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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 and Defendants.	Case No. 25STCP00642 Related Case.: 25STCP00671 Assigned for All Purposes to: Hon. Stephen I. Goorvitch, Dept. 82 **CITY OF CALABASAS' REPLY TO OPPOSITION TO WRIT OF MANDATE** Action Filed: February 20, 2025 Writ Hearing: December 12, 2025 at 1:30 pm

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I. INTRODUCTION

Petitioner, the City of Calabasas (City) seeks a writ of mandate to compel the County to comply with mandatory duties under the permit issued by the Local Enforcement Agency and approved directly by CalRecyle. The County (and its Sanitation District) deny that they have a mandatory duty—not because the CalRecycle Permit for the Landfill does not have that language, but rather because the County argues that its duty is excused by virtue of two Executive Orders (EOs) issued by the Governor. The County is incorrect as a matter of law.

Indeed, the County wants to have it both ways. On one hand, it incorrectly asserts that the Governor's EOs suspended the County's obligations under the Permit. (Opp., p. 17.) Then, astonishingly and contrary to sworn testimony, it argues that its inspection process nevertheless complies with that very same Permit and the associated Joint Technical Document. (Id. at 19.)

The County similarly tries to dilute its inspection requirements by asserting that the State Water Board's separate Waste Discharge Report "allows, (indeed, arguably mandates that) a landfill, like the Calabasas Landfill, accept fire debris." (Id. at 21.) First, as a matter of law the State Water Board cannot override CalRecycle's separate requirements. They are two different agencies with different areas of regulatory focus. Second, the County falsely equates fire debris with hazardous waste. Fire debris is not the issue: it's the hazardous waste known to exist within that fire debris, and which the County's own NOI clearly acknowledges cannot be delivered to the Landfill. (COE 26.)

Evidence collected as a result of this Writ proceeding clearly demonstrates that the County fails to comply with those Permit requirements. Yet, in support of its Opposition, the County attempts to

contradict and patch over damaging testimony of its Refuse Site Superintendent, Carlos Orozco, with a carefully crafted, lawyerly declaration. (Opp. pg. 20; Orozco Decl. ¶6.) The County offers no reasonable explanation for its revision of Mr. Orozco's clear, sworn testimony, and as such, the Court should exercise its discretion to disregard such self-serving statements. (*See Whitmire v. Ingersoll-Rand Co.* (2010) 184 Cal. App. 4th 1078, 1087, finding in a summary judgment context that "the trial court may give 'great weight' to admissions made in discovery and 'disregard contradictory and self-serving affidavits of the party.'")

II. ARGUMENT

A. State Executive Orders Do Not Eliminate the County's Obligations to Comply with its Permit Conditions

1. EON-2-25 Does Not Excuse the County's Performance

Governor Newsom's two EOs issued in January 2025 do not suspend the Permit requirements applicable to the Calabasas Landfill. The first cited EO, EO N-2-25, only suspends rules if an individual or entity designated to conduct activities under that EO applies to the appropriate Agency. (COE 110, Sec. 6.) Second, even after such approval, activities under this EO "shall be" in accordance with the State Environmental Protection Plan—which classifies debris, ash, and soil as hazardous materials. (CEO 111, Sec. 7.)

As this Court stated, EO N-2-25 only suspends rules to "the extent necessary ". (Order Overruling in Part and Sustaining in Part Demurrer to First Amended Petition for Writ of Mandate.) The EO does not expressly suspend the provisions of the Permit requiring inspections for

hazardous waste. And, Respondents do not argue that suspending such Permit requirements are necessary.

2. EO No. N-8-25 Does Not Even Apply to the County

The second EO, EO N-8-25, is limited to a suspension of certain rules only for the United States Environmental Protection Agency (US EPA), the Federal Emergency Management Agency (FEMA), and any other individual performing work at their direction. . . (COE 111.) The County was not (and is not) performing work at the direction of US EPA or FEMA—it is separately allowing disposal of hazardous fire-debris materials at County landfills.

Moreover, the County just ignores the last sentence of the Order, which states that sections of the Health and Safety Code (including three specific provisions) "shall apply to and include the actions of US EPA, FEMA, or any individual or entity performing work at their direction. . .". (*Id.*) One of the cited provisions, Health and Safety Code Section 101085, provides that in the case of an emergency declared by a local public health official the local health official may under subpart (a)(3): "Sample, analyze, or otherwise determine the identifying and other technical information relating to the health emergency or local health emergency as necessary to respond to or abate the local health emergency and protect the public health." (Health & Safety Code Sec. 101085(a)(3).) Thus, the notion suggested by the County that testing related to the wildfires was automatically suspended by EO N-8-25 is simply a misreading of the last sentence of that Order.

Similarly, Respondents' alternative reading of EO N-8-25 would effectively eviscerate the word "immediate" from the text of the EO, ignoring the last sentence of that Order. The EO doesn't authorize the lengthy and perpetual removal of hazardous waste from affected

properties; it's an emergency order designed to address "immediate" removal as of January 2025. The Court must reject such a broad reading.

B. The State Water Board's "Waste Discharge Order" from 2020 Does Not Excuse the County's Non-Performance of its Duties

Respondents rely upon a State Water Board's Waste Discharge Order from 2020, Order No. 2020-0004-DWQ entitled: "General Waste Discharge Requirements for Disaster-Related Wastes." As noted in the City's Opening Brief, this WDR is inapplicable for at least two reasons.

First, the photograph of exhibits of fire-debris waste contained in COE Ex. 20 show a number of wastes that fall within the "Prohibitions" of the WDR. Prohibition No. 8 bans wastes "such as paint cans, gas, cans, solvents. . . household cleaners . . .or any potentially hazardous wastes. . ." An examination of the photographs from the Landfill show a variety of mixed small and large materials all commingled together. (COE Ex. 20.) It is impossible to tell given this commingling whether the County is complying with Prohibition No. 8. (*See* COE Ex. 24 at p.7 listing "Prohibitions".)

Second, the WDR itself provides a further legal qualification:

> 13. This General Order does not supersede any federal, state, or local law or regulation. Other requirements may apply to this material; this General Order does not require any entity to accept disaster-related debris. . .
> (COE Ex. 24 at p.3.)

In short, by its own terms the WDR does not purport to supersede (nor can it) the Permit issued under the approval of the state CalRecycle agency. Rather, the WDR expressly disclaims any such intent.

C. The Federal Government's Fire Clean Up Process is Irrelevant to the County's Independent Obligations under its Permit

The County seeks to dazzle the Court with detailed descriptions of the federal government's process. This is irrelevant. The federal government's clean-up process is completely decoupled from the County's obligations to inspect and prevent the delivery of hazardous waste arriving at its landfills. Moreover, the federal government's own disclaimers clearly demonstrate that its process is far from guaranteed to remove hazardous waste. The ECC certificates (issued on behalf of the US Army Corps of Engineers) contain an important caveat:

> CALIFORNIA WILDFIRE RESPONSE-FIRE DEBRIS DISPOSAL DISCLAIMER After completing a sweep of each [fire-damaged] property, the U.S. Army Corps and their contractor will ship the fire debris material to the landfill being deemed non-hazardous ***without testing*** based on an existing study or exemption. (Emphasis added, COE 101.)

The ECC certificate further provides in part that:

> . . . the State of California has agreed to indemnify and hold harmless the United States for any claims arising from the removal and disposal of all debris disposed of under this application. (*Id.*)

Simply stated, the ECC Certificate does not provide any guarantee, warranty, or representation by the federal government as to the sufficiency of its remediation work at fire sites. Rather, it expressly states that the federal government assumes that the fire debris waste will be "deemed non-hazardous" without testing and further seeks an indemnification from the State for such disposal.

The County's pattern of casually dismissing documented evidence of hazardous waste disposal at the Landfill is striking, yet consistent with the City's findings as a result of this Writ Petition. While the County now acknowledges it accepted hazardous levels of copper (Opp., pg. 15-16), it tries to argue that the zinc samples should be dismissed because it was taken from fire debris offsite. (Opp., pg. 23.) As previously stated in the Declaration of Bill O'Braitis in Support of the City's Opposition to the County's Demurrer, though, the fire debris sample taken from 1158 Chautauqua in Pacific Palisades, and which ultimately tested positive for hazardous levels of zinc, came from debris that the City's experts visually confirmed went directly to the Landfill. (*See also* Decl. of Baltazar Maldonato, ¶3-4.)

Despite these unequivocable test results, the County continues to argue that its process for inspecting and preventing disposal of hazardous waste is "effective" and "legally sound." (Opp., pg. 22.) Its decision to cede its responsibilities to ECC's "certification" process is particularly egregious given the documented failures of such a process. As a rebuttal, the City refers the Court to an April 15, 2025, Hazardous Materials Spill Report issued by the California Governor's Officer of Emergency Services, demonstrating that ECC delivered over one ton of mixed fire debris containing asbestos to "at least 2-3 landfill locations", including the Calabasas Landfill. (COE 27.) Somehow, Landfill inspectors missed this, too.

Beyond this, however, the federal efforts are irrelevant to the core issue in this writ. The County had a mandatory duty to "inspect all waste vehicle loads if there is any reason to believe the loads may contain prohibited wastes." (COE 2, Sec. 17.B.1.c.(1).) If so, then the County cannot simply shrug its duty and say—well others, who did *no* testing, can

be assumed to have done so. That is not the way the Permit works, and the County has no viable argue that it delegated that duty to a third party—even one as august as the U.S. federal government.

D. The City's Petition is Anything but Moot

The County Respondents' allege that because the fire cleanup process is nearly complete, the case is now moot. (Respondents' Opposition p. 23). Nothing could be further from the truth.

According to the County's own employee, Gwen Tantoco, as of November 17, 2025, the Calabasas Landfill received 44 tons of fire debris in November alone.[1] (Declaration of Terry Dipple; ¶3.) The disposal is on-going even as of the date of this filing.

Moreover, if one thing is certain it's that there will be more fires in Southern California. This petition seeks redress for an area of broad public interest (the County's actions at the Calabasas Landfill have a direct and demonstrable impact on the surrounding community, particularly the City's residents) and the conflict between the County's actions and laws will continue to occur after subsequent fires without judicial intervention. As such, this petition poses an issue of broad public interest which is likely to recur, warranting an exception to the mootness doctrine. (*In re William M.* (1970) 3 Cal. 3d 16, 23; *Citizens Oversight, Inc. v. Vu* (2019) 35 Cal.App.5th 612, 615.)

The County itself acknowledges the continuing nature of this dispute. As the County's Deputy County Counsel, Mr. Dager, stated in open court in February 2025:

Q:[By the Court]Mr. Dagger, is there anything you'd like to add?

[1] Although not critical to this motion, Ms. Tantoco is listed as a "Senior Engineer" with the LA County Sanitation Districts. Thus, her statement constitutes an authorized admission. (Evid. Code Sec. 1222(a).)

> A:[Mr. Dagger]Frankly, the test results kind of show – and there's going to be more fires. *This isn't a one-off situation. There's going to be more fires. There's going to be more dumping at the Calabasas Landfill and it's just – this is a very important decision to make*. I don't know if it's going to require – we think the general order was pretty clear that fire ash is exempt. We can take fire ash into any Class III landfill, and we're going to continue doing it here.
> (Hearing Tr. for 2/21/2025, pg. 15, lns. 2-21 (emphasis added).)

Clearly, the County expects to continue to use the Calabasas Landfill for future cleanup purposes, and even its own legal counsel's statements to this Court demonstrate that this dispute is far from "moot".

Furthermore, the County improperly states that there is "no remedy for the City to pursue" and that "a ruling on the facts of this specific case would have no effect on disputes between any of the parties regarding future fires." (Respondents' Opposition p. 24.) A judgment in the City's favor would, however, vacate and rescind any approvals, decisions, or website announcements suggesting acceptance of any fire debris waste at the Calabasas Landfill until such time as the County develops processes and procedures to ensure that such fire debris to be disposed of at the Landfill does not contain any hazardous wastes. (City's FAP, p. 26.) Furthermore, the Court would mandate the County to provide evidence of compliance with all of the terms of the Solid Waste Facility Permit for the Landfill. (*Id.*) As such, not only is the City seeking a proper remedy, it will have a binding effect on any future disputes between the parties regarding future fires.

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III. CONCLUSION

For all the foregoing reasons, and for all the reasons articulated in Points and Authorities Petitioner respectfully requests that this Court grant its Petition for Writ of Mandate.

DATED: November 24, 2025

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PROOF OF SERVICE

City of Calabasas v. County of Los Angeles & Los Angeles County Sanitation District No. 2

LASC Case No. 25STCP00642 & Related Case 25STCP00671

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3701 Wilshire Blvd., Suite 725, Los Angeles, CA 90010.

On November 24, 2025, I served true copies of the following document(s) described as **CITY OF CALABASAS' REPLY TO OPPOSITION TO WRIT OF MANDATE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address dbranche@awattorneys.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 24, 2025, at Los Angeles, California.

Diane Branche

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City of Calabasas v. County of Los Angeles & Los Angeles County Sanitation District No. 2

LASC Case No. 25STCP00642 & Related Case 25STCP00671

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