[Exempt From Filing Fee
Government Code § 6103]

ALESHIRE & WYNDER, LLP
PAM K. LEE, State Bar No. 246369
plee@awattorneys.com
NORMAN A. DUPONT, State Bar No. 85008
ndupont@awattorneys.com
JOHN FOX, State Bar No. 171426
JFox@awattorneys.com
DEREK T. MATTHEWS, State Bar No. 358286
dmatthews@awattorneys.com
CODY S. PARKER, State Bar No. 359372
cparker@awattorneys.com
1 Park Plaza, Suite 1000
Irvine, CA 92614
Telephone: (949) 223-1170
Facsimile: (949) 223-1180

Attorneys for Petitioner/Plaintiff
CITY OF CALABASAS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

CITY OF CALABASAS, a California municipal corporation

Petitioner and Plaintiff,

v.

COUNTY OF LOS ANGELES, a California county; LOS ANGELES COUNTY SANITATION DISTRICT NO. 2, an independent special district; and ROES 1-10

Respondents/Defendant.

Case No.

CITY OF CALABASAS' *EX PARTE* APPLICATION FOR HEARING ON PETITION FOR WRIT OF MANDATE SEEKING TO COMPEL MANDATORY PERFORMANCE WITH STATE SOLID WASTE AND HAZARDOUS WASTE LAWS FOR CALABASAS LANDFILL; *REQUEST FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION*

Action Filed: February _19, 2025
Hearing Date: February __, 2025
Hearing Time: 8:30 am
Department: [_____]

Trial Date: Not Yet Set

Petitioner and Plaintiff, the City of Calabasas, hereby applies *ex parte* in Department __ of the Los Angeles Superior Court-Central District located at 111 No. Hill Street, Los Angeles, California at 8:30 am on February __, 2025 or as soon thereafter as counsel may be heard for: (a) Issuing a temporary restraining order enjoining the County of Los Angeles and the County Sanitation District No. 2 ("Respondents") from accepting any fire-debris related waste into the Calabasas Landfill pending the hearing on a Preliminary Injunction; and (b) Setting a hearing date on an order to show cause why a Preliminary Injunction should not enter with a date as soon as practicable and in any event no less than one calendar week after the ex parte hearing.

This application is made on the following grounds: A Temporary Restraining Order (TRO) should be issued because Petitioner has a high likelihood of success on the in that the commission by Respondents of allowing unscreened fire debris waste to enter into the Class III Calabasas Landfill directly violates state hazardous waste control laws and that the continuation of such acts will produce "waste, or great or irreparable harm" to the City in its direct and representational capacity as well as those people living and working in the City. (Code Civ. Pro. §§ 526, 527). Moreover, it would be extremely difficult to ascertain any monetary compensation which might otherwise afford adequate relief. The City is entitled to an injunction under that same section, and the balance of hardships favors this TRO. The Application also seeks an Order to Show Cause why a Preliminary Injunction should not issue against Respondents as to this same issue.

This application is based on this Notice and Application, the attached memorandum, the Request for Judicial Notice, the Declarations of City Manager Kindon Meik, City Community Development Director

Michael Klein, Las Virgenes Unified School District Board of Education President Dallas Lawrence, Derek S. Matthews, and Declarations by **7** Residential Citizens filed concurrently herewith, the [Proposed] Order lodged herewith and all other pleadings and records of which this Court may take notice and argument and evidence presented to or considered by the Court prior to its ruling.

This ex parte application and related Petition, declarations, and TRO motion papers were served upon the Respondent County of Los Angeles through the Los Angeles County Clerk's office and was served upon the Respondent County Sanitation District No. 2 through its Secretary and clerk before 10:00 am on Thursday February 20, 2025.

DATED: February 19, 2025

ALESHIRE & WYNDER, LLP
PAM K. LEE
NORMAN A. DUPONT
JOHN FOX
DEREK T. MATTHEWS
CODY S. PARKER

By: 

