

From: Morrison, David
Sent: Thursday, January 19, 2023 9:16 AM PST
To: Ex, Peter <PETER.EX@countyofnapa.org>; Bordona, Brian <Brian.Bordona@countyofnapa.org>; Harrington, Stacey <STACEY.HARRINGTON@countyofnapa.org>
Subject: RE: Additional information about problems at Clover Flat Landfill and Upper Valley Disposal Service.

How much of the letter is factual?

Where factual, have we taken enforcement action?

From: Ex, Peter <PETER.EX@countyofnapa.org>
Sent: Thursday, January 19, 2023 8:38 AM
To: Morrison, David <David.Morrison@countyofnapa.org>; Bordona, Brian <Brian.Bordona@countyofnapa.org>; Harrington, Stacey <STACEY.HARRINGTON@countyofnapa.org>
Subject: FW: Additional information about problems at Clover Flat Landfill and Upper Valley Disposal Service.

Just FYI, The sale of the two facilities is supposed to close end of this month...

From: Jose Garibay Jr <josegaribayjr@gmail.com>
Sent: Thursday, January 19, 2023 5:53 AM
To: Ex, Peter <PETER.EX@countyofnapa.org>; Quecan, Aura <AURA.QUECAN@countyofnapa.org>; Lederer, Steven <Steven.Lederer@countyofnapa.org>; Griffis, Amanda <Amanda.Griffis@countyofnapa.org>
Subject: Additional information about problems at Clover Flat Landfill and Upper Valley Disposal Service.

[External Email - Use Caution]

January 19, 2023

To:

Peter Ex, Aura Quecan, Steven Lederer and Amanda Griffis

Additional information about problems at Clover Flat Landfill and Upper Valley Disposal Service.

I am sending this letter to elected officials throughout Napa County. I sent this letter last week to the mayors and city managers of the three up valley cities of Yountville, Calistoga and St. Helena but have not yet received a response.

I have been consistently working and trying to get my perspective across to the residents, employees and tourists of the beautiful Napa Valley regarding the environmental problems at Clover Flat Landfill and Upper Valley Disposal Service on Whitehall Lane pertaining to the ground water and water contamination that has been happening for years, and fires. I wanted to reach out to you with some relevant information.

My name is Jose Garibay Jr. I am a former employee of Upper Valley Disposal Service (UVDS) that also does compost and recycling, which also included working at the Clover Flat Resource Recovery Park Landfill. During my time working for the Pestoni Family-owned business I witnessed firsthand a series of concerning fires, water pollution events, and employees being asked to perform unlawful and questionable jobs at these facilities. I have submitted my concern, experiences, and evidence to Local, State and Federal Agencies.

EMPLOYEES

Employees are not being protected appropriately and are asked to handle unthinkable tasks with little to no training, equipment, or protection including no training certifications, licenses or permits to operate heavy equipment on public roads & off roads. Employees take their lunches in vulnerable areas sometimes next to Trash, Recycling or Green Waste piles. I have experienced this personally. I have come forward **NOT** for my compensation but out of concern for my friends and former co-workers, many of whom are in no position to speak up or come forward for fear of retaliation and loss of their job.

The public needs to be aware and be advised of the series of fires and water contamination happening constantly at these two sites daily for decades. These industrial sites are affecting the environment and residents of Napa Valley. Also, the biggest revenue for the wine country could be tremendously affected; the wine industry, tasting rooms, wineries, hotels, resorts, restaurants, and local businesses.

FIRES

Fires are a serious concern at anytime and anywhere at these sites. I have witnessed many fires that started in the compost and have the potential to cause a loss of property and loss of lives. In my time at UVDS & Clover Flat Landfill fires were common at these facilities specifically at the UVDS Whitehall Lane compost yard. Fires require oxygen and fuel which is provided by organic materials typically composted and can be caused by spontaneous combustion being the most common cause. When materials self-heat to a temperature high enough it causes them to ignite. Fires can also start by heat and sparks from equipment or vehicles, sparks from welding activities and wildfires like the Glass Fire that burned Clover Flat Landfill.

At UVDS I have experienced fires in the large piles of compost. A smoldering fire starts when materials reach their ignition temperature. This type of fire produces gases, smoke and heat but smolders and may not fully ignite until more oxygen comes in. When more oxygen is present, a glowing fire can occur, producing smoke, more heat and higher temperatures. With abundant oxygen, a flaming fire with very high temperature ensues. Management at UVDS was warned for having large smoldering piles of compost and I personally had to put out many fires.

PRA_23-855_053029

WATER CONTAMINATION/LEACHATE

Leachate is the liquid formed when waste breaks down in Clover Flat landfill and UVDS composting facility. When water filters through that waste, including rainwater, this liquid comes in contact with buried wastes, it leaches, or draws out, chemicals and constituents from those wastes received from households, hotels and resorts, local business and restaurants, agricultural and wine industries. Eventually affecting Napa Valley ground waters. The dark liquid contains organic and inorganic chemicals, heavy metals as well as pathogens. Leachate can pollute the ground water and therefore represents a health risk. The following contaminants could be already leached out such as: Nitrates, Chromium, Arsenic, Iron, Zinc, Ammonia, Nickel, Cyanide, Copper, Total Petroleum hydrocarbons (PH), Total suspended solids (TSS), Chemical Oxygen (COD), Biological oxygen demand (BOD), Aluminum, Phosphorus and Fat, Oil, grease (FOG). Once again leachate is a complex mixture characterized by high toxicity and ability to contaminate soils and waters, and leachate pollution can severely damage natural ecosystems and harm human health.

I also became aware of the complaints about Upper Valley Disposal Service and Clover Flat landfill being made by then mayor of St. Helena Geoff Ellsworth last year and I reached out to him. I have also reached out to the current Mayors and City Managers in the Joint Powers Agency (St. Helena, Calistoga, and Yountville) who contract with UVDS and Clover Flat Resource Recovery Park Landfill.

EMPLOYMENT HISTORY

I started working for the company July 15, 2019, as a Driver with Commercial Class-A License in California and 12 years of experience in 11 Western States and was then promoted to management on April 5, 2021. I was promoted again on January 01, 2022, due to my potential as a lead and my logistics experience. During the pandemic I took time off from January 07, 2020, to February 17, 2020. During my time off another employee was managing my duties. Meanwhile I was looking for an affordable place to live and the company made an offer for me to live on site at (UVDS) Upper Valley Disposal Services at 1285 Whitehall Lane Saint Helena, CA. from February 18, 2020, to April 29, 2022. As I was brought onsite to live there were tougher expectations on me from the company and more responsibilities including handling 24/7 emergencies for example when I was called to put out fires at the Whitehall Lane location at all hours. Also, when I was needed for the leachate runoff incidents at Clover Flat Landfill.

The companies needed a lot of help to clean up the mess that existed and I did my best to correct many of the problems to the best of my expertise while I worked to put in place protocols and safety mechanisms to protect the employees, environment, and all the residents and tourists of upper Napa Valley. There were constant fires at the UVDS Whitehall Lane Yard in the composting facility and the lack of treatment and process for contaminated leachate water was disturbing. The same situation happened at Clover Flat Landfill. The problems are extensive and have damaged the environment and continue to threaten and harm the environment around these facilities.

I worked for the company for three years and I worked hard to correct things and clean up these sites, but I received backlash from upper management that led to my eventual severance on April 29, 2022. Although I signed an agreement it did not exclude me from discussing **unlawful and illegal activity** and this is what I have shared with the authorities. I have been in contact with OSHA, the Ca. Regional Water Board, the State EPA, the Federal EPA, the Mexican Consulate, and I am reaching out to the Napa District Attorney as well as other agencies. I no longer reside in the area, but I am unclear how local cities are partnering with these companies considering the ongoing problems. Yet I have received no response to my letter I submitted to the Mayors and City Managers about these problems, and yet I have heard that the company (UVDS) was made aware of the letter. Don't these officials first have responsibility to the community that voted for them, and to open an investigation to protect their health and safety and for a better environment?

Mayor Donald Williams, and City Manager Laura Snideman, of Calistoga, CA. Mayor Paul Dohring and City Manager Anil Comelo of Saint Helena, CA. Mayor Margie Mohler and City Manager Steven Rogers Town of Yountville, CA. are just advising the company instead of making the community aware of the problems.

I felt happy for my former co-workers when reading about a new company taking over but I learned that the old management was to stay in place, and I realized that the Pestoni family were just cashing out and walking away from all the damage they have done to the beautiful environment and communities of Napa Valley. I felt I could no longer stay silent and thought the right thing was to come forward about this situation.

I have read much information coming from the company and the Joint Powers Agency and there is a lot of misleading and false information being provided to the public. I hope you will take the time to consider what this company is doing to the environment and employees and how this company's actions are harming the workers, the environment, and all the residents and tourists of Napa County; we are ALL impacted by the poor management at these facilities. My contact information is below to talk about further.

I ask to have my concerns logged and to be put on record.

Thank you! for your hard work and dedication towards protecting your community and your people's environment.

Jose Garibay Jr.

559-790-5752

[**josegaribayjr@gmail.com**](mailto:josegaribayjr@gmail.com)

Please see Water Board Comments submitted on December, 29 2022

December 29, 2022

Additional comments for proposed settlement

Between Water Board and Clover Flat Landfill/Vista Corp. additional context

I'm Jose Garibay Jr. and I am a former employee of Upper Valley Disposal Services, who are also the owners of Clover Flat Landfill. I was hesitant in the past to submit comment about Upper Valley Disposal Service/Clover Flat Landfill because of concerns of retribution from the company, but now I have legal representation if that occurs. I'm truly committed to submit this complaint for the best outcome for our environment, our community, elected officials and all tourists from all over the world visiting the beautiful Napa Valley, including all the employees at Clover Flat Landfill and Upper Valley disposal Services (UVDS), and to have a better, safer, and healthier workplace, including

those employees still at these sites.

