 2 horizontal collectors, and 14
2 trench collectors.

3 10. A landfill subject to Reg. 8-34 is required to continuously operate a Gas
4 Collection System and flare (or other abatement or control system) unless Less Than
5 Continuous Operation (“LTCO”) is approved by the Air District. The state LMR also requires
6 continuous operation of the GCS unless the Air District approves an alternative compliance
7 option. Landfills that are granted approval for LTCO are required to request approval of the
8 LTCO allowance from the Air District every 3 years, and the Air District has the authority to
9 approve, reject, or modify terms of LTCO.

10 11. The Air District has issued 15 Notices of Violation (“NOVs”) to the Landfill
11 since November 22, 2021 for noncontinuous operation of its GCCS, in violation of Reg. 8-34-
12 301.1, the LMR, and the Landfill’s P/C 1826, Part 3, among other violations. Berkeley Landfill
13 is not operating its GCCS continuously, which results in illegal emissions to the atmosphere.

14 12. The Air District issued 14 “NOVs” to the Landfill over the past year, and 21
15 NOVs since 2019, including the 10 NOVs issued for noncontinuous operation of the GCCS in
16 2023. The cited violations include not operating and monitoring required landfill gas collection
17 wells, leaks of landfill gas in violation of applicable regulations, improper maintenance of the
18 flare, the flare exceeding its 57.6 MMBTU/day limit in violation of Reg. 2-1-307 and P/C
19 1826, Part 2, and noncontinuous operation of its GCCS.

20 13. As part of its application for a Regular Variance, Respondent acknowledged and
21 presented evidence to support a finding that the Landfill is operating in violation of Reg. 8-34-
22 303.1 and P/C 1826, Part 3.

23 14. Because the Landfill closed before 1987 it is exempt under Reg. 8-34-119 from
24 the 5% oxygen content limit of Reg. 8-34-305.4. Whether or not this limit applies, high oxygen

1 readings indicate ambient air is being drawn into the GCS. In this case, oxygen readings of 20%
2 have been recorded, indicating that ambient air is being drawn into the GCS instead of
3 landfill gas. The Air District believes that this oxygen intrusion is due to poor maintenance and
4 disrepair of the Landfill's GCS. At the Landfill, about half of the required landfill gas
5 collection wells were collecting ambient levels of oxygen, indicating the wells were only
6 collecting ambient air, rather than collecting landfill gas as required by the Landfill's Permit to
7 Operate.

8 15. When LFG is not collected adequately, it builds up pressure within the Landfill
9 and can move offsite, outside the Landfill boundary, where the LFG can become a safety
10 hazard, as well as eventually being emitted to the atmosphere. Monitoring probes offsite
11 near Cesar Chavez Park now situated upon the former the Landfill have detected methane
12 levels above methane's Lower Explosion Limit (LEL), which is 5%. These high methane
13 detections indicate a substantial likelihood that LFG has not been collected as required and has
14 migrated off the Landfill. Offsite migration of LFG from a landfill violates Reg. 8-34-301
15 which requires landfills to collect LFG and abate the collected gas to prevent emissions to the
16 atmosphere. In reports of offsite methane detections by monitoring probes, SCS stated that
17 adjustments of the the Landfill GCS were made which eliminated the methane measured at the
18 offsite probes, indicating a linkage between the Landfill's GCS and the methane detected
19 offsite of Cesar Chavez Park. The Air District and CalRecycle, the Landfill's Local
20 Enforcement Agency ("LEA") have met to discuss and develop the chemical fingerprinting
21 methodology in Sections 4, 4.1, and 4.2 of the Order of Abatement below aimed to determine
22 whether the methane measured offsite of Cesar Chavez Park is originating from the Landfill.

23 16. On May 18, 2022, the Landfill petitioned the Air District for approval of an
24 LTCO allowance for the Landfill's new smaller flare under Reg. 8-34-404. The Landfill

1 claimed that it was not producing enough LFG to operate even the new smaller flare on a
2 continuous basis.

