Dawyn R. Harrison, County Counsel (SBN: 173855)
Michael Simon, Assistant County Counsel (SBN: 144038)
Miguel Dager, Deputy County Counsel (SBN: 143836)
OFFICE OF THE COUNTY COUNSEL
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Telephone: (213) 974-1811
Facsimile: (213) 626-7446

Deborah J. Fox (SBN: 110929)
dfox@meyersnave.com
David Mehretu (SBN: 269398)
dmehretu@meyersnave.com
Mark J. G. Desrosiers (SBN: 302309)
mdesrosiers@meyersnave.com
MEYERS NAVE
707 Wilshire Blvd., 24th Floor
Los Angeles, California 90017
Telephone: (213) 626-2906
Facsimile: (213) 626-0215

Attorneys for Respondent/Defendant
COUNTY OF LOS ANGELES

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(Counsel continued on next page)

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 SANITATION DISTRICT NO.2, an independent special district; and ROES 1-10,

Respondents and Defendants.

Case No. 25STCP00642

COUNTY RESPONDENTS' WRIT OPPOSITION BRIEF

Writ Hearing

Date: December 12, 2025
Time: 1:30 p.m.
Dept: 82

Assigned for All Purposes to:
Hon. Stephen I. Goorvitch

Action Filed: February 19, 2025
Trial Date: December 12, 2025

NOSSAMAN LLP
David C. Lee (SBN: 193743)
dlee@nossaman.com
Kasia Penn (SBN: 306056)
kpenn@nossaman.com
50 California Street, 34th Floor
San Francisco, California 94111
Telephone: (415) 398-3600
Facsimile: (415) 398-2438

Attorneys for Respondent and Defendant
COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

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I. INTRODUCTION

The crisis of the Palisades Fire that ravaged the greater Los Angeles communities in early January did not end when the fires subsided. Whole communities were devastated and left with the arduous task of the cleanup and remediation of a massive amount of fire debris, estimated to be 4.25 million tons of material. As a result, the Governor of California declared several emergencies in order to expedite the removal and cleanup of the debris, and for the Federal Government to have full power to provide mutual aid to State agencies in that effort.

This Petition for Writ of Mandate by the City of Calabasas followed quickly and was based on a fundamentally erroneous assumption: that by accepting fire debris from properties that had been burned during the 2025 Los Angeles wildfires, the County and the Los Angeles County Sanitation Districts were violating laws that prohibit the disposal of hazardous waste at Class III landfills. However, in actuality, the Palisades properties had undergone intensive cleanup efforts, to remove hazardous waste, undertaken by FEMA using the Federal Environmental Protection Agency and Army Corps of Engineers, who were specifically exempted from various requirements under Governor Newsom's Executive Orders specifically designed to facilitate the wildfire recovery.

The City of Calabasas misses the mark with its writ, as it has failed to point to a ministerial duty that the County Respondents are violating. In fact, the City apparently acknowledges that the only source of a relevant ministerial duty is the Calabasas Landfill's operating permit, which has been suspended by two executive orders issued by the Governor to facilitate the massive federal fire cleanup efforts led by the responsible federal agencies. Although the City also alleges that the District has not conducted "random" visual inspections of fire debris, the declarations of Messrs. Sheppard and Orozco and Ms. Rodriguez establish that *every* load of fire debris that arrives at the Calabasas Landfill has already undergone the intensive clean-up process led by the federal government to remove hazardous waste, and is then visually inspected by Calabasas Landfill staff before being disposed of in the Calabasas Landfill, in addition to random inspections. The inspection practices actually occurring at play at the Calabasas Landfill are fatal to the City's case and must result in denial of the City's writ.

The City goes on to erroneously allege that the fire debris accepted at the Calabasas Landfill contains heavy metals, asbestos, and other hazardous substances. However, soil sample tests commissioned by the City revealed that the fire debris contains no lead or toxic metals, no asbestos, no hexavalent chromium – nor any chemical components previously complained of by the City. In short, the County Respondents have joined with their federal partners in exercising their discretion to undertake to clean up and dispose of debris from the wildfires in a sound and legally permissible manner and comply with their ministerial duties of inspecting each fire debris load prior to its disposal at the Calabasas Landfill.

Finally, the cleanup process that the City has now tried to halt for nearly a year is complete, rendering the City's claims legally and pragmatically moot. For example, the Army Corps' official cleanup is 100 percent complete. In fact, there are only 17 "opt-out" properties that remain to be cleaned up – out of some 11,839 properties that have undergone intensive cleaning. And indeed, the fire debris from those remaining 17 opt-out properties is not slated to be deposited at the Calabasas Landfill. The issues at play in this writ are, therefore, moot and no longer justiciable.

In sum, every fire debris load is both cleared of hazardous waste by the federal agencies and then visually inspected by appropriate Calabasas Landfill staff. There is simply no evidence that the County Respondents are violating any ministerial duty and accordingly, the City's writ should be denied.

II. BACKGROUND

A. The Calabasas Landfill and Its Solid Waste Permit

The Calabasas Landfill (the "Calabasas Landfill") is owned by the County of Los Angeles and operated by the Los Angeles Sanitation District No. 2 (the "District") pursuant to a Solid Waste Facility Permit (the "Permit"). (*See* County Respondents' Compendium of Evidence ("COE"), Exh. 2.) The Local Enforcement Agency ("LEA") is the County of Los Angeles Department of Public Health, which is deemed to be carrying out a state function when exercising the authority and fulfilling the duties set forth in Public Resources Code § 45000, et seq., including issuing solid waste facility permits. (Public Resources Code §§ 43200.5, 44001.) The

LEA's ability to issue and/or modify the Calabasas Landfill's Permit requires the concurrence of CalRecycle, a state agency. (See COE, Exh. 2, at p. 175[1] [§ 8; "CalRecycle Concurrence Date"].) The LEA issued the Calabasas Landfill's Permit at issue in this case. (See COE, Exh. 2, at p. 175 [§§ 5, 6, listing Local Enforcement Agency as "County of Los Angeles Department of Public Health"].)

B. The Los Angeles Wildfires and Governor Newsom's Executive Orders

On January 7, 2025, the Palisades and Eaton Canyon wildfires broke out causing widespread devastation and the burning of 40,300 acres, destroying or damaging 12,300 structures, including homes, small businesses, and houses of worship. (COE, Exh. 110 [Executive Order N-2-25 ("First EO")].) As a result of the Fires, the Governor of California proclaimed a State of Emergency and, on January 8, 2025, issued Executive Order N-2-25 that, among other things, suspended state statutes, rules, regulations, and requirements under the California Environmental Protection Agency and the California Natural Resources Agency to the extent necessary for the removal of debris and cleanup from these disasters. (*Id*.)

A week later, the Governor issued another Executive Order, N-8-25, with even broader implications, which states, in part:

> **WHEREAS** in response to my request, President Biden quickly issued a Major Disaster Declaration on January 8, 2025, …
>
> ***
>
> **WHEREAS** on January 14, 2025, I announced that the Federal Emergency Management Agency mission-tasked the United States Environmental Protection Agency (US EPA) to remove and dispose of hazardous debris from homes and structures impacted by these fires as soon as it is safe to enter the affected areas; and
>
> **WHEREAS** US EPA stands ready to commence their hazardous debris removal work, if authorized under state law to access affected properties; …
>
> ***

[1] The COE is consecutively paginated with the prefix "County Resp COE #." In the brief, page cites to the COE are shown as simply "p. #."

> **IT IS HEREBY ORDERED THAT:** The United States Environmental Protection Agency (US EPA), the Federal Emergency Management Agency (FEMA), and any other individual or entity performing work at their direction, shall have full power to provide mutual aid to the State of California and any areas affected by the proclaimed state of emergency, and shall 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. Any state law, regulation, or rule impeding provision of this mutual aid is suspended to the extent necessary to provide this mutual aid to impacted areas of Los Angeles County…

(COE, Exh. 111 [Executive Order N-8-25 ("Second EO")].)

These two EOs suspend any restrictions under the Permit that would impede the fire cleanup efforts being carried out by the federal agencies, specifically, any restrictions that would prevent disposal of fire debris at the Calabasas Landfill. Specifically, the First EO suspends rules under CalEPA, which includes the Permit, "to the extent necessary for expediting the removal and cleanup of debris." (COE, Exh. 110 at p. 406 [First EO].) As discussed above, the Permit is issued by the LEA, which is deemed to be carrying out a state function (Pub. Res. Code §§ 43200.5, 44001), and the issuance of which requires concurrence by CalRecycle, a branch of CalEPA. The Second EO, which is even broader, suspends "[a]ny" state regulations or rule "to the extent necessary" that would impede the Federal agencies from providing mutual aid to remove fire debris. (COE, Exh. 111 at p. 411.)

C. Fire Cleanup Effort Led by the Federal Agencies

The federal agencies charged with the wildfire cleanup have established a two-phase intensive process for cleaning up hazardous waste from the thousands of properties burned in the wildfires, and then removing and disposing of the fire debris that remained after the hazardous debris cleanup was completed. (Declaration of Christopher Sheppard, Principal Engineer for the Los Angeles County Public Works Department ("Sheppard Decl.") ¶ 2).

1. Phase 1 of the Cleanup Process

Under Phase 1, conducted by the federal EPA, hazardous material was removed from all burned properties regardless of whether such properties would later "Opt-in" to the additional "Phase 2" cleanup process. (Sheppard Decl. ¶¶ 2-5, 7). Phase 1 cleanup was automatic for all

burned properties with no owner pre-approval required nor sought. (*Id.* ¶ 3 ; see also COE, Exh. 113.)

During Phase 1, the EPA would remove all hazardous materials from all burned properties. (Sheppard Decl. ¶¶ 4-5.) This meant that hazardous materials, such as paints, cleaners, oils, pesticides, aerosols, and visible asbestos were removed. (Sheppard Decl. ¶ 4; see also COE, Exhs. 114, 115 at pp. 428, 433 [describing these hazardous materials as "Household Hazardous Materials" or "HHM"].) These hazardous materials were not taken to the Calabasas Landfill but, rather, sent to an appropriate alternative landfill authorized to accept hazardous waste. (Sheppard Decl. ¶ 4; COE, Exh. 113 at p. 425.)

Once the Phase 1 cleanup was completed, the EPA posted a sign on the property stating, "**This property's Hazardous Materials removal is COMPLETE**." (Sheppard Decl. ¶ 6; COE, Exh. 114 at p. 428.)

2. Phase 2 of the Cleanup Process

The Army Corps then moved to "Phase 2" for any properties that "opted in" and were eligible for this stage of the cleanup process. (Sheppard Decl. ¶ 8.) Approximately 9,673 properties underwent Phase 2 cleanup. (Sheppard ¶ 16.)

Phase 2 was a comprehensive, step by step approach to catalogue and remove all fire debris. (Sheppard Decl. ¶ 9.) The debris removal process involved the following:

- All Material was watered throughout debris removal operations to prevent dust.
- Heavy machinery would remove all fire debris, including foundations if requested.
- Fire Ash and debris was loaded into dump trucks lined in plastic, and fully wrapped, prior to transportation to a Class III lined landfill.
- Metals and concrete were removed and transported to a centralized location for consolidation and transportation for recycling.
- Vehicles that can be identified were processed by Law Enforcement, and completely burned vehicles were scrapped.
- Soil scraping was performed in the immediate vicinity of the building, usually two to five feet around the ash footprint, and six inches deep.

- Any remaining hazard trees were felled or removed.

(Sheppard Decl. ¶ 9.)

After Phase 2 was completed, the remaining soil and ash, along with other fire debris, was taken to a Class III landfill, such as the Calabasas Landfill. (Shephard Decl. ¶ 10.) A certification process was put into place by the County Respondents to ensure that all fire debris received for disposal at the Calabasas Landfill had been through this phased process and was deemed to be non-hazardous. (Sheppard Decl. ¶ 11.) Under this process, fire debris will not be accepted at the Calabasas Landfill without such a certificate. (Sheppard Decl. ¶ 12.) The certificate employed for this process declares that the load has "undergone the screening process" and is therefore "not a regulated hazardous waste and is safe for disposal at the Calabasas Landfill." (COE, Exh. 101.)

Approximately 2,166 properties "opted out" of the Army Corp's Phase 2 cleanup. (Sheppard Decl. ¶ 13) For such "opt-out" properties, however, the property owners were required to obtain a Fire Debris Removal Permit from the County and follow all the same debris clearing protocols employed by the Army Corps, using a licensed and certified contractor. (Sheppard Decl. ¶ 14.) Prior to disposal at the Calabasas Landfill, any Fire Debris loads from these "opt-out" properties were required to present the Calabasas Landfill operator with a copy of the approved County Fire Debris Removal Permit. This permit certifies that Phase 1 has been completed, and that a Certified Asbestos Consultant report, showing that any asbestos has been remediated, has been submitted to the County. Overall, the Fire Debris Removal Permit indicates that all Household Hazardous Materials have been removed prior to the respective load being taken to the landfill for disposal. (Sheppard Decl. ¶ 15.) Upon completion of the cleanup and disposal at the landfill, every opt-out property was then inspected by the County before finalizing the Fire Debris Removal Permit. (*Id*. ¶ 16.)

In sum, every burned property (approximately 11,839 in total) underwent a Phase 1 cleanup by the federal EPA to remove hazardous waste, with 9,673 of those properties also undergoing a Phase 2 cleanup by the Army Corps to collect and remove the remaining fire debris, with the remaining 2,166 opt-out properties undergoing a cleanup similar to Phase 2, carried out by licensed and certified contractors pursuant to the same protocols. (Sheppard Decl. ¶ 17.)

D. The Calabasas Landfill Is Expressly Permitted to Accept Fire Debris

The non-hazardous waste that is lawfully acceptable at a Class III landfill, such as the Calabasas Landfill, includes burn ash, such as the type from the wildfires at issue here. Specifically, the State Water Resources Control Board issued an Order in 2020 addressing the disposal of disaster-related waste. (COE, Exh. 24 ["WDR Order]; Declaration of David Pierce, Division Engineer in the Water Quality Group of the County Sanitation Districts of Los Angeles County ("Pierce Decl.") ¶ 5.) The WDR Order was intended to address "emergency cleanup" of disaster related waste, including "burn ash," following "[c]atastrophic events such as fires[.]" (COE, Exh. 24 at p. 198 [Findings].) The Order generally allows for nonhazardous waste to be disposed of in Class III landfills, with "ashes" expressly included within the definition of such waste. (*Id.* at pp. 207-208 [¶ D.4]; *id.* at p. 216 [Attachment A – Definitions].)

The WDR Order also delineates what cannot be disposed of in a Class III landfill, and categorically excludes fire ash from the definition of "potentially hazardous wastes":

> Wastes such as paint cans, gas cans, solvents, poisons, household cleaners, drums with unknown contents, electronic wastes, refrigerators, or any potentially hazardous wastes (*other than ash from fire disaster areas)* are prohibited from being discharged at a Class II or III landfill[.]

(COE, Exh. 24 at p. 204 [¶ A.8; emphasis added].)

In issuing the WDR Order, the State Water Board notified owners and operators of the potentially affected landfills that fire debris ash could and would be disposed of at the Calabasas facility. (COE, Exh. 24 at p. 200 [¶ 12].) Indeed, the Calabasas Landfill is expressly listed in Attachment B of the WDR Order in the list of "Landfills that can Accept Disaster-Related Waste." (*Id.* at p. 202 [Attachment B].)

Another State agency, the Department of Toxic Substances Control ("DTSC"), provides the same. DTSC explains that:

> Ash and contaminated debris from residential structures should be contained and disposed of at a municipal solid waste landfill (class three) under the direction of the local solid waste enforcement agency.

(COE, Exh. 14 at p. 191.)

E. The District's Inspection Requirements Under Its Notice of Intent

The District filed a Notice of Intent ("NOI") with the State Water Board stating its intent to accept fire debris in response to the Los Angeles wildfires, and setting forth the measures it would take to ensure prohibited hazardous wastes would not be disposed of at the Calabasas Landfill. (Pierce Decl. ¶ 4; COE, Exh. 25.) In the NOI, the District confirmed it would comply with the WDR Order, stating, "incoming wastes will be visually inspected to ensure that hazardous wastes such as paint cans, gas cans, solvents, household cleaners, electronic wastes, refrigerators, and other hazardous wastes are removed from the waste stream as much as practicable and managed in accordance with applicable regulatory requirements." (Pierce Decl. ¶ 4; COE, Exh. 25 at p. 199.) In response to that NOI, the State Water Board issued to the District a Notice of Applicability, approving the disposal of disaster-related waste at the Calabasas Landfill as provided in the NOI. (Pierce Decl. ¶ 7; COE, Exh. 106.)

F. The Calabasas Landfill Visually Inspects Every Fire Debris Load Before Acceptance

The Calabasas Landfill's acceptance of fire debris is in full compliance with the Calabasas Landfill's NOI and the Joint Technical Document ("JTD") referenced in Petitioner's Opening Brief. (OB at p. 6; COE, Exh. 1.)

First, the Calabasas Landfill continues performing random inspections of waste loads to detect and remove hazardous waste and therefore complies with Section 8.11 of the JTD. (Declaration of Guadalupe Rodriguez, Supervising Engineering Technician of Hazardous Waste for County Sanitation District of Los Angeles County ("Rodriguez Decl.") ¶¶ 9-11; Declaration of Carlos Orozco, Refuse Site Superintendent for County Sanitation Districts of Los Angeles County ("Orozco Decl.") ¶¶ 7-8.) Indeed, for the last two years, the Calabasas Landfill has been performing at least ten daily random inspections of waste, more than the seven required under the JTD. (Rodriguez Decl. ¶¶ 9-10.) Secondly, *all* fire debris loads are subject to the District's specific procedures adopted in response to the 2025 wildfires which are designed to ensure that all fire debris entering the Calabasas Landfill is:

/ / /

(1) visually inspected by hazardous waste technicians (aka "Load Inspections") (Rodriguez Decl. ¶¶ 12-14);

(2) is certified as containing non-hazardous waste (Sheppard Decl. ¶¶ 11-12, 17), and

(3) is disposed of in the Calabasas Landfill in areas underlain with engineered composite liners and leachate collection systems[2]. (Rodriguez Decl. ¶ 12; Orozco Decl. ¶ 5; Declaration of Gwen Tantoco, Senior Engineer in the Solid Waste Operations Group for County Sanitation District of Los Angeles ("Tantoco Decl.") ¶¶ 4-6; COE, Exh. 105 at p. 377 [Figure 2, Map showing locations of where fire debris was deposited at the Calabasas Landfill].)

Specifically, upon entering the Calabasas Landfill, haulers of 2025 LA wildfire fire-debris are required to stop at the weigh scales located at the entrance to the facility ("Scales office"). The haulers are required to present a valid Hazardous Waste Certificate to the Calabasas Landfill's weigh scale operators staffed in the Weigh Scales office. The presented Certificate is intended to inform the District that the vehicle's fire-debris load has undergone a screening process by the certifying entity, consists of non-hazardous waste, and is safe for disposal at the Calabasas Landfill. (Orozco Decl. ¶ 6(a).) The certification is not prepared by District employees, but rather is prepared by outside agencies or other public entities, such as the U.S. Army Corps of Engineers, who furnishes such certificates to their haulers, such as ECC who is contracted by FEMA to supply the truckers needed for hauling fire debris. (*Id*; Sheppard Decl. ¶¶ 11-12.)

The scales staff then compare the presented Certificates to approved forms of certificate received by District staff from the certifying agencies such as Army Corps or public entities. (Orozco Decl. ¶ 6(b).) If the hauler is an ECC trucking contractor for the Army Corps (which handled the vast majority of the wildfire cleanup efforts), the driver is also required to present an "HDAP" form (in addition to the Certificate). The HDAP form is a unique QR-coded document that verifies that the ECC driver is permitted to haul the certified load in the vehicle entering the Calabasas Landfill. (*Id*., ¶ 6(c)-(d) Once the scales staff confirms the presentation of a valid

[2] Fire debris loads are also the subject of random inspections. (Rodriguez Decl. ¶ 10.)

certificate, the hauler is permitted to proceed to the refuse disposal site specifically designated for the disposal of 2025 fire-debris waste. (*Id*. ¶ 6(d); Sheppard Decl. ¶¶ 11-12.)

Upon arrival at the refuse disposal site, the hauler dumps (or "tips") the load of fire-debris onto the ground for inspection by a Hazardous Waste Technician (known as "Haz Techs"). Every fire-debris load is visually inspected by a Haz Tech to confirm that the load type matches the certificate, i.e., consists of non-hazardous waste. (Orozco Decl. ¶ 6(e); see also Rodriguez Decl. ¶ 12.) If hazardous waste is identified in the load, it is removed by the Haz Tech and transported to the Hazardous Waste Yard for further assessment and processing. (Orozco Decl. ¶ 6(f); Rodriguez Decl. ¶ 12.) Given the expected significant volume of fire-debris resulting from the 2025 LA wildfires, the number of Haz Techs at the Calabasas Landfill was increased from two to four members. (Rodriguez Decl. ¶ 14.) And, the clock-in start times for these Haz Techs was staggered to ensure that at least two Haz Techs were available to inspect fire-debris and refuse loads at the refuse disposal site during all operating hours of the Calabasas Landfill. (*Ibid*.)

If the fire-debris load passes the Haz Tech's inspection, a District truck sprays down the load with water for dust suppression. (Orozco Decl. ¶ 6(g).) After the fire-debris load is wetted down, heavy equipment operators push the load into a designated "rubbish cell," i.e., a specific area designated as that day's fill zone. (*Id*. ¶ 6(h).) At the end of each day, each rubbish cell of deposited fire-debris is covered with at least one foot of dirt. Once covered with dirt, the rubbish cells are buried and no longer visible. (*Id*. ¶ 6(i).) This same process is followed each successive day. (*Id*. ¶6(j); See Tantoco Decl. ¶¶ 4-6, COE, Exh. 105.)

G. Soil Testing at the Calabasas Landfill Validates the Efficacy of the Cleanup Process

On August 11, 2025, the City inspected and tested soil from fire-affected properties that was accepted and deposited at the Calabasas Landfill. (COE, Exh. 21.) This testing included taking soil samples from four different trucks disposing of fire debris at the Calabasas Landfill on August 11, 2025 – three trucks were from the Army Corps opt-in properties, while one truck was from an opt-out property. (COE, Exh. 117, ¶ 21 [O'Braitis Declaration ISO Opposition to Demurrer].) According to the City's offered declaration, of the samples taken from these four

trucks, only a single outlier sample from an opt-out truck had elevated levels of copper. (O'Braitis Decl. ¶ 14.) There is no other claimed evidence of elevated levels of copper.[3]

Although nothing in the Calabasas Landfill's Permit, or any relevant regulation, requires forensic soil testing for hazardous waste (See Rodriguez Decl. ¶ 15) – and therefore such testing results do not relate to whether the Calabasas Landfill is complying with its ministerial duties – the City's own testing results confirm that there were no elevated levels of lead, asbestos, hexavalent chromium, chloride, polyaromatic hydrocarbons, or dioxins. (FAP ¶¶ 22-26, 53-54). Indeed, Calabasas Mayor Peter Kraut reassured the community, on his webpage stating:

> [W]e tested for volatile organic compounds (VOCs) and other airborne contaminants and found they were not present at hazardous levels and would not require additional monitoring."

(COE, Exh. 116 [Kraut Letter].)

III. LEGAL STANDARD

The law governing issuance of writs of mandamus under Code of Civil Procedure § 1085 is well settled. Two essential elements are required to obtain the writ: 1) a clear, present ministerial duty on part of respondent, and 2) a clear, present, and beneficial right in the petitioner to the performance of that duty. (*California Hospital Assn v. Maxwell-Jolly* (2010) 188 Cal.App.4th 559, 568.)

Mandamus will not lie, however, to compel an officer or entity to exercise discretion in a particular manner. (*Id*., at p. 570; see also, *Unnamed Physician v. Board of Trustees* (2001) 93 Cal.App.4th 607, 618 ["Mandate will not issue to compel action unless it is shown the duty to do the thing asked for is plain and unmixed with discretionary power or the exercise of judgment. (Citation.)"].) "To compel the [respondent] to take some action the [petitioner] must plead and prove the [respondent] has failed to act, and its failure to act is arbitrary, beyond the bounds of reason, or in derogation of the applicable legal standards." (*AIDS Healthcare Foundation v. Los Angeles County Dept. of Public Health* (2011) 197 Cal.App.4th 693, 704.)

[3] There is no actual testing evidence of elevated copper.

The legal standard for finding an agency's actions are arbitrary or capricious is exceedingly high. "Courts exercise limited review 'out of deference to the separation of powers between the Legislature and the judiciary, to the legislative delegation of administrative authority to the agency, and to the presumed expertise of the agency within its scope of authority.'" (*Carrancho v. California Air Resources Board* (2003) 111 Cal.App.4th 1255, 1265.)

In addressing the demurrer to the operative First Amended Petition ("FAP"), this Court found that the City alleged a claim that "the Landfill does not comply with the ministerial duty to randomly inspect waste loads" and that "the County had no process for ensuring that the landfill does not accept hazardous waste or had a process that was arbitrary, capricious, or lacking in evidentiary support." (COE, Exh. 109 at p. 399.) The Court stressed, however, that it was sustaining the demurrer insofar as it wished to "foreclose challenges to how the County exercises its discretion." (*Id*. at pp. 399-400.) In other words, this Court has already foreclosed the City's ability to obtain writ relief simply on the grounds that it disagrees with how the County Respondents are fulfilling their ministerial duties to inspect the fire debris.

Accordingly, the issues at play in this writ are solely whether the County Respondents are (1) failing to comply with a ministerial duty or (2) their efforts to comply with a duty are arbitrary and capricious. As the facts discussed herein establish, a resounding "no" is the correct answer to both questions.

IV. ARGUMENT

A. Any Ministerial Duties Come From The Calabasas Landfill's Permit, Which Has Been Suspended By Executive Order

The only ministerial duties binding on the Calabasas Landfill are those duties set forth in the Calabasas Landfill's Permit. However, the Permit has been suspended pursuant to the Executive Orders to the extent the Permit's requirements impedes "the removal and cleanup of debris" (COE, Exh. 110 [First EO]), or impedes the Federal agencies from providing mutual aid to remove fire debris (COE, Exh. 111 [Second EO]). The issues that the City raises in this writ as to the fire debris loads being disposed of at the Calabasas Landfill are squarely within the ambit of these critical Executive Orders.

The City entirely neglects to address the legal effect of the two Executive Orders even though they go the heart of the City's allegations.[4] Both of the Executive Orders suspend state regulations and requirements[5] that would slow down or inhibit the timely, efficient cleanup and removal of fire debris waste by the federal government. Specifically, Paragraph 5 of the First EO states, in relevant part:

> State statutes, rules, regulations, and requirements that fall within the jurisdiction of boards, departments, and offices within the California Environmental Protection Agency and the California Natural Resources Agency are hereby suspended to the extent necessary for expediting the removal and cleanup of debris from this emergency…

(COE, Exh. 110 [First EO].)

The Second EO states, in part, "[a]ny state law, regulation, or rule impeding provision of this [FEMA] mutual aid is suspended to the extent necessary to provide this mutual aid to impacted areas of Los Angeles County…" (COE, Exh. 111.) By its language, the Second EO is not limited to rules and requirements within the jurisdiction of CalEPA; instead, it suspends "[*a]ny" regulation or rule impeding provision of the cleanup and disposal of the fire debris by FEMA*. (COE, Exh. 111; emphasis added.)

As discussed above, the Calabasas Landfill's Permit was issued by the LEA with the concurrence of CalRecycle (a Department of CalEPA). (See COE, Exh. 2.) As a result, the requirements of the Permit are suspended for purposes of disposing of fire debris under both Executive Orders. Translated, this means that the County Respondents have no mandatory ministerial duty to comply with the Permit requirements in connection with the disposal of the fire debris, including conditions relating to the "random inspections" the City urges here.

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[4] The City incorrectly claims the reasons for the Executive Orders no longer apply. (OB at p. 4.) But the Executive Orders have no end date regarding the cleanup efforts, nor has the Governor declared the emergency is over. An emergency of this magnitude is not over simply when the fires no longer burn; it continues while the cleanup from this catastrophic event remains ongoing. (See *Newsom v. Superior Court* (2021) 63 Cal.App.5th 1099, 1118.)

[5] The City references the executive orders in relation to *federal* law, which the FAP does not allege has been violated and which is therefore irrelevant to this case. (OB at p. 6.)

To avail itself of the provisions of the First EO, the District had to request "that the appropriate Agency Secretary, or the Secretary's designee, make a determination that the proposed activities are eligible to be conducted under the suspension." (COE, Exh. 110 at p. 406 [§ 6].)[6] This, the District has already done. (Pierce Decl. ¶ 5.) Specifically, the District, through its NOI filed with the State Water Board (a division of CalEPA), requested approval to accept and dispose of fire debris at the Calabasas Landfill. (Pierce Decl. ¶ 4; COE, Exh. 25.) The City does not allege that the County Respondents have failed to comply with any other procedural requirements relevant to the First EO.[7]

B. The County Respondents Are Fully Compliant with Any Duty to Inspect Fire Debris for Hazardous Waste

Even if the Permit was not suspended, the County Respondents have not failed to comply with any ministerial duties. This is because the Calabasas Landfill conducts a visual inspection of every single fire load being deposited once such loads have been certified to Calabasas Landfill staff as having undergone the Phase 1 clean up process by the EPA, and either the Phase 2 or comparable "opt-out" process described above. (Sheppard Decl. ¶¶ 2-17.) The Calabasas Landfill also undertakes random inspections of non-fire loads. Given this, the City – who contends that the County lacks a "consistent" process to "meaningfully" inspect the fire debris (OB at pp. 17-18) – has not actually pointed to any failure to comply with a ministerial duty. Rather, the City simply appears to prefer a different inspection process to the one the County Respondents have exercised

[6] The Court previously pointed out it could not make a determination as to whether this provision was complied with on demurrer.

[7] For example, although the First EO requires that an agency "maintain on its website a list of all suspensions approved under this paragraph," the City has never alleged the District failed to comply with any requirement to maintain such a list on its website nor does it seek to compel Respondents to do so. The City also raises no issues with daily tonnage requirements under the Permit. In any event, the LEA which issued the Landfill's Permit also approved a waiver of the tonnage limitations in the Permit. (See Declaration of Samer Shammas, Supervisor Civil Engineer for County Sanitation Districts of Los Angeles County ("Shammas Decl.") ¶¶ 3-7; COE, Exhs. 107, 108.)

their lawful discretion to employ. This, however, is unavailing in the context of the City's present writ petition.

First, case law establishes that public agency actions come "to the court with a presumption of validity." (Gov. Code § 11343.6; *Association of California Ins. Companies v. Jones* (2017) 2 Cal.5th 376, 389.) Here, the City's only evidence cited in support of its contention that there is a failure to comply with a ministerial duty is the Orozco deposition, which the City claims establishes that "he nor anyone under his supervision – including hazardous materials (i.e., "hazmat") inspectors ever uncovered, suspected, or reported to the LEA the existence of prohibited hazardous waste materials in the fire load debris." (OB at p. 17.) But a complete reading of the Orozco deposition transcript, combined with his supporting declaration, establishes that all loads of fire debris are visually inspected. (See Orozco Decl. ¶¶ 5-6, 8; Declaration of Attorney David Mehretu ("Mehretu Decl."), Exh. 103 at pp. 273-275 ["Orozco Depo" at pp. 30:14-31:3, 32:7-14].) Indeed, the City merely cherry-picks quotes out of context from Orozco's deposition to imply that the District does not perform any inspections of fire debris loads. (OB at p. 9) What the City neglects to disclose, however, is that when Mr. Orozco was asked "[w]hat do you do to comply with the Approved Hazardous Waste Screening Program," Mr. Orozco testified that he "[m]ake[s] sure that the hazardous waste inspector is up there on top inspecting *every load*." (COE, Exh. 103 at pp. 273-274 [Orozco Depo, 30:14-31:3 (emphasis added)].) When asked if the hazardous waste inspectors "check the loads of fire-debris waste when those loads have certificates," Mr. Orozco stated "[y]es." He further testified that, to verify that the loads that they are unloading matches what the certificate is saying, we "visually inspect[] the load." (*Id*. at p. 275 [32:7-14].)[8]

[8] The City's Opening Brief newly argues that the District has a mandatory duty to train its employees on detecting hazardous waste, and that Mr. Orozco's lack of knowledge about such training evidences a breach of that mandatory duty (COE, Exh. 103 at pp. 276-277 [Orozco Depo. at pp. 33:18-34:2].) Petitioner's FAP is devoid of any such allegations but even if the Court entertains this newly minted contention, the only relevant evidence establishes that the District has a robust training program for employees on hazardous waste detection. (See Rodriguez Decl. ¶¶ 3-7.)

The County Respondents are not just fulfilling, but exceeding, the asserted mandatory inspection duties in compliance with the JTD, the Permit, as well as the NOI approved by the State Water Resources Control Board.

The City also argues that the County Respondents cannot rely on the certificates of inspection issued by the Army Corps (OB at pp. 12-14), seemingly because the duty to "inspect" is "non-delegable." (OB at p. 8, citing *Evard v. Southern California Edison* ("*Evard*") (2007) 153 Cal.App.4th 137, 146.) Although this point is irrelevant to whether the Calabasas Landfill is complying with any ministerial duties, the *Evard* case analyzed only whether safety regulations imposed a duty on the owners of a billboard that could not be delegated to an independent contractor. Nothing in that case involved a public entity or its discretion in how to comply with its duties.[9]

C. The County Respondents Have Not Breached Any Mandatory Duty Stemming from the WDR Order

The City urges this Court to find that the County Respondents have breached mandatory duties stemming from the WDR Order. These arguments simply fail.

First, the City argues that the WDR Order includes a mandatory duty to "inspect, separate, and prohibit hazardous waste disposal" at the Calabasas Landfill, suggesting that the Calabasas Landfill fails to do so. (OB at pp. 18-20.) However, this language does not appear in the WDR Order itself. (COE, Exh. 24.) Regardless, even assuming it did, the inspection process at the Calabasas Landfill includes a visual inspection of every incoming fire debris load. (Sheppard Decl. ¶¶ 11-12.) Moreover, the WDR Order explicitly and categorically excludes fire ash from the definition of "hazardous waste." (COE, Exh. 24 at p. 204 [§ A.8].)

[9] To the extent the City is implicitly arguing that there is a ministerial duty to scientifically test every load of fire debris, there is no such duty in the Permit, the NOI, or any other regulation, and the City cites to no other such source. There are no requirements within the JTD or the Permit mandating that the Landfill conduct forensic inspections of debris loads for non-visible hazardous waste beyond the Hazardous Waste Screening Program set forth in the JTD. (Rodriguez Decl. ¶ 15.)

The City also attempts to fault the County Respondents for allegedly failing to apply to CalEPA to suspend any requirements found in the WDR Order. (OB at p. 20.) But, once again, the City offers no support for this asserted duty. The City's failure to cite either evidence or law in support of this argument is a forfeiture. (See *Martine v. Heavenly Valley Limited Partnership* (2018) 27 Cal.App.5th 715, 728 ["We are not required to examine undeveloped claims or to supply arguments for the litigants."].) Regardless, the WDR Order allows (indeed, arguably mandates that) a landfill, like the Calabasas Landfill, accept fire debris. Therefore, the County had no reason to seek a suspension of the WDR Order in the first place.

D. Soil Testing Confirms that the County Respondents' Inspection Process is Effective and Legally Sound

The City next claims that the results of its soil testing show that the County Respondents are violating a mandatory duty in the WDR Order by "contributing" to "pollution and nuisance." (OB at p. 20.) However, the City did not file a nuisance claim and, therefore, such arguments are simply irrelevant to the issues before this writ action.

Regardless, none of the City's offered evidence shows the Calabasas Landfill is "contributing" to "pollution and nuisance." Rather, the City's own testing results establish that there were no elevated levels of lead, asbestos, hexavalent chromium or chloride, or polyaromatic hydrocarbons, or dioxins in the fire debris deposited at the Calabasas Landfill. (FAP ¶¶ 22-26, 53-54). Even the City's Mayor, Peter Kraut, concluded on his webpage that "volatile organic compounds (VOCs) and other airborne contaminants" were not present at hazardous levels and would not require additional monitoring." (COE, Exh. 116.) Indeed, this Court, in its initial review of the test results, noted that "it seems like the testing suggest that the County has been doing this largely correctly." (COE, Exh. 104, at p. 357 [Demurrer Hearing Tr. at 6:2-6].)

The only allegedly elevated showing of copper was from an outlier testing sample from an opt-out property truck. The other three trucks taken from the Army Corps Opt-in properties had no elevated levels of copper. One outlier sample, showing elevated levels of copper cannot establish the violation of a ministerial duty, nor that the County Respondents are contributing to a nuisance, nor that their inspection process is arbitrary and capricious.

The City then also offers a single soil sample from an "opt-out" property at 1158 Chautauqua Blvd. (O'Braitis Decl. ¶ 12) to exhibit the presence of zinc. However, there is simply no evidence that this sampled/tested soil was slated to go to the Calabasas Landfill nor that it ever did make its way to the Calabasas Landfill. Moreover, the City introduces absolutely no evidence the samples collected at the Landfill had any exceedances for zinc. (O'Braitis Decl. ¶ 12.)

Petitioner further argues that the fire debris exceeds levels for PFAS and related compounds. This is a red herring. Currently, there are no requirements imposed by the Regional Water Quality Control Board mandating the District to test for Per- and Polyfluoroalkyl ("PFAS") or Perfluorooctanoic Acid ("PFOA") at the Calabasas Landfill. (Pierce Decl. ¶ 8.) Therefore, the City misleads the Court by offering a standard for drinking water, not soil or solid waste (which do not presently exist). Conspicuously, the City's test results reflect PFAS levels only "above laboratory detection and reporting limits" (OB at p. 15) – a dubious "standard" deployed by Petitioner in lieu of any actual regulatory standard. (See OB at p. 16, fn. 7, ["Cal EPA has not set formal levels" for PFAS compounds in soil].)

The County Respondents' processes for inspecting and preventing disposal of hazardous waste are legally sound, and no mandatory duty has been violated here.

E. The Fire Cleanup Process is Complete, and Therefore The City's Petition Is Now Moot

"A case is considered moot if the court is unable to offer the plaintiff any practical or effective remedy." (*San Diego Public Library Foundation v. Fuentes* (2025) 111 Cal.App.5th 711, 722 (citing *Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1574.) "When a case no longer matters due to outside events, courts typically dismiss it." (*Ibid.*)

This case is moot. The federal agencies' cleanup process is one hundred percent complete. (Sheppard Decl. ¶ 18.) There are only 17 opt-out properties left, with just two such properties located in the Palisades, and none of the fire debris from such properties is slated to be deposited at the Calabasas Landfill. (Sheppard Decl. ¶ 19.) The fire debris has been placed in an area of the Calabasas Landfill underlain with engineered composite liners and leachate collection systems (as required), watered down for dust suppression, and covered with one foot of dirt. The City's FAP

includes no remedy seeking to disinter the thousands of tons of fire debris from the Calabasas Landfill – nor could it. Rather, the sought-after remedy is limited to stopping further loads of fire debris from entering the Calabasas Landfill – which has already occurred. There simply is no longer any remedy for the City to pursue via this writ proceeding.

Despite the impending mootness of this issue being well known to both parties, the City's Opening Brief does not address this issue at all, other than to baldly say "wrong," with no additional analysis or legal citations. (OB at p. 4.) The Court should take this effective silence as a concession.

Regardless, there is no merit to any argument that the City might try to raise on reply that this case should be subject to any exceptions to the mootness doctrine. "[T]here are three discretionary exceptions to the rules regarding mootness: (1) when the case presents an issue of broad public interest that is likely to recur [Citation]; (2) when there may be a recurrence of the controversy between the parties [Citation]; and (3) when a material question remains for the court's determination [Citation]." (*Cucamongans United for Reasonable Expansion v. City of Rancho Cucamonga* (2000) 82 Cal.App.4th 473, 479–480; see also *Ghost Golf, Inc. v. Newsom* (2024) 102 Cal.App.5th 88, 100.)

Here, any future wildfires would be subject to different facts, different locations, different fire debris types, different executive orders, and a different process for accepting waste. A ruling on the facts of this specific case would have (and should have) no effect on disputes between any of the parties regarding future fires and no material questions remain for the Court's determination related to the Palisades fire.

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V. CONCLUSION

For the foregoing reasons, the Court should deny the City's petition for a writ of mandate in its entirety and order judgment in favor of the County Respondents.

DATED: November 17, 2025 MEYERS NAVE

By: _____
DEBORAH J. FOX
DAVID MEHRETU
CRISTINA L. TALLEY
MARK J. G. DESROSIERS
Attorneys for Respondent/Defendant
COUNTY OF LOS ANGELES

DATED: November 17, 2025 NOSSAMAN LLP

By: */s/ David C. Lee*
DAVID C. LEE
KASIA PENN
Attorneys for Respondent/Defendant
COUNTY SANITATION DISTRICTS
LOS ANGELES COUNTY

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