COUNTY OF IMPERIAL

PUBLIC HEALTH DEPARTMENT

DIVISION OF ENVIRONMENTAL HEALTH
797 Main Street, Ste. B • El Centro, CA 92243
Phone (760) 336-8530 • FAX (760) 352-1309

ROBIN HODGKIN, M.P.A.
Director

STEPHEN W. MUNDAY, M.D., M.S.
Health Officer

November 20, 2008

William Brunet, P.E., Director
County of Imperial
Department of Public Works
155 South 11th Street
El Centro, CA 92243

Subject: **Notice of Intent to Revoke** the Solid Waste Facility Permit for the Brawley Solid Waste Site (13-AA-0008) under Notice and Order No. EA-2008-04

Mr. Brunet:

Pursuant to the Public Resources Code, Section 44106, the Local Enforcement Agency (LEA) is authorized to mandate a compliance schedule to ensure that diligent progress will be made at the Brawley Solid Waste Site to correct violations of Title 27 of the California Code of Regulations (CCR). On February 16, 2007, the LEA issued to you Notice and Order EA-2007-01. This Notice and Order suspended the Solid Waste Facility Permit for the Brawley Solid Waste Site and stipulated a compliance schedule to ensure that the site was brought into compliance with state minimum standards, including the submittal of an approved Final Closure and Postclosure Maintenance Plan for the site.

On February 8, 2008, the LEA amended the Notice and Order to provide you with an additional two hundred and seventy (270) days to complete the Final Closure Plan and CEQA review process required as a stipulation of the enforcement order. As of October 29, 2008, the final deadline of Amended Notice and Order EA-2007-01, the Imperial County Department of Public Works has failed to obtain the necessary approvals to initiate closure at the Brawley Solid Waste Site.

As your agency has failed to meet the stipulated compliance schedule that the LEA has established in order to fully resolve the compliance issues that have placed the facility on the State *Inventory of Solid Waste Facilities Which Violate Minimum Standards,* the LEA is issuing to you the attached Notice and Order pursuant to Section 44106 of the Public

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

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BY: SMD

Resources Code. Incorporated within the attached Notice and Order EA-2008-04 is a **Notice of Intent to Revoke** the Solid Waste Facility Permit for the Brawley Solid Waste Site. If a request has not been filed by the operator within 15 days of receipt of this Notice and Order to have the enforcement action reviewed before an independent Hearing Panel, this order shall be deemed final and the Solid Waste Facility Permit for the site will be revoked.

The LEA has also directed you in the attached Notice and Order to ***immediately*** initiate the closure of the landfill in accordance with Title 27 of the California Code of Regulations upon approval of a Final Closure Plan by the LEA, Regional Water Quality Control Board, and the California Integrated Waste Management Board. The final closure of the Brawley Solid Waste Site must be certified as being complete by October 29, 2009. Additionally, the Notice and Order directs your agency to submit a work plan and obtain the necessary approvals to complete the grading and remediation of the illegally disposed waste along the South Slope prior to May 19, 2009.

Failure to comply with the attached enforcement order will result in the LEA seeking injunctive relief to enforce the attached order and/or seeking civil penalties pursuant to the Public Resources Code.

If you have any questions, please do not hesitate to contact me at (760) 336-8530.

Sincerely,

Lars Seifert, REHS
Local Enforcement Agency

Attachment: Notice and Order No. EA-2008-04

cc: Supervisor Gary Wyatt, Chairman of the Board of Supervisors
Robin Hodgkin, Director, Department of Public Health
Jeff Lamoure, Deputy Director, Division of Environmental Health
Paul Saldana, California Integrated Waste Management Board
Dianne Ohiosumua, California Integrated Waste Management Board
Cliff Raley, Regional Water Quality Control Board
Brad Poiriez, Air Pollution Control District

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Director

STEPHEN W. MUNDAY, M.D., M.S.
Health Officer

November 20, 2008

Dianne Ohiosumua
California Integrated Waste Management Board
1001 I Street, Mail Stop 10A-15
P.O. Box 4025
Sacramento, CA 95812-4025

Subject: Issuance of Notice and Order No. EA-2008-04 to Revoke the Brawley Solid Waste Facility Permit (13-AA-0008)

Ms. Ohiosumua:

On November 20, 2008, the Imperial County Division of Environmental Health, Local Enforcement Agency (LEA) issued the attached Notice and Order No. EA-2008-04 to the Imperial County Department of Public Works, owner and operator of the Brawley Solid Waste Site. The Notice and Order was issued pursuant to Sections 44106 and 44306 of the Public Resources Code.

Should you have any questions, please do not hesitate to contact me at (760) 336-8530.

Sincerely,

Lars Seifert, REHS
Local Enforcement Agency

Cc: Paul Saldana, CIWMB (w/enclosure)
Scott Humpert, CIWMB (w/enclosure)

Encl: Notice and Order EA-2008-04

IMPERIAL COUNTY

DIVISION OF ENVIRONMENTAL HEALTH

797 MAIN STREET, SUITE B, EL CENTRO, CA 92243

LOCAL ENFORCEMENT AGENCY

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PUBLIC WORKS

IN THE MATTER OF: Brawley Solid Waste Site (Facility No. 13-AA-0008), Described by the following APN's: 046-030-004, 046-030-005, 046-030-012	**NOTICE AND ORDER** **NO. EA-2008-04** Public Resources Code Division 30, Sections 44106 and 44306. California Code of Regulations Title 27, Sections 21110, 21780 and 20830.

To: **County of Imperial**
William S. Brunet, Director
Imperial County Department of Public Works
155 South 11th Street
El Centro, CA 92243

PLEASE TAKE NOTICE:

On February 16, 2007, the Local Enforcement Agency (LEA) issued Notice and Order EA-2007-01 to the Imperial County Department of Public Works to suspend the Solid Waste Facility Permit at the Brawley Solid Waste Site for failure to correct a violation of 27 CCR 20700 – Intermediate Cover at the site prior to the stipulated deadline of Notice and Order EA-2006-03. An inspection conducted by the LEA on January 23, 2008 confirmed that the operator has corrected the violation of state minimum standards for intermediate cover at the site to comply with Notice and Order EA-2007-01. However, pursuant to 27 CCR 21780(c)(3), the operator was further directed to submit an approved Final Closure and Postclosure Maintenance Plan on or before February 2, 2008. Notice and Order EA-2007-01 was amended by the LEA on February 8, 2008 to provide a requested two hundred and seventy (270) day extension to complete the Final Closure Plan and CEQA review process for the proposed closure of the site. The operator was directed by Amended Notice and Order EA-2007-01 to submit an approved Final

Closure and Postclosure Maintenance Plan on or before October 29, 2008. The operator has failed to comply with this stipulated deadline.

Furthermore, on October 20, 2008, notification was sent to the Department of Public Works by the California Integrated Waste Management Board, via certified mail, that the Brawley Solid Waste Site has also been listed in the Inventory of Solid Waste Facilities that Violate State Minimum Standards (Inventory) pursuant to Section 44104 of the Public Resources Code (PRC) for failure to comply with the requirements of Title 27 CCR 20830 – Litter Control at the site.

Pursuant to Section 44106(b) and 44306 of the Public Resources Code, the LEA has the authority to revoke the operating permit of the solid waste facility if violations of the state minimum standards are not remedied by the dates stipulated by the LEA through an enforcement order. Additionally, the LEA has the authority to order a compliance schedule to ensure progress will be made to bring the facility into compliance.

WHEREAS, the Brawley Solid Waste Site (Solid Waste Facility Number: 13-AA-0008) is a permitted solid waste facility located at 4700 Brawley Dump Road, Brawley, California (Assessor Parcel Numbers: 046-030-004, 046-030-005, and 046-030-012);

WHEREAS, the Imperial County Local Enforcement Agency has the authority to act in the capacity of an enforcement agency (EA) for this facility pursuant to Public Resources Code Section 43200 et seq., and is so acting; and

WHEREAS, the Imperial County Department of Public Works has demonstrated a recurring pattern of noncompliance with final orders issued by the LEA pursuant to Title 27 of the California Code of Regulations Sections, Chapter 3 (State Minimum Standards) and the Solid Waste Facility Permit; and

WHEREAS, the Imperial County Department of Public Works has failed to submit an approved Final Closure and Postclosure Maintenance Plan and initiate closure activities at the Brawley Solid Waste Site as directed in Amended Notice and Order EA-2007-01.

THEREFORE, YOU ARE HEREBY GIVEN NOTICE:

PURSUANT TO PRC SECTION 44106 and 44306, the Solid Waste Facility Permit for the Brawley Solid Waste Site is hereby **REVOKED** by the Local Enforcement Agency.

YOU ARE HEREBY ORDERED TO DO THE FOLLOWING:

1. **Maintain the cessation of operations at the Brawley Solid Waste Site;**
2. **Submit a work plan and obtain the necessary approvals to complete the remediation of illegally disposed wastes along the southern property boundary prior to May 19, 2009;**
3. **Submit an approved Final Closure and Postclosure Maintenance Plan on or before May 19, 2009;**
4. **Initiate closure activities *immediately* upon approval of the Final Closure Plan; and**
5. **Submit the final certification of closure and CQA report for the Brawley Solid Waste Site prior to October 29, 2009.**

FURTHER NOTICE:

PURSUANT TO PRC SECTIONS 45011, 45014, AND 45023, if the above actions are not completed or complied with by the specified dates, the Local Enforcement Agency may:

1. Petition the superior court for injunctive relief to enforce this Notice and Order [PRC Section 45014].
2. Petition the superior court for civil penalties in an amount not to exceed $10,000 per day for each violation [PRC Section 45023 and 45024]
3. Impose administrative civil penalties in an amount not to exceed $5,000 per day for each day that the facility fails to achieve compliance with the time frames specified above [PRC Section 45011]

In the event that the time frames for completion of the above-specified activities cannot be adhered to due to adverse weather or other factors not in the control of the operator, the LEA may extend the time frames based upon those specific factors provided by the operator in writing. Any such extension to the time frames or other amendment to this Notice and Order shall be in the form of an Amended Notice and Order.

Failure to remedy the aforementioned violation(s) by the required date(s) may result in the LEA requesting CIWMB to expend available funds to perform any cleanup, abatement, or remedial work required under the circumstances set forth in PRC section 45000 which, in the judgment of the CIWMB, is required by the magnitude of endeavor or the need for prompt action to protect public health and safety

or the environment. If the CIWMB or LEA expends funds to perform any cleanup, abatement, or remedial work, the CIWMB or LEA may seek cost reimbursement from the operator or owner pursuant to PRC section 45000(d).

Nothing in this Notice and Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations. Notwithstanding compliance with the terms of this Notice and Order, the owner and operator may be required to take further actions as necessary to protect the public health, safety, or the environment.

The LEA shall not be liable for injuries or damages to persons or property resulting from acts or omissions by the owner or operator or related parties in carrying out activities pursuant to this Notice and Order, nor shall the LEA be held as a party to any contract entered into by the owner or operator or their agent(s) in carrying out activities pursuant to this Notice and Order.

This Notice and Order is supported by the accompanying declaration of Lars Seifert.

This Notice and Order does not relieve the owner or operator from complying with all other local, state, and federal requirements, nor does it preclude the LEA or the CIWMB from taking any and all other actions allowed by law.

This Notice and Order may only be amended in writing by an appropriate representative of the LEA.

PLEASE TAKE NOTICE THAT:

Pursuant to Title 14 CCR Section 18304(b)(8), the person or entity named in this Notice and Order has the right to appeal this Notice and Order to the Hearing Panel [PRC Section 44307]. A request for a hearing before the Hearing Panel must be filed within 15 days from the date of receipt of this Notice and Order [PRC Section 44310].

This Notice and Order is issued as of the date set forth below.

Dated: 11/20/08

Lars Seifert, REHS
Local Enforcement Agency
Imperial County Public Health Department,
Division of Environmental Health

BEFORE THE

IMPERIAL COUNTY DIVISION OF ENVIRONMENTAL HEALTH

LOCAL ENFORCEMENT AGENCY

IN THE MATTER OF: **Brawley Solid Waste Site** (Facility No. 13-AA-0008) Described as APNs: 046-030-004, 046-030-005 and 046-030-012 **County of Imperial** **William S. Brunet, P.E., Director** **Imperial County Department of Public Works**	**NOTICE AND ORDER** **NO. EA-2008-04** **DECLARATION OF LARS SEIFERT**

I, Lars Seifert, declare that,

1. I am currently, and was at all times referenced herein, employed as a Registered Environmental Health Specialist by the Imperial County Public Health Department, Division of Environmental Health, which serves as the Local Enforcement Agency (LEA) for the County of Imperial, as authorized by the California Integrated Waste Management Board.

2. I have personal knowledge that the Brawley Solid Waste Site is in violation of the California Public Resources Code and Title 27 of the California Code of Regulations as described in the attached Notice and Order EA-2008-04.

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

DATED: 11/20/08

Lars Seifert, REHS
Local Enforcement Agency