This comment letter is in accompaniment to the comment letter I am submitting regarding the SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER PROPOSED ORDER - VISTA CORPORATION AND CLOVER FLAT LAND FILL INC., NAPA COUNTY - Violations of Industrial Storm water General Permit (NPDES Permit CAS 000001, Order 2014-0057-DWQ). This letter contains additional comment regarding concerns about overall and ongoing operations at both Clover Flat Landfill and the Upper Valley Disposal Service Whitehall Lane recycling and compost site related to water contamination and fires that can contribute to water contamination.

This letter is intended to give a more complete picture of the systemic problems related to this company, including both its past and current management, leading to problems such as identified in the order.

My statements will also be submitted to the EPA, OSHA, the Napa County District Attorney, Ca. Attorney General, Cal Fire, Cal Recycle and the Ca. insurance Commissioner

I was first employed at UVDS/Clover Flat Landfill in July 15, 2019 and terminated in April 29, 2022. I believe I was terminated because I was recognizing operational problems leading to unlawful water contamination and fires, and I was trying to fix them, but the company did not want to spend money to fix many of the problems. I'm a witness to many fires and substantial leachate runoff from both the Clover Flat Landfill and the UVDS Whitehall Lane sites in the three year period of my employment.

The problematic fires, contamination issues, and other environmental and workplace concerns have negative impacts on the environment, the community, and workers at UVDS/Clover Flat Landfill.

I began as a commercial driver on July 15, 2019 and was moved up to operations supervisor on April 05, 2021, then to operations manager on January 01, 2022. While I did sign a non-disclosure agreement on my termination, April 29, 2022, that agreement did not pertain to unlawful activity by the company which my comments here to pertain to.

The final sentence in section 11 of the agreement states:

Nothing in this agreement prevents Garibay from discussing or disclosing information about unlawful acts in the workplace such as harassment or discrimination or any other conduct that Garibay has reason to believe is unlawful.

I signed the agreement in the interest of protecting most of the employees at these sites, not to protect the company, UVDS/Clover Flat Landfill, from scrutiny of activity that could be unlawful. These comments relate to what I believe is unlawful activity related to water contamination and fires that can contribute to water contamination.

I have just a few photographs related to the incidents at Clover Flat Landfill in 2019, as I was new to the job and just trying to understand the situation, however I do have many photographs from 2020-2022 demonstrating the ongoing problems and what I believe to be unlawful activities at Clover Flat Landfill and the UVDS Whitehall Lane sites. I can submit the photographs under proper procedure to protect me in bringing it forward as it, documents the unlawful activity I reference in this letter.

An example of a major systemic problem is on the UVDS website (attached). In the bullet points in the "What We Do" section it states there has not been an onsite fire since 2018. This is blatantly untrue as many fires occur on an ongoing basis at both the Clover Flat and UVDS Whitehall Lane sites and add to contamination problems, including the Glass Fire of 2020 where the leachate piping burned and the contamination escaped. These are events that I witnessed and have firsthand knowledge and documentation of.

About – Upper Valley Disposal Services

It is important also to note that Clover Flat Landfill is located in a Cal Fire High Fire Hazard Severity Zone, high wildfire risk area, and the UVDS Whitehall Lane Waste site is just a half mile from a high wildfire risk area. **A current Federal storm water case against Clover Flat/UVDS will help support my statements here, as well as the information the Water Board already has coming from numerous sources including the Department of Fish and Wildlife and the Napa County District Attorney.** It should also be noted that it has been difficult for employees and members of the community to speak up on the problems at UVDS/Clover Flat Landfill due to fear of reprisal from the company. It is important that the Water Board and all other agencies take this into consideration when examining this situation.

COMMENTS

I was first employed at UVDS/Clover Flat Landfill in July 15, 2019 and worked there until April 29, 2022.

Began as a commercial driver on July 15, 2019 and was moved up to operations supervisor on April 05, 2021, then to operations manager on January 01, 2022.

Worked mainly at the UVDS Whitehall Lane waste yard but also spent significant time at Clover Flat Landfill so had many observances there.

My initial duties as a driver included:

Driving of Commercial Roll-off Boxes with construction commercial and residential debris, recycling, trash and green waste in and out of the UVDS Whitehall Lane and Clover Flat Landfill, and driving the long haul to transport green waste pressure treated wood, metals (aluminum, copper, galvanized metal), old appliances and other waste material.

There was also a situation in 2019-2020 involving unregulated radioactive waste that sent some of the employees to the hospital and that was not correctly managed over a significant period of time. I have firsthand knowledge of this myself.

What I started seeing in this time was a lack of training for employees for proper procedures and for proper handling of waste materials. Also a lack of proper, updated equipment for managing the waste.

The POOR WORKING CONDITIONS at UVDS/CFL contributed to the difficulty for workers to properly do their jobs.

As I was promoted to supervisor/manager my duties expanded to:

Besides being a commercial driver and still driving most of the time, I had other responsibilities such as setting up schedules for compost employees, MRF (Materials Recovery Facility) employees, and long haul and roll-off drivers.

- Living onsite at UVDS Whitehall Lane for any emergency such as fires and pond water issues at any hour.
- Fixing infrastructure problems.
- 24/7 I had to put down many fires at the Whitehall Lane site
- Taking storm water samples with no training or background
- There were many more fires at Clover Flat Landfill put down by employees from Clover Flat Landfill. We were told by Bryce Howard (General Manager) in a meeting including Kanuto Galindo (Clover Flat Landfill Manager) and myself not to report the fires, so as not to upset the owner Christy Pestoni. But she knew that there were fires.
- Fires happen constantly at Clover Flat Landfill and Upper Valley Disposal sites on an almost daily basis.
- Hauling out metals, pressure treated wood, landscape green waste, urban wood, wood chips, trash bales, glass, general waste and full cases of wine to be destroyed from Clover Flat Landfill.

- Hauling compost to different customers around Napa, Sonoma and Lake Counties
- It also became clear to me that while **Clover Flat Landfill is only a Class 3 Landfill**, it was taking in and processing waste that should have been sent to Class 1 and 2 landfills.

In my comment letter related to Recital 4(c) of the Water Board order I note the conditions that applied to the period of July 2019 - Dec 2019 at Clover Flat Landfill. These and additional problems at Clover Flat, persisted throughout the time of my employment leading through April 2022.

These included:

- Lack of road maintenance leading to runoff of contaminants, erosion.
- Contaminated leachate used for dust control, spreading contamination throughout the site, and onto the tires of vehicles leaving the site and into the surrounding areas.
- Use of an old diesel truck for improper onsite refueling, allowing diesel run off into the environment.
- Taking in hazardous fire waste/debris (including from other counties) - this fire waste was buried in its entirety, including metals, hazardous materials and biodegradable materials.
- The landfill continued taking in more waste than they could handle, and with employees without proper training or equipment.
- Waste materials were not properly sorted, separated and processed due to the sorter being broken before I took the job and never repaired or replaced after the glass fire.
- Commercial green waste buried in the landfill (including wood chips).
- Other inappropriate materials were buried in landfill.
- Large piles of metal were stockpiled over time at Clover Flat until prices changed, not covered in event of rain.

Because my duties from 2019-2022 were primarily at the UVDS Whitehall Lane waste site, this 2nd comment letter focuses more on the UVDS Whitehall Lane waste site and general problematic management within the company leading to these environmental impacts to public water resources. (When I tried to fix these problems, or have them fixed, I received resistance from the company, to the point of my termination).

However I will repeat a QUESTION from my other comment letter.

How can a fully trained and oriented inspector NOT see the problems at Clover Flat Landfill and the UVDS Whitehall Lane yard, when a former employee at UVDS/CFL with no background with the Water Board notices all the problems and issues, and gets terminated for trying to correct them?

These are the same conditions I witnessed going on from 2019-2022 were not accidental but caused by systemic and ongoing problems, failures and negligence. The problems, failures and lack of protections at UVDS/CFL will continue to happen until this company is held accountable for its negligence, lack of compliance and failure to address problems at its Clover Flat and UVDS Whitehall Lane waste sites, impacting the health and safety of the environment, the surrounding community, and the employees of Upper Valley Disposal Service/Clover Flat Landfill. Even if the company sells its operations, unless the "on the ground" management changes the problems will keep happening.

GENERAL PROBLEMS AT UVDS, INCLUDING AT WHITEHALL LANE SITE INCLUDED:

The below issues are supported by documentation and eyewitness testimony, and can be expanded upon with additional detail. Large scale lack of containment of leachate liquid garbage water, lack of storm water containment systems, lack of erosion control allowing petroleum based materials, oils, greases, and other chemical contaminants to escape containment into the environment and drainages into nearby creeks at both UVDS Whitehall Lane and Clover Flat Landfill - both on a day to day basis, as well as during emergency or onetime events, such as storms and wildfires, including the Glass Fire of 2020. Fires/wildfires also contribute to the issues with the contaminated wastewater.

Leachate is the contaminated liquid runoff/wastewater that percolates through Trash, Recyclables and Green Waste Materials, and which employees at UVDS/CFL are in considerable contact with, including as this contaminated leachate is sprayed over the waste site grounds at both the UVDS Whitehall Lane Waste site and Clover Flat Landfill as dust control and over compost operations at UVDS Whitehall Lane as moisture control. (The compost is sold as organic but is sprayed with contaminated leachate which is another way the contamination can leave the sites into other areas). **There are many examples that can be shown of ongoing leachate containment problems and problems related to the UVDS Whitehall Lane Wastewater pond.** The UVDS Whitehall Lane waste site has a "wash rack" wash station where Collection vehicles and equipment trucks and Machinery are washed down on a daily basis, and where all contaminants drain without proper waste water treatment. When I started working at UVDS Whitehall Lane this contaminated water drained to a holding tank with no processing, then was transferred to a water truck and sprayed on the compost. I brought in the company Safety-Clean to manage this wastewater, but I do not know if the company kept working with Safety-Clean on this after I left.