3 17. At the end of 2022, Air District Engineering Staff met with CalRecycle,
4 Berkeley LEA, SCS, and the City staff to discuss investigation into the offsite methane
5 detections, and SCS/the City agreed to investigate. More than a year later, the City/SCS has not
6 submitted any analysis or explanations to the Air District for the methane detected at the offsite
7 probes nor the results of any investigations.

8 18. On March 21, 2023, the City's Landfill and its consultant, SCS, withdrew the
9 application seeking LTCO for the new flare after the Air District expressed concerns about
10 poor landfill gas collection, ambient levels of oxygen being captured by the GCS, and possible
11 offsite landfill gas migration, but before the Air District reached a final decision on the
12 Landfill's LTCO petition.

13 19. High levels of methane pose both a health and safety risk. The Landfill is in a
14 well-populated area. Cesar Chavez Park, which is used by the public, is located on top of the
15 Landfill and with an adjacent hotel. Accordingly, there is a strong public interest in bringing
16 the Landfill into compliance with air emissions regulations and in determining whether or not
17 landfill gas is migrating off of the Landfill site.

18 **CONCLUSION**

19 20. The Landfill is in violation of Reg.8-34-301.1, 2-1-307, State LMR Section
20 95464(b)(1)(A), and its P/C 1826, Part 3.

21 21. It is reasonable to require the Landfill to comply with District rules and its
22 permit. Reg. 8-34 that applies in this case is a federally enforceable requirement.

23 22. The issuance of this Order of Abatement upon a noticed hearing does not
24 constitute a taking of property without due process of law.

1 23. The issuance of the Order of Abatement is not expected to result in the closing
2 or elimination of an otherwise lawful business, but if it does result in a closure or elimination, it
3 would not be without a corresponding benefit in reducing air contaminants.

4 24. The Order of Abatement is not intended to act as a variance.

5 **ORDER OF ABATEMENT**

6 THEREFORE based on the aforesaid statements and good cause appearing, the Hearing
7 Board hereby orders Respondent the Landfill to immediately cease and desist from operating
8 Respondent's closed the Landfill in a manner that violates Air District Reg. 8-34-301.1 or that
9 violates the Landfill's P/C 1826, which require both the continuous operation of its landfill gas
10 (LFG) collection system, consisting of 42 vertical wells, 2 horizontal collectors, 14 trench
11 collectors, and the proper maintenance of and continuous operation of Flare A-4 combusting
12 the collected LFG at a temperature of at least 1,400 degrees Fahrenheit, unless and until the Air
13 District determines that all of the following compliance action conditions and increments of
14 progress 1 through 11 have been met.

15 **COMPLIANCE ACTION CONDITIONS AND INCREMENTS OF PROGRESS:**

16 1. Locate all required vertical LFG collection wells pursuant to the BAAQMD
17 Permit to Operate, Permit Condition 1826, Part 4 and on the attached Landfill Gas System Plan
18 topographical site map, subject to Section 2 of this Abatement Order. (Reg. 8-34-301).
Complete within 30 days of issuance of this Abatement Order.

19 2. Once Wells 14, 29, 33, 34, and 35 are located, immediately monitor each located
20 well to confirm operation, measure well gas in accordance with Regulation 8-34-604, and
21 measure pressure in accordance with Regulation 8-34-608. Adjust each well as needed to
22 collect LFG. Submit the monitoring results and description of adjustments to the Air District
23 within 5 business days. If any of these wells cannot be located, repaired, or brought into
24 compliance with section 3, then submit an application to the Air District proposing an alteration
to the LFG collection system to address the missing, unrepairable, or non-compliant wells.
(Reg. 8-34-301, Permit Condition 1826). Complete within 30 days of issuance of this
Abatement Order.

3. To the extent necessary to achieve the performance criteria herein, repair the
LFG collection system such that, subsequent to inspection, repairs, or modifications as

1 described in sections 3.1, 3.2, 3.3, 3.4, and 3.5, all vertical LFG extraction wells, horizontal
2 collectors, and trench collectors are optimally collecting LFG and limiting air intrusion to 5
3 percent oxygen by volume, except as otherwise provided in sections 3.4 and 3.5, and ensuring
4 that each wellhead operates under a vacuum/negative pressure and LFG in each wellhead is less
5 than 55° C (131° F), and ensure all system components comply with all applicable
6 requirements in Reg. 8-34-301.2, and to ensure the gas collection system and landfill gas flare
7 operate continuously as specified in Reg. 8-34-301.1 and meet the destruction efficiency
8 requirement in Reg. 8-34-301.3. Complete the actions set forth in sections 3.3, 3.4, and 3.5 on
9 an as-needed basis. (Reg. 8-34-301, Permit Condition 1826).

6 3.1 Complete an inspection of the integrity of each vertical LFG extraction
7 well, LFG horizontal collector, LFG trench collector, LFG collection system lateral, and
8 piping, including physical inspection, total depth and liquid level sounding, video camera
9 inspection, and any other method(s) necessary to demonstrate that there are no blockages due to
10 damage or from liquid within 90 days of issuance of this Abatement Order. Submit inspection
11 results to the Air District within 30 days of the completion of the inspection, including a
12 timeline for any repairs that are necessary based on the inspection. If LFG collection system
13 component replacements are needed, an application to the Air District proposing an alteration
14 to the LFG collection system to replace unrepairable LFG collection system components shall
15 also be submitted with the inspection results. (Reg. 8-34-301, Permit Condition 1826).

12 3.2 At all vertical LFG extraction wells, replace existing near surface
13 bentonite well bore seal and install additional well bore HDPE liner boot seals within 90 days
14 of issuance of this Abatement Order. (Reg. 8-34-301, Permit Condition 1826).

14 3.3 As needed, install additional supplemental LFG collection system below
15 grade pipelines to maintain vacuum distribution in the wellfield. Submit an application to the
16 Air District if the installation(s) are not allowed by the current permit to operate. If any
17 additional supplemental LFG collection system below grade pipelines are needed under this
18 section 3.3, the City of Berkeley shall install those pipelines within 120 days of issuance of this
19 Abatement Order. (Reg. 8-34-301, Permit Condition 1826).

17 3.4 After measures 3.1, 3.2, and 3.3 have been completed, if any well gas
18 data from vertical wells, horizontal collectors, and trench wells (collectively and individually,
19 the Well Gas Data) show oxygen concentrations greater than 5 percent by volume, submit to
20 the Air District for approval a proposed Work Plan (WP) within 60 days of the last GCS repair
21 done under sections 3.2 or 3.3 for a site-wide drone survey across the landfill and nearby areas
22 that could be pathways of LFG migration to the offsite probes with methane detections per
23 EPA approved Other Test Method 51 (OTM-51) – Unmanned Aerial Systems (UAS)
24 Application for Surface Emissions Monitoring of Landfills. City of Berkeley staff shall seek
approval from the Berkeley City Council for any drone survey under this section 3.4, if Council
approval be needed under the Acquisition and Use of Surveillance Technology Ordinance,
Berkeley Municipal Code Ch. 2.99. Upon the Air District's approval of the drone survey WP,
within 30 days complete the drone survey. At the identified location(s) of landfill gas leak(s),
locate the GCS damage causing the leak(s) and identify new GCS component(s) needed to
eliminate the leak(s). Submit an application to the Air District proposing an alteration to the
LFG collection system to replace piping, replace landfill gas wells, horizontal collectors, trench

1 wells, and/or install new landfill gas collection system components within 60 days of
2 completing the survey. (Reg. 8-34-301, Permit Condition 1826).

3 3.5 If, after repairs of the GCS, the Well Gas Data at any well or collector
4 continue to show an oxygen concentration greater than 5 percent by volume, develop a probe
5 monitoring plan to measure LFG content in the area surrounding such well(s) or collector(s).
6 Submit the probe monitoring plan, which shall include notice to the Air District to allow Air
7 District personnel to attend the probe monitoring activity, to the Air District within 60 days of
8 the last GCS repair done under sections 3.2, 3.3, or 3.4, for review, comment, and approval by
9 the Air District. Complete the probe monitoring survey within 30 days of Air District approval
10 of the probe monitoring plan, and submit the probe monitoring survey results report to the Air
11 District within 7 days of Berkeley Landfill's receipt of the report and no later than 60 days of
12 District approval of the probe monitoring plan. If any such well(s) or collector(s) are
13 determined by the Air District to be collecting gas that is not representative of the LFG in the
14 surrounding waste mass, locate the GCS damage causing the leak(s) and identify new GCS
15 component(s) needed to eliminate the leak(s). Submit an application to the Air District
16 proposing an alteration to the LFG collection system to replace piping, replace landfill gas
17 wells, replace collectors, and/or install new landfill gas components, in accordance with
18 direction by the Air District, within 60 days of receiving such direction by the Air District.
19 (Reg. 8-34-301, Permit Condition 1826).

20 4. Submit to the Air District for approval a proposed Work Plan (WP) for the
21 collection of gas and laboratory analysis meeting all requirements of, and containing all, the
22 information specified in sections 4.1 and 4.2 below. (Reg. 8-34-301, Permit Condition 1826).
23 Complete WP within 60 days of issuance of this Abatement Order. The WP will include details
24 for:

25 4.1 Screening, collection, and testing gas at all existing permanent
26 monitoring probes offsite of Cesar Chavez Park: Screening method to determine if methane is
27 present and measure methane content. For locations at which methane is detected, a collection
28 and test plan, including the number and size of representative gas samples collected and test
29 methods to establish the source of the methane. The WP shall include at a minimum: collection
30 protocols, advance notice to Air District of sampling to allow for Air District staff being
31 present, type of approved-container, chain of custody, and deadlines for laboratory submittal;
32 analysis of gas content, including methane, other gas fractions, and specific volatile organic
33 compound (VOC) and toxic air contaminant (TAC) compounds by Methods ASTM D1946 and
34 TO-15, and any other methods necessary to identify indicators of the source of methane gas.
35 For locations at which methane is not detected, a follow up monitoring schedule, including
36 frequency and duration; methane-containing gas from follow up monitoring shall be collected
37 and submitted for testing. Deadlines for submittal of the initial field investigation report, results
38 of ongoing monitoring, and laboratory analysis to the Air District. (Reg. 8-34-301, Permit
39 Condition 1826).

40 4.2 Collection and testing of LFG from the Berkeley Landfill: Collection and
41 test plan, including the number and size of representative LFG samples collected and well
42 locations in proximity to each offsite probe. The plan shall include at a minimum: collection
43 protocols, advance notice to the Air District of sampling to allow for Air District staff to be
44

1 present, type of approved container, chain of custody, and deadlines for laboratory submittal;
2 analysis of gas content, including methane, other gas fractions, and specific VOC and TAC
3 compounds by Methods ASTM D1946 and TO-15, and any other methods necessary to
4 establish a fingerprint of the landfill gas. Deadlines for submittal of the field investigation
5 report and laboratory analysis to the Air District. (Reg. 8-34-301, Permit Condition 1826).

6 5. Perform the sampling and collection of gas and initiate laboratory analysis in
7 accordance with the Air District-approved WP. (Reg. 8-34-301, Permit Condition 1826).
8 Complete within 60 days of receiving Air District approval of the WP.

9 6. Submit laboratory analyses and field investigation report(s) to the Air District
10 for the gases collected from the offsite monitoring probes and from the Berkeley Landfill by
11 the deadlines specified within the approved WP. The field investigation report(s) shall contain
12 all the information required in the approved WP. (Reg. 8-34-301, Permit Condition 1826).

13 7. Schedule a full inspection and servicing of the onsite flare by the flare
14 manufacturer. (Reg. 8-34-301, Permit Condition 1826). Complete within 60 days of issuance of
15 this Abatement Order.

16 8. Submit results of flare inspection and details of the servicing to the Air District
17 within 30 days of the inspection and servicing, including all details of the flare's compliance
18 and/or non-compliance with regulatory requirements. (Reg. 8-34-301, Permit Condition 1826).
19 Complete within 90 days of issuance of this Abatement Order.

20 9. For a period of at least 3 months following any repair or replacement of any
21 component of the LFG collection system required under sections 2, 3, 3.1, 3.2, and 3.3 and
22 until the Well Gas Data oxygen content at every well and collector has remained no more than
23 5 percent by volume for at least 3 months, and for a period of at least 3 months following
24 installation of all GCS components required by sections 3.4 and 3.5, perform weekly
monitoring of well gas at all vertical wells, horizontal collectors, and trench wells in
accordance with Regulation 8-34-604, determine wellhead pressure in accordance with
Regulation 8-34-608, and adjust or repair the wells and collectors as necessary to optimize gas
recovery and minimize air intrusion. For a period of at least 6 months after weekly monitoring
has ceased, perform monthly wellhead monitoring and continue to adjust wells and collectors to
optimize gas recovery and minimize air intrusion. If the oxygen content exceeds 5 percent by
volume at any well or collector, perform repairs and maintenance at those components to
reduce oxygen content and revert back to the weekly monitoring schedule. When all of
Berkeley Landfill's Well Gas Data demonstrate 6 months of continuous oxygen concentrations
that do not exceed 5 percent by volume, Berkeley Landfill may revert back to the monitoring
requirements in Regulation 8-34. Submit the monitoring results to the Air District within 5
business days following each monitoring event. (Regs. 8-34-301 and 8-34-303).

10. For the duration of Section 9, perform monthly monitoring for landfill gas leaks
at all components containing landfill gas and for landfill surface leaks in accordance with the
procedures in Regulation 8-34-602 and 8-34-607. Immediately address and repair any leaks in
excess of 8-34-301.2 and 8-34-303 standards and submit the results of the monitoring and

1 repairs to the Air District within 2 weeks of the monitoring event. (Regs. 8-34-301 and 8-34-
2 303).

3 11. Any downtime of the LFG collection and control system that is reasonable in the
4 determination of the Air District and required to conduct the actions specified under this
5 Abatement Order shall not constitute a violation of Reg. 8-34-301.1, provided the City of
6 Berkeley provides documentation, if feasible in advance of the downtime events, including start
and stop time, reason, and actions taken. Submit such documentation to the Air District, in
compliance with Regulation 8-34-118, in advance if feasible, and no later than 5 business days
following each downtime event if advance notice is not feasible. Nothing in this Section 11
exempts Permittee Berkeley Landfill from the requirements of Regs. 2-1-301 and 2-1-302.

7 A. The Hearing Board shall retain jurisdiction over this matter until February 5,
8 2025 or until Respondent Berkeley Landfill has met all the Compliance Action Conditions and
9 Increments of Progress 1 through 11 hereunder, whichever occurs first, unless this Order is
10 amended or modified.

11 B. The Hearing Board may modify this Order without the stipulation of the parties
12 upon a showing of good cause, therefore, and upon making the findings required by HSC §
13 42451(a) and Hearing Board Rule § 4.13.

14 C. This Order is not and does not act as a variance; and Respondent Berkeley
15 Landfill is subject to all applicable rules and regulations of the Air District, and to all
16 applicable California law. Nothing herein shall be deemed or construed to limit the authority of
17 the Air District to issue Notices of Violation nor to seek civil or criminal penalties, or
18 injunctive relief, or to seek further orders of abatement or other administrative or legal relief.

19
20 Dated: February ____, 2024

21 By: _____
22 CHAIR VALERIE ARMENTO
23 HEARING BOARD
24 of the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT