



Darryl Cotton <151darrylcotton@gmail.com>

6144 Federal Blvd., SD CA 92114 Waste Processing Permits

17 messages

Darryl Cotton <151darrylcotton@gmail.com>
To: "jacobag@sandiego.gov" <jacobag@sandiego.gov>

Mon, Jun 15, 2026 at 8:26 AM

Mr. Jacob Garcia,

I visited your office a few weeks ago to see if there were records and permits of the United Rentals human waste processing being done at their 6144 Federal Blvd. SD CA 92114 property. I am the neighboring property owner at 6176 Federal Blvd. and the noise and smell from this operation has gotten to be intolerable. The 10 or more vacuum trucks who bring the daily porta-potty waste into the FRAC tank use this as their central storage tank for the waste. My question is where does it go once it's in the FRAC tank? Is this a completely compliant process with your agency?

Thank you in advance for your assistance.

Darryl Cotton
619.954.4447

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Jarvis, Steven <SJarvis@sandiego.gov>
To: Darryl Cotton <151darrylcotton@gmail.com>
Cc: "Garcia, Jacob" <JacobAG@sandiego.gov>

Tue, Jun 16, 2026 at 2:57 PM

Hi Darryl,

Thank you for taking my phone call this afternoon. As we discussed, this location is not permitted by the Industrial Wastewater Control Program (IWCP) because they do not discharge industrial wastewater to the sewer system. The IWCP inspected this site in 2022 and found the wastewater from cleaning/power washing the portable toilets went to a storage tank which was not connected to sewer, and instead pumped out as needed and hauled off-site for disposal. I recommend reaching out to the County of San Diego Department of Environmental Health. Their general information line is (858) 505-6700 and full contact information can be found on their [website](#).

Thank you,
Steven Jarvis
Wastewater Pretreatment Coordinator
Industrial Wastewater Control Program
City of San Diego, Public Utilities Department
T (858) 654-4170



From: Darryl Cotton**Sent:** Tuesday, June 16, 2026 1:13 PM**To:** Garcia, Jacob**Subject:** Re: [EXTERNAL] 6144 Federal Blvd., SD CA 92114 Waste Processing Permits

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

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Darryl Cotton <151darrylcotton@gmail.com>

Tue, Jun 16, 2026 at 3:17 PM

To: "Jarvis, Steven" <SJarvis@sandiego.gov>

Cc: Melanie.sanchez@sdapcd.org

Stephen,

Thank you for the call and reply today. Since you were able to confirm that United Rentals does not discharge any batch processed waster into the sewer under their current Industrial Discharge Permit I would ask you to consider that whatever is being sent to their FRAC tank should require a manifest as to when it is full and the collected fluids are transferred to a licensed facility to process that waste. As it stands now I only know that the stench coming off of that tank is incredibly obnoxious and per Ms. Melanie Sanchez, APCD Investigator under their case no. APCD2026-CMP-1888 stated that while she was able to smell the strong odor coming off that "sealed" tank, I'm being told that APCD does not have jurisdiction for this type of odorous enforcement. While I had believed that they did have this authority under Rule 51, Ms. Sanchez tells me that is not the case.

I would ask you to consider the 3 attachments insofar as how this tank is being used and if any aspect of this is regulated by IWCP please confirm that they are in compliance with whatever that regulation would require of them. In particular;

- 1) What is the chemical composition of what is being stored in that FRAC tank?
- 2) Where is that stored FRAC tank product going?
- 3) Under what manifests are the FRAC tank product being transported to that destination?

Thank you.

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3 attachments**1) Petition w Signatures.pdf**

1391K

**6.5) 2026.06.15 6144 Federal Historical Timeline Images.pdf**

756K

**3.1) 2026.05.12 Cotton to CoSD Environmental Services Email.pdf**

142K

Sanchez, Melanie <Melanie.Sanchez@sdapcd.org>

Tue, Jun 16, 2026 at 3:32 PM

To: Darryl Cotton <151darrylcotton@gmail.com>

Hi Daryl,

To clarify, we do not regulate United Rentals' operation or their storage tank . The facility is still subject to District Rule 51.

Melanie Sanchez | Air Quality Inspector

002

San Diego County Air Pollution Control District

10124 Old Grove Rd, San Diego, CA 92131

Cell: 858-967-4644 | Email: Melanie.Sanchez@sdapcd.org

www.sdapcd.org

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Darryl Cotton <151darrylcotton@gmail.com>
To: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>

Tue, Jun 16, 2026 at 4:41 PM

Thank you for the clarification. Based on what you were able to determine from your visit does that odor constitute a violation of District Rule 51? If so, what can be done about it?

[Quoted text hidden]

Sanchez, Melanie <Melanie.Sanchez@sdapcd.org>
To: Darryl Cotton <151darrylcotton@gmail.com>
Cc: "Wolff, Tim" <Gerhard.Wolff@sdapcd.org>

Tue, Jun 16, 2026 at 4:56 PM

Hi Daryl,

Upper management usually assesses and determines whether a public nuisance violation has occurred or not. My supervisor, Tim Wolff, is aware of your complaint and that strong odors have been documented at your place of business. Tim is currently in contact with DEH and is still gathering information.

[Quoted text hidden]

Darryl Cotton <151darrylcotton@gmail.com>
To: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>
Cc: "Wolff, Tim" <Gerhard.Wolff@sdapcd.org>

Tue, Jun 16, 2026 at 5:37 PM

Thank you for the update.

[Quoted text hidden]

Jarvis, Steven <SJarvis@sandiego.gov>
To: Darryl Cotton <151darrylcotton@gmail.com>
Cc: "Melanie.sanchez@sdapcd.org" <Melanie.sanchez@sdapcd.org>

Wed, Jun 17, 2026 at 9:13 AM

Hi Darryl,

The Industrial Wastewater Control Program is tasked with protecting the sewer system by regulating industrial wastewater discharges to the sewer system. As this location does not discharge industrial wastewater to the sewer, they are not permitted by our program. The County of San Diego Department of Environmental Health deals with environmental health concerns including regulating hazardous materials and wastes; I will make a referral over to their program.

Thank you,

Steven Jarvis

Wastewater Pretreatment Coordinator

Industrial Wastewater Control Program

City of San Diego, Public Utilities Department

T (858) 654-4170



From: Darryl Cotton <151darrylcotton@gmail.com>
Sent: Tuesday, June 16, 2026 3:17 PM
To: Jarvis, Steven <SJarvis@sandiego.gov>
Cc: Melanie.sanchez@sdapcd.org <Melanie.sanchez@sdapcd.org>

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Wolff, Tim <Gerhard.Wolff@sdapcd.org>
To: Darryl Cotton <151darrylcotton@gmail.com>
Cc: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>

Thu, Jun 18, 2026 at 10:31 AM

Hi Daryl,

Thank you for reaching out to us regarding your air quality complaint. At this time, we only have 1 complaint reported for this site which does not rise to the level of a public nuisance. Melanie did detect strong odors and the site was made aware that an air quality complaint was reported along with our findings and she provided information to them regarding District Rule 51 so hopefully they have taken measures to reduce odors from the holding tank.

I also reached out to the County Department of Environmental Health, Hazardous Materials Division and confirmed this facility has a permit with them. I recommend reaching out directly to DEH to submit a complaint and/or request that the FRAC tank be inspected to ensure it complies with their hazardous waste requirements if you haven't already. I would include the email correspondence with IWCP for background information too.

San Diego County Hazardous Materials Division

[Contact Us](#)

- Got plan check questions? **Please email FHD Plan Check.**
- **Hazardous Materials Division**
 - E-mail the Hazardous Materials Division **Duty Specialist**
 - For technical questions (858) 505-6880
 - For **Emergency Response Program**
 - For Complaints, please call: (858) 505-6657
 - **Report an unpermitted business or other concerns involving hazardous materials**
- **Household Hazardous Waste Hotline** (Toll-free) (877) 713-2784 or (877) R-1-EARTH

If you continue to smell strong noxious odors from this facility, please feel free to reach out and report another [air quality complaint](#).

Thank you,

Tim Wolff

004

Supervising Air Quality Inspector

San Diego County Air Pollution Control District

10124 Old Grove Rd, San Diego CA 92131

Cell: 858-967-6241 | Email: tim.wolff@sdapcd.org

www.sdapcd.org

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Darryl Cotton <151darrylcotton@gmail.com>
To: "Wolff, Tim" <Gerhard.Wolff@sdapcd.org>
Cc: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>

Thu, Jun 18, 2026 at 11:28 AM

Hi Tim,

If I understand you correctly the only complaint you've received is mine and the attached petition which 37 signautres goes directly goes to neighboring properties and those businesses, residences, employees and customers who signed that petition do not qualify as having complained or alerted you to the situation. Do we need to file an individual complaint for each of those who signed this to get protection from APCD or is that too not going to result in any action by APCD? Does APCD have any control over the air quality both inside and outside that 6144 Federal Blvd, property line?

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 **1) Petition w Signatures.pdf**
1401K

Wolff, Tim <Gerhard.Wolff@sdapcd.org>
To: Darryl Cotton <151darrylcotton@gmail.com>
Cc: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>

Thu, Jun 18, 2026 at 12:55 PM

Hi Darryl,

Your petition was received and is noted as part of your complaint. However, anyone impacted by these odors including employees or nearby residents or business tenants/customers should report their concerns/complaints directly to us so we can follow-up.

Tim Wolff

Supervising Air Quality Inspector

San Diego County Air Pollution Control District

10124 Old Grove Rd, San Diego CA 92131

Cell: 858-967-6241 | Email: tim.wolff@sdapcd.org

www.sdapcd.org

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Darryl Cotton <151darrylcotton@gmail.com>
To: "Wolff, Tim" