

# GEOFF ELLSWORTH

August 11<sup>th</sup>, 2022

District Attorney Allison Haley  
Napa County District Attorney's Office  
1127 First Street, Suite C  
Napa, CA 94559

To the attention of Napa County District Attorney - Allison Haley -

***I am submitting this correspondence as an individually elected public official in the position of mayor of St. Helena, but the opinions expressed herein are mine individually and do not represent the positions of the St. Helena City Council or the City of St. Helena. I am also submitting this complaint as a resident of Napa County.***

## SUMMARY/INTRODUCTION

Addressing wildfire issues in Napa County and California in general has become a health, safety and economic priority.

With wildfire season upon us I feel an urgency in bringing a complaint of negligence and reckless endangerment towards public health and safety in Napa County/Napa Valley related to significant and unnecessary fire and wildfire risk at Clover Flat Landfill in the hills above Calistoga, owned by Upper Valley Disposal Service (UVDS), and at the Upper Valley Disposal Service (UVDS) waste site on Whitehall Lane just south of St. Helena, and with ongoing and inherently fire-prone operations and significant build-up of a volatile fuel load by these long term monopoly and for profit waste/garbage companies, owned and operated by the Pestoni Family, in or in proximity to high wildfire risk areas in the upper Napa Valley.

See maps and photos attached for locations of (EXHIBIT A Fire Wise Map & EXHIBIT A1-Cal Fire Map):

Clover Flat Landfill  
4380 Silverado Trail, Calistoga Ca. 94515

Upper Valley Disposal Service  
1285 Whitehall Ln. Saint Helena CA 94574

**Clover Flat Landfill – Calistoga, California**



**Upper Valley Disposal Service Whitehall Lane– St. Helena, California**



An operational truck makes a turn at the UVDS facility in St. Helena, Calif., on June 2, 2021. (Harika Maddala/Bay City News)

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I wish to be fully on the record with these concerns, particularly as these companies push forward plans for significant expansion of the inherently fire-prone Clover Flat Landfill facility and its significant and associated volatile fuel load (including significant quantities of methane, a highly flammable and potentially explosive landfill gas) in a CalFire High Fire Hazard Severity Zone and in a forested Wildland-Urban Interface area (WUI). (EXHIBIT B: Major Use Permit Modification).

**A central focus of this complaint is the lack of an adequate and updated Fire Protection Plan at Clover Flat Landfill pursuant to Ca. Fire Code Chapter 49 - Requirements for Wildland-Urban Interface Fire Areas (EXHIBIT C: CA Fire Code Chapter 49) - and lack of substantive fire risk analysis/volatile fuel risk/explosion risk analysis related to significant increase in waste and its associated volatile fuel load at these two upper Napa Valley waste/garbage processing facilities.**

I have consulted on these Ca. Fire Code Chapter 49 matters with a professional fire expert.

It is understood by waste and fire professionals that all landfills/waste sites are inherently prone to fire due to materials and processes inherent to landfill operations, including their methane capture/conveyance systems and the unavoidable aggregation of other volatile fuel loads, as well as with associated trucking and other industrial activities associated with refuse management operations that increase fire risk. (See EXHIBIT D from Waste Advantage magazine on the innumerable ways fires can start at landfills/waste sites).

An effective way to bring into focus the fire risk/wildfire risk concerns I am bringing forward is to cross-reference the attached location maps of Clover Flat Landfill/UVDS Whitehall Lane with the information in the above link to Waste Advantage magazine. Garbage and waste has an associated volatile fuel load, that can include methane gas and other volatile, flammable and potentially explosive gasses associated with the accumulation and decomposition of garbage and waste. (EXHIBIT E: Landfill Gas Safety and Health Issues from the Agency for Toxic Substances and Disease Registry).

I have to the best of my ability completed Napa County Public Records Request Act requests for information whether Clover Flat Landfill/Upper Valley Disposal Service has adequately addressed fire risk concerns given its vulnerable location and the inherent fire risks related to such landfill waste operations.

The one fire plan document I have received related to Clover Flat Landfill is a fire plan by Summit Engineering that has been in place since Feb 13, 2019 (well before the Glass Fire of 2020), which does not acknowledge the Wildland-Urban Interface Area in which Clover Flat Landfill is located, nor does it recognize issues of wind, nor issues of ingress/egress in the event of an emergency on this remote and difficult to access site, nor does it recognize the Clover Flat Landfill location in a CalFire identified High Fire Hazard Severity Zone. (EXHIBIT F: see Summit Engineering document attached)

### INSURANCE QUESTIONS

There are also questions about past and current insurance coverages at Clover Flat Landfill and Upper Valley Disposal Service.

Through Public Records Requests there is no evidence or mention of Clover Flat Landfill insurance, and while there is evidence of insurance for UVDS, its adequacy is questionable



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due to the overall large scale regional economic/health/safety risks from potential fire/wildfire starting or burning through these fire prone sites and operations who have had a significant history of accidental fires and combustion incidents..

Insurance rates are escalating in Napa County due to fire and wildfire risk, and with billions and billions of dollars of investment and economy at stake in Napa County and surrounding regions, as well as the lives, health, safety and livelihoods of our extended communities, clear understanding of insurance matters related to Upper Valley Disposal Service/Clover Flat Landfill are critical.

Our community and stakeholders (residents and businesses, including wineries) who face these significantly escalating insurance rates have a right to expect adequate insurance coverage and all measures be taken to reduce fire risk by Clover Flat Landfill and Upper Valley Disposal Service.

(EXHIBIT G: UVDS Insurance, EXHIBIT G1 – Public Records Request – Lack of Evidence of Insurance Clover Flat Landfill, EXHIBIT G2 – Clover Flat Landfill Franchise Agreement with JPA – Insurance Requirements Pg. 27, EXHIBIT G3 – Upper Valley Disposal Agreement with JPA – Insurance Requirements Pg. 46, EXHIBIT G4 – Upper Valley Waste Management Agency Agenda Item about JPA Insurance)

It is very difficult to get the financial and insurance data on these operations to see if the requirements for Municipal Solid Waste Landfills outlined by the EPA are being met.

(EXHIBIT H: Requirements for Municipal Solid Waste Landfills EPA)

Alternative refuse/garbage management options exist in less fire prone locations, thus the fire risks at the Clover Flat Landfill/UVDS locations are unnecessary and negligent risks. By continuing these large scale waste processing operations at these fire-prone sites/locations these companies put the entire Napa County community, and its investors at extreme and unnecessary health, safety and fire risk. The companies, oversight bodies and UVWMA -JPA were grossly negligently when they extended the life of the Clover Flat Landfill and expanded operations with no significant fire risk or contamination risk analysis. Clover Flat Landfill was due to close in 2021, these bodies extended the life and contracts/agreements of Clover Flat Landfill to 2044.

This complaint is intended to consider large scale aspects related to public health and safety in these matters, as well as large scale insurance implications related to both the flame/smoke risks and impacts associated with wildfire.

The fire/wildfire concerns at both of these sites/facilities should concern both Napa County and Sonoma County stakeholders as the Clover Flat Landfill is roughly 5 forested miles from Sonoma County by way of Spring Mtn. and the UVDS Whitehall Lane site (roughly a half mile from a CalFire High Fire Hazard Severity Zone) is just about 5 forested miles from Sonoma County by way of Sugarloaf Ridge.

It is also unclear from Public Records Requests if any established fire plan exists for the UVDS Whitehall Lane waste facility. This UVDS Whitehall Lane waste site also has an entrance through the Pestoni Family Winery on Hwy 29.

There is concern in this matter as well with the fire risks and impacts related to any movement of waste/garbage (and its associated volatile fuel load) between these two fire vulnerable upper Napa Valley waste/refuse sites.

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This complaint is also directed at the Upper Valley Waste Management Agency - Joint Powers Agency (UVWMA-JPA), the Napa County public agency with the most direct local oversight over Clover Flat Landfill/ Upper Valley Disposal Service (CFL/UVDS).

These companies have held exclusive, no-bid, long term Napa County government contracts for roughly 60 years in the upper Napa Valley with no history of competitive bidding and no comparative analysis related to fire risk, rates or other services despite a long and ongoing string of problematic activity related to public health and safety, including fire. These matters will be further considered in the full body of this document.

For geographical context - Napa Valley, California is a geologic valley roughly 40 miles long and 5 miles wide, rimmed by forested hills and extending from its low mountain headwaters region in the north near Calistoga, south to the City of Napa and to its flood plain areas in American Canyon and Vallejo where the Napa River discharges into San Pablo Bay/San Francisco Bay.

The Clover Flat Landfill facility, owned and operated by Upper Valley Disposal Service (Pestoni family), is a refuse/garbage/waste site processing residential and industrial waste (and the associated high volume of volatile fuel load and waste processing byproduct gasses such as methane, a highly flammable and potentially explosive landfill gas) in the north eastern wooded hills of one of the hottest, driest areas of the Napa Valley.

The Clover Flat Landfill facility is located 4 forested miles from Calistoga in a remote, rugged, difficult to access and windy canyon in a Wildland-Urban Interface Area (WUI), and in a CalFire identified High Fire Hazard Severity Zone, roughly 8 forested miles from St. Helena, 4 forested miles from the St. Helena Bell Canyon public water supply, and 4 forested miles from the community of Angwin. (See attachment: EXHIBIT X - Wildfires Are Threatening Municipal Water Supplies)

The Clover Flat Landfill facility is also located at a most narrow point in the Napa Valley, roughly 2 miles across, creating heightened vulnerability for wildfire to spread to both sides of the valley as occurred in the Glass Fire.

Regarding distances - it is important to consider that the Tubbs Fire in 2017 raced nearly 20 miles in one night from Calistoga to Santa Rosa under 50 mph winds. All it takes is one spark or one small fire getting out of control to create a major disaster in Napa County. Consider also what was experienced in the Camp Fire/Paradise Ca. where ingress/egress were significant factors in the toll of the disaster.

Clover Flat Landfill UVDS and the UVWMA-JPA in the past two years have allowed significant increases in garbage/waste and its associated volatile, flammable and potentially explosive fuel load (well over 130,000 tons of waste was processed at the Clover Flat Landfill facility in 2021, over 3 times the historical tonnage of roughly 40,000 tons or less a year previously - (EXHIBIT I: Golder Report & EXHIBIT J: Clover Flat Landfill Tonnage Average and EXHIBIT I1 - Pg. 6 Section 3.1 Clover Flat Landfill Agreement Amend and Restated Franchise and EXHIBIT.I2 Old JPA Agreement UVWMA and UVDS|CFL) trucked into the wildfire vulnerable Clover Flat/UVDS Landfill from both in and out of Napa County by use of special permits and recent changes in contracts/agreements involving removal of local service area boundaries, and coupled with state level legislation. (EXHIBIT K: CA. AB 845 - 2012) This includes significant volumes of potentially hazardous out-of-county wildfire debris.

There is no evidence or documentation of any substantive fire risk analysis performed in relation to this massive increase in volatile fuel load being processed at Clover Flat Landfill,

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nor any evidence or documentation of significant fire risk analysis related UVDS Whitehall Lane.

Consider the impacts/risks of such volumes of volatile fuel load (methane etc.) of well over 100,000 tons of waste and garbage imported (trucked) into the fire vulnerable upper Napa Valley on a yearly basis.

Please consider in reviewing this complaint the health and safety of over 100,000 Napa County residents at unnecessary risk of fire and smoke impacts, the firefighters, the landfill workers, the children, the pets and domestic animals, the wildlife, millions of visitors a year, billions of dollars in business and residential investment and economy, and the insurance implications related to Napa County property values in general, and to what is consistently among the highest value agricultural land in the United States, if not the world.

Please consider risks and impacts to Napa County/Napa Valley and its global brand from fire and smoke/smoke taint.

Consider the separate wine brands themselves, both small and large.

Please also consider in reading this the economic impacts of the Glass Fire, including the separate trajectories of the contributing factors/fires.

Broad scale insurance aspects should be considered related to these UVDS/Clover Flat waste operations that by their nature create a significant fire hazard and smoke/smoke taint/air quality hazard in Napa County - The risk is unnecessary because alternative refuse/garbage management options exist in less fire prone locations.

The insurance implications relate to these companies (UVDS/Clover Flat Landfill), the government agencies that oversee them, and the general public/insurance stakeholders, both business and residential, unnecessarily exposed to such significant risks/impacts.

