



August 7, 2026

Via E-Mail

Barbara Ferrer, PhD, Director
Los Angeles County Department of Public Health
313 N Figueroa St, Los Angeles, CA 90012
bferrer@ph.lacounty.gov

Re: Chiquita Canyon, LLC – Revised Community Exposure Mitigation Plan

Dear Dr. Ferrer:

Chiquita Canyon, LLC (“Chiquita”) writes in response to the Los Angeles County Department of Public Health’s (“DPH”) July 31, 2026 Formal Determination of Non-Compliance regarding Chiquita’s June 12, 2026 Community Exposure Mitigation Plan (“CEMP”). Chiquita includes with this response a revised CEMP incorporating the revisions requested by DPH, except where those revisions would exclude the necessary role of public health and emergency-response agencies. Chiquita also did not revise the CEMP to the extent it was already compliant with the DPH’s April 14 Directive and DPH’s May 8 clarification.

Although the CEMP provides a framework for responding to a potential slope failure, the extensive stability analyses conducted at the Landfill demonstrate that such an event is highly unlikely. Among one of many studies, under the Department of Toxic Substances Control’s (“DTSC”) direction and oversight, Chiquita developed a Comprehensive Global Stability Study Work Plan, which DTSC fully approved on May 21, 2026. This Work Plan provides complete static and seismic stability analyses of global stability that includes an assessment of the northern, eastern, southern, and western Landfill slopes in addition to the Tank Farm 13 slopes. The data collected and analyzed in accordance with the Work Plan show that there are no potential stability concerns anywhere at the Landfill, consistent with all previous stability studies conducted for the Landfill in the past three years. Chiquita continues to work collaboratively with DTSC to provide additional data and analyses relating to this Work Plan and global stability generally upon request.

I. Chiquita’s First Amendment Rights

This letter responds to each of DPH’s formal findings of non-compliance and required corrections to explain how Chiquita has complied with DPH’s requests through revisions to the CEMP. In some instances, these explanations include necessary corrections to the record regarding the content of Chiquita’s June 12 CEMP and DPH’s various requests. DPH appears to take issue with this approach. DPH’s July 31 letter includes a finding of non-compliance stating that the CEMP “includes argumentation and factual disputes unrelated to compliance.” That is not so. The June 12 CEMP includes no such language.

Chiquita's explanations regarding the scope and context of the CEMP and the West Toe Buttress Project cannot, standing alone, support a finding of non-compliance or other adverse administrative action; doing so would violate Chiquita's rights under the First Amendment to the U.S. Constitution and the parallel protections of the California Constitution. The First Amendment protects Chiquita's right to advocate its interpretation of agency directives and DPH cannot retaliate against Chiquita for exercising those rights, or require it to relinquish those rights in order to participate in this administrative process. (See *Soranno's Gasco, Inc. v. Morgan* (9th Cir. 1989) 874 F.2d 1310, 1314 ["[s]tate action designed to retaliate against and chill political expression strikes at the heart of the First Amendment (citation)"].) While Chiquita is providing the requested revisions, it disagrees with and will challenge any attempt by DPH to punish and suppress Chiquita's speech and prevent Chiquita from explaining its interpretation of the Directive or the basis for the revisions submitted. Regulated entities do not surrender their First Amendment rights when participating in an administrative process, including the right to advocate their interpretation of agency regulations. (See *CarePartners, LLC v. Lashway* (9th Cir. 2008) 545 F.3d 867 [protected First Amendment activity includes advocating an interpretation of applicable regulations, petitioning for administrative review, and publicly criticizing agency officials]; *Consolidated Edison Co. of New York, Inc. v. Public Service Com. of New York* (1980) 447 U.S. 530 [First Amendment prohibits a state agency from restricting discussion of controversial public policy issues].)

Likewise, DPH may not leverage the threat of regulatory consequences to suppress that protected speech. The "First Amendment prohibits government officials from relying on the 'threat of invoking legal sanctions and other means of coercion ... to achieve the suppression' of disfavored speech." (*National Rifle Assn. of America v. Vullo* (2024) 602 U.S. 175, 176 [quoting *Bantam Books, Inc. v. Sullivan* (1963) 372 U.S. 58, 67].) DPH's letter impermissibly instructs that "[a]ll future correspondence related to this matter must focus exclusively on the revisions necessary for compliance" and that DPH "will not consider further attempts to reinterpret the directive." DPH also requires that the CEMP "exclude commentary disputing site conditions, slope stability, community reports, regulatory statements, or media coverage" and that failure to provide a compliant revision "may trigger additional administrative action as appropriate." The attached CEMP does not include any such commentary, nor did the original draft include any such commentary.

To the extent DPH is threatening regulatory consequences for the content of this cover letter that serves to clarify the administrative record, this would violate Chiquita's First Amendment rights, which Chiquita would defend vigorously, including potential remedies against the County under 42 U.S.C. § 1983. Indeed, the Superior Court previously found the County violated Chiquita's First Amendment rights in a regulatory action against Chiquita. (*Chiquita Canyon, LLC v. Los Angeles County* (Super. Ct. L.A. County, 2020, No. BS 171262) 2020 WL 3977913, p. *15.)

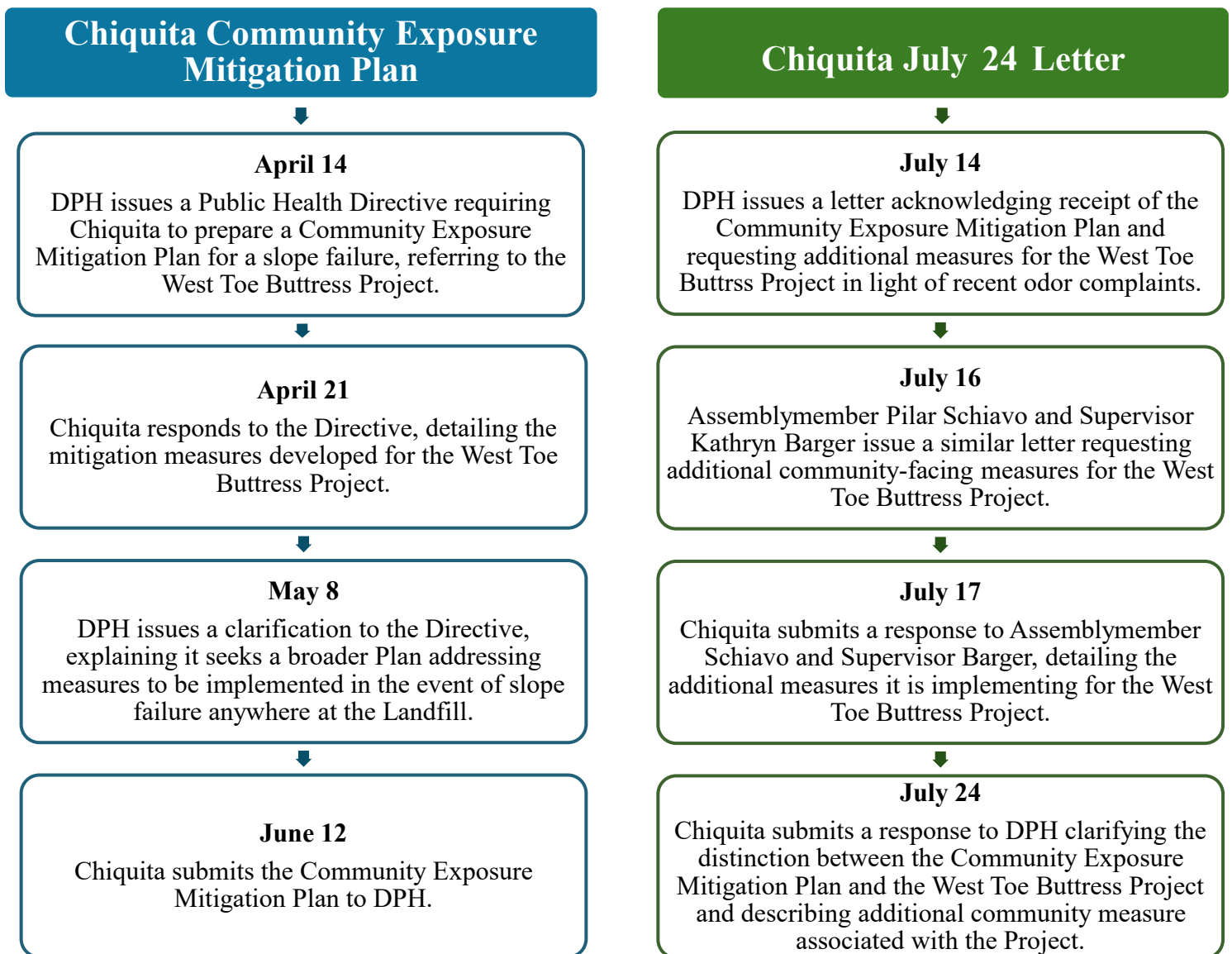
II. The Community Exposure Mitigation Plan vs. Chiquita's July 24 Letter

Chiquita notes one further threshold issue. DPH's July 31 letter repeatedly treats the June 12 CEMP and Chiquita's July 24 correspondence as though they are both the CEMP. They are not. Chiquita's June 12 submission contained the CEMP provided in response to DPH's April 14 request and May

8 clarification. Chiquita's July 24 letter was a separate response addressing July 14 and July 16 correspondence from DPH, Supervisor Kathryn Barger, and Assemblywoman Pilar Schiavo concerning additional community mitigation measures for the West Toe Buttress Project. Because this misunderstanding underlies several of DPH's findings of non-compliance, Chiquita provides the chronology below to distinguish these two independent workstreams before responding to each finding individually. This demonstrates that the documents are distinct, and the July 24 letter did not supplement or modify the CEMP.

III. DPH July 31 Letter

Chiquita addresses each of DPH's July 31 findings in turn below. For clarity, Chiquita first reproduces each finding verbatim, followed by Chiquita's response explaining whether the finding identifies a necessary revision and, where appropriate, how the revised CEMP addresses DPH's concern.



A. DPH Formal Findings of Non-Compliance

- 1. The Plan does not address slope-failure-related community impacts as required. The directive requires community protective measures for any slope failure at the landfill, regardless of location or current construction activity. The CEMP and your July 24 letter incorrectly frames the Plan as a project-specific contingency and as relevant only to catastrophic conditions.**

Chiquita is uncertain what portion of the CEMP DPH believes limits the Plan to a project-specific contingency. The CEMP addresses community protective measures in the event of a slope failure at the Landfill regardless of where such a failure might occur. In fact, in its July 24 letter Chiquita acknowledged that “DPH was not looking for a plan specific to addressing potential odor impacts associated with work on the West Toe Buttress Project, but rather directed Chiquita to prepare a plan to address what happens if a slope failure should occur anywhere in the landfill.”

The limited references to the West Toe Buttress Project at the end of the June 12 CEMP were included for the sake of completeness because DPH’s original April 14 Directive expressly referenced conditions at the west slope toe. Chiquita included that information because it appeared to be of continuing interest to DPH, not because the Plan was intended to be project-specific. To eliminate any possible ambiguity, Chiquita has revised the CEMP to remove references to the west slope or the West Toe Buttress Project and make clearer that it is a landfill-wide contingency plan applicable to any potential slope failure and is not tied to any individual project.

Additionally, the June 12 CEMP’s use of the term “catastrophic” was not intended to limit the Plan’s applicability. Rather, it reflected that extraordinary community-protection measures, such as temporary relocation and shelter-in-place procedures, would be appropriate only where the nature and severity of an event, supported by available data, warranted their implementation. Chiquita has revised the CEMP to more clearly identify the conditions under which such measures would be implemented.

- 2. The Plan relies on external agency determinations and emergency-response triggers. The directive requires CCL-implemented community protections for a worsening odor nuisance in the event of a slope failure. Reliance on EPA oversight, emergency responders, or regulatory determinations is not permitted.**

This issue is addressed through revisions to the CEMP discussed below. Chiquita notes, however, that coordination with emergency response agencies is an integral component of any response to a slope failure or other emergency affecting the surrounding community, and, in many circumstances, is a regulatory requirement. The CEMP has been revised to reflect steps Chiquita may take, depending on the circumstances, without agency direction. But Chiquita will not and cannot exclude appropriate and required coordination with agencies that would necessarily play a role during a slope failure that resulted in significant community impacts.

- 3. The Plan substitutes construction-related and EPA-directed measures for the required community-facing nuisance-mitigation framework. Your July 24 letter emphasizes engineering controls, excavation limits, cover placement, slope stability observations, and other project-specific operational elements. These measures do not satisfy the directive.**

DPH misunderstands Chiquita's July 24 letter, which is independent from the CEMP. The July 24 letter described project-specific contingency measures for the West Toe Buttress Project in response to DPH's July 14 correspondence, which specifically requested information regarding additional measures being implemented in connection with that Project. Those project-specific discussions were not incorporated into the June 12 CEMP precisely because Chiquita understood the CEMP to be a stand-alone, landfill-wide contingency plan rather than a project-specific document.

- 4. The Plan does not consolidate existing community-facing protective measures into a stand-alone, integrated framework. Measures referenced in your July 24 letter, including Cool Zone operations, shuttles, air purifiers, and expanded notifications, must be integrated into the CEMP as part of a unified nuisance-mitigation plan. They are not presented as such.**

The June 12 CEMP did not include measures referenced in the July 24 letter that are specific to the West Toe Buttress Project because Chiquita understood that to be a separate request. As described further below, Chiquita has revised the CEMP to include these community-facing measures independent of the West Toe Project.

- 5. The Plan lacks explicit procedures for residents to access community exposure mitigation support. The directive requires detailed instructions for accessing community protections. The Plan does not include points of contact, implementation timelines, or communication procedures.**

The CEMP already identifies the methods by which residents will receive information regarding available community protections through the "Communications and Notifications" section. The level of specificity DPH now requests—such as implementation timelines, specific points of contact, and detailed access procedures—cannot reasonably be predetermined for every hypothetical slope-failure scenario. Those details necessarily depend upon the magnitude and conditions of any future event. Requiring Chiquita to prescribe such details in advance would require the CEMP to anticipate project- or incident-specific contingencies, which is inconsistent with DPH's simultaneous position that the CEMP must remain broad.

Regardless, Chiquita has expanded the discussion of communication procedures and available resources in the revised CEMP.

- 6. The Plan includes argumentation and factual disputes unrelated to compliance. Your July 24 letter contains disputes about slope stability, community perceptions, odor origins, and media statements. Such content is outside the scope of the April 14 Directive and is not part of the required Plan.**

The June 12 CEMP did not include argumentation regarding slope stability, odor origins, media statements, or other factual disputes. Those discussions appeared only in Chiquita's July 24 letter responding to misunderstandings concerning the West Toe Buttress Project. Accordingly, the revised CEMP also contains no such discussion.

B. Required Corrections for Compliance

- 1. Address worsening odor nuisance conditions associated with potential slope failure anywhere at the landfill.**

The June 12 CEMP already addresses a potential slope failure anywhere at the Landfill and is not limited to a project-specific contingency. Chiquita has nevertheless revised the CEMP to include mitigation measures, such as the Cool Zone, that may be implemented in response to worsening odor conditions before more significant community-protection measures, including temporary relocation, become warranted.

- 2. Remove all reliance on external agency triggers, emergency-response frameworks, or determinations.**

The revised CEMP includes additional objective criteria for implementing community-protection measures, and details the steps Chiquita may take, as circumstances warrant, without awaiting agency direction. At the same time, coordination with appropriate public and emergency response agencies is necessary and often legally required in the event of a slope failure or other emergency affecting the surrounding community. Chiquita cannot and will not exclude agencies that would necessarily have statutory responsibility for public health and emergency response—including DPH itself. Excluding those agencies from the CEMP would create confusion regarding the roles and responsibilities of the very agencies charged with protecting the public during such an event.

- 3. Exclude project-specific operational measures and EPA-directed construction controls, which are not within the scope of the required Plan.**

As explained above, the project-specific operational measures referenced by DPH were contained in the July 24 correspondence, not the June 12 CEMP. To avoid any potential confusion, references to the West Toe Buttress Project have been removed from the revised CEMP.

4. Consolidate all existing and ongoing community-facing measures, including those described in your July 24 letter, into a unified, stand-alone plan.

The revised CEMP consolidates the existing community-facing measures into a stand-alone document, and includes measures described in Chiquita's July 24 correspondence in a project-neutral manner.

Chiquita also notes that the June 12 CEMP already functioned as a unified, stand-alone plan. Any reference to other plans in the sections entitled “Purpose” and “Existing Frameworks” were intended only to provide background and context regarding why the CEMP was prepared and how it fits within the broader regulatory framework. Those introductory sections were not intended to incorporate other plans into the CEMP or make the CEMP dependent upon those plans. Chiquita has revised those sections to clarify the CEMP is a stand-alone document that aligns with and elaborates on work plans, contingency plans, and other documents developed under multi-agency oversight to avoid any potential misunderstanding.

5. Include clear, direct access procedures for all community protective measures (e.g., temporary relocation, transportation, odor-relief resources, communication channels).

The revised CEMP specifies that Chiquita will communicate resident access to community protective measures through its public notification system, website, and numerous established community notification channels. As with any emergency response plan, however, implementation details will necessarily depend upon the nature and location of any future event. Providing the level of detail requested by DPH would require Chiquita to anticipate and prescribe procedures for innumerable hypothetical scenarios that cannot reasonably be predicted today. Such an approach would require project- or incident-specific contingency planning. Chiquita has therefore expanded on the communication procedures while preserving the flexibility necessary to respond appropriately to the actual circumstances of any future event.

6. Exclude commentary disputing site conditions, slope stability, community reports, regulatory statements, or media coverage.

As stated above, the CEMP in its original and revised form contains no such commentary.

7. Be fully implementable by CCL regardless of current odor levels, construction timelines, or slope stability assertions.

The initial and revised CEMP are not conditioned on current odor levels, construction activities, or assertions regarding slope stability. Rather, it establishes a contingency framework that may be implemented if a slope failure occurs.

8. Stand independently without cross-reference to external work plans, regulatory directives, or agency oversight

The CEMP has always stood independently and does not rely on cross-references to external work plans or regulatory directives. This has been made clear in the “Purpose” and “Existing Frameworks” sections of the revised CEMP.

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The attached revised CEMP addresses all of DPH’s stated concerns, except, as described above, eliminating all references to agency notification and involvement in the event of a slope failure that results in community impacts. As explained, Chiquita has regulatory obligations to provide such notifications and the community benefits from involvement of agencies with relevant expertise. Several of DPH’s findings appear to stem from a misunderstanding of the distinction between the June 12 CEMP and Chiquita’s separate July 24 correspondence regarding the West Toe Buttress Project. The revised CEMP clarifies that distinction while preserving the Plan’s intended purpose as a landfill-wide contingency framework. Chiquita remains committed to working cooperatively with DPH and other agencies to ensure that the surrounding community is appropriately protected in the unlikely event of a slope failure at the Landfill.

Sincerely,



Kevin Green
District Manager
Chiquita Canyon Landfill

Attachments:

Community Exposure Mitigation Plan, Version 2 (August 7, 2026)

cc: John Perkey, Chiquita Canyon
Hon. Kathryn Barger, Supervisor, 5th Supervisorial District, Los Angeles County