NORMAN A. DUPONT
Attorneys for Petitioner and Plaintiff,
CITY OF CALABASAS

I. INTRODUCTION

"Haste makes [hazardous] waste." That short aphorism summarizes the City of Calabasas' writ petition to compel the County of Los Angeles ("County") and the County Sanitation District No. 2 ("San. District") to comply with their mandatory legal duty to ensure that only non-hazardous waste is disposed of at the Calabasas Landfill located at 5300 Lost Hills Road, Agoura, Ca. ("Landfill") Respondents County and San District own and operate (respectively) the Landfill, which is a Class III (non-hazardous waste only) facility. The State-issued permit for operating the Landfill expressly prohibits disposal of certain wastes, including hazardous wastes.(RJN Ex. 1 at p.2 ["Prohibitions]). In their haste to dispose of fire-debris wastes from the Palisades Fire, the Eaton Fire, and others, both entities are rushing to allow potentially (and likely) wastes that are ***hazardous*** to public health into this Landfill. Their motives may be political (i.e., "Let's get it done to appease popular demand") or possibly (incorrectly) legal in nature ("The U.S. Army Corps of Engineers is supervising everything"), but whatever the motive, Respondents fall dramatically short of the their ***mandatory duty*** to comply with State law, including the State Hazardous Waste Control Act. That Act prohibits the disposal of hazardous wastes into facilities (like this Landfill) that do not have a permit allowing for such disposal. Violation of such disposal constitutes not just a civil, but also a ***criminal***, offense. (Health & Saf. Code § 25189.5; *see People v. Hale* (1994) 29 Cal.App.4th 730 (upholding criminal violation for illicit disposal of hazardous waste materials).)

The County and San. District have moved with undue haste to allow for the future disposal of fire debris waste directly adjacent to residential homes, schools, and other sensitive receptors. The San. District posted on its webpage for the Landfill a statement dated January 27, 2025, that fire-

debris wastes could be accepted there. The County, moving with almost equal alacrity, was set on February 18, 2025 to approve major changes in the Landfill's hours, daily capacity limits, and to allow disposal of fire debris generated from other areas outside the Calabasas region. The hearing on that matter was continued for one week, presumably to February 25, 2025. All this is being done without any explanation of how the fire debris will in fact be effectively screened or tested to ensure it does not contain any hazardous wastes in violation of State and local laws.

The urgency to act is great in this case. If hazardous waste contained as part of fire debris is allowed into the Landfill, then it poses a serious threat to adjacent homeowners, adjacent schools, adjacent parks, and other public facilities. (M. Klein Decl.). This cannot be easily undone—the disposal of "waste" into a 500+ acre Landfill is not easily segregated and then re-removed at a later date. There is no "orange tag" that San District employees can go to at some later date and discern where the fire debris containing hazardous waste is now located.

Moreover, the dangers to individuals living within a one mile (or less) radius is significant. (M. Klein Dec. ¶5; RJN Ex. 8). Hazardous wastes associated with household items include asbestos, an insulating material in wide use in the 1960s and 1970s when many of these homes were built. (RJN Ex. 2). Asbestos, when broken into small particles, is termed "friable" asbestos (Id.) and friable asbestos can enter human lungs and cause serious if not life-threatening damage. (Id.; see RJN Ex. 5, Ex. 9). Another common household item are cooking pans made with Teflon. Teflon® is a product known to contain the material PFAS, which is also a known chemical toxic harmful at levels in the "parts per trillion." (RJN Ex. 3). These, and a number of other compounds are present in homes—

homes that are now burnt partially or completely and require removal of the fire debris.

The balance of hardships favors a TRO. The County and the San District, despite their hurry to encourage carte blanche disposal, must generally await the U.S. Army Corps of Engineers ("ACE") to collect the fire debris. In this case, ACE has reported on its webpage devoted to the fire debris removal that it is just starting to commence removal, and out of some 13,000 "eligible parcels" that it has retained contractors to start the work for less than 300 homes. (RJN Ex. 4) That is mathematically less than 3% of the total eligible homes. Moreover, even after the contractors finish their work, ACE must complete its review and certification. (RJN Ex. 4 [description of steps to be taken by ACE for debris removal from burn sites].) Thus, stopping the actual disposal from that small percentage to the Landfill will work no great hardship on the County or the San. District. Even if they wanted to receive the fire debris wastes at the Landfill, the process of even collecting the fire debris has barely begun.

