

1 THOMAS M. BRUEN (SBN 63324)
ERIK A. REINERTSON (SBN 218031)
2 LAW OFFICES OF THOMAS M. BRUEN
A Professional Corporation
3 1990 N. California Boulevard, Suite 800
Walnut Creek, CA 94596
4 Telephone: (925) 708-4149
Email: tbruen@tbsglaw.com
ereinertson@tbsglaw.com



6 Attorneys for Respondents INTERNATIONAL DISPOSAL
CORP. OF CALIFORNIA and BROWNING-FERRIS
7 INDUSTRIES OF CALIFORNIA, INC.

8
9 **BEFORE THE HEARING BOARD OF THE**
10 **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**
11 **STATE OF CALIFORNIA**

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

14 Petitioner,

15 vs.

16 INTERNATIONAL DISPOSAL
CORP. OF CALIFORNIA and BROWNING-
17 FERRIS INDUSTRIES OF CALIFORNIA,
INC. a/k/a Newby Island Resource Recovery
18 Park,

19 Respondents.

20
21 Re. Facility ID No. A9013 (Newby Island
Landfill and Recyclery)
22

Docket No. 3772

**ANSWER OF RESPONDENTS
INTERNATIONAL DISPOSAL
CORP. OF CALIFORNIA and BROWNING-
FERRIS INDUSTRIES OF CALIFORNIA, INC.
TO PETITION AND REQUEST FOR
CONDITIONAL ORDER FOR ABATEMENT**

Hearing Date: June 9, 2026

1 Respondents INTERNATIONAL DISPOSAL CORP. OF CALIFORNIA (hereinafter “IDC”) and BROWNING-FERRIS INDUSTRIES OF CALIFORNIA, INC. (hereinafter “BFI”) answer the District’s Petition and Request for a Conditional Order for Abatement as follows:

4 **I. INTRODUCTION**

5 1. The Newby Island Resource Recovery Park ("Newby") is not merely a waste site; it is a critical infrastructure backbone of the South Bay, processing approximately 2.1 million tons of municipal solid waste, green waste, and recyclables annually for the cities of San Jose, Santa Clara, and beyond. This facility is central to California’s climate goals under SB 1383, providing the organic waste diversion capacity necessary to reduce statewide methane emissions.

10 2. Respondents have long been proactive in environmental stewardship. The City of San Jose approved the landfill expansion and certified its Environmental Impact Report (EIR) in August 2012, a decision upheld by the Sixth Appellate District in December 2015 (*City of Milpitas v. City of San Jose*). The Local Enforcement Agency (LEA) and CalRecycle subsequently approved the expansion permits in December 2016. Despite these approvals from every other agency with jurisdiction over the proposed landfill expansion, the Air District has allowed Newby’s modified Authority to Construct (ATC) and Title V permit applications to remain in a "pending" status for nearly a decade, creating a regulatory delay that Respondents have worked tirelessly to navigate. In particular, the landfill needs prompt action on its pending permit application to assure South Bay communities that it can continue to receive their solid waste in the future.

20 3. Newby has invested tens of millions of dollars in site improvements, including the transition to a Covered Aerated Static Pile (CASP) composting system—a state-of-the-art technology that significantly reduces odors and emissions compared to traditional windrow composting. Furthermore, the facility utilized an "overliner" system (a protective liner installed over existing waste) to ensure the proposed vertical expansion remains environmentally sound. While the Air District points to a historical list of NOVs, the vast majority are administrative or relate to minor equipment deviations that have already been resolved through corrective action.

27 4. Eager to overcome the permitting delays that have affected both the Landfill and Recyclery, Respondents remain committed to working with the District towards a Stipulated Order for

1 Abatement at the June 9th hearing, provided the conditions are reasonable and facilitate the continued
2 operation of these essential services.

3 **II. PARTIES**

4 5. Petitioner is the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality
5 Management District ("Air District").

6 6. Respondents International Disposal Corp. of California (IDC) and Browning-Ferris
7 Industries of California, Inc. (BFI) are separate California corporations. IDC owns and operates
8 the landfill, while BFI operates the Recyclery, which is a material recovery facility (MRF). Each
9 entity maintains strict corporate formalities, is locally managed, and should be treated as a distinct legal
10 person for the purposes of these proceedings.