This complaint also references Ca. State Treasurer Fiona Ma who has involvement in this matter through her political and personal activity in Napa County including with Upper Valley Disposal Service/Clover Flat Landfill and the Pestoni family, as well as passage of Ca. Assembly Bill AB 845 in 2012 which she sponsored as a member of the Ca. State Assembly that allowed garbage/waste to be transferred between counties with no apparent consideration of fire risk or provisions/stipulation for fire risk analysis of the associated volatile fuel load inherent to garbage and waste processing, as well as in its transportation. This creates a concerning window for oversight gaps between local, regional and state level bodies. (See additional concerns section further in this document for more on Ca. Treasurer Fiona Ma as related to Clover Flat Landfill/UVDS).

This complaint also includes the St. Helena Star newspaper for inaccurate and incomplete reporting related to ongoing fire risks and impacts associated with Clover Flat Landfill/Upper Valley Disposal Service, including with the Glass Fire.

Clover Flat Landfill/Upper Valley Disposal service have had a significant history of accidental fires, combustion incidents and other management failures (including the long term storage of unregulated radioactive waste from 2019-2020 that landfill workers were exposed to and that was finally removed from this fire vulnerable site just months before the Glass Fire burned through it).

Documentation is provided in this complaint of a string of 26 fires/combustion incidents occurring at Clover Flat Landfill in the period between 2013 and 2018, as well as

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an inventory of more recent and ongoing fire and combustion incidents from 2020-2022 at both sites, and including significant Glass Fire impacts to the Clover Flat Landfill facility in 2020. (EXHIBIT L – Cal Fire Violation Letter to Clover Flat Landfill, and see History of Fires section below)

Official reports by the Napa County Local Enforcement Agency (LEA), Cal Recycle and the California Regional Water Quality Control Board San Francisco Bay Region present clear evidence of extensive fire damage to the Clover Flat Landfill facility in the Glass Fire as this complaint will further explore.

(EXHIBIT M – LEA Glass Fire Inspection Report, EXHIBIT M1 – Water Board Glass Fire Inspection Report, EXHIBIT M2 – LEA Glass Fire Inspection Report)

Consider in this regard smoke/vapor/air quality impacts related to human health/agricultural smoke taint from the burning of toxic and hazardous materials and smokes/vapors that would necessarily emanate from a burning waste and landfill facility, including from burning oil and paint storage buildings and other critical infrastructure, including the methane conveyance systems.

While I believe it can be proven there are significant and unnecessary fire, smoke and smoke taint risks/impacts to our community, firefighters and landfill workers, as well as contamination risks/impacts associated with both these upper Napa Valley waste sites, this complaint will focus mainly on fire, smoke and smoke taint risks/impacts associated with Clover Flat Landfill, currently, and in relation to the time period leading up to and throughout the Glass Fire of 2020 in Napa County, and extending to the present, including lack of an adequate Fire Protection Plan pursuant to Chapter 49 of the Ca. Fire Code.

The ongoing lack of competitive bidding and the resulting lack of comparative analysis related to best practices in these circumstances will also be a subject of this complaint.

Landfills and waste sites are inherently prone to fire. This is understood by waste industry professionals and fire professionals due to materials and processes inherent to landfill operations. (See again Attachment D from Waste Advantage magazine).

In this we must clearly understand that a landfill is more than just dirt covering garbage. A landfill is an industrial processing facility carrying out significant and inherently fire-prone industrial operations, including the processing of significant levels of highly flammable and potentially explosive landfill gas such as methane, which are unavoidable byproducts of waste/refuse processing operations. Waste operations thus by necessity become large scale methane processing facilities with significant vulnerabilities to fire and explosion.

It is also understood professionally that methane conveyance systems in themselves pose significant fire risks, and that landfills are vulnerable to both above and below ground methane dynamics, including seepage.

It is particularly concerning to have such operations continuing, and intending to expand, in a wind prone, high wildfire risk area in the hot, dry and remote forested hills of the upper Napa Valley.

A central focus of this complaint is the lack of an adequate and updated Fire Protection Plan at Clover Flat Landfill pursuant to Ca Fire Code Chapter 49 - Requirements for Wildland-Urban Interface Fire Areas, with respect to the stated scope and purpose (4901.1, 4901.2) of Chapter 49 (again See Exhibit C attached and below), and relative both to current

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conditions, as well as to the Glass Fire of 2020, which caused significant fire damage/impact to the Clover Flat Landfill facility and the upper Napa Valley, including where the fire crossed the Napa Valley east to west, at a point contiguous to the Clover Flat Landfill property.

These Glass Fire impacts also produced associated smokes and vapors and their associated impacts. And while it was reported that the dirt areas of the landfill did not burn in the Glass Fire, it should be considered whether combustion from methane seepage/landfill gas migration could have occurred, and accelerated or intensified the Glass Fire as there is much precedent for such a dynamic to have occurred, and which may have been witnessed by neighboring properties or on-hand fire crews. (EXHIBIT E - Landfill.Gas.Safety.Health.Issues)

Chapter 49 of the California Fire Code was in place as a chapter in the Ca. Fire Code 2016, years before the Glass Fire, and addresses fire issues related to areas of Wildland-Urban interface (WUI).

### **The US Fire Administration defines Wildland-Urban interface (WUI) as :**

**The WUI is the zone of transition between unoccupied land and human development. It is the line, area or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.**

A landfill may also have buildings and infrastructure vulnerable to fire, as seen at the Clover Flat Landfill facility in the Glass Fire when the oil storage and paint storage buildings housing volatile fuel loads were burned along with other infrastructure such as the methane and leachate conveyance systems. This will be further explored in a following section of this complaint focusing on Ca. Fire Code Chapter 49.

Again, the one fire plan document I have received related to Clover Flat Landfill is a fire plan by Summit Engineering that has been in place since Feb 13, 2019 (well before the Glass Fire of 2020) and which does not acknowledge the Wildland-Urban Interface Area in which the Clover Flat Landfill facility is located, nor does it recognize issues of wind, nor issues of ingress/egress in the event of an emergency on this remote and difficult to access site, nor does it recognize the Clover Flat Landfill location in a CalFire identified High Fire Hazard Severity Zone.

This is a critical area where I believe negligence by the company (UVDS/Clover Flat Landfill) leading to public endangerment can be shown and should be considered by the District Attorney's office.

In particular to note is Clover Flat Landfill/UVDS company owner Christy Pestoni defending the companies inadequate fire plan during a St. Helena City Council Meeting on August 25<sup>th</sup>, 2020, in the weeks before the Glass Fire, instead of heeding and considering the concerns made clear to them.

Again, no appreciable fire risk analysis was done related to the expanded waste load/fuel load entering Clover flat Landfill as contract/agreement changes were brought forward through the Upper Valley Waste Management Agency (UVWMA-JPA) in the period of 2018 through 2022, including elimination of local service area boundaries that contributed to the significant increases of waste and its associated volatile fuel load coming into Clover Flat Landfill.



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There clearly has been no re-visiting of the inadequate 2019 Summit Engineering Clover Flat Landfill fire plan in this period despite awareness of the significant fire/wildfire risks at the Clover Flat landfill due to its location in a CalFire High Fire Hazard Severity Zone and a forested Wildland-Urban Interface area (WUI), and despite awareness of documents such as the attached CalFire document citing 26 incidents of fire/combustion at Clover Flat Landfill reported to CalFire in a five year period between 2013 and 2018, where 13 of the incidents were confirmed fires requiring fire department intervention, and despite extensive fire damage to the facility from the Glass Fire in 2020.

Also in a later section of this document is a list of additional, more recent and ongoing fire/combustion incidents related to Upper Valley Disposal Service/and Clover Flat Landfill, including significant fire impacts from the Glass Fire in 2020, a compost/mulch combustion incident in Dec 2020 that smoldered for days at the UVDS Whitehall Lane site, a pick-up truck fire at the Clover Flat Landfill facility in 2021 in proximity to dry vegetation, at least 2 fire incidents so far in 2022 involving UVDS garbage trucks, and a June 14, 2022 Flag Day burn event at UVDS Whitehall Lane with questionable fire safe protocol involving open flame on a hot, dry, windy afternoon.

All it takes is one spark or small fire to get out of control to create a massive disaster. In this matter we are dealing with many potential sources of sparking and combustion surrounded by an increasing volatile fuel load in a location highly vulnerable to wildfire. (see "History of Clover Flat/Upper Valley Disposal Fires/Combustion Incidents" in a later section).

Considering the difficulty in obtaining information related to fire matters at Clover Flat Landfill/Upper Valley Disposal Service, as well as language in the current Summit Engineering Clover Flat fire plan giving discretion to waste yard employees in reporting fires (page 4 - Thresholds for Calling Emergency Services) there is limited faith this list fully documents the extent of the fire problems at Clover Flat Landfill/UVDS, but in itself it should bring great concern regarding lack of fire/wildfire considerations related to Clover Flat Landfill/UVDS.

Consider if any other entity (or person) in Napa County was associated with such a documented and ongoing history of dozens of fires in wildfire prone areas. How would we approach it?

Additionally, the trucking in to the upper Napa Valley of large volumes of garbage and waste, with its associated fuel load, from the south to the Clover Flat Landfill facility and UVDS Whitehall Lane site along both the Highway 29 and Silverado Trail corridors, as well as any waste entering over the smaller, forested two lane roads entering the Napa Valley through high fire risk forested areas, exposes all of our upvalley residents and businesses (including hotels, restaurants and wineries and their guests) to unnecessary fire/smoke risks and other impacts associated with the industrial trucking of garbage and waste and its associated volatile fuel load and inherent risk to fire.

Recent Upper Valley Disposal garbage truck fires (Whitehall Lane, Greenfield Road area) just this year highlight these risks in a very real way. All it takes is one spark or ember at the wrong time in our rural high fire risk Napa Valley for disaster to ensue related to both the flame and smoke/smoke taint risk of wildfire. Again, consider the health, safety and insurance implications of just one small fire or sparking incident getting out of hand.

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The more fire/combustion incidents that occur in the upper Napa Valley the more chances a fire gets out of control to create a full scale disaster with all of the associated safety, health and insurance implications.

Re-locating these inherently fire prone waste operations to more fire safe locations significantly reduces risk of occurrence of smaller fires/sparking incidents that can get out of control (as any fire can).

Insurance rates are escalating in Napa County due to fire/wildfire risk, and every other residence and business in Napa County, including wineries, are being mandated, incentivized and potentially taxed in ongoing efforts to reduce fire/wildfire risk, diminish fuel load, create defensible space and harden homes and businesses, often at considerable cost to those residents and businesses - including the afore mentioned escalating insurance rates.

How is it these Pestoni family owned, and inherently fire prone sites and operations, Clover Flat Landfill and UVDS Whitehall Lane waste sites, located in or in proximity to high wildfire risk areas are exempt from much of this effort and are allowed to massively expand a volatile fuel load (including the large scale processing of highly flammable and potentially explosive methane gas) in a high wildfire risk area?

And by doing so putting our entire community at risk, along with all economic/insurance investment in Napa Valley/Napa County.

This document also briefly touches upon contamination risks to the upper Napa Valley from operations related to Clover Flat Landfill and Upper Valley Disposal Service that will be more fully examined in a further document. The contamination concerns also tie in to waste volume/capacity issues related to Ca. AB 845 2012.

Increased waste loads at Clover Flat Landfill/UVDS Whitehall Lane, including those generated by food waste and biodegradable materials, also create capacity issues at waste sites like Clover Flat Landfill and UVDS Whitehall Lane not originally intended to handle such volume of regional waste loads, and elements of that larger waste load may be stockpiled in unsafe manners or re-dispersed in the upper Napa Valley through material like compost/mulches/biodegradable materials without comprehensive consideration of consistency with surrounding levels of organic standards or fire risk analysis. An important consideration in this complaint is the understanding that biodegradable and food waste materials, as well as recyclable materials are vulnerable to fire and combustion.

### **FIRE SUPPRESSION**

Having any level of onsite fire suppression does not guarantee containment of a fire if one does break out. Thus even with any advanced fire suppression systems the location of these operations in or nearby wind-prone high wildfire risk areas creates unnecessary risk far outweighing any potential benefits of these operations at these sites. Again, consider the astronomical value of all that is at stake if even one small fire gets out of control.

Also both water and chemical solutions for fire suppression at landfills bring concern related to contaminated liquid leachate run off and other factors. This particularly as the Clover Flat Landfill facility is located directly in headwaters areas for our upper Napa Valley water supply and both waste sites have run off trajectories impacting neighboring high value residential and agricultural properties.