While all can agree that there is a desire and need to recover and rebuild from the recent tragedies of the Palisades and Eaton Fires, the hastiness of their desire is inevitably leading to another irreversible tragedy in the making. Therefore, this Court should temporarily stop the ill-considered and hasty actions by the County and the San. District and grant a TRO. THE LANDFILL, THE FIRES, AND THE FIRE-DEBRIS WASTES

/ / /

/ / /

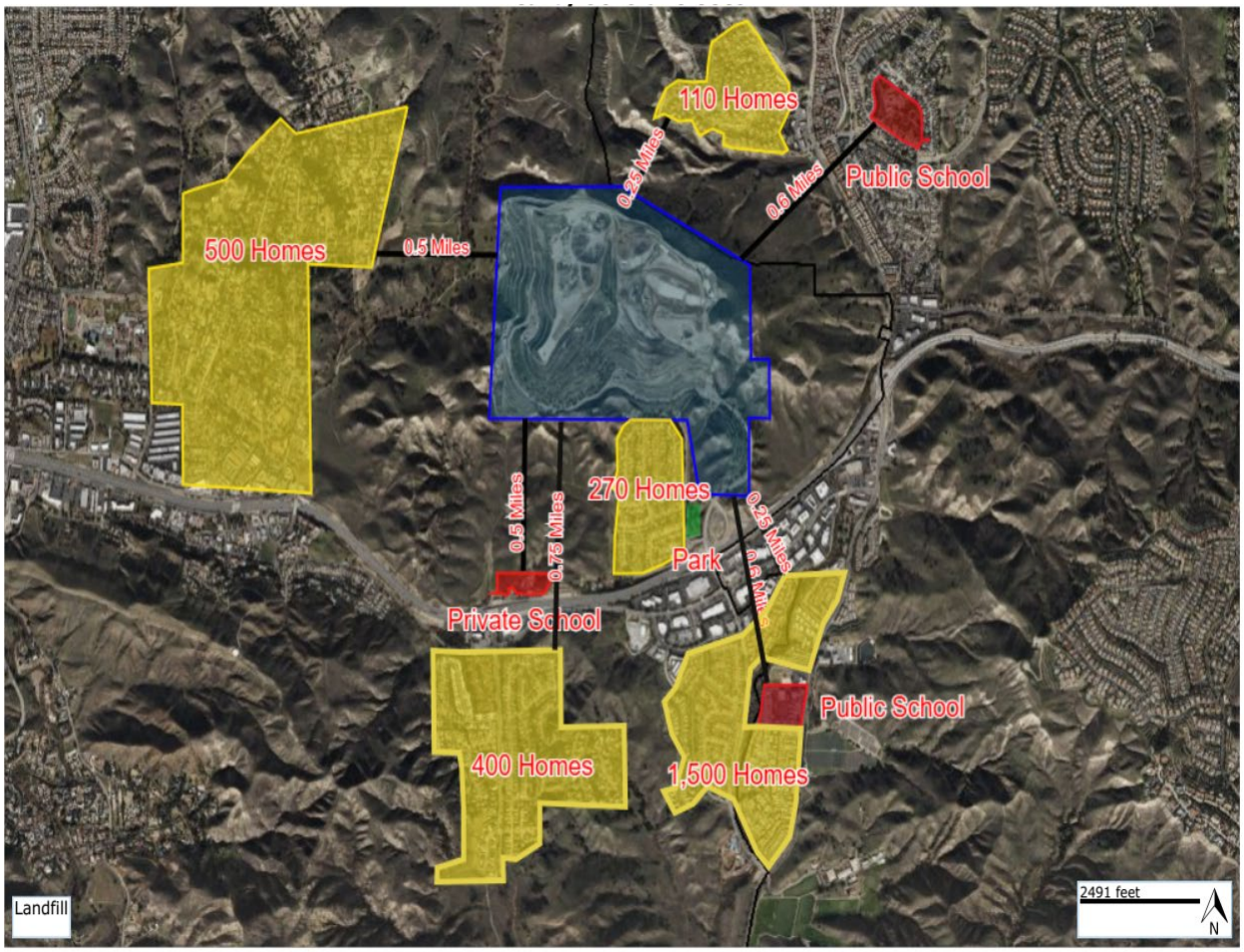
/ / /

/ / /

/ / /

A. The Landfill, its Neighbors, and a Currently Spotty Environmental Compliance Record.

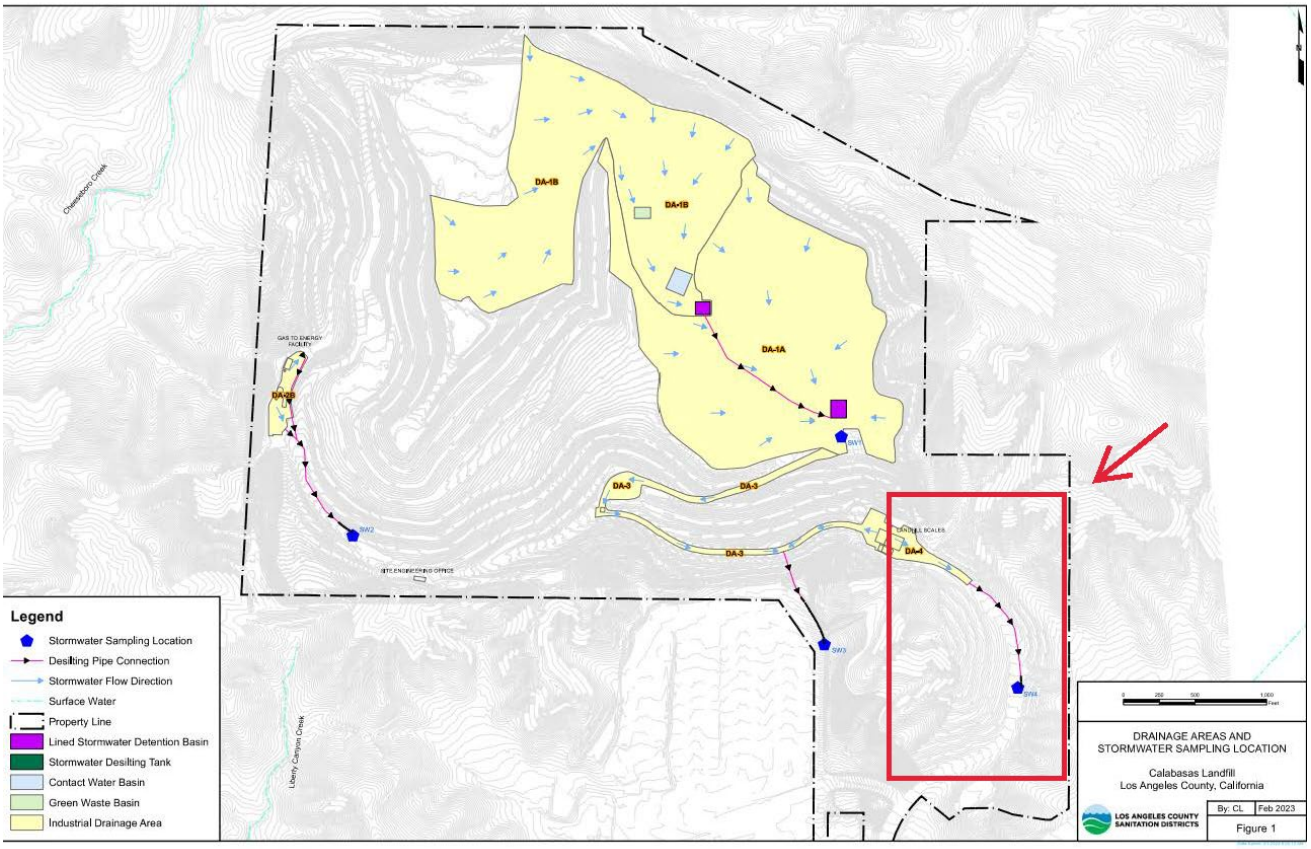
The Calabasas Landfill has a street address of 5300 Lost Hills Road, Agoura. It is surrounded by the neighboring community of Calabasas, as reflected in the map below:



(M. Klein Dec. ¶5). A residential neighborhood with 270 homes and a public park directly abuts the Landfill to the south. Other nearby neighbors include a private school for younger children, the Ion Ramon School, and two public schools, both for elementary grade students. (D. Lawrence Dec. ¶¶2-4). These neighbors are located a short distance ranging from ¼ mile to one mile away from the Landfill. (M. Klein Dec. ¶5).

The Landfill's own map from 2023 shows that drainage for water from rain events (stormwater) moves from the slopes of the landfill down south directly towards the neighboring communities, with "stormwater flow direction" arrows showing a path down Lost Hills and toward the neighboring schools and homes. (D. Matthews Decl. [Excerpt from San. District letter report to Regional Water Control Board dated June 4, 2024].)

Even then, the San. District reported that some of the stormwater testing showed levels for two metals exceeded EPA benchmarks. (D. Matthews Decl.). Of course, this is for stormwater that swept through the



Landfill containing non-hazardous wastes. As recently as January 28, 2025 the San. District reported that it had "concentration limit" exceedances at the Landfill for chloride and Total Organic Carbon at two monitoring wells. (D. Matthews Decl. [Jan. 28, 2024 San. District ltr. to

Regional Board at p.1]. Although the San District averred that it did not believe that the recent variations are "related to the Landfill," it indicated that it would not be submitting further test results until April 2025. (Id.) Similarly, in a 2023 annual report filed just this January, the San. District admitted that its own groundwater monitoring wells evidence groundwater contamination, including contamination from hazardous compounds such as 1,4-dioxane. (RJN Ex. 10 at pp. 15-16).

The Landfill also has a spotty record with respect to air emissions from the Landfill. Given the volume of priority pollutants it releases, the Landfill is defined as a "major source" under the federal Clean Air Act. (D. Matthews Decl. [listing of major pollutants by tons release per year for 2023 year].) In 2022 the South Coast Air Quality Management District notified the San. District that it was in violation of District Rule 3200 dealing with Title V permitted sources. That notification was resolved only in 2024, with the payment of a fine by the San. District for the violation.

These existing concentration limit and emission exceedances are concerning, even in the current state of the Landfill accepting a minimal amount of wastes – 800 tons per day – that are non-hazardous. If the Landfill will be allowed to accept up to 5,000 tons per day, as requested, of fire debris material that potentially contains hazardous materials, then the concentration limit and emission exceedances will be alarming and likely disastrous to public health and safety of the residents, children, students, and community at large.

/ / /

/ / /

/ / /

/ / /

/ / /

B. The County Now Proposes to Significantly Expand the Types and Volume of Wastes It Disposes of On-Site.

Now, the County and San. District want to significantly expand both the type and volume of wastes that will be disposed of at the Landfill. Most important, they propose to allow transmittal of fire-debris related wastes to the Landfill. This proposal was announced not in any public hearing or any ascertainable meeting of the County Board of Supervisors or San. District Board. Rather, it was first announced by a posting on a website for the Calabasas Landfill maintained by the San. District. (D. Matthews Dec. [Jan. 27, 2025 web post as to Calabasas Landfill].) Notably, aside from stating that such fire debris waste would be allowed, the San. District did not provide any public information about: (a) who would screen such waste for any hazardous wastes; (b) how that screening information would be conveyed to the San. District; or (c) what public information would be available about such screening. The San. District web post was all of ½ page with no other information readily available.

The County Board of Supervisors had set a hearing on February 18, 2025 to consider expanding the volume and geographic sources of waste that can be sent to the Landfill. On the day of the hearing, the County announced a one week continuance of the hearing, presumably to the next regular hearing on February 25, 2025.The sole "assurance" that the Landfill neighbors have is that the County and San. District made a statement that it will not accept hazardous waste from the fire debris. How will the San. District and the County discern whether fire debris contains hazardous materials and wastes? According to Respondents, haulers merely need to provide an "acceptable certificate" to accompany any truckload containing such waste. (D. Matthews Dec.). The San. District's webpage contained no further information about what is an

"acceptable certificate" that hazardous waste [was] removed. One is left to wonder what such a certificate is, or might be in the future.

C. The "Inconvenient Truth"—Fire Debris Can and Often Does Contain Hazardous Waste as Part of the Overall Waste.

Respondents ignore what then-Vice-President Gore labelled an "inconvenient truth." In this case, the inconvenient truth is that fire debris waste may and often does contain hazardous wastes regulated by the State. According to the State of New Mexico, asbestos is in fact often associated with fire debris. (RJN Ex. 2). The ash and charred debris likely contain household items (asbestos for insulation; PFAS from Teflon cooking pans) that constitute hazardous . (RJN Ex. 3). Other states have similar warnings about fire debris: "Ash and debris from burned houses, sheds and other structures can be hazardous, particularly when particles are inhaled. Ash and partially burned debris may contain asbestos, mercury, lead, cadmium, chromium and a variety of other dangerous chemicals." (D. Matthews Decl.)

The U.S. Environmental Protection Agency ("EPA") stated in a 2024 document entitled "Dealing with Debris and Damaged Buildings" that: "Elevated concentrations of airborne asbestos can occur if asbestos-containing materials present in many older homes are disturbed. Pipe or other insulation, ceiling tiles, exterior siding, roof shingles and sprayed on-soundproofing are just some of the materials found in older buildings that may contain asbestos. Buildings constructed before 1970 are more likely to contain asbestos. Airborne asbestos can cause lung cancer and mesothelioma, a cancer of the chest and abdominal linings." (RJN, Ex. 5).