11 **III. HEARING BOARD JURISDICTION**

12 7. While Respondents acknowledge the Hearing Board's general jurisdiction over landfill
13 and Recyclery MRF emissions under Health and Safety Code §§ 42450 et seq., that jurisdiction is strictly
14 circumscribed by statute. Specifically, the Hearing Board lacks jurisdiction over odors emanating from
15 Newby's composting operations. Health and Safety Code § 41705(a)(2) explicitly provides that the
16 general nuisance provisions of § 41700 "do not apply to odors emanating from composting operations."
17 The Legislature enacted this exemption to ensure that local air districts do not use nuisance authority to
18 stifle the composting infrastructure required to meet state diversion mandates.

19 8. The CASP operation at IDC's landfill, which can process up to 700 tons per day of
20 organic material, operates under the primary regulatory oversight of the Local Enforcement Agency
21 (LEA) and CalRecycle pursuant to Title 14 of the California Code of Regulations. Consequently, any
22 allegations in the Petition regarding "suffocating" or "foul" odors, to the extent they are attributed to
23 composting, are legally barred from this forum. The Air District may not circumvent § 41705 by
24 rebranding composting odors as general landfill gas nuisances.

25 **IV. FACILITY DESCRIPTION**

26 9. Respondents admit that Newby is the primary solid waste disposal and recycling service
27 for major cities across Santa Clara County and the San Francisco Peninsula. The landfill, which has been
28 operating since 1938, accounts for 90% of Newby's total footprint, and it is designed to hold 50.8 million

1 cubic yards of waste. Newby Island has a design for a vertical expansion of its disposal capacity to 57.5
2 million cubic yards. This design has been approved and permitted by the City of San Jose through its
3 City Council, the City of San Jose Local Enforcement Agency (LEA), the California Department of
4 Resources Recycling and Recovery (CalRecycle), and the San Francisco Bay Regional Water Quality
5 Control Board. The Newby Island landfill is permitted to accept 4,000 tons of non-hazardous
6 commercial and residential waste daily. This waste is buried in compacted layers around the landfill, so
7 that it slopes upward evenly before reaching its permitted height. So far, 41 million tons of waste have
8 already been deposited in the landfill. The Landfill's current Title V permit is for 50.8 million cubic
9 yards.

10 **V. RESPONSE TO ALLEGED AIR QUALITY VIOLATIONS**

11 **A. The Petition Fails to Establish an Odor Nuisance Under Health & Safety Code §**
12 **41700.**

13 10. Petitioner's allegation that the Newby Island Facilities (the "Facilities") constitute an
14 odor nuisance is contradicted by the objective regulatory record and the governing statutory framework.
15 The evidence demonstrates that the Facilities operate in substantial compliance with state nuisance
16 standards, and Petitioner's purported reliance on unspecified and unverified lay complaints is both
17 legally and scientifically deficient.

- 18 • Absence of Regulatory Enforcement. The most probative evidence of a facility's impact is its
19 enforcement history with the Bay Area Air Quality Management District (the "District"). Since
20 2021, Respondents have not received a single Notice of Violation ("NOV") for creating an odor
21 nuisance—or any other nuisance—within the meaning of Health and Safety Code section 41700.
22 The District's decision to forego enforcement action for the last five years is a tacit admission
23 that the Facilities do not meet the threshold for a public nuisance.
- 24 • Statistical Insignificance of Confirmed Complaints. The District's internal data further
25 undermines the Petition. In 2024, despite continuous operation, District inspectors confirmed
26 only eighteen (18) odor complaints as originating from the Facilities for the entire calendar year.
27 In 2025, that number dropped to one (1) confirmed complaint. These figures are statistically de
28

1 minimis for a facility of this scale and type, and fail to establish the "continuing" nature required
2 for a nuisance claim.

- 3 • Unreliability of Unverified Lay Observations. Petitioner’s emphasis on 1,400 unverified public
4 complaints over five years is misplaced as a matter of law, even assuming the complainants said
5 the odors they complained of were “from the landfill.” Odor identification is inherently
6 subjective and susceptible to cognitive bias. Scientific literature confirms that untrained
7 laypersons frequently lack the "olfactory language" and expertise necessary to distinguish
8 between complex, overlapping odor sources in an industrial corridor. (*See Olofsson & Gottfried*
9 *(2015); Morquecho-Campos, et al. (2019)*). Without independent verification by District
10 inspectors—the designated experts under the law—these complaints (even if they did specify the
11 landfill as the odor source) constitute mere speculation rather than substantial evidence.
- 12 • Alternative Environmental Sources (The "South Bay/Bay Mud" Factor). Petitioner ignores the
13 predominant source of odors in the South Bay: the South Bay itself. Respondents’ flux chamber
14 sampling has confirmed that the South Bay itself, the surrounding wetlands and "Bay Mud" emit
15 significant levels of hydrogen sulfide (H₂S) and other odorous gases through the natural
16 decomposition of organic matter. The Respondents’ flux study showed that odor emission rates
17 from the Bay itself, due to the surface area of the Bay waters and surrounding wetlands, were
18 more than ten orders of magnitude higher than the Newby Island landfill. These naturally
19 occurring odors, modulated by tidal shifts and wind direction, are often indistinguishable from
20 landfill odors to the untrained nose.
- 21 • Statutory Jurisdictional Bar. Finally, the Petition appears to improperly attempt to aggregate
22 complaints regarding the landfill with those related to the Covered Aerated Static Pile ("CASP")
23 composting operations, which are located on the landfill footprint. Under Health and Safety Code
24 section 41705(a)(2), the District is expressly prohibited from exercising nuisance jurisdiction
25 over odors emanating from composting operations. Any effort to conflate these distinct sources
26 to create a "narrative of nuisance" violates clear statutory mandates.

27 \\
28 \\
4

1 **B. The District’s Rules Allow for Non-Operation of the Gas Collection System for**
2 **Necessary Maintenance; Shutdowns of the Landfill’s Gas Collection System Caused by**
3 **PG&E Power Outages and Power Surges Are Beyond IDC’s Reasonable Control.**

4 11. Interruptions in the continuous operation of a gas collection and control system (GCCS)
5 at a municipal solid waste landfill are not uncommon. Regulatory frameworks established by the District
6 expressly account for such downtime and mandate that every landfill GCCS be equipped with valves
7 designed to close automatically if the flares go offline, which prevents the venting of landfill gas into
8 the atmosphere. Specifically, District Rule 8-34-113 allows a landfill up to 240 hours of non-operation
9 per year to facilitate the inspection and servicing of its control devices, which are primarily the landfill
10 gas flares. Because of these requirements and practicalities, maintaining truly continuous operation 24
11 hours a day, 365 days a year is neither a regulatory mandate nor a practical reality.

12 12. When a flare shutdown occurs, industry protocols require that the flares be inspected and,
13 if necessary, serviced before the restart process can begin. This sequence of events generally requires
14 several hours to complete, even in instances where maintenance personnel are already present on-site.
15 During these periods of shutdown, the GCCS valves remain closed to prevent atmospheric venting of
16 the gas, and the wellfield is kept under a vacuum to prevent excess surface emissions.

17 13. As described in the Petition, the reliability of the PG&E power grid connected to Newby
18 Island has diminished in recent years due to several well-publicized factors. In 2019, PG&E began
19 implementing Public Safety Power Shutoff (PSPS) events to prevent fires and maintain grid stability.
20 By 2022, PG&E introduced a new program involving Enhanced Powerline Safety Settings, which results
21 in power being shut off to certain customers without any advance warning. Newby Island Landfill has
22 experienced both of these types of PG&E interruptions over the last five years.

23 14. The Petition specifically mentions a GCCS shutdown that took place on Sunday, May 1,
24 2022, and lasted until the next morning. Because the power outage resulting from a PG&E equipment
25 failure affected the entire site, the system could not send an automated shutdown notification. Site
26 workers discovered the shutdown upon their arrival the following Monday morning, leading to the
27 prompt notification of the District regarding the occurrence and the need for breakdown relief. This
28 event was caused by the unanticipated failure of off-site PG&E equipment, a fact acknowledged in a

1 letter from PG&E to IDC. Although IDC submitted this letter to the District in support of a timely
2 application for breakdown relief, the District denied the application.

3 15. Regarding the Petition’s criticism of the Landfill for not possessing a backup generator
4 to power its flares and blowers during grid failures, the Landfill attempted to address this issue by
5 bringing in a PERP-registered backup generator in July 2023. This unit was intended to provide
6 emergency power when the off-site grid became unavailable. However, the District issued a Notice of
7 Violation (NOV) to IDC for the use of this PERP-registered generator, arguing that the equipment was
8 required to be a stationary generator permitted by the District as a stationary source. At the time this
9 NOV was issued, the portable generator was a temporary rental unit that was neither in use nor connected
10 to any of the facility’s blower or flare station equipment.

11 16. Following this, Newby began the design and evaluation process with the District for a
12 stationary backup generator permit application. The facility is still evaluating the long-term feasibility
13 of installing a stationary generator, which will involve engineering complexities associated with the
14 transition from PG&E grid power to generator power. It is also important to note that the installation of
15 an emergency generator, whether portable or stationary, is not an automatic solution for unplanned
16 GCCS downtime. Any interruption in power, no matter how short, will result in the automatic shutdown
17 of the flares to avoid their damage, and this will take the GCCS off-line. Backup generators cannot be
18 automatically started because this can cause electrical damage to the flare and blower due to the power
19 surge when the generator starts. Instead, the startup of the generator must be completed carefully and
20 methodically by a qualified technician using a manual startup procedure. Thus, there will still be
21 appreciable GCCS downtime with a backup generator when there are PG&E grid disruptions and off-
22 site power surges.

23 17. Since the issuance of the 2023 NOV, the Landfill has been barred from using a PERP-
24 registered generator and cannot utilize a stationary generator until it receives a permit from the District.
25 This remains a significant concern due to the District’s current lengthy timeline for processing
26 outstanding permit applications for the facility.

27 **C. Newby Island Has Complied With the District’s Regulations On Wellhead Oxygen and**
28 **Temperature Levels and Has Substantially Complied With The Prohibition on Positive**
Pressure.

1 18. The Petition contains an inaccurate assertion that IDC violated District regulations
2 concerning wellhead oxygen levels and temperatures at wellheads in the gas collection and control
3 system (GCCS). Wellheads are situated at the landfill surface at the top of both vertical and horizontal
4 gas wells. These components are equipped with valves to regulate the vacuum applied to each individual
5 well, along with ports designed to measure gas temperature and constituents such as methane, oxygen,
6 and nitrogen.

7 19. According to District Regulation 8.34.305, specific operational standards are set forth:
8 oxygen levels must remain below 5 percent (8.34.305.4), gas temperatures must not exceed 131 degrees
9 Fahrenheit (8.34.305.2), and the wells must be maintained under negative pressure, or vacuum
10 (8.34.305.1). The regulations further provide that a landfill operator must initiate corrective action
11 within five calendar days if any of these thresholds are exceeded. If the initial efforts do not resolve the
12 issue within 15 days, the operator is required to expand the gas collection system to rectify the excess,
13 as outlined in section 8.34.414. So long as the operator performs prompt corrective action within these
14 windows, the regulations dictate that no violation has occurred.

15 20. It is a common occurrence for a landfill operator to perform corrective actions for various
16 wells under Rule 8.34.414. The inclusion of these corrective action protocols within the rules indicates
17 that such events are anticipated during the normal operation of an active landfill. Consequently, a
18 violation is not defined by the mere occurrence of these conditions, but rather by an operator's failure
19 to implement the corrective measures required by Rule 8.34.414. In this instance, IDC executed prompt
20 corrective actions that were successful within the prescribed time limits for every wellhead oxygen and
21 temperature exceedance mentioned in the Petition. Therefore, no such regulatory violations took place.

22 21. Regarding the allegations of positive pressure in 17 wells on three specific days between
23 2021 and 2024, it is important to view these figures in the context of the total operation. The Newby
24 Island landfill operates 280 wells subject to District oversight. When calculating 280 wells over 365
25 days across a four-year span, there were 408,800 distinct daily opportunities for a well to lose vacuum.
26 Landfill gas wells, vacuum headers and laterals are naturally subjected to physical stresses as the waste
27 mass decomposes and settles, which can impact vacuum levels. Furthermore, gas pressure is directly
28 influenced by the rate of waste decomposition near the well; fluctuations in these rates can cause

1 pressure changes that determine whether a well remains under vacuum from its attached lateral vacuum
2 line. Positive pressure is a known and common factor in wells in active municipal solid waste landfills,
3 and considering these variables, IDC maintains an excellent record of keeping its GCCS wells under
4 negative pressure.

5 22. To further improve these operations, IDC is currently implementing a pilot program
6 involving the installation of automated APIS wellheads in ten wells. These computerized devices
7 represent cutting-edge developments in landfill gas technology and are being used at select locations on
8 an experimental basis. While they show promise, further pilot program testing will be performed on
9 these devices, which will not necessarily address all possible issues associated with gas field
10 performance. APIS wellheads are solar-powered, wireless units that continuously monitor gas
11 composition, temperature, and pressure. They automatically adjust the vacuum on the well in real time
12 and allow for remote monitoring by the operator. If this pilot program proves successful, IDC intends to
13 expand the use of APIS devices to additional wells that would benefit from this automated oversight.

14 **D. Newby Island Has Complied With the District’s Permit Condition On Minimum Flare**
15 **Temperature.**

16 23. The Petition claims that from 2020 to 2023, there were 42 instances where the
17 temperature of the landfill gas flares, primarily the ZULE flare, fell below the minimum operating
18 temperature specified in the permit, citing information found in IDC’s semi-annual reports to the
19 District. This assertion ignores the critical fact that in all 42 of the cited occasions, the temperature
20 measurement was calculated as an average over a three-hour period. Furthermore, in each of these
21 instances, the average reading included time intervals when the flare was either entering a shutdown
22 mode or was in the process of restarting. The minimum operating temperature requirement stipulated in
23 the permit is intended to ensure the adequate combustion of landfill gas *while the flare is in active*
24 *operation*. It is not intended to apply during periods when the flare is cooling down for maintenance or
25 any other reason, nor is it applicable during the restart phase. Because these readings were impacted by
26 these non-operational phases, there were no actual violations of the permit condition regarding minimum
27 flare operating temperatures. As soon as the flare shutdown process commences, the gas flow to the
28 flare has stopped. So not only is the flare no longer operating, but gas flow is no longer going to the

1 flare. Hence, the temperature of the flare during shutdown is not relevant to determining its ability to
2 destroy methane given that gas flow to the flare has ceased.

3 **E. Newby Island Has Completed Corrective Action Within The Time Periods Allowed in**
4 **Rule 8.34.415 For All Surface Emissions Exceedances Detected During Compliance**
5 **Inspections.**

6 1. Regulatory Interpretations and Corrective Action Timelines

7 24. The District maintains that any surface-emission exceedance discovered by its inspectors
8 constitutes an automatic violation. This is defined as any methane detection exceeding 500 ppmv at a
9 specific location on the landfill surface. Under this interpretation, an operator is afforded no opportunity
10 to avoid a violation, even if they take immediate corrective action to repair the identified surface leak.
11 This policy contrasts sharply with the procedures followed when an operator identifies an exceedance
12 during its own mandatory surface monitoring, which is required quarterly under District Rule 8.34.303.
13 In those instances, the regulations allow for specific corrective action periods:

- 14 • An initial 5 calendar days to begin corrective measures, with a requirement to re-monitor the
15 location within 10 days.
- 16 • An additional 5 calendar days from the second re-monitoring to perform further repairs if the
17 previous attempt failed to cure the exceedance.
- 18 • A period of up to 120 days to expand the gas collection system if the surface exceedance
19 cannot be corrected through standard repairs.

20 2. Physical Constraints and Environmental Factors

21 25. Active landfills must comply with state regulations, specifically 17 CCR § 20700(a),
22 which mandate the use of twelve inches of compacted intermediate soil cover over areas that are not
23 currently active but have not yet reached final permitted fill elevations. This intermediate soil cover is
24 inherently vulnerable to cracking, voids, and depressions. These issues result from exposure to various
25 natural and unpredictable conditions, including rain, wind erosion, earthquakes, soil settlement, and
26 changes in barometric pressure.

27 26. Because these environmental factors occur spontaneously, surface exceedances can and
28 do happen sporadically and without prior notice, even when a facility employs best management
practices. It is common for such emissions to develop in the intervals between quarterly or monthly

1 surface monitoring events. This reality is precisely why the regulations specify the exact corrective
2 actions an operator should take upon the discovery of such surface leaks.

