

Attachment O

Summary of North Valley Coalition's Comments
and Responses

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

1. Alternative Fuel	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	[Q] Condition C-10-d Alternative Fuel Condition Requires the purchase or investigations of the purchase of non-diesel, alternative fuel vehicles and equipment starting within the first year of operation.	Request deletion of the phrase "to the extent deemed technologically and economically feasible by the TAC" in Conditions 77 A, B, and D. Contend that the addition of the qualifying statement inappropriately limits those requirements and therefore fails to adopt the City's more stringent condition. They require exact alternative fuel condition same as City condition	Condition 77: Alternative Fuel Condition Requires the purchase or investigations of the purchase of non-diesel, alternative fuel vehicles and equipment starting within the first year of operation. <u>Response</u> County requirement is same as the City's based on the City's [Q] Condition C-12-b (page 23, second paragraph). The City's condition provides the same authority to the TAC in [Q] Condition C-12-b (page 23, second paragraph) which states: "...the TAC shall consider the phasing in of [Q] Condition C-10-d based on economic and technical feasibility ..." This statement applies to all the provisions of [Q] Condition C-10-d. Furthermore, the addition of the qualifying statement "to the extent deemed technologically and economically feasible by the TAC" in Conditions 77 A, B, and D, makes the TAC's authority clear and unambiguous.

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

2. Performance Bond as Security for Implementation of Mitigation Measures	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	[Q] Condition A-8-a requires BFI to provide " ...performance bonds, letters of credit, corporate guarantees or similar form of security in the minimum amount of \$3 million, " which, if BFI fails to comply " with the required mitigation measures in a timely and reasonable manner, the Director of Planning may utilize ... to implement the mitigation measures.	Request the County to adopt City's [Q] Condition A-8-a regarding performance bonds as security for implementation of mitigation measures.	Implementation and Monitoring Program, Part V – Indemnification Agreement. Requires BFI to provide for indemnification of the County for any damages to public property which may result from landfill operations and for any expenses which may be incurred by the County in performing any on- and off-site remedial work which may be necessitated by the permittee's failure to operate or maintain the Facility at a level acceptable to the County or the permittee's failure to perform in a timely manner. Requires BFI to tender to the Director of Public works a letter of credit or other security acceptable to the County in the amount of \$10 million. <u>Response</u> None (County requirement is more stringent than the City's)

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

3. Prohibition against further expansions	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	[Q] Condition A-9-b establishing City/County rights to use the landfill and /or related capacity allocations. "There shall be a restriction on the approval of any further expansion of landfilling beyond the limits of the combined City/County Landfill approved herein as set forth in Condition B.2 and as may be agreed upon in the Joint Powers Agreement. Pending the establishment of a Joint Powers Agreement that may include such restriction, the permittee shall not seek approval for any additional expansion in the City and County."	Request the County to adopt City's [Q] Condition A-9-b which places a restriction on the approval of any further expansion of landfilling beyond the limits of the combined City/County Landfill.	Condition 17 D: Termination Requirements Requires BFI to agree, at a minimum, to incorporate the Termination Date provisions in Condition 17 A into the JPA or similar agreement. <u>Response</u> First paragraph of Condition 19 appears to be in conflict with Condition 17 A and D. Revise Condition 19 to delete the first paragraph and add the following new paragraph: "Pending the establishment of a JPA or similar agreement, as described in Condition No. 17(D), the Permittee shall not seek approval for any additional expansion in the County." (County requirement is more stringent than the City's because of the closure date specified in Condition 17 A.).

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
4. 500 Foot Setback	[Q] Condition B-2-b provides "... The City Landfill footprint shall be set back 500-feet from any more restrictive zone."	Request the County to adopt City's [Q] Condition B-2-b establishing a 500-foot setback from the landfill.	The County-side landfill is located further north of the City-side landfill and away from residential neighborhoods (The nearest residential community is to the south approximately 5,000 feet from the County Landfill property boundary). Land uses within 1,000 foot radius of the site include the City landfill to the southeast, undeveloped mountainous terrain to the west and southwest, freeways and industrial areas to the north and northeast, open space to the south and east. BFI has dedicated surrounding properties of East Canyon (426 acres to the west) and Upper Bee Canyon (490 acres to the south) for parkland to the County and Santa Monica Mountains Conservancy as required in existing CUP 86-312-(5), Condition 15 (and Finding No. 22). The dedication of these properties was intended to ensure compatibility with surrounding land uses and serve as additional buffer around the landfill Facility. <u>(Cont'd)</u>

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altschuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
4. Cont'd			<u>Response</u> None (BFI has complied with the provisions of CUP 86-312-(5), Condition 15, which provides greater protection than the City's setback requirement. As such, County requirement is more stringent than the City's)
5. Potential Donation as Parkland after Post-Closure Period	[Q] Condition B-7-c provides "Upon completion of the post-closure period, the property owner shall contact the City Department of Recreation and Parks and the Santa Monica Mountains Conservancy for their consideration of the site as parkland."	Request the County to adopt City's [Q] Condition B-7-c regarding consideration of the site as parkland.	<u>Response</u> Add a new Condition 17-E stating "Upon completion of the Post-Closure Maintenance Period, the Permittee shall contact the County Department of Parks and Recreations and the Santa Monica Mountains Conservancy to determine if either agency would be interested in accepting the Landfill site for parkland purposes."

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
6. Restrictions on the Removal of Oak Trees	[Q] Condition C-7-b and C-7-c places restrictions on oak Tree removal	Request the County to adopt City's [Q] Condition C-7-b and C-7-c which places restrictions on oak Tree removal., and opposes some of the provisions in the County's Condition 35.	Condition 41 of Conditional Use and Oak Tree Permit 86-312-(5) places the same exact restrictions on oak Tree removal as the City. (Please note that the Oak Tree Permit 86-312-(5) is not superseded as stated in Condition 74). Condition 35 is not in conflict with the said Condition 41 of CU&OT 86-312-(5) because removal of oak trees for purposes of grading and drainage construction is allowed. Additionally the City's [Q] Condition C-4 is the equivalent language to the County's Condition 35. <u>Response</u> None (County requirements are the same as the City's.)

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

7. Riparian and Wetland Habitat Mitigation	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	[Q] Condition C-9 requires replacement of riparian and wetland habitat on a 2:1 ratio, with any replacement site to be located in the San Fernando Valley and preferences to be given to the immediate vicinity of the landfill.	Request the County to adopt City's [Q] Condition C-9 which requires replacement of riparian and wetland habitat.	Condition 38 of Conditional Use and Oak Tree Permit 86-312-(5) places the same exact restrictions on riparian and wetland habitat. (Please note that the Oak Tree Permit 86-312-(5) is not superseded as stated in Condition 74). <u>Response</u> None (County requirements are the same as the City's.)

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altschuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
8. On-Site and Off-Site Tree Mitigation	[Q] Condition C-10-b requires both on-site and off-site tree mitigation.	Request the County to adopt City's [Q] Condition C-10-b which requires both on-site and off-site tree mitigation.	Conditions 42 through 47 of Conditional Use and Oak Tree Permit 86-312-(5) provides for tree mitigations and replacement of oak trees which may be destroyed due to site clearing operations. These requirements are similar and are considered equivalent to the City's [Q] Condition C-10-b which requires both on-site and off-site tree mitigation. Under these requirements, as of December 2004, a total of 3,497 oak trees and 40 bigcone Douglas-fir trees had been removed for project construction. At the required mitigation ratios of 2:1 oak and 5:1 bigcone Douglas-fir, 6,994 oak trees and 200 bigcone Douglas-fir trees of qualifying size, are required for tree loss mitigation. Overall, BFI has provided and/or planted for mitigation a total of 9,078 oak trees and 675 bigcone Douglas-fir trees. (Ref: <i>Sunshine Canyon Landfill Oak Tree Mitigation Monitoring Report No. 12, dated July 11, 2005</i>). (Please note that the Oak Tree Permit 86-312-(5) is not superseded as stated in Condition 74).

(Cont'd.)

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altschuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
8. Cont'd			<u>Response</u> None (County requirements are similar or equivalent to the City's.)
9. Back-up Generator to Prevent Migration or Emission of Landfill Gas	[Q] Condition C-10-e requires BFI to provide access to a back-up generator for emergency use in case of a prolonged power outage to prevent the migration/emission of landfill gas.	Request the County to adopt City's [Q] Condition C-10-e which requires BFI to provide access to a back-up generator for emergency use in case of a prolonged power outage to prevent the migration/emission of landfill gas.	No equivalent County condition. <u>Response</u> Add a new Condition 84 stating "The Permittee shall provide access to a back-up generator for emergency use in case of a prolonged power outage to prevent the migration/emission of landfill gas, unless otherwise prohibited by SCAQMD due to air quality concerns."

SUMMARY OF COMMENTS AND RESPONSES

TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW

REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

[illegible]

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
10. Cont'd			<u>Response</u> Add a new condition Subitem E to the IMP, Part XII, Technical Advisory Committee, as follows: E. Upon the Effective Date of this grant, the TAC shall retain the services of an independent consultant to monitor any and/or all the Conditions and mitigation measures imposed by this grant for a minimum of five (5) years. Thereafter, the Director of the Department, upon recommendation by the TAC, may continue to retain such services of an independent consultant as necessary throughout the life of this grant. The permittee shall be responsible for payment of all costs of the services of said independent consultant, and shall pay the consultant's costs on a quarterly basis within 30 days of receipt of the invoice.

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

11. Notice of and Opportunity to Comment on Changes	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	Los Angeles City Council Resolution (File No. 03-0978) requires notice be provided to the affected community of operational changes for the landfill that were not fully analyzed in the Subsequent Environmental Impact Report and that "the affected community be given an adequate opportunity to comment and to request hearings and California Environmental Quality Act findings."	Request the County to adopt the Los Angeles City council Resolution (File No. 03-0978) which requires notice be provided to the affected community of operational changes for the landfill that were not fully analyzed in the Subsequent Environmental Impact Report and that "the affected community be given an adequate opportunity to comment and to request hearings and California Environmental Quality Act findings."	Condition 79 <u>Response</u> Add a new Condition 79 - B stating "The Community Advisory Committee, the Granada Hills North Neighborhood Council and other interested communities groups in the immediate vicinity of the Facility, shall be (1) notified of all operational changes for the landfill that were not fully analyzed in the Subsequent Environmental Impact Report and (2) the affected community be given an adequate opportunity to comment and, if necessary, to request hearings and California Environmental Quality Act findings.

SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS

12. "Catch-all Condition"	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
	No City condition or equivalent exists.	Request the County to adopt a new provision stating "Wherever there is a discrepancy between conditions in County Conditional Use Permit No. 00-194-(5) and City of Los Angeles Ordinance 172933 (or its successors or equivalent discretionary land-use approval), the condition that would result in greater protection for the community shall apply."	No equivalent County condition. <u>Response</u> Staff does not concur with the proposed condition by the law firm of Altshuler Berzon LLP, as it appears to be broader than the language adopted by the Board in its action of June 7, 2006. The language adopted by the Board's majority vote does not convey a "catch-all" condition within its context. As required by item 3 of the Board action of June 7, 2006, staff have adopted all conditions in the City Ordinance 172933 that appear to be either more restrictive or may not have been included in the June 7, 2006, version of the County's proposed draft CUP. (cont'd)

**SUMMARY OF COMMENTS AND RESPONSES
TO LETTER DATED JANUARY 18, 2007, FROM THE ALTSHULER BERZON LLP, ATTORNEYS -AT-LAW
REPRESENTING THE NORTH VALLEY COALITION OF CONCERNED CITIZENS**

12. Cont'd	CITY zoning ordinance 172933 (dated Dec 1999)	NVC/Altshuler Berzon LLP COMMENTS (dated Jan 18, 2007)	COUNTY Proposed Final Draft CUP (dated Jan 4, 2007) and response to comments
			Furthermore, such a "catch-all" condition may expose the County to potential litigation because (1) it is not clear how it will work and whether subsequent actions not envisaged by the Board may also be considered (2) there is no clear mechanism to ascertain and clarify how to proceed and arbitrate disagreements, and (3) extremely difficult to enforce and may create confusion and disputes.

P:\leppub\ENGLPLAN\MARTIN\Sunshine Canyon Landfill CUP Revision\COMPARISON_TABLE Response-01-30-07.doc