According to the County, the EPA and ACE have been charged with fire debris remediation efforts. The exact extent and scope of that effort is still very much a "work in progress", with ACE apparently waiting on the

County for the processing of "Right of Entry" forms that will allow that federal agency to enter onto private homes. (RJN Ex. 4 [ACE webpage from Feb. 17, 2025].Common knowledge that is judicially noticeable based on widespread experience in California, Oregon and New Mexico demonstrates that fire debris from such pervasive and catastrophic fires will clearly contain co-mingled hazardous and non-hazardous wastes.[RJN Exs. 2 and 5]. It would be impossible to segregate such debris and ensure that hazardous materials have been isolated and removed from the remainder debris.

The County and San. District respond that they will only accept "non-hazardous wastes", but base that on an assertion that the waste brought to the Landfill must be "certified" as non-hazardous. There is no information on what is to be certified or who is authorized to sign such a certificate. What testing for hazardous wastes, including metals and asbestos has that party conducted? Respondents, in their rush to dispose to improve political appearances, do not provide this information. It's not transparent, and it's not reliable.

II. RESPONDENTS HAVE A MANDATORY DUTY TO COMPLY WITH STATE LAWS PROHIBITING DISPOSAL OF HAZARDOUS WASTE INTO CLASS III LANDFILLS.

The City can demonstrate that it has a reasonable probability of prevailing on the merits. (*Robbins v. Superior Court* (1985) 38 Cal. 3d 199, 206). The law is clear: Class III landfills such as Calabasas ***cannot*** permit the disposal of a listed hazardous waste. The DTSC regulations repeatedly define a Class III landfill as one that excludes disposal of hazardous waste, which is permitted in a Class I landfill. (Pub. Res. Code Sec. 40060(d)(1) [defining "Landfill used for disposal of nonhazardous solid waste" as a Class III landfill]; 23 Cal. Code Reg. 2521 (b) [hazardous waste

to Class I landfills]). The state Hazardous Waste Control Act (Chapter 6.5 of the Health & Safety Code) also prohibits anyone from disposing of a hazardous waste into a facility that is not permitted by DTSC to receive such wastes—doing so is a ***criminal*** violation. (Health & Safety Code § 25185.5 (a)-(b); *People v. Sangani* (1994) 22 Cal.App.4th 1120, 1133 [rejecting contention that hazardous domestic sewage could be disposed of in treatment facility that lacked a permit]). Nor does this provision of the Health & Safety Code have some type of "quantity exception." As Justice Sills noted three decades ago: "Moreover, while much in science rests on concentrations and dosages, section 25189.5 does not. 'Any' hazardous waste will do." (*People v. Hale* (1994) 29 Cal.App.4th 730, 737)("*Hale*").

The law typically requires testing with established scientific methodology with respect to hazardous wastes and disposal. (*Hale*, *supra*, 29 Cal. App. 4th at p. 735-736 [noting then existing regulatory standard for sampling for hazardous materials per EPA standard]; *see Department of Toxic Substances Control v. Superior Court* (1996) 44 Cal. App. 4th 1418, 1425 [citing to DTSC regulations: "These regulations include training requirements, ***hazardous waste acceptance and testing procedures***, self-inspection requirements, emergency planning, recordkeeping, and hazardous waste tank construction. (See 22 Cal. Code Regs., tit. 22, § 66265.13 et seq.)"(emphasis added)]).

These are mandatory duties, ones that are enforceable via a writ of mandate. (Code Civ. Proc. § 1085). Respondents do not disagree with the law, but suggest that something that the San. District terms an "acceptable certificate" of non-hazardous content, presumably signed by a third party, suffices for the Landfill to accept fire debris wastes. (RJN Ex.6 [Landfill webpage statement]). There is no law that allows Respondents, the owner and operator of the Landfill, to escape their mandatory duty of

ensuring no hazardous wastes are deposited in the Landfill by delegation of that verification process to unknown third parties. This is not reasonable delegation; it is the complete abdication of a legal responsibility.

Finally, nothing in the Governor's recent emergency declaration overrides the Respondents' mandatory duties. The Governor's emergency declaration allows federal agencies including FEMA, the EPA, and other entities to have "the authority to enter private property in Los Angeles County to remove debris that may contain hazardous substances and to conduct any testing appropriate to ensure the hazards are mitigated." (RJN Ex.7 [Executive Order N-8-25 at pp.1-2]). It does not describe the process of waste debris disposal to local landfills by those agencies. (*Id*.)

III. THE BALANCE OF HARDSHIPS TIP SEVERELY IN FAVOR OF THE PETITIONER GIVEN THAT SCHOOL CHILDREN AND OTHER SENSITIVE INDIVIDUALS ARE AT RISK

The City can demonstrate that there is a threat of imminent, irreparable harm to it and its residents and that the balance of hardships tip significantly in its favor. (*Shoemaker v. County of Los Angeles* (1995) 37 Cal.App.4th 618, 624-625).

The Declaration of City Manager Meik, the Declaration of City Development Director Klein and resident declarations of some 7 individuals show the threat of imminent and irreparable injury. As the City Manager points out, the City has a duty to protect the health and safety of its citizens and maintains a public park open to its citizens within ½ mile of the Landfill. (Decl. of K. Meik ¶__). The Declaration of Director Klein shows the proximity of three local school/day care facilities to the Landfill. (Decl. of M. Klein ¶5). The State's Office of Environmental Health Hazard Assessment (OEHHA) requires special risk assessments

for young children whose metabolisms and intake of air, food and water different from adults. (RJN Ex. 8). The risks of exposure to asbestos made friable through the fire are very real. (RJN Ex. 2) Local residents who live within one mile of the Landfill have real fears of exposure to hazardous wastes if the Landfill starts accepting such wastes, as demonstrated in more than declarations. In particular, schools and day-care centers are designated under state air pollution laws as "sensitive receptors." (Health and Saf. Code § 42705.5(a)(5); RJN Ex. 8). In this case, there is one private school/day care center for young children and there are at least two public elementary schools all within a mile radius of the Landfill. (Decl. of M. Klein, Ex. A; Decl. of D. Lawrence ¶¶2-4)

Exposure to any number of hazardous waste materials, including but not limited to asbestos-containing waste is a widely recognized threat to human health. Indeed, the threat of asbestos, a substance that has impaired human lungs for decades, is widely recognized in the legions of product liability/personal injury lawsuits that came to this Court and others throughout the State. (RJN Ex. 9 [2014 Case Management Standing Order: Discovery in All Coordinated LAOSD Cases at p.1]).

In this case, Respondents have no plan (or certainly no transparent and publicly announced plan) to either place all fire-debris loads in a separate area or to cover those waste loads with impermeable barriers that would preclude the emission into the air of asbestos and other toxic materials. It's a rush to dispose without meaningful thought or public input.

In balancing the hardships, one must consider the current slow pace of collection and removal of fire-debris waste by the U.S. Army Corps of Engineers. As of this Monday, February 17, 2025, the ACE had received only 388 "Right of Entry" forms that are legally necessary for it to go onto

private property and remove the fire debris. That is, per ACE, out of more than 13,000 eligible parcels. Thus, only 2% of the total eligible area has even begun the process of qualifying for cleanup—a cleanup that per ACE has not yet been completed. (RJN Ex. 4). One must also consider that the County Board of Supervisors, which was scheduled to hold a meeting with an agenda item to permit expansion of the Landfill's hours and geographically eligible area from which wastes were to be transported *deferred* that agenda item, but just for one week. Thus, the County and the San. District's "need" for immediate judicial approval of an almost completely unformed plan is at best weak. When balancing that weak need compared with the immediate dangers of wind-blown hazards to a large community including state recognized "sensitive receptors", the balance is clearly in favor of the City.

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

IV. CONCLUSION

The City's *ex parte* application for a TRO should be granted. Irreparable harm will result from an unfettered and poorly planned allowance of fire-debris wastes into the Calabasas Landfill unless this Court immediately orders the County and San. District to cease accepting any fire debris pending a further order from this Court. Respondents can wait (as they currently are) to allow for the formation of a real plan with approval by this Court and the public. This Court should promptly set a hearing date on the Preliminary Injunction.

DATED: February 19, 2025

ALESHIRE & WYNDER, LLP
PAM K. LEE
NORMAN A. DUPONT
JOHN FOX
DEREK T. MATTHEWS
CODY S. PARKER

By: 

NORMAN A. DUPONT
Attorneys for Petitioner and Plaintiff,
CITY OF CALABASAS