It should also be noted that this wastewater/leachate is dispersed over local agricultural areas in proximity to the UVDS Whitehall Lane waste site, draining or percolating into waters of the state in a manner inconsistent with state and federal regulations, further intensifying the problematic and systemically unsound situation at, and around, the UVDS Whitehall Lane site. Contaminated leachate at Clover Flat/UVDS was also sprayed as dust control because that allowed the liquid to evaporate so the company could save money by not transporting the leachate wastewater to proper wastewater treatment facilities, further concentrating the contamination.

Another repeated Question from my other comment letter - Napa Valley wineries have storm water/ treatment ponds - why not Clover Flat Landfill and UVDS Whitehall Lane site? - How does the Water Board require water treatment at wineries and other industries but not at the landfill and waste site where there are many more toxins and are the only places where leachate is present and continuous 24/7/365 days a year (these sites also are close to creeks and connect to groundwater, but have no water treatment plant). The problematic locations of the Clover Flat/ UVDS Whitehall Lane waste sites within narrow Napa Valley floodways that lead from both sides of the Napa Valley makes containment of this wastewater/leachate very difficult, particular in heavy rain/storm situations. There is also an economic consideration/potential impact to factor as the contamination at these sites is in proximity to what is consistently amongst the highest value agricultural land in the United States.

The UVDS Whitehall Lane location has wastewater containment problems with location in narrow floodway between the western hills of the Napa Valley and the Napa River across some of the highest valued agricultural land in the United States. There are also fire risks with close proximity to high wildfire risk areas just a half mile away. Limited ingress/egress at Clover Flat Landfill presents concerns in the event of emergencies or storms for workers to be able to manage storm waters, the location in a steep canyon makes containment of leachate/storm water and run-off impossible to contain. The location in a high wildfire risk area heightens risk.

The risk levels are unnecessary because waste processing alternatives exist in less environmentally sensitive, less wildfire prone areas that have never been considered. While the leachate/wastewater should be trucked offsite in many cases, because of the problematic history of the company and the difficult locations, there are risks as well to the wastewater trucking, which is another reason better locations should be found to replace these waste sites.

PROBLEMS WITH COMPOST AND GREEN WASTE:

Compost and green waste is a significant component of waste operations at UVDS/CFL. Grape waste (pomace) from the wine industry, both in Napa County, and potentially from outside of Napa County, is processed at these facilities, as well as green waste, food waste and other biodegradable waste. This type of green waste/biodegradable waste can also be highly flammable because of the conversion to methane as it breaks down. The compost operations at UVDS/CFL bring significant concern due to lack of quality control which can allow contaminants into the compost.

These potentially include pesticides, sewage sludge, petroleum oils, plastics and other waste materials. **There appears to be no third party monitoring/testing related to quality control and the marketing of this potentially compromised compost**. The use of contaminated wastewater/leachate for dust control/moisture control on this compost is also concerning related to quality control, and with compost that is potentially substandard and distributed out into the County and local municipalities as "organic" when it may in fact be significantly compromised and not consistent with "organic" standards in what is among the highest valued agricultural land in the United States. With this type of disbursement with the compost resold out to the community it can enter and contaminate soils and waters in other areas of the narrow valley. This distribution includes with contracts to the local jurisdictions (including St. Helena, Yountville and Calistoga and the County of Napa that contract with UVDS/CFL through the UVWMA-JPA, and that are locked into compost "buy back" programs with UVDS/CFL and the UVWMA - JPA). Additional concerns related to compost include a lack of restroom facilities in proximity to the compost operations at UVDS/Clover Flat, creating a situation with employees urinating into the compost piles. Some of this compost is used to make grapeseed oil for human consumption - which the company has marketed as a food grade product but it is not processed in food grade facilities. There has also been a lax culture of enforcement regarding cigarette safety/protocol at the UVDS/CFL facilities, including with compost operations, so trash like cigarette butts can also enter the compost stream this way.

COMPOST FIRES

Again it is critical to note that this type of green waste/biodegradable waste can also be highly flammable because of the conversion to methane as it breaks down. The lack of a comprehensive fire plan, lack of updated fire suppression equipment, lack of proper training, and lack of best practices related to compost/green waste fire risk is problematic at both the UVDS Whitehall Lane site and Clover Flat Landfill. Though UVDS/CFL claims to have an adequate fire plan and claims to not have had recent or ongoing fire problems, including related to compost, this is simply not the truth as documentation exists of the ongoing fires, and lack of an adequate/updated fire plan or protocols, putting the environment, the employees, and the community at significant risk. There has also been a lax culture of enforcement regarding cigarette safety at the UVDS/CFL facilities, including with compost operations, so again it is important to note that this type of green waste/biodegradable waste can also be highly flammable because of the conversion to methane as it breaks down.

FIRE/WILDFIRE

One of the most problematic and dangerous aspects of waste/refuse management is fire and fire control. **Fires create additional wastewater/leachate issues.**

- All Trash, Recyclables and Green Waste processing is inherently prone to fire due to materials and processes, including unavoidable production of methane, a highly flammable and potentially explosive landfill gas.
- Each load of Trash, Recyclables and Green Waste represents a potentially volatile fuel load and there is little margin for error in managing such operations as they relate to the environment,
- Water resources and the health/safety of the workforce and community.
- Landfill and waste fire risks include flame aspects as well as risks/impacts from hazardous smokes, fumes and gasses.

UVDS/CFL had a documented string of dozens of fires in a five year period from 2013-2018, and while the company claims to not have had recent or ongoing fire problems since, this is simply not the case as documentation exists of the ongoing fire problems at Clover Flat Landfill (including the Glass fire of 2020 and continuing through the present (2022)). Fire problems at UVDS include fires Collection Trucks with Trash, Recyclables and Green Waste Materials operating offsite, putting the environment, employees and the community at significant risk. Documentation and testimony regarding specific fire incidents can be provided.

The fire/wildfire/situation at Clover Flat Landfill/UVDS is made more precarious because of the locations of these waste sites. The UVDS Whitehall Lane waste yard is within a half mile proximity to a high wildfire risk Cal Fire High Fire Hazard Severity Zone/Wildland-Urban Interface Area, and due to the high volumes of compost represents a considerable volatile fuel load. To my knowledge and through numerous requests to Cal Fire and the County of Napa the UVDS Whitehall Lane waste yard has no fire plan that I know of.

Clover Flat Landfill is located in a remote and windy canyon with limited ingress/egress in a high wildfire risk Cal Fire High Fire Hazard Severity Zone/Wildland-Urban Interface Area. Clover Flat Landfill currently has an inadequate fire plan that is inconsistent with Ca. Fire Code Chap. 49 - Requirements for Wildland-Urban Interface Area (WUI), was not updated with expansion of operations in 2020, and with no reference to location in a high wild fire risk area with limited ingress/egress.

Clover Flat Landfill/UVDS are also now trucking in significant amounts of waste and refuse from outside of Napa County for processing at these two upper Napa Valley waste sites, which heightens contamination risk and fire risk as a volatile fuel load increases in or in proximity to high wildfire risk areas and along local roadways. It is unclear if/how this expanded waste load/fuel load is shuttled/transported between the two facilities and the extent of waste transportation related to this company that also includes Lake County sites. **It is known that unregulated radioactive waste was transported/trucked in an unregulated manner between Clover Flat Landfill and one of the company's Lake County sites.**

EMERGENCY INCIDENTS

While emergency incidents may be categorized as "one offs" that allow some flexibility in adherence to standards, in this situation it is the basic everyday failures and company culture of substandard training and equipment etc. that leave workers/employees at an even more disadvantaged position to address these emergency circumstances, not to mention the challenging locations. We should also note with **ongoing global climate disruption** the higher likelihood of more common and intensified storm and wildfire events. Fires/wildfires also contribute significantly to issues with contaminated wastewater large scale incidents in just the past few years include:

- Storm water event/leachate release 2019 - focus of Water Board order referred to in this comment letter.
- Glass Fire 2020 - In 2020 (and to this day) Clover Flat Landfill was operating with an inadequate fire plan inconsistent with Ca. Fire Code Chapter 49. The Glass Fire burned significant infrastructure at the landfill facility, including paint and oil storage buildings, methane collection systems, as well as the leachate collection systems/piping, releasing contamination into the environment and water resources. **The company and local newspaper falsely reported to the public that the landfill did not burn.**
- 10 inch rain event in 2021 Hundreds of thousands of gallons of leachate were discharged at UVDS by Jose Avelardo at compost yard **authorized** by Bryce Howard General Manager for UVDS and Clover Flat Landfill (pictures)
- Pond Odor for months at UVDS Which pond does NOT have a Liner
- (Ground water possible contamination)
- (Water table is less than 10 feet deep)

OUTDATED/UNMAINTAINED EQUIPMENT

It is clear also there is a practice/culture of using outdated and substandard equipment with a lack of maintenance history at UVDS/CFL. This exposes the environment and water resources to higher risks for accidents and unforeseen negative circumstances as well as contamination impacts related to oils, gasses, greases etc. from older, substandard equipment. There is much documentation of the presence of this outdated, unmaintained equipment.

TRUCKING/TRANSPORTATION

The trucking of garbage and waste, and wastewater, related to UVDS/Clover Flat Landfill, as well as general truck/heavy equipment use at the UVDS/Clover Flat facilities. Also presents risks/impacts to the environment and water resources, particularly when using outdated equipment, carrying out unpermitted operations, with transportation of hazardous materials, or without adequate training.

UN-PERMITTED WORK

Unpermitted work creates water contamination risks/impacts by allowing potentially substandard, unsound or flawed work that could cause erosion, slides, fires etc.

INSURANCE CONCERNS

Another thing I have learned is over the previous few years since 2019 it is unclear if these operations UVDS/CFL are fully or properly insured, or had been in the past when significant incidents like the Glass Fire of 2020 occurred.

Lack of proper insurance for such fire prone and environmentally compromising operations/locations creates additional vulnerabilities in protecting public water resources.

CLIMATE CONCERNS

Water is a critical component in climate concerns. While lack of best practice at UVDS/CFL related to overall climate concerns (methane etc.) may be the subject for a different submission or day, it is clear the water contamination issues at UVDS/CFL must factor into our responsibility to address climate disruption issues.

TO CONCLUDE

The nature of this comment is broad and systemic, and based on a lack of adherence by Upper Valley Disposal Service/Clover Flat Landfill to proper environmental standards, lack of proper training for employees, lack of proper equipment and protocol, unlawful activity and subsequent significant impacts over time to public water resources and the environment, employees and the community. The regulatory culture of "self-reporting" at UVDS/CFL and lack of engaged, objective oversight has also contributed to these concerns. The company has played upon the trust of an unknowing public, and the failed "honor system" approach leaves the Napa Valley community (and investors) and UVDS/CFL employees not fully understanding the undue and avoidable risks and impacts risks they are exposed to due to negligent company practices and disregard for proper standards and regulation.

Again, conditions and incidents I witnessed from 2019-2022 were not accidental but caused by systemic and ongoing problems, failures and negligence with the company ownership/upper level management. Even if the company sells its operations, unless the "on the ground" management changes and until this company is held accountable for its negligence, lack of compliance and failure to address problems at its Clover Flat and UVDS Whitehall Lane waste sites, the problems, failures and lack of protections at UVDS/CFL will continue to happen, impacting water resources, the environment, and the health and safety of the environment, the surrounding community, and the employees of Upper Valley Disposal Service/Clover Flat Landfill.

December 29, 2022

Comments for proposed settlement between Water Board and Clover Flat Landfill/Vista Corp.

I'm Jose Garibay Jr. and I am a former employee of Upper Valley Disposal Services, who are also the owners of Clover Flat Landfill. I was hesitant in the past to submit comment about Upper Valley Disposal Service/Clover Flat Landfill because of concerns of retribution from the company, but now I have legal representation if that occurs. I'm truly committed to submit this complaint for the best outcome for our environment, our community and all tourists from all over the world visiting the beautiful Napa Valley, including all the employees at Clover Flat Landfill and Upper Valley disposal Services (UVDS), and to have a better, safer, and healthier workplace, including those employees still at this sites.

This comment letter pertains to the SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER PROPOSED ORDER - VISTA CORPORATION AND CLOVER FLAT LAND FILL INC., NAPA COUNTY - Violations of Industrial Storm water General Permit (NPDES Permit CAS 000001, Order 2014-0057-DWQ), and specifically Recital 4 (c) related to the discharge of acidic storm water through December 17, 2019.

I also will be submitting in the near future an additional comment letter regarding concerns about overall and ongoing operations at both Clover Flat Landfill and the Upper Valley Disposal Service Whitehall Lane recycling and compost site related to water contamination and fires that can contribute to water contamination.

I was first employed at UVDS/Clover Flat Landfill in July 15, 2019 and terminated in April 29, 2022. I believe I was terminated because I was recognizing operational problems leading to water contamination and fires, and I was trying to fix them, but the company did not want to spend money to fix many of the problems. Also I'm witness of lots of fires and leachate runoff from both sites. Began as a commercial driver on July 15, 2019 and was moved up to operations supervisor on April 05, 2021, then to operations manager on January 01, 2022. I do not have (many?) photographs related to the incidents in 2019, as I was new to the job and just trying to understand the situation, however I do have photographs from 2020-2022 demonstrating the ongoing problematic and systemic issues.

The UVDS website (see attached) says there has not been an onsite fire since 2018. This is blatantly untrue as many fires continue to occur on an ongoing basis at both the Clover Flat and UVDS Whitehall Lane sites and add to contamination problems, including the Glass Fire of 2020 where the leachate piping burned and contaminated leachate escaped.

While I did sign a non-disclosure agreement on my termination, April 29, 2022, that agreement did not pertain to unlawful activity by the company.

The final sentence in section 11 of the agreement states:

Nothing in this agreement prevents Garibay from discussing or disclosing information about unlawful acts in the workplace such as harassment or discrimination or any other conduct that Garibay has reason to believe is unlawful.

I signed the contracts in the interest of protecting most of the employees at these sites, not to protect the company, UVDS/Clover Flat Landfill, from scrutiny of activity that could be unlawful and harmful to the public. These comments relate to what I believe is unlawful activity related to water contamination and fires that can contribute to water contamination. I understand that there is a current Federal lawsuit against Clover Flat/UVDS under the Clean Water Act that will also help support my statements here.

My duties that took me to Clover Flat Landfill in the period up to December 17, 2019 included:

- Driving of Collection trucks Roll-off and front load trucks with Trash, Recyclables and Green Waste, General waste Materials.
- Metals such as hard metal, aluminum, copper Galvanized, stainless steel and more)wood chips, pressure treated wood, household appliances, hard Plastic materials in and out of Clover Flat Landfill, handling of these materials

What I also started noticing in this time was a lack of training for employees for proper procedures and for the proper handling of waste materials. Also a lack of proper, updated equipment for managing the waste. During the time period from my employment ON July 15, 2019 through December 17, 2019 I observed:

- Lack of containment of leachate (liquid garbage waste water from all aspects of the recycling and garbage waste operations), lack of storm water containment systems, lack of erosion control allowing petroleum based materials, oils, greases, chemical contaminants to escape containment into the environment and drainages into nearby creeks.
- Lack of road maintenance leading to runoff of contaminants, erosion.
- Contaminated leachate used for dust control, spreading contamination throughout the site, and onto the tires of vehicles leaving the site and into the surrounding areas. Contamination includes liquid from trash, recyclables and green waste collection trucks, metals, fuels, chemicals, and other unidentified waste. There was not a proper wash station at Clover Flat Landfill for washing contaminated tires of exiting vehicles etc. There was just a small water hose people used to rinse waste off but the drainage was not contained and did not receive any water treatment.
- Other transportation and trucking impacts included the use of an old diesel truck for improper onsite refueling, allowing diesel run off into the environment. (There is photographic documentation of this)

The leachate at Clover Flat that came from all manner of Trash, Recyclables and Green Waste Materials was not sent offsite for proper disposal instead it was sprayed as dust control because that allowed the liquid to evaporate so the company could save money by not transporting the leachate waste water to proper waste water treatment facilities.

Question - Napa Valley wineries have storm water/ treatment ponds - why not Clover Flat Landfill and UVDS Whitehall Lane site? - How does the Water Board require water treatment at wineries and other industries but not at the landfill and waste site where there are many more toxins and are the only places where leachate is present and continuous 24/7/365 days a year (these sites also are close to creeks and connect to groundwater, but have no water treatment plant).

- Taking in hazardous fire waste/debris (including from other counties) - this fire waste was buried in its entirety, including metals, hazardous materials and biodegradable materials. There is no thorough screening to exclude toxic materials.
- The landfill continued taking in more waste than they could handle, and with employees without proper training or equipment. Landfill workers are exposed and coming into contact with a wide array of dangerous materials (i.e.. Chemicals, syringes, winery waste, commercial waste, and many unknown substances, and materials) and are not fully guided on how to handle or contain these materials.
- The waste materials were not properly sorted, separated and processed due to the sorter being broken before I took the job and never repaired.
- Commercial green waste was being buried in the landfill (including wood chips) which was supposed to be being diverted from the landfill.
- Large piles of assorted metals were stockpiled over time at Clover Flat until prices changed, not covered in event of rain.
- Storage of radioactive waste in substandard conditions. The radioactive waste was found in used frack-tanks that were purchased to contain the leachate and or storm water from the 2019 storm events. Workers were asked to clean the sludge out of the frack-tanks and it was the sludge that contained the radioactive material. Workers were hospitalized due to this waste before I was hired, yet the company kept this radioactive waste onsite at Clover Flat Landfill stored in un-secure manner.

These factors could all have contributed to problems of acidic discharge identified in Recital 4(c) of this order and I am submitting this comment to provide a more complete picture of the time frame and factors for the record.

Question - How can a fully trained and oriented inspector NOT see the problems at this site, when a former employee at UVDS/CFL with no background with the Water Board notices all the problems and issues, and gets terminated for trying to correct them?

The problems in 2019 were not simply accidental but caused by systemic and ongoing problems, failures and negligence. These are the same conditions I witnessed going on from 2019-2022, which I tried to improve, and which are referred to in my additional letter of general comments of overall concern from July 15, 2019 through the April 29, 2022 when I left the employment of this company.

The problems, failures and lack of protections at UVDS/CFL will continue to happen until this company is held accountable for its negligence, lack of compliance and failure to address problems at its Clover Flat and UVDS Whitehall Lane waste sites, impacting the health and safety of the environment, the surrounding community, and the employees of Upper Valley Disposal Service/Clover Flat Landfill.

Even if the company sells, unless the "on the ground" management changes the problems will keep happening.

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