3 3. IDC Compliance and Monitoring Practices

4 27. IDC has consistently initiated prompt steps to rectify any surface emission exceedances
5 found during its own inspections or during official compliance evaluations. To ensure adherence to
6 District regulations, IDC performs regular surface monitoring every quarter. This proactive approach
7 ensures that any identified issues are addressed within the framework provided by the governing
8 environmental rules.

9 **F. Newby Island Has Not Violated Its Permit Conditions Regarding Hydrogen Sulfide**
10 **(H₂S) Monitoring in Landfill Gas.**

11 28. The Title V permit governing the Newby Island landfill stipulates that the facility must
12 perform quarterly measurements of the total reduced sulfur content within the primary gas collection
13 and control system (GCCS) header that supplies gas to the flares. The permit authorizes three specific
14 methods for this analysis: the use of colorimetric Draeger tubes, gas chromatography, or any alternative
15 measurement method officially approved by the Air Pollution Control Officer (APCO). Furthermore,
16 the permit mandates that IDC strictly adhere to the procedures established by the equipment
17 manufacturers or the BAAQMD regarding the sampling, analysis, and interpretation of these results.

18 29. For several decades, Newby Island and other landfills throughout the Bay Area have
19 relied upon Draeger tubes to measure H₂S in landfill gas to comply with these and similar Title V permit
20 provisions. Throughout this period, IDC has employed the District-approved methodology for the
21 interpretation of Draeger tube data. This protocol specifically accounts for the wet condition of the
22 landfill gas and utilizes a conversion from wet to dry measurements based on the data obtained from the
23 most recent source tests of the facility's flares. Additionally, this process includes the necessary
24 conversion of H₂S concentrations into total reduced sulfur (TRS) values. Based on source test and
25 laboratory data, H₂S represents over 98% of the TRS concentration in the landfill gas at the Newby
26 Island Landfill.

27 30. The facility has not had any exceedance of the TRS limit of 300 PPMV using the adjusted
28 dry data since the first quarter of 2024. This is the result of Newby Island having added four treatment

1 units with media to scrub H₂S from the landfill gas going to the landfill's flares. The tanks were installed
2 in 2021 pursuant to a temporary permit from the District and were reconfigured in 2024 to more
3 effectively remove sulfur from the landfill's gas. This treatment system has been in continuous operation
4 since then and, as stated, the results have shown continuing compliance with the TRS permit condition.

5 31. In 2025, District staff shifted their position regarding the suitability of Draeger tubes for
6 measuring sulfur in landfill gas and recommended that IDC adopt a continuous emission monitoring
7 system (CEMS) utilizing gas chromatography technology. In response to this suggestion, IDC and its
8 consultants and vendors investigated the possibility of installing such a system, but were unable to
9 identify one in use at any landfill. This information was conveyed to District staff. The APCO
10 subsequently issued a formal letter to IDC under District Rule 1-521, requiring the installation of a
11 CEMS at the Newby Island facility. This requirement is based on what IDC maintains is an incorrect
12 assertion that the facility had violated the established total reduced sulfur limits for its landfill gas.

13 32. IDC has engaged cooperatively with District staff to review and solicit design proposals
14 for the implementation of a CEMS at Newby Island. IDC has notified the staff of its intention to install
15 and monitor such a system at the facility, with the understanding that the District will move forward
16 with the prompt processing of IDC's application for a vertical expansion of the landfill. As previously
17 stated, this specific application has been pending and unaddressed by the District for almost a decade.

18 **G. Newby Island Has Not Operated its Recyclery (MRF) Without a Permit.**

19 33. The Title V permit issued by the District to the Recyclery and Newby Island Landfill in
20 2019 remains in effect. In September 2011, BFI entered into an agreement with the City of San Jose that
21 mandated the Recyclery process wet waste and food waste for delivery to the ZWED anaerobic digester
22 located in San Jose. Because the processing of this wet material was found to cause odor complaints
23 regarding MRF operations, BFI negotiated an amendment to the agreement with the City to remove wet
24 food waste from the Recyclery. BFI now collects these materials directly from commercial customers
25 and delivers them to ZWED, a transition that removed wet food waste from the Recyclery processing
26 lines between 2020 and 2021 and was finalized by July 1, 2021.

27 34. To enhance the processing of the remaining dry waste stream, BFI has integrated
28 additional state-of-the-art equipment into the Recyclery building and implemented other improvements

1 to manage particulate and odor emissions. BFI submitted its application for the renewal of its Title V
2 permit in April 2015 and subsequently amended this application in April 2021 following the changes to
3 its agreement with the City of San Jose. In June 2024, District staff requested information from BFI
4 concerning dust generation at the Recyclery, and this information was provided to the District on June
5 7, 2024. Since that submission, BFI has not received any further information requests and believes the
6 District has accepted the application as complete in all respects. Recent communications with District
7 staff have confirmed that the application is complete and remains in the processing stage.

8 35. Throughout this entire period, the District has conducted regular inspections of the
9 Recyclery and accepted regulatory fees from BFI. It is only recently that the District has claimed the
10 Recyclery was operating without a permit.

11 36. Except as expressly admitted herein, Respondents deny each and every allegation of the
12 Petition.

13 **CONCLUSION**

14 37. Respondents International Disposal Corp. of California and Browning-Ferris Industries
15 of California, Inc. maintain that the Newby Island Landfill and Recyclery operate in substantial
16 compliance with all applicable District regulations and Title V permit conditions. While Respondents
17 have faced significant delays while their permit applications remained in "pending" status, they have
18 continued to work cooperatively with District staff to address evolving operational concerns.
19 Respondents remain willing to agree to the new conditions proposed by the District for the landfill
20 expansion and Recyclery renewed Title V permits, provided that such agreement serves as a catalyst for
21 the expeditious and long-overdue issuance of those permits. To this end, Respondents are actively
22 pursuing a Stipulated Order for Abatement that they hope will resolve the District's requests while
23 providing a firm foundation for expedited permit renewal. Ultimately, Respondents welcome the
24 upcoming public hearing as the appropriate forum to promptly and transparently resolve these
25 outstanding regulatory issues and ensure the continued operation of this critical South Bay infrastructure.

26 DATED: April 24, 2026

27 \\
28 \\
29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Law Offices of Thomas M. Bruen, P.C.



By: _____
Thomas M. Bruen

Attorneys for Respondents International Disposal
Corp. of California and Browning-Ferris
Industries of California, Inc.

1 **VERIFICATION**

2 Enrique Perez, declares:

3 I have read the foregoing Answer to Petition for Conditional Order for Abatement and know its
4 contents.

5 I am the General Manager for Respondents International Disposal Corp. of California and
6 Browning-Ferris Industries of California, Inc. I am authorized to make this verification for and on their
7 behalf, and I make this verification for that reason. I am informed and believe, based on the information
8 available to Respondents, and, on that ground, I allege that the matters stated in the foregoing Answer
9 are true.

10 I declare under penalty of perjury of the laws of the State of California that the foregoing is true
11 and correct. Executed on this 24th day of April 2026, at San Jose, California.

12
13 *Enrique Perez*

14 _____
15 Enrique Perez
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **Proof of Service**

2 I Thomas Bruen, declare that am employed in the City of Walnut Creek, Contra Costa
3 County, California. I am over the age of 18 years and not a party to the within cause;
4 my business address is 1990 N. California Boulevard, Suite 800, Walnut Creek,
5 California, 94596.

6 On April 24, 2026, I served the ANSWER OF RESPONDENTS INTERNATIONAL DISPOSAL
7 CORP. OF CALIFORNIA and BROWNING-FERRIS INDUSTRIES OF CALIFORNIA, INC. TO
8 PETITION AND REQUEST FOR CONDITIONAL ORDER FOR ABATEMENT on counsel for
9 the Petitioner Air Pollution Control Officer of the
10 Bay Area Air Quality Management District via electronic services addressed as follows:

11 OMONIGHO OIYEMHONLAN
12 Assistant Counsel II
13 BAY AREA AIR QUALITY MANAGEMENT DISTRICT
14 OFFICE OF THE GENERAL COUNSEL
15 Email: OOiyemhonlan@baaqmd.gov

16 Based on the agreement of the parties to accept service by e-mail or electronic
17 transmission.

18 I caused the documents to be sent to the persons at the e-mail addresses listed above. I
19 did not receive, within a reasonable time after the transmission, any electronic
20 message or other indication that the transmission was unsuccessful.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct. Executed April 24, 2026, at Alamo, California.

23 

24 _____
25 Thomas Bruen
26
27
28