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Denigration/contamination of our local water sources, soils and environment is a detriment for all residents and investors in Napa Valley/Napa County, including hotel, restaurant and winery investors.

### **CLIMATE CONCERNS**

There are also significant climate considerations related to landfills and waste/refuse management both related to wildfires and to day-to-day operations. For example Clover Flat Landfill was identified as the largest contributor to greenhouse gasses (GHGs) in Napa County by the Napa County Planning Director even before the significant waste increases in 2021. (EXHIBIT N: Napa County Climate Report)

Waste hauling/trucking in of regional/out of county garbage and waste should also be considered in any climate impact analysis. Our obligation to future generations demands comprehensive comparative analysis regarding Clover Flat Landfill and Upper Valley Disposal Service.

### **ADDITIONAL CONSIDERATIONS**

This document also considers political and governance conflict-of-interest and Ca. Fair Political Practice issues that keep these risks/impacts related to Clover Flat Landfill/UVDS from being fully addressed/considered.

Again for clarity - this is not a public utility, it is a private "for profit" monopoly waste company, and the stockpiling and processing of garbage/waste and its associated volatile fuel load in a high fire risk area in the upper Napa Valley is a significant money making endeavor for the company owners (The Pestoni family) while continuing to expose our community and all investors in Napa Valley/Napa County to massive unnecessary fire risk.

Public contracts need to ensure accountability and safety to the public and ratepayers whose monies over decades have built the private gain of these private and for-profit companies, prioritizing their private profit above their own community's health and safety.

Our waste service ratepayers, mandated to use the services of Upper Valley Disposal Service/Clover Flat Landfill, as well as insurance stakeholders and providers have a right to expect transparency, accountability and every effort made towards community fire safety, including from Clover Flat Landfill and Upper Valley Disposal Service.

The conclusion of this document also contemplates potential large scale legal damages that could be considered for Clover Flat Landfill/Upper Valley Disposal Service related to fire/smoke/smoke taint impacts from the 2020 Glass Fire.

It considers as well future risks associated with the precarious and very much potentially explosive dynamics related to the Clover Flat Landfill facility and UVDS Whitehall Lane site, with many sparking and fire triggers in proximity to large scale volatile fuel loads that that could lead to large scale and very unfortunate fire, wildfire, smoke, smoke taint and contamination impacts community wide and throughout the region.

**ADDITIONAL DOCUMENTS:**

- Letter to CalFire Director Joe Tyler on April 28<sup>th</sup>, 2022 - (EXHIBIT AP - Fire Letter Joe Tyler)
- Letter regarding June 14, 2022 UVDS Whitehall Lane Flag Day burn event. (EXHIBIT AQ -Flag Day burn incident)

***END INTRODUCTION/SUMMARY***

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**MAIN BODY OF COMPLAINT - CONTINUE READING FOR MORE DETAILED EXAMINATION OF THE CIRCUMSTANCES**

**INSURANCE CONSIDERATIONS**

This complaint considers insurance implications related to the significant history of accidental fires and other combustion incidents at these Clover Flat Landfill and UVDS Whitehall Lane waste facilities, as well as continuing and concerning practices, protocols and operations of Upper Valley Disposal Service/Clover Flat Landfill not in line with current understanding of wildfire dynamics, wildfire risk or community fire safety and health matters, including 2020 Glass Fire impacts related to Clover Flat Landfill. It is unclear what the current status/situation is related to insurance at Clover Flat Landfill/Upper Valley Disposal Service.

Again, insurance rates are escalating in Napa County due to fire and wildfire risk. Our community and stakeholders (residents and businesses, including wineries) who face these significantly escalating insurance rates have a right to expect all measures be taken to reduce fire risk, including by Clover Flat Landfill and Upper Valley Disposal Service who have had a significant history of accidental fires and combustion incidents.

With billions and billions of dollars of investment and economy at stake in Napa County and surrounding regions, as well as the lives, health, safety and livelihoods of our extended communities, clear understanding of insurance matters related to Upper Valley Disposal Service/Clover Flat Landfill are critical.

In this matter please consider that every other business and residence in upper Napa County has to prove they are diminishing and mitigating fire risk to keep or get insurance, while this one for profit private enterprise - the Pestoni-owned UVDS/Clover Flat Landfill - is allowed to unnecessarily increase fire risk in a significant way by continuing to unnecessarily increase and process a substantial and volatile fuel load in a windy, high fire risk area in the forested Napa County hills, with no significant or updated fire risk analysis, and with a substantial history of accidental and problematic fires, including numerous recent examples.

In reviewing this complaint and in relation to insurance please consider not only the flame aspects of fire but also smoke/air quality aspects as related to human health and safety, as well as the significant potential economic and brand impacts to Napa Valley/Napa County agricultural products from potential "smoke taint" (particularly if synthetic or toxic



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materials are involved in a fire or combustion situation) if any fire or combustion incident gets out of control.

(EXHIBIT G: UVDS Insurance, EXHIBIT G1 – Public Records Request – Lack of Evidence of Insurance Clover Flat Landfill, EXHIBIT G2 – Clover Flat Landfill Franchise Agreement with JPA – Insurance Requirements Pg. 27, EXHIBIT G3 – Upper Valley Disposal Agreement with JPA – Insurance Requirements Pg. 46, EXHIBIT G4 – Upper Valley Waste Management Agency Agenda Item about JPA Insurance)

### **SIGNIFICANT INCREASES IN WASTE VOLUMES/FUEL LOAD WITH NO ADDITIONAL FIRE RISK ANALYSIS**

Use of special permits and recent changes in contracts/agreements involving Clover Flat Landfill UVDS and the UVWMA-JPA have allowed significant increases in waste (and its associated volatile fuel load) trucked into Clover Flat Landfill from both in and out of Napa County, due to removal of local service area boundaries. This includes significant volumes of potentially hazardous out-of-county wildfire debris.

There was questionable transparency throughout the process in which these changes occurred over a period from roughly 2017-2022 and no significant fire risk analysis was done (including no re-visiting of the current Summit Engineering fire plan from Feb 2019) with adoption of these significant changes, and no recognition given to the associated and significantly increased volatile fuel load being concentrated in a recognized CalFire High Fire Hazard Severity Zone within a Wildland-Urban Interface area.

Reports show over 3 times the historical average of waste and its associated volatile fuel load (up from roughly 40,000 tons a year to well over 130,000 tons) entered the Clover Flat Landfill facility in 2021 - (See again – EXHIBIT I: Golder Report).

These local changes in conjunction with the 2012 Fiona Ma sponsored Ca. AB 845 2012 legislation, and SB 1383 Food Waste Legislation are allowing a significant increase in volatile fuel load in fire sensitive areas in Napa County with no additional fire risk analysis.

Clover Flat Landfill and the UVDS Whitehall Lane waste site came into being in the late 1960's and early 1970's well before the Napa Valley/Napa County grew into the international destination and brand it is today, well before our current understanding of wildfire dynamics, well before the current levels of human activity, high property values and significant global economic investment in Napa County.

And well before the associated insurance aspects/dynamics related to these changes. There is so much more at stake and much, much more to lose today if even one spark or small fire gets out of hand.

These ongoing fire issues and other management concerns/failures at Clover Flat Landfill/UVDS related to community health and safety should bring grave concern, including the long term storage of unregulated radioactive waste at the Clover Flat Landfill facility, as well as contamination of the Napa River that directly irrigates many Napa County grape vineyards.

This contamination of the Napa River and the storage of unregulated radioactive waste were directly associated with the inability of Clover Flat Landfill/UVDS to manage excess waste brought into the facility at a profit to themselves. These unfortunate incidents occurred even before the current and significantly increased waste loads (and associated volatile fuel

loads) currently being processed at the Clover Flat Landfill facility. (EXHIBIT O: Clover Flat Landfill reopens to the public after Contamination into Napa River)

And while methane processing may create opportunity for energy generation, certainly any benefits would be offset by the wildfire/smoke risks created by such high fire risk operations located in a Wildland-Urban Interface Area and Cal Fire recognized High Fire Severity Zone.

In any aspect of energy generation at the site, the impacts and risks (including air quality impacts and risks) should be considered with the trucking in of garbage and waste (and its associated volatile fuel load) from out of Napa County to fuel any such energy generating operations.

In this consider the efficiency of moving pure energy (through cables, transmission lines, etc.) as opposed to trucking garbage/waste in to produce energy here - there are less impacts and risks if energy moves up the valley through transmission line/cable than in the form of continuous garbage/waste being imported in trucks. (EXHIBIT P: Sonoma Resource & Recovery Truck in St. Helena & EXHIBIT P1: Sonoma Resource & Recovery Truck in St. Helena)

Clover Flat Landfill/Upper Valley Disposal Service has recently at least tripled their waste load and is now currently processing over a hundred thousand tons of waste annually, originating from both in and out of Napa County, in an already high fire risk area of Napa County, unnecessarily increasing fire risk and smoke/air quality risk in the concentrated upper Napa Valley area where much vulnerable human activity and billions of dollars of investment are at stake.

#### **LACK OF COMPETITIVE BIDDING/COMPARATIVE ANALYSIS FOR LONG TERM EXCLUSIVE "NO-BID" GOVERNMENT CONTRACTS/AGREEMENTS**

This complaint also considers questionable business practices by these companies involving lack of competitive bidding for exclusive, no-bid Napa County government contracts for roughly 6 decades despite a long and ongoing string of problematic activity related to public health and safety.

The contracts/agreements for Clover Flat Landfill/Upper Valley Disposal Service are managed by the Upper Valley Waste Management Agency (UVWMA-JPA), that includes the County of Napa and the upper Napa County jurisdictions of St. Helena, Yountville and Calistoga that belong to the UVWMA-JPA, for all aspects of refuse management in the upper Napa Valley(hauling/landfill/recycling).

The EPA outlines that best practices are for separation of these services, instead of by monopoly as we currently have with Upper Valley Disposal Service/Clover Flat Landfill. (EXHIBIT Q: EPA Best Practices)

It is important to make a differentiation between these private, for profit operations and other public/municipal utility enterprises such as water and wastewater enterprises which are structured through public agencies not to operate at a profit in their service of public need.

While these Clover Flat Landfill/Upper Valley Disposal Service private monopoly companies service a need in necessary public refuse management, it is important to distinguish they do so at a profit for themselves and have done so for the previous 60 years with no

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competitive bidding, no significant environmental review and no significant fire risk analysis while building significant personal and private gain for themselves.

Competitive bidding and the comparative analysis it brings helps ensure best practices, community/worker safety and accountability to both their own refuse/waste service rate payers and insurance rate payers. This lack of competitive bidding and comparative analysis despite an historical and ongoing litany of health/safety concerns and management failures related to fire and contamination is of deep concern related to public safety and to public process.

The hospitality/hotel industry have a significant and growing presence in the Upper Napa Valley. In other cities/regions with a significant visitation/tourism interests like Atlantic City, Las Vegas or Reno contracts for services such as refuse/garbage management, food and beverage, linen/uniforms, etc. are understood to be significantly lucrative, particularly in the aggregate and extending forward over time.

Upper Valley Disposal Service/Clover Flat Landfill have locked themselves in through a long term, no bid, non-competitive and non-transparent process to be assured that these upper Napa Valley hospitality contracts will necessarily go to them for a period extending out decades into the future. Consider the significant economic value of these long term exclusive contracts locking in payment from most every business (including hotels and wineries) and residence in the upper Napa Valley for decades to come, including borrowing power.

This private, for profit company has been taking payment every month from most every residence and business in the upper Napa Valley for a 60 year period, substantially building their own personal net worth with no competitive bidding and little accountability to the public for how those monies are managed, or re-invested towards the safety of the very public who allow those contracts - including how insurance matters are handled, and whether machinery/infrastructure is adequately updated to comply with current safety standards.

Concerns arise as well as members of these single family owned monopoly companies become more involved and intertwined with local politics and the governing bodies that regulate them. **Case in point, the presence of Eric Hall, husband of Clover Flat Landfill/Upper Valley Disposal Service owner Christy Pestoni on the St. Helena City Council brings concern here as well, related to systemic conflict of interest concerns and FPPC 1090 issues.**

Alternative, less fire-prone locations do exist for upper Napa Valley refuse management. The building fuel load and fire risk is unnecessary at the Clover Flat Landfill location because waste/refuse processing alternatives have never been explored or considered through competitive bidding or comparative analysis in roughly 60 years of Clover Flat Landfill/Upper Valley Disposal Service.

Another negative by-product in the lack of competitive bidding is it is unclear if workplace health/safety standards are being met (as evidenced by incidents such as exposure/hospitalization of landfill workers in 2019 related to unregulated radioactive waste (**EXHIBIT R: Radioactive Material Landfill**) and a chemical explosion (**EXHIBIT S: Landfill Chemical Fire & Explosion**), as well as potential exposure to impacts of the Glass Fire in 2020 and recent fire/combustion events.

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It is also unclear whether Clover Flat Landfill workforce have sufficient training to deal with the challenges they encounter due to lack of transparency with these local waste companies.

This lack of transparency and lack of competitive bidding should be considered a contributing factor to the lack of adequate fire risk analysis, lack of an updated fire plan, lack of updated fire safe infrastructure, and failures in code compliance with Clover Flat Landfill/UVDS, putting their own ratepayers (and local insurance stakeholders) at unnecessarily heightened risk and exposure to impacts.

One only has to think back to the PG&E situation in the last few years where a private monopoly company (albeit of a larger scale) was called to task for putting profits ahead of safety and not properly re-investing their rate payers dollars back into safe and sustainable practices.

To the credit of PG&E, once those vulnerabilities were exposed they began significant efforts to address the concerns. The owners of Clover Flat Landfill/Upper Valley Disposal Service have not, and instead have expanded the waste load and associated volatile fuel load in a high fire risk area, failed to comply with relevant code such as Chap. 49 of the Ca. Fire Code, and continue operations and practices clearly not in line with current understanding of wildfire dynamics, fire/smoke risk, insurance considerations or community fire safety, and in doing so leave our community with massive and unnecessary risk, with the primary motivation of apparently simply making more money for their private company.

Issues/concerns with garbage/waste companies and their tie-ins with government are not unique to Napa County and there is much precedent to explore in other regions, including in San Francisco where there is currently a US Justice Department probe into monopoly garbage/waste operations connected to government there, and I would suggest with circumstances here we consider similar attention and process.

### **CA. FIRE CODE CHAPTER 49**

Again, a central focus of this complaint is lack of an adequate and updated Fire Protection Plan at Clover Flat Landfill pursuant to Ca Fire Code Chapter 49 (adopted in 2016) - Requirements for Wildland-Urban Interface Fire Areas, with respect to the stated scope and purpose (4901.1, 4901.2) of Chapter 49, as outlined in the Definitions section (4902.1) of Chapter 49. and with respect to Chapter 49 section 4906.2 - Applications, and section 4906.3 - Requirements. (see below)

The 2019 Summit Engineering document that appears to be the current fire plan at Clover Flat Landfill neither acknowledges Chapter 49 of the Ca. Fire Code, nor does it address aspects outlined in Chap. 49 of the Ca. Fire Code related to buildings and the stated purpose of the code to "provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers being projected by a vegetation fire."

Chapter 49 of the California Fire Code was in place as a chapter in the Ca. Fire Code 2016, 3 years before the Glass Fire burned through the Clover Flat Landfill Facility in Napa County, and addresses fire issues related to areas of Wildland-Urban interface (WUI).

The US Fire Administration defines Wildland-Urban interface (WUI) as:  
The WUI is the zone of transition between unoccupied land and human development. It is the line, area or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.



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Again, landfills and waste sites process volatile fuel loads, are inherently prone to fire, and are more than just dirt covering garbage. (Please refer to Waste Advantage EXHIBIT: D) A landfill is an industrial processing facility carrying out significant and inherently fire-prone industrial operations, including the processing of industrial levels of methane, highly flammable and potentially explosive landfill gas.

A landfill also has buildings and infrastructure vulnerable to fire, as seen at the Clover Flat Landfill facility in the Glass Fire when the oil and paint storage buildings housing volatile fuel loads were burned along with other infrastructure such as the methane and leachate conveyance systems.

Please compare the stated scope and purpose (4901.1, 4901.2) of Ca. Fire Code Chapter 49 (with reference to buildings) to the current Summit Engineering Clover Flat Landfill fire plan, signed off Feb. 13 2019, which as mentioned does not acknowledge, nor have any reference to Chapter 49 of the California Fire Code, nor does it include any reference to the Wildland-Urban Interface Area in which Clover Flat Landfill is located, nor does it recognize issues of wind, nor of ingress/egress in the event of an emergency, nor does it recognize Clover Flat Landfill as located in a Cal Fire identified High Fire Risk Severity Zone (see Chap 49 attachments and below text).

From Ca. Fire Code 2016 - Chapter 49 - section 4901 - General

### 4901.1 Scope

The mitigation of conditions where a wildfire burning in vegetative fuels may readily transmit fire to buildings and threaten to destroy life, overwhelm fire suppression capabilities, or result in large property losses shall comply with this chapter.

### 4901.2 Purpose

The purpose of this code is to provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers being projected by a vegetation fire and contributes to a systematic reduction in conflagration losses through the use of performance and prescriptive requirements.

Official reports in the days after the Glass Fire made clear that certain infrastructure at the Clover Flat Landfill facility, including the oil and paint storage buildings, had been significantly burned and damaged by the fire.

This lack of consideration in the Clover Flat fire plan of the Chapter 49 "scope" and purpose" is particularly concerning with buildings that were housing chemicals or materials with highly flammable or otherwise volatile fuel loads, such as the oil and paint storage buildings at Clover Flat Landfill that were burned as the Glass Fire burned through the site/facility in 2020 (well after statewide adoption of Chapter 49 of the Ca. Fire Code), as well as severely impacting other Clover Flat Landfill facility infrastructure including methane piping systems and leachate conveyance systems. (see again EXHIBIT M, EXHIBIT M1, EXHIBIT M2).

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By not recognizing and not incorporating Chap. 49 of the Ca. Fire Code or its provisions, and not applying standards referenced in Chap. 49 "to increase the ability of a building to resist the intrusion of flame or burning embers" the risks, vulnerabilities and chances of fire/ember intrusion of these buildings would necessarily be higher than if the provisions and standards of Chap. 49 were applied.

Or otherwise stated -

By not recognizing and not incorporating Chap. 49 of the Ca. Fire Code or its' provisions, and not applying standards referenced in Chap. 49 "to increase the ability of a building to resist the intrusion of flame or burning embers", the building owners (Clover Flat Landfill/UVDS) either ignored Chap. 49 of the Ca. Fire Code or were not aware of it, either way failing to incorporate it in their fire plan and failing to contribute " to a systematic reduction in conflagration losses through the use of performance and prescriptive requirements" as per the "scope" and "purpose" of Chapter 49.

This is a critical area where I believe negligence by the company (UVDS/Clover Flat Landfill) can be shown and should be considered. In particular to note on August 25<sup>th</sup>, 2020 in a St. Helena City Council Meeting is company owner Christy Pestoni (UVDS/Clover Flat Landfill) defending their inadequate fire plan in the weeks before the Glass Fire, instead of heeding and considering the concerns that were made clear to them.

Having seen no documentation or permits related to the company achieving minimum standards or upgrades related to these oil and paint storage buildings in accordance with Chap. 49, it can be concluded that the unimproved conditions of these buildings with their contents of flammable materials and volatile fuel loads not only failed to contribute " to a systematic reduction in conflagration losses through the use of performance and prescriptive requirements." but that the failure to apply "performance and prescriptive requirements" would have actually made "conflagration losses" more likely and more probable, particularly in the case of buildings storing flammable materials with a volatile fuel load that would necessarily intensify and/or accelerate a fire.

Please consider in this regard smoke/vapor impacts related to human health/agricultural smoke taint from the burning of toxic and hazardous materials and smokes/vapors that would necessarily emanate from a burning waste and landfill facility, including from burning oil and paint storage buildings, as well as burning methane and leachate capture systems constructed of synthetic materials, and in this case related to failure of Clover Flat Landfill/UVDS to recognize or apply Chapter 49 provisions "to provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers."

An important note of concern here as well is the inaccurate and intentionally incorrect and/or misleading messaging to the public from Clover Flat Landfill/UVDS owner Christy Pestoni and local newspaper (St. Helena Star) regarding Glass Fire impacts to the Clover Flat Landfill facility. My understanding is that Clover Flat Landfill/UVDS sent a press release to the St. Helena Star with clearly inaccurate information (including photograph) and the St. Helena Star presented the information without vetting for accuracy, or considering the associated risks and impacts of not reporting the full and accurate facts to the public in a timely manner. (EXHIBIT T: Napa Valley's Clover Flat Landfill survives Glass Fire – Napa Register newspaper story/press release in comparison to accurate official agency reports).

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In not accurately or fully presenting the facts about Glass Fire impacts at the Clover Flat Landfill facility to the public in real time, Clover Flat Landfill/UVDS owner Christy Pestoni and the St. Helena Star did a significant disservice to the public, as well as insurance stakeholders, and allowed an endangerment to health and safety in not only obfuscating the very real fire risks and fire dangers associated with landfill facilities, but also in denying to the public knowledge that hazardous smokes/vapors were emanating from Clover Flat Landfill during the Glass Fire, that might have been less substantial were Chapter 49 of the Ca. Fire Code adhered to, or were an adequate fire plan in place.

It should also be noted that the 2019 Summit Engineering Clover Flat fire plan document relies on various documents that have no specifics related to a landfill in a windy, remote Wildland-Urban Interface Area (WUI)/CaFire High Fire Hazard Severity Zone. Such a document might have more pertinence in a less fire prone location that is not in a WUI/Cal Fire High Fire Tier Area.

Also concerning in these documents is the deference to landfill workers judgment in alerting emergency services regarding fire. (See – EXHIBIT F – Summit – CFL; Summit document page 4 - Thresholds for Calling Emergency Services)

As well intentioned as landfill workers may be it is unclear due to lack of company transparency whether they have sufficient training to have such responsibility placed upon them, particularly considering the large scale community health/safety issues and billions of dollars of investment at stake in these matters, as well as for their own safety.

### **ADDITIONAL BACKGROUND/CONTEXT/INSURANCE ISSUES**

While a specific focus of this complaint remains on Ca. Fire Code Chapter 49 as related to the current Clover Flat fire plan, I believe the below sections important for context in fully considering the situation.

After the devastating local Tubbs Fire in 2017 (originating roughly 10 miles from Clover Flat Landfill) and racing nearly 20 miles in one night from Calistoga to Santa Rosa with winds over 50 mph), and with many wildfires throughout California every year, it has become clear to the public and fire professionals that new dynamics of wildfire (including climate and wind aspects) will take new thinking and enhanced measures to address.

All it takes is one spark or small fire at the wrong time and a high wind for a massive disaster to occur extending miles and miles from one of these sites that came into being in the 1960s/1970s. Again St. Helena is just 8 forested miles from the Clover Flat Landfill industrial waste and methane processing facility, and our Bell Canyon water supply just 4 forested miles from Clover Flat.

The fire and sparking risks of the trucking in and out of waste to the Clover Flat Landfill/waste site, as well as day to day waste hauling, as well as other associated industrial aspects of waste management, including distribution throughout the upper Napa Valley of combustible/flammable materials such as combustible compost/mulch materials should be considered in a comprehensive fire risk assessment of this entire situation - including smoke/smoke taint aspects.

Many efforts are being made to diminish wildfire risk in Napa County, including the development of a Community Wildfire Protection Plan in conjunction with CalFire and the Napa Firewise Foundation, as well as the development of countywide ballot measures, such as Measure L, to increase funding to such efforts.

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Clover Flat Landfill and the UVDS Whitehall Lane facility are unexplainably not showing up as a fire hazard on the Community Wildfire Protection Plan (CWPP), a program developed in conjunction with CalFire and the Napa Community Firewise Foundation. This is a circumstance that should be rectified so all stakeholders understand the risks that exist here with these Pestoni family owned, for profit, waste facilities.

Again, every residence and business in Napa County, except these Pestoni family owned waste sites, are being mandated, incentivized and potentially taxed in ongoing efforts to reduce fire risk, diminish fuel load, create defensible space and harden homes and businesses, often at considerable cost to those residents and businesses.

How is it that Clover Flat Landfill/Upper Valley Disposal Service are exempt from these efforts?

Public contracts come with public obligation. Science, logic, critical thinking, common sense and justness in assignment of responsibility should tell us that putting the lives and safety of everyone else in Napa County, as well as their families, businesses, investments and livelihoods totaling many, many billions of dollars at heightened risk just to allow one private family owned monopoly company to continue making money through exclusive government contracts is not in the best interest of the public.

Continuing to trust a company responsible for dozens of accidental fires and other combustion incidents in high fire risk areas while ignoring such codes as outlined in Ca. Fire Code Chapter 49 also fails the public interest.

### **BEFORE AND AFTER THE GLASS FIRE**

In the weeks before the Glass Fire I had publicly brought attention to the vulnerabilities of Clover Flat Landfill, both as a fire might originate from the site, as landfills are inherently prone to fire due to materials, processes and dynamics inherent to their operations, or as it might be vulnerable in a wildfire due to its location in a high wildfire risk area. My comments and concerns were publicly dismissed by Clover Flat landfill owner Christy Pestoni who publicly stated the landfill would act as a "fire break" in the event of fire/wildfire. It clearly did not act as a firebreak in the Glass Fire as evidenced by destruction of much infrastructure including the oil and paint storage buildings, and other critical infrastructure such as the methane and leachate conveyance systems.

Here we come to a matter of obfuscation through semantics. While it was reported by Clover Flat Landfill/UVDS and the St. Helena Star that Clover Flat Landfill did not burn in the Glass fire, presumably because the dirt areas covering buried waste/garbage may not have directly burned, it must be understood that a landfill is more than just dirt covering garbage. A landfill is an industrial facility with significant industrial operations, including large scale processing of methane, a highly flammable and potentially explosive landfill gas, and vulnerable infrastructure, much of which did burn in the Glass Fire.

Official reports by the Napa County Local Enforcement Agency (LEA), Cal Recycle and California Regional Water Quality Control Board San Francisco Bay Region as presented in earlier sections present clear evidence of significant fire damage to the Clover Flat Landfill facility in the Glass Fire.

There is also documentation of where the Glass Fire crossed the upper Napa Valley at a point contiguous to the Clover Flat Landfill property. And while it was reported that the dirt areas of the landfill did not burn, it should be considered whether combustion from methane seepage/landfill gas migration could have occurred, and accelerated or intensified the Glass



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Fire as there is much present for such a dynamic to have occurred. (EXHIBIT U – What Has Changed Since the Loscoe Landfill Gas Explosion – AVADA Environmental)

Whether a fire begins onsite or burns through, the location of the fire prone Clover Flat Landfill facility and its significant methane load sits in a Wildland-Urban Interface area in a remote, windswept canyon in a high fire risk area, and is vulnerable to both above and below ground methane dynamics.

The vulnerabilities and risks were clear before the Glass Fire of 2020, and are even greater today with the significantly increased waste load and its associated volatile fuel load and accumulation of flammable and potentially explosive methane gas.

### THE GLASS FIRE

The Glass Fire started in northern Napa Valley on September 27, 2020 and was active for 23 days until mid October 2020.

The Glass Fire started in the eastern hills of Napa Valley near Glass Mountain, about 2 miles north of St. Helena.

The fire moved northward up the eastern forested hills of Napa Valley towards Calistoga in the following days, along the way sending embers westward toward the western hills of the Napa Valley.

My understanding is this ember cast was the first ignition source for the Glass Fire on the west side of the Napa Valley.

The Glass Fire moved up the eastside of the valley through the Clover Flat Landfill facility, which clearly did not act as a firebreak as Clover Flat Landfill owner Christy Pestoni publicly stated it would, instead significant Clover Flat infrastructure was burned including the oil and paint storage buildings, and the methane and leachate conveyance systems.

In that time period the Glass Fire also crossed the Napa Valley at a point contiguous with the Clover Flat Landfill facility and property. (EXHIBIT V Satellite Image Clover Flat Landfill 9.6.2020 Prior to Glass Fire & EXHIBIT V1 – Satellite Image Clover Flat Landfill).

Eyewitness accounts as well as photo documentation establish the Glass Fire moved east to west through drainages and wooded corridors connected to the Clover Flat Landfill property and established itself on the west side of the valley near Maple Lane. It is my understanding that firefighters were on hand that witnessed the Glass Fire impacts in the Clover Flat area, including as it crossed the Napa Valley along drainage ditches and forested corridors moving east to west (those fire crews could be established from incident reports).

Other fires from Sonoma County spread into western Napa County from the southwest, connecting to the Glass Fire and adding to its size/scope.

The precise trajectory of the Glass Fire and the component fires that connected into it can be confirmed by satellite imagery, fire department/public agency reports and presumably with the insurance companies still working through the circumstances of the Glass Fire.

Considering again more closely the time period when the Glass Fire crossed the Napa Valley at the point contiguous with the Clover Flat Landfill facility and property, and considering that the Glass Fire burned through the Clover Flat Landfill site/facility, burning significant infrastructure, including the oil and paint storage buildings, with no evidence that standards in accordance with Chapter 49 of the Ca. Fire Code had been applied to these buildings.

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This brings up a central question in this matter as to whether the lack of an adequate fire plan at Clover Flat Landfill in accordance with Chap 49 of the Ca. Fire Code could have contributed to the intensity or acceleration of the Glass Fire as opposed to acting as a fire break, on a property with a significant and volatile fuel load and methane component contiguous to where the Glass Fire crossed the Napa Valley and in doing so putting our community (and firefighters) at higher risk and vulnerability to impacts of both the smoke and flame aspects of the Glass Fire.

As noted earlier the Glass Fire also burned the methane and leachate capture systems at Clover Flat Landfill, constructed of synthetic materials and constructed to convey contaminated and/or flammable materials. There is no report or evidence that these methane and leachate systems were not functioning when the Glass Fire first reached the Clover Flat Landfill facility thus they would at the time of their destruction have necessarily released contaminated and flammable materials/smokes/vapors into the surrounding environment and impacted air quality as these conveyance systems burned.

For example post Glass Fire inspection reports in EXHIBIT M, EXHBIT M1, and EXHIBIT M2 identify exposed and flaming methane well heads at the Clover Flat Landfill facility in the immediate aftermath of the Glass Fire. There is photographic evidence as well of the burned leachate conveyance systems. Leachate is contaminated liquid wastewater runoff from garbage and refuse, inherent in any landfill operation. Thus contaminants, off gassing and/or flammable materials contained by those systems would necessarily have been released or burned along with the burning and associated breakdown of the systems. (See attached reports/photos: EXHIBIT M, EXHBIT M1, and EXHIBIT M2)

There would be smoke and/or vapor associated with this combustion, and the September 28<sup>th</sup>, 2020 LEA report by Peter Ex identifies off-gassing methane well heads that needed to be capped. Consider in this regard smoke/vapor/air quality impacts related to human health/agricultural smoke taint from the burning of toxic and hazardous materials and smokes/vapors that would necessarily emanate from a burning waste and landfill facility, including from burning oil and paint storage buildings, as well as burning methane and leachate capture systems constructed of synthetic materials, and in this case occurring in conjunction with the failure of Clover Flat Landfill/UVDS to recognize or apply Ca. Fire Code Chapter 49 provisions "to provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers."

Again please consider the scope and purpose of Chapter 49 of the Ca. Fire Code related to Wildland- Urban Interface Areas such as the location of the Clover Flat Landfill facility.

### 4901.1 Scope

The mitigation of conditions where a wildfire burning in vegetative fuels may readily transmit fire to buildings and threaten to destroy life, overwhelm fire suppression capabilities, or result in large property losses shall comply with this chapter.

### 4901.2 Purpose

The purpose of this code is to provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers being projected by a vegetation fire and contributes to a systematic reduction in conflagration losses through the use of performance and prescriptive requirements.

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With the awarding and acceptance of public contracts comes obligation and responsibility to the public - for adhering to standards, for telling the truth about what occurs, and for taking responsibility not only in day to day activities but for impacts, problems and damages that occur. The public (and insurance stakeholders/providers) have the right to expect established codes and standards will be met by those accepting the responsibility of holding a public contract.

However Clover Flat Landfill/UVDS and The St. Helena Star newspaper not only did not make relevant information and facts clearly available to the public related to the Glass Fire impacts on the Clover Flat Landfill facility, but those facts that were presented were done so in a manner that obfuscated and downplayed the full truth about impacts, failures and future fire risks/vulnerabilities related to the Clover Flat Landfill facility, including from hazardous smokes and vapors.

The Upper Valley Waste Management Agency (UVWMA-JPA) that is the public agency with direct oversight of Clover Flat Landfill also did not step up to present clear facts, impacts and future risks to the public, nor did they call for additional fire risk analysis after the Glass Fire, and with considerably more waste/fuel load entering the facility in 2021.

A result of this lack of accurate information is that the public has been denied information critical to their own health, safety and economic welfare, including understanding future risk.

Insurance providers as well have not been adequately informed of impacts and ongoing risks to best inform their decision making process in providing coverage to the region and for fairly assigning costs.

With such obfuscation of facts the Clover Flat Landfill facility has also continued to skirt obligation to upgrade its fire plan to be consistent with Chapter 49 of the Ca .Fire Code related to Wildland-Urban Interface areas, allowing such risks to continue unmitigated in this vulnerable Cal Fire High Fire Hazard Severity Zone.

Again, important to note that these risks and impacts include potential long term respiratory impacts/damages incurred by the public related to hazardous smoke from the burning of hazardous or synthetic materials at Clover Flat Landfill/UVDS Waste facilities.

Those with agricultural investment in Napa Valley also have a right to understand the fire/smoke risks, vulnerabilities and impacts related to landfills in general and Clover Flat Landfill in particular due to its vulnerable fire prone local location, as smoke taint is a very real threat to livelihood/economy and the overall Napa County wine and agricultural brand, which again has among the highest value agricultural land in the United States, if not the world, based on a vulnerable and sensitive wine grape crop.

This failure by Clover Flat Landfill/UVDS during the Glass Fire to make the public aware of the fire vulnerabilities of a burning landfill facility in a Wildland-Interface Area, including smokes from hazardous and toxic materials that would necessarily emanate from such a fire involving paint and oil storage buildings, and other critical infrastructure, should be considered as a basis for my complaint regarding both negligence and public endangerment.

I believe both the public, and insurance providers to the public, have a right to be aware of the full facts in this matter to understand the impacts and to assess future risks, particularly

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if those damages and impacts occurred due to negligent activity or lack of appropriate action from a company holding public contracts.

Public agencies such as the Upper Valley Waste Management Agency (UVWMA - JPA) that have oversight capacity on Clover Flat Landfill should have taken an active role in presenting an accurate assessment to the public once the facts of the Glass Fire were established, but instead of acknowledgement and installation of needed protections for the public, the UVWMA - JPA rewrote the Franchise Agreements in the Fall of 2020 giving tremendous benefit to the company by further deregulating their operations, again with no fire risk analysis on increasing fuel load, and further endangering the public while giving this for-profit company fewer constraints with minimal oversight and diminishing the UVWMA - JPA's own regulatory power. (EXHIBIT I1 – Pg. 6 Section 3.1 Clover Flat Landfill Agreement Amend and Restated Franchise and EXHIBIT.I2 Old JPA Agreement UVWMA and UVDS|CFL)

Wildfires also have significant climate impacts that should be taken into account in considering this complaint, and as related to the Glass Fire. (EXHIBIT W – How Wildfires Can Affect Climate Change)

To consider related to potential legal damages and restitution to the public:

In this consider the overall economic and health impacts of the Glass Fire, both related to flame and smoke, the trajectories of the contributing factors/fires, and how the component fires/trajectories might be broken down to assess costs/damage associated with the different aspects/trajectories of the Glass Fire.

And in this case, the aspects of the Glass Fire associated with the Clover Flat Landfill location in a high wind, High Fire Hazard Zone, its significant methane/volatile fuel load, lack of application of Chapter 49 of the Ca. Fire code related to vulnerable buildings, ignition of landfill gases through burning conveyance systems, as well as potential ignition of above and/or below ground gas migration, and the Glass Fire crossing the Napa Valley at a point contiguous to Clover Flat Landfill property.

Consider the flame aspects/impacts of the Glass Fire in this specific trajectory/aspect as well as hazardous smokes from burning landfill infrastructure and materials our community were exposed to with no public notification, smoke impacts to the respiratory health of our community, workers, visitors and agricultural products. Also consider climate impacts in this aspect .

Consider also future fire/wildfire/smoke risks associated with these dynamics/impacts as well as climate impacts.

Consider how close the Glass Fire came to the perimeters of our towns and consider again that Clover Flat Landfill facility is located at a most narrow wind-prone point in the northern Napa Valley, about 1 mile across, creating heightened vulnerability for a wildfire to spread to both sides of the valley as occurred in the Glass Fire.

### **THE GLASS FIRE, CLOVER FLAT LANDFILL AND ST. HELENA**

The Glass Fire came frighteningly close to St. Helena with intrusions into the perimeter of the City, and while the flames of the fire on the west side of St. Helena may have been more directly associated with other components of the Glass Fire mentioned earlier (Sonoma fires, ember cast before the Glass Fire reached Clover Flat Landfill), undoubtedly the smoke aspects of a nearby burning

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landfill industrial facility would have impacts in St. Helena, located roughly 8 forested miles from Clover Flat Landfill, and within the same concentrated 40 mile long by 5 mile wide Napa Valley.

Please again remember the devastating speed at which the Tubbs fire moved in 2017, racing nearly 20 miles in one night from Calistoga to Santa Rosa under 50 mph winds.

Certainly also contending with the Glass Fire on the date and at the point where it crossed the Napa Valley contiguous with the Clover Flat Landfill property would have taken firefighter capacity that could have been used elsewhere had Clover Flat Landfill acted as the "firebreak" that Clover Flat owner Christy Pestoni claimed it would in the weeks before the Glass Fire.

Please consider that St. Helena itself has roughly \$2.5 billion dollars in assessed property values, and a water supply (Bell Canyon) that supports many billions of dollars more in upper Napa Valley investment and economy, including for every major winery and hotel/hospitality enterprise from Lodi Lane in the north to Rutherford in the south. The Bell Canyon Reservoir is just 4 forested miles from the Clover Flat Landfill facility and it is understood that wildfire can have devastating impacts on a community's water supply. (See attachment: EXHIBIT X - Wildfires Are Threatening Municipal Water Supplies)

Though Clover Flat Landfill may be located in the jurisdiction of Napa County, the fire, smoke and insurance risks, impacts and implications of its operations affect nearby St. Helena (and all nearby communities as well). Why take such unnecessary risks with the processing of a volatile and growing fuel load in a windy, high fire risk area if we don't have to? Particularly with a company with such extensive and problematic history related to fires?

Certainly the unnecessary risks and impacts we face would be best diminished if Clover Flat Landfill/Upper Valley Disposal Service operations and their volatile fuel loads were relocated to more fire-safe locations not in a Cal Fire High Fire Severity Zone and not in a vulnerable Wildland-Urban Interface Area. There are alternative options available.

The trucking in of garbage and waste from the south to the Clover Flat Landfill facility along both the Highway 29 and Silverado Trail limited 2 lane corridors that pass through St. Helena also exposes our St. Helena and upper Napa Valley residents and businesses (including hotels/hospitality enterprises and their guests) to unnecessary fire risks and impacts associated with industrial level waste trucking with trucks carrying garbage and its associated volatile fuel load and inherent risk to fire.

Recent Upper Valley Disposal garbage truck fires (Whitehall Lane, Greenfield Road) just this year highlight these risks in a very real way. All it takes is one spark or ember at the wrong time in our rural high fire risk valley for large scale disaster to ensue.

Again, let's not forget the lessons learned from the Paradise Ca. area Camp Fire, including the concerns of ingress/egress on limited roadways.

### **A HISTORY OF PROBLEMATIC FIRES RELATED TO CLOVER FLAT LANDFILL AND UVDS.**

These waste companies, Clover Flat Landfill and Upper Valley Disposal Service, owned by the Pestoni Family, have a long and extensive history of accidental fires and other



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combustion incidents at their waste sites at both Whitehall Lane near St. Helena and Clover Flat Landfill near Calistoga.

The more fire/combustion incidents that occur in the upper Napa Valley the more chances that an incident gets out of control to create a full scale disaster. By reducing fire risks and fuel load we diminish chances of a disaster ensuing, instead of increasing fire risks and fuel load with expanding operations and scale as is currently occurring.

Again please see the attached Waste Advantage magazine excerpt to understand the multitude of ways fires can start at landfills and waste sites, demonstrating ongoing and many faceted fire risks associated with these sites. (EXHIBIT D Waste Advantage Article & EXHIBIT A Fire Wise Map)

Because of past and ongoing history with this company regarding fire and combustion incidents, the history of inaccurate reporting from both the companies and local media, the difficulty in obtaining information related to fire matters at Clover Flat Landfill/UVDS, and language in the current Summit Engineering fire plan giving discretion to waste yard employees in reporting fires (EXHIBIT F – Summit Report page 4 - Thresholds for Calling Emergency Services) there is little faith this list fully documents the extent of the fire problems at Clover Flat Landfill/UVDS and leaves us unsure how many fire/combustion events at Upper Valley Disposal Service waste sites (Whitehall Lane and Clover Flat Landfill) have actually occurred, but in itself it should bring grave concern.

Please consider:

- CalFire document citing 26 incidents of fire/combustion at Clover Flat Landfill, owned and operated by Upper Valley Disposal Service, reported to CalFire in a five year period between 2013 and 2018 - 13 of the incidents were confirmed fires requiring fire department intervention.
- A chemical explosion in May of 2019 sending a worker to the hospital
- As documented above in 2020 the Glass Fire in Napa Valley/Napa County burned through the Clover Flat Landfill site, causing significant documented fire damage to the facility, including to the oil and paint storage facilities and other critical infrastructure which would have created a potentially hazardous smoke/hazardous air quality aspect to the circumstance.
- A compost fire/combustion incident at the UVDS Whitehall Lane waste site in December 2020 that smoldered and smoked for many days. This was a spontaneous combustion incident that occurred in even the cooler months of the year, again demonstrating the volatile fuel load inherent to compost/mulch management, an increasing component of the UVDS waste load/fuel load due to Ca. SB 1383 Food Waste legislation. (EXHIBIT AR UVDS Compost Fire 12.2020 & EXHIBIT AR1 UVDS COMPOST Fire 12.2020-1)
- In 2021 a fire broke out at the Clover Flat Landfill facility associated with a pick-up truck vehicle on the site. This fire was initially not reported as occurring at the Clover Flat Landfill facility (including by the St. Helena Star/Napa Valley Register), however I was recently provided documentation establishing that it did. (EXHIBIT Z Clover Flat Landfill Pickup Truck Fire 2021)

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- A June 14 2022 Flag Day burn event with questionable fire safe protocol ([EXHIBIT AA Flag Burning 6.23.2022](#), [EXHIBIT AA1 UVDS Fire Day Burn](#), [EXHIBIT AA2 Letter of Concern UVDS Flag Day Burn 6.14.2022](#)).
- At least two fires in 2022 associated with Upper Valley Disposal Service garbage trucks (Greenfield Rd area, Whitehall Lane).

Another distressing point I would like to make is that as with the Glass Fire of 2020, the Whitehall Lane combustion event of Dec. 2020, and the 2021 pickup truck fire at Clover Flat Landfill, the Upper Valley Disposal Service company failed to adequately message the community of the incidents, thereby denying the public the right to understand the continuing health, safety and economic risks associated with these waste sites related to both the flame and smoke aspects of combustion.

This waste company, Upper Valley Disposal Service, has a long history of accidental fires on their waste sites as well as other health and safety violations, demonstrating a history of lax or insufficient safety practices and protocol. They always have an excuse, and yet the fires continue to occur.

As this company have demonstrated time and again not to have adequate judgement when it comes to the health and safety of our community, deferring any judgement or trust to the hands of this company, Upper Valley Disposal Service, regarding the safety or risk levels of a burn event such as what occurred on June 14, 2022 does a grave and continual disservice to our community.

The UVWMA-JPA added these concerns by publicly disparaging neighbors for bringing these concerns forward instead of looking into matters.

### **ADDITIONAL CONCERNS/CONSIDERATIONS**

While the main focus of this complaint remains most specifically on the Ca. Fire Code Chapter 49 concerns at Clover Flat Landfill, I believe it is important to include some additional points for the record.

### **CONCERNS REGARDING CA. STATE TREASURER FIONA MA RELATED TO CLOVER FLAT LANDFILL/UVDS**

Treasurer Ma is named in this complaint both related to state level legislation relevant to these circumstances ([Ca. AB 845 2012 – see EXHIBIT AB – AB 845](#)), as well as local circumstances as she has been personally and politically involved with the owners of Clover Flat Landfill/UVDS, the Pestoni family.

Fiona Ma attends political and social events at Pestoni Family Winery adjoining the UVDS Whitehall Lane site and accepts campaign contributions from The Pestoni family. ([EXHIBIT AD – Fiona Ma - Pestoni Connection](#))

She participated in the wedding of Clover Flat landfill/UVDS owner Christy Pestoni and her husband Eric Hall. ([EXHIBIT AC – Fiona Ma Personal Connection to Christy Pestoni](#))

Fiona Ma also endorsed Eric Hall (husband of Clover Flat Landfill/UVDS owner Christy Pestoni) for St. Helena City Council in 2020.

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Eric Hall is currently running for mayor of St. Helena. (A post for which I am not seeking re-election).

I continue to raise concerns with the Ca. Fair Political Practices Commission (FPPC) regarding systemic conflicts of interest and rule 1090 issues with Eric Hall as a member of the St. Helena City Council participating in zoning and development discussions/decisions that necessarily benefit his wife's monopoly garbage/refuse company and thereby himself, including for large scale hotel development and including votes related to the Hall Winery hotel project on the St. Helena water line. (No family relation between Eric Hall and Hall Winery).

I use the word systemic because Upper Valley Disposal Service/Clover Flat Landfill are systemically intertwined with local governance in the upper Napa Valley including St. Helena as one of the 4 jurisdictions in the UVWMA -JPA (St. Helena, Calistoga, Yountville and the County of Napa) that has regulatory oversight over Clover Flat Landfill/Upper Valley Disposal Service, owned by the Pestoni Family, companies that have held exclusive no-bid government contracts in the upper Napa Valley for roughly 60 years with no competitive bidding.

Eric Hall received an FPPC violation in March of 2022 for not reporting his spouse Christy Pestoni's companies on his 700 form in the 2020 St. Helena City Council race. The St. Helena voting community did not have the opportunity to fully understand who they were voting for in 2020 City Council race because Eric Hall did not disclose his wife's ownership of Clover Flat Landfill and Upper Valley Disposal on his 700 forms. (EXHIBIT AE – Fall 2020 Election FPPC Violation Eric Hall)

### **CA STATE ASSEMBLY BILL AB 845 2012**

In 2011 Ca. State Treasurer Fiona Ma, then a Ca. Assemblyperson from San Francisco, first introduced Ca. State legislation (Ca. AB 845 2012) to allow garbage/refuse/recycling to cross county lines in California. It was filed by the Ca. Secretary of State in 2012.

While the purpose of the bill was presented as a "garbage equity" bill, what Ca. AB 845 2012 failed to recognize is that garbage/waste has an inherently volatile fuel load including methane, a highly flammable and potentially explosive landfill gas that increases as waste decomposes.

And in failing such recognition the assembly bill fails to offer stipulations/provisions to ensure adequate health and safety standards (including fire risk analysis) for communities on the receiving end of such waste loads/volatile fuel loads and in the transferring, storage and processing of such garbage/waste and its associated volatile fuel load.

Most certainly Ca. AB 845 2012 does not consider the risks in the transportation and processing of such high volume volatile fuel loads introduced into a High Fire Hazard Severity Zone in a wind prone and difficult to access Wildland Urban Interface Area such as the Clover Flat Landfill facility.

Nor does Ca. AB 845 2012 consider the insurance implications of importing such a substantial volatile fuel load into a wildfire vulnerable region such as the upper Napa Valley/upper Napa County.

To be clear, the movement of garbage and waste is also the movement of a volatile, flammable and potentially explosive fuel load, and proper fire risk analysis should occur - analysis for immediate fire risks in all aspects of waste processing, as well for increased fire

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risk as time passes and that waste load decomposes to produce more methane and other flammable and potentially explosive landfill gasses.

This dynamic was not contemplated in Ca. AB845 2012 and puts us all at risk as landfills and waste facilities such as Clover Flat Landfill/UVDS that were established in the 1960's and 1970's never anticipated current wildfire dynamics, nor the stockpiling of such significant quantities of regional and out of county waste /volatile fuel load in high fire risk locations at the top of the Napa Valley water source area, and the associated risks to increased levels of human activity, significantly increased economic investment and insurance implications in Napa Valley/Napa County at the level of multiple billions of dollars.

The increased combustible waste loads also create capacity issues at waste sites like Clover Flat Landfill/UVDS Whitehall Lane not originally intended to handle such volume of regional/out of county waste loads, and elements of that larger waste load/fuel load may be stockpiled in unsafe manners or re-dispersed in the upper Napa Valley through material like combustible compost/mulches without comprehensive consideration of consistency with surrounding levels of organic standards or fire risk analysis. Biodegradable and organic materials are also vulnerable to fire and combustion.

Risks/impacts increase on our motorways as well with higher volumes of volatile, potentially explosive fuel loads trucked throughout the region. Just this summer we've already been exposed to at least two fires associated with UVDS garbage trucks. Insurance aspects play into all of these dynamics.

Interestingly, Napa County Supervisor Diane Dillon, who also sits on the UVWMA-JPA Board with oversight on Clover Flat Landfill/UVDS told upper Napa Valley community members in the last number of years that Napa County garbage had to stay 'in county' as a reason that Clover Flat Landfill and UVDS Whitehall Lane facility had to remain in operation.

Clearly that is not accurate and is not the case as these UVDS/Clover Flat facilities are now importing significant amounts of waste (with associated volatile fuel load), from other counties, and waste/garbage in southern Napa County is transferred out of Napa County.

With Ca. AB845 2012 if garbage/waste can come in from another county, it can also go out to another county, and should go to locations offering the best considerations for fire safety, health/safety and climate concerns. And regardless of the location should be processed with proper analysis of all these factors. Again, this Ca. Assembly Bill from 2012, introduced by then Ca. Assemblyperson Fiona Ma failed to offer provisions/stipulations to ensure these basic protections.

### **FIONA MA - POLITICAL AND PERSONAL INVOLVEMENT WITH CLOVER FLAT LANDFILL/UVDS, AND OTHER RELATED NAPA VALLEY/NAPA COUNTY POLITICAL ACTIVITY.**

Fiona Ma has many connections to the Ca. waste/refuse industry, including as one of the largest recipients of donations from Recology, the garbage/waste company involved in the current US Justice Department probe in San Francisco. (EXHIBIT AF – Recology Contribution Fiona Ma & EXHIBIT AF1 Former Recology Official to Plead Guilty in SF Corruption Scandal – NBC Bay Area)

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Again, as per above, Fiona Ma has been personally and politically involved with the owners of Clover Flat Landfill/UVDS, the Pestoni family. (EXHIBIT AG – Fiona Ma Endorsement of Eric Hall)

And as per above I continue to raise concerns with the Ca. Fair Political Practices Commission (FPPC) regarding systemic conflicts of interest with Eric Hall as an elected official in St. Helena.

Fiona Ma also has other significant involvement in Napa County governance/politics most notably her increasing involvement with the Napa County Farm Bureau whose CEO Ryan Klobas has a background with Fiona Ma from San Francisco/Golden Gate University. (EXHIBIT AH – 20220 Political Endorsements of Napa County Farm Bureau)

Ca. Treasurer Fiona Ma is a former San Francisco Supervisor . Our State Governor Gavin Newsom is also a former San Francisco supervisor. Governor Newsom has winery in the Angwin area just 4 forested miles from Clover Flat Landfill.

Fiona Ma was recently featured in a Napa County Farm Bureau Event in St. Helena at Louis Martini Winery (owned by Gallo), that also featured recently exited Napa County CEO Minh Tran. (EXHIBIT AI – Fiona Ma – Napa Farm Bureau)

Fiona Ma has been in attendance at other Napa County non-profit events including at the Meritage Hotel in south Napa with Clover Flat Landfill/UVDS owner Christy Pestoni and her husband Eric Hall before he was on the St. Helena City Council. (EXHIBIT AJ - Eric Hall, Fiona Ma, Christy Pestoni – Meritage Hotel)

Fiona Ma is also active in the current Napa County Supervisors race endorsing Suzanne Trouchard for Napa County Supervisor in the District 1. (EXHIBIT AK – SUZANNE Truchard – Endorsed by Fiona Ma)

### **THE UPPER VALLEY WASTE MANAGEMENT AGENCY - JOINT POWERS AUTHORITY (UVWMA - JPA)**

The Upper Valley Waste Management Agency - JPA (UVWMA-JPA )is the local government body with the clearest direct oversight related to Clover Flat Landfill and Upper Valley Disposal Service.

I have made continued efforts over the previous 2-3 years to bring awareness regarding fire risk and lack of fire risk analysis to this decision making body related to the increasing levels of waste/garbage coming into the Clover Flat Landfill facility in a high fire risk area from in and out of Napa County, but have been continually re-buffed and dismissed by this body and board in bringing these fire concerns forward.

Napa County Supervisors Alfredo Pedroza and Diane Dillon sit on the UVWMA-JPA Board and have dismissed these concerns at both the UVWMA-JPA level, and also at the Napa County Board of Supervisors level.

(VIRTUAL EXHIBIT: Napa County Board of Supervisor Meeting:  
March 2nd, 2021 - JPA Franchise Agreement with Napa County & Upper Valley Disposal

[https://napa.granicus.com/player/clip/4824?view\\_id=2&redirect=true](https://napa.granicus.com/player/clip/4824?view_id=2&redirect=true)

Video below Time Stamp: 50:00 minutes

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- 50:00 minutes Steve Lederer - Public Works Director/UVWMA Director speaks
- 56:00 minutes Mayor Geoff Ellsworth - comments on item 11A followed by Supervisor Chair Alfredo Pedroza & Upvalley District 3 Supervisor Diane Dillon summarily dismissing Mayor Ellsworth concerns entirely).

I have also brought forward concerns related to the structure of the UVWMA-JPA regarding lack of accountability to its member jurisdictions and the general public, including lack of staff liaison from its member jurisdictions and lack of transparency in the process of updating contracts/agreements.

I have also brought forward contamination concerns related to Clover Flat Landfill/Upper Valley Disposal Service to this body/board that have been similarly re-buffed and dismissed.

I have also taken these concerns to the SF Regional Water Quality Control Board, and while more willing to listen, also have not demonstrated willingness to consider any deeper probe or action related to these concerns about fire risk and contamination risk in Napa County related to Upper Valley Disposal Service/Clover Flat Landfill.

The director of the Upper Valley Waste Management Agency - JPA (UVWMA-JPA ) is Steve Lederer, who is also the Napa County Director of Public Works.

The current (UVWMA-JPA ) board includes:

- Margie Mohler - Chair - Yountville City Council
- Alfredo Pedroza - Napa County Board of Supervisor
- Diane Dillon - Napa County Board of Supervisor
- Chris Canning - Calistoga Mayor
- Anna Chouteau - Hall Winery - St. Helena City Council

### (EXHIBIT AL - UVWMA -JPA Board)

Former St. Helena City Councilmember Mary Koberstein was also on the UVWMA -JPA Board in the period from 2018-2020 and worked closely on the changes in the JPA contracts/agreements related to UVDS/Clover Flat Landfill in that time period.

At a recent public meeting on June 27<sup>th</sup>, 2022 it was revealed that the UVWMA -JPA lost their directors errors and omissions insurance due to a current CEQA lawsuit. (VIRTUAL EXHIBIT: Steven Lederer Time Stamp 12 minutes 31 seconds [https://countyofnapa.zoom.us/rec/play/QtXpBjJ48si8JeZoTHCz9cUSC9Ixzmm5lWt02ItcfbbQfwho7\\_TvJKPGNyJth4ISP\\_XxD6BQcBfZzZ.rVs4a2K1HeGB0DjQ](https://countyofnapa.zoom.us/rec/play/QtXpBjJ48si8JeZoTHCz9cUSC9Ixzmm5lWt02ItcfbbQfwho7_TvJKPGNyJth4ISP_XxD6BQcBfZzZ.rVs4a2K1HeGB0DjQ))

### **SAN FRANCISCO PUBLIC CORRUPTION PROBE**

In San Francisco there is a current US Justice Department probe into monopoly garbage/waste operations there in connection with San Francisco city government and with non-profit activity there. I would suggest that considering the circumstances here we consider similar attention, particularly in the relationship between our local garbage services and our local governance/local government bodies.

In St. Helena it is concerning because the spouse of the owner of Clover Flat Landfill/UVDS, a monopoly garbage/waste company with exclusive public contracts, was elected to the St. Helena City Council in 2020 (with an endorsement from Ca. State Treasurer Fiona Ma).



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This member of the St. Helena City Council participates in zoning and development decisions that would necessarily benefit himself and his spouses' company in a broad and systemic way.

In this we must consider the point where conflict-of-interest issues manifest into something even more concerning like the potential for public corruption as is occurring in San Francisco.

### **OTHER NON-PROFIT ACTIVITY**

There is much non-profit activity in Napa County/St. Helena that brings certain benefits to the area, but concerns also come with financial/economic tie ins between non-profits, elected officials and other power players/lobbying interests in the area. We have a few very powerful lobbying groups in Napa County that can dominate the wine/hospitality industry and region, and endorsements can have tremendous sway on politician/political dynamics.

There is precedent for these non-profit concerns from other regions/circumstances. (EXHIBIT.AP.Houston Nonprofits in Enrons Undertow - The NonProfit Times)

### **NAPA COUNTY FARM BUREAU SYSTEMIC POLITICAL/GOVERNMENT ENTWINEMENT IN NAPA COUNTY GOVERNANCE**

The Napa County Farm Bureau in recent years has become more and more active as a political lobbying group and in supporting political candidates such as Napa County Supervisor Alfredo Pedroza, Napa County Supervisor candidate Suzanne Troughard and St. Helena City Council person Eric Hall, married to UVDS/Clover Flat owner Christy Pestoni.

The Napa County Farm Bureau are systemically connected through many channels, to Upper Valley Disposal Service/Clover Flat Landfill/The Pestoni family, including through Ca. Treasurer Fiona Ma.

### **HOSPITALITY/HOTEL SERVICE NEEDS - CONTRACTS/AGREEMENTS**

The hospitality/hotel industry have a significant and growing presence in the Upper Napa Valley.

In other cities/regions with a significant visitation/tourism interests like Atlantic City, Las Vegas or Reno contracts for services such as refuse/garbage management, food and beverage, linen/uniforms, etc. are understood to be significantly lucrative for the contract holder, particularly in the aggregate and extending forward over time.

As is currently in place in the upper Napa Valley, due to long term, 6 decade exclusive government contracts and lack of competitive bidding, every business and resident, including hotels, wineries and restaurants, is by default required to use the waste services of Upper Valley Disposal Service/Clover Flat Landfill extending out decades into the future, with no other options or clear understanding of rate setting mechanisms or assurance of public health/safety.

### **CONTAMINATION ISSUES AT CLOVER FLAT LANDFILL**

The additional waste load, available data and history of management failures regarding contamination at Clover Flat Landfill also bring great concern, particularly as the Clover Flat Landfill facility is located directly in headwaters areas for our upper Napa Valley water

supply. These contamination issues will be more fully addressed in a later document, including issues related to PFAS "Forever Chemicals".

(EXHIBIT AM – Officials Demand Full Accounting of Leaks at Calistoga Landfill, EXHIBIT AM1 – The Guardian – Revealed Sites Feared to Handle Harmful PFAS).

The increasing waste tonnages coming into Napa County from out of county also increase the contamination concerns.

## **METHODS OF FIRE SUPPRESSION**

It is also professionally understood that both water or chemical solutions for fire suppression at landfills bring concern related to contaminated liquid leachate run off and other factors particularly as the Clover Flat Landfill facility is located directly in headwaters areas for our upper Napa Valley water supply.

Like fire/wildfire impacts contamination of our local environment and waters is a detriment for all investors in Napa Valley/Napa County, including hotel, restaurant and winery investors.

It must also be understood that having fire suppression systems at a landfill does not ensure containment of a fire, therefore consideration of location in less fire-prone areas is critical.

## **COMPOST/MULCH**

Increased waste loads at Clover Flat Landfill/UVDS Whitehall Lane, including those generated by food waste also create capacity issues at waste sites like Clover Flat Landfill not originally intended to handle regional waste loads, and elements of that larger waste load may be stockpiled in unsafe manners or re-dispersed in the upper Napa Valley through material like compost/mulches without comprehensive consideration of consistency with surrounding levels of organic standards or fire/combustion risk and associated risk of contamination.

Biodegradable and organic materials are also vulnerable to fire and combustion.

Ca. Senate Bill SB 1383 passed in 2022 related to Food Waste increases these concerns in high fire risk areas. (EXHIBIT AR – Redwood Landfill Marin County Mulch Fire)

Again, because these fire risks are inherent in waste/refuse management consideration of waste site location in less fire-prone areas is critical.

## **CLIMATE IMPACTS**

Clover Flat Landfill is the only active landfill in Napa County.

According to the Napa County Planning Director active landfills are the largest Greenhouse gas (GHG) producer in Napa County. Methane is understood as a significant contributor to global warming and the best management of it will only occur with best practices identified through competitive bidding and comparative analysis.

<https://www.nasa.gov/vision/earth/lookingatearth/methane.html>

When considering climate impacts one must weigh all the factors, for example if waste is used for energy generation in the upper Napa Valley then analysis must be made on climate impacts of trucking in that waste and the associated risks. Wildfire has significant climate impacts as well, thus diminishing fire risk is also critical to meeting our climate goals. There

are numerous other significant climate concerns at Clover Flat Landfill/Upper Valley Disposal Service to be addressed in another document.

### **VULNERABILITIES RELATED TO EARTHQUAKE FAULT LINES IN UPPER NAPA VALLEY**

The presence of earthquake fault lines in the upper Napa Valley in conjunction with the precarious hillside location of Clover Flat Landfill add additional concerns to these matters including potential impacts/fire risk to methane conveyance systems.

### **EVENTS AT PESTONI FAMILY WINERY**

Pestoni Family Winery, adjacent to the Upper Valley Disposal Service Whitehall Lane refuse waste site, hosts many political and social events attended by local, state and federal level politicians and government officials. These events often include elected and appointed decision makers from the jurisdictions awarding Clover Flat Landfill/UVDS the long term no-bid public contracts/agreements they have enjoyed for nearly 60 years despite continued violations and continued large scale fire and contamination risks. (EXHIBIT AN - Pestoni Winery Events with Politicians)

### **LACK OF COMPETITIVE BIDDING**

This issue was explored earlier in this document but a few additional considerations to circle back on are: Lack of competitive bidding coupled with ongoing "baked-in" rate increases leaves public ratepayers at a significant disadvantage in understanding whether the services and protections they receive are commensurate with rates paid as there is no context or comparison.

Regional garbage company inter-communication also brings concern of potential market manipulation interfering with best practices. (EXHIBIT AO – Recology email Christy Pestoni UVDS CFL)

St. Helena and the upper Napa Valley have significant hotel/hospitality/visitation interests. In other towns that have similar visitor heavy dynamics ( Las Vegas, Atlantic City etc.) long term contracts from hotels/hospitality entities for services such as garbage, food and beverage, linen, etc. are understood to have significant financial value. It is of concern that Upper Valley Disposal Service/Clover Flat are automatically assured of these lucrative contracts through their long term, exclusive monopoly government contracts, and this should be considered when assessing what levels of responsibly and accountability we hold them too. Lack of competitive bidding obscures public understanding of the economic dynamics involved here, and what percentage of profit should be re-invested for community safety and benefit.

### **BREAKDOWN OF PUBLIC ROADS OVER PREVIOUS DECADES**

Another by-product in the lack of competitive bidding/comparative analysis with garbage services over the previous 60 years is the public was never informed that garbage trucks are understood to create some of the most significant impacts and wear on municipal streets and underground infrastructure.

Upper Valley Disposal Service only recently began paying nominal fees to contribute to these costs going forward, while our community grapples with the costs associated with compounded infrastructure problems from decades of use and

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wear. Competitive bidding/comparative analysis would have brought these concerns forward years, if not decades earlier as this is an aspect that companies use to compete for services.

### IN CONCLUSION

Though I have presented with this complaint broad concerns regarding Clover Flat Landfill/Upper Valley Disposal Service I want to conclude by bringing this back to the specific focus of negligence and reckless endangerment towards public health/safety in Napa County related to significant, inherent and unmitigable fire risks at the Clover Flat Landfill facility and Upper Valley Disposal Service (UVDS) site on Whitehall Lane.

Primary to these concerns are the lack of adequate fire risk analysis for the substantially increased waste load and its associated volatile fuel load at Clover Flat Landfill, from both in and out of Napa County, as well as questions regarding how waste is transported into Napa County from other regions, and if/how it is transported between Clover Flat Landfill and the UVDS Whitehall Lane site, including aspects related to Ca. AB 845 2012, Ca. SB 1383 2022, and local contract/agreement and policy changes that did not consider fire/explosion risks in their implementations that allowed such waste load/fuel load increases.

The current fractured, multi-level government oversight process in these waste/refuse management issues leaves significant gaps in fire, health and safety oversight in upper Napa County related to waste/refuse services in general.

It is unfortunate this company and family are fighting so hard to continue these high fire risk operations at these unnecessary and problematic sites in the upper Napa Valley that continue to expose our community and all investors and insurance stakeholders in Napa Valley/Napa County to massive unnecessary fire risk.

Over the past few years there has been a tendency to blame problems at Clover Flat Landfill and Upper Valley Disposal Service on the previous generation of family management, however with the shift of management to a newer generation we continue to see the same patterns of disregard and negligence related to public safety and public accountability, and the unnecessary fire incidents and dangers continue.

It is important also to understand that the current generation of family management was for decades in leadership capacity before the recent transition, so they are not just coming up to speed on these problems, they have been involved for many years as the problems manifested.

Again for clarity – Upper Valley Disposal Service/Clover Flat Landfill are not a public utility, they are private "for profit" monopoly waste companies owned by the Pestoni family, and the stockpiling and processing of garbage/waste and its associated volatile fuel load in a high fire risk area in the upper Napa Valley is a significant money making endeavor for the company owners.

No amount of "community give back" presented by the company could come close to the billions and billions of dollars invested in Napa County at risk, and even more importantly the lives and families of the people who live, work and visit here who are put at large scale and unnecessary risk by the continuation of these operations in these questionable locations.

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In fact, a current UVDS program of compost/mulch "give back" from combustible biodegradable processed waste material in itself brings forward significant fire risk and contamination risk concerns.

**Again, this complaint has a specific focus on the lack of an adequate and updated Fire Protection Plan at Clover Flat Landfill pursuant to Ca Fire Code Chapter 49 - Requirements for Wildland-Urban Interface Fire Areas, with respect to the stated scope and purpose (4901.1, 4901.2) of Chapter 49, and relative both to current conditions as well as to the Glass Fire of 2020 which caused significant damage to the Clover Flat Landfill facility.**

As was presented, the current Clover Flat Landfill fire plan, in place since 2019 does not acknowledge the Wildland-Urban Interface Area in which Clover Flat Landfill is located, nor does it recognize issues of wind, nor of ingress/egress in the event of an emergency, nor does it recognize Clover Flat Landfill as located in a CalFire identified High Fire Hazard Severity Zone, particularly concerning due to the significant and increasing scale of waste and its associated volatile fuel load processed at the Clover Flat Landfill facility, including large scale processing of methane, a highly flammable and potentially explosive landfill gas, in a high wildfire risk area.

This being said, addressing the issues of an inadequate fire plan at Clover Flat Landfill will not adequately reduce fire/wildfire and smoke/smoke taint risks related to these two waste sites to anything close to an acceptable level due to the problematic locations of both these inherently fire prone waste sites in, or in proximity to, high fire risk areas.

Again consider in this the health and safety of over a 100,000 Napa County residents and workers at risk of fire and smoke impacts, fire and smoke taint risks/ impacts on our local wine brands, millions of visitors a year, the safety of our firefighters, billions and billions of dollars in business and residential investment and economy, and the insurance implications related to property values in general, and to what is consistently among the highest value agricultural land in the United States, if not the world.

These risks are unnecessary because alternatives exist in more fire safe locations, and these more fire-safe alternatives should be immediately explored through comparative analysis and a competitive bidding process to determine best, safest practices and safest locations.

Where is the fairness for our community, investors and insurance stakeholders/providers if every other business and residence in Napa County is expected to diminish fire risk and fuel load, when these two companies with the same private ownership, and long term exclusive public contracts, get to profit from exponentially expanding fire risk in the hot, dry wind prone Napa Valley/Napa County hills with an immense and increasing volatile fuel load?

Our upper Napa Valley waste service ratepayers, mandated to use the services of Upper Valley Disposal Service/Clover Flat Landfill, as well as insurance stakeholders and providers in the region have a right to expect transparency, accountability and every effort made towards community fire safety, including from Clover Flat Landfill and Upper Valley Disposal Service.

Public contracts need to ensure accountability and safety to the public and ratepayers whose monies over decades have built the private gain and fortune of these private and for-profit companies - companies prioritizing their private profit above their own community's health and safety.

**Considerations for rectification in these matters:**

- Immediate identification of alternate waste sites.
- Immediate fire risk and impact analysis on waste load/fuel load to Clover Flat Landfill/UVDS Whitehall Lane entering from other counties.
- Immediate minimization/cessation of volatile fuel loads and high fire risk operations at these high fire risk locations.
- Address Ca. AB 845 2012 and Ca. SB 1383 (implemented in Napa County 2022) fuel load/fire risk concerns.
- Insurance company/commissioner involvement.
- EPA involvement with civil and/or criminal considerations.
- Stringent and continuous water and soil contamination monitoring at both sites, including for PFAS "Forever Chemicals". These waste sites are located within the water source areas that serve our communities, as well as the highest value agricultural land in the United States, if not the world.
- Competitive bidding and comparative analysis with other waste service providers for best/safest practices and fairness to rate payers/community/insurance stakeholders.
- Climate considerations also demand comparative analysis of best practices for benefit of future generations.
- Relocation/decommissioning Clover Flat Landfill/UVDS Whitehall Lane waste sites. (While the sites will still need to be maintained for decades beyond closure as they off-gas, by decommissioning they will no longer build the fuel load and the gases will diminish over time.
- Examine political/regulatory process that allowed this issue to spiral to this level of risk and impact, and immediately implement more effective oversight structure/policies related to waste/refuse management in the upper Napa Valley.
- Commit to a focus on the health and safety of our community and truthful, transparent reporting on these waste/refuse matters, rather than private profit for one family.

**LEGAL DAMAGES AND RESTITUTION TO THE PUBLIC**

In this consider the overall economic and health impacts of the Glass Fire, both related to flame and smoke, the trajectories of the contributing factors/fires, and how the component fires/trajectories might be broken down to assess costs/damage associated with the different aspects/trajectories of the Glass Fire.

And in this case, the aspects of the Glass Fire associated with the Clover Flat Landfill location in a high wind, High Fire Hazard Zone, its significant methane/volatile fuel load, lack of application of Chapter 49 of the Ca. Fire code related to vulnerable buildings, ignition of landfill gases through burning conveyance systems, as well as potential ignition of above and/or below ground gas migration,



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and the Glass Fire crossing the Napa Valley at a point contiguous to Clover Flat Landfill property.

Consider the flame aspects/impacts of the Glass Fire in that trajectory/aspect as well as hazardous smokes from burning landfill infrastructure and materials our community were exposed to with no public notification, smoke impacts to the respiratory health of our community, workers, visitors and agricultural products.

Consider also future fire/wildfire/smoke risks associated with these dynamics/impacts as well as climate impacts.

Consider how close the Glass Fire came to the perimeters of our towns and consider again that Clover Flat Landfill facility is located at a most narrow wind-prone point in the northern Napa Valley, about 1 mile across, creating heightened vulnerability for a wildfire to spread to both sides of the valley as occurred in the Glass Fire.

### **APPLICATION OF CRITICAL THINKING**

Critical thinking and weighing of factors should bring us clearly to the conclusion that the only real solution to eliminating the large scale fire health, safety, economic and insurance risks of a fire prone landfill with fire prone operations in a high fire/wildfire risk location is to relocate these operations and processes to less fire prone locations - which do exist, so why aren't we considering them in the benefit of our community?

As long as the Clover Flat Landfill and UVDS Whitehall Lane Waste sites are operational with inherent fire/combustion risks in or in proximity to high fire risk areas then the large scale fire and smoke/smoke taint risks associated with their operations continue.

Why continue these risks and unnecessarily increase them if we don't have to?

With the lives, health and safety of our community and region, and billions and billions of dollars of investment at stake, is it worth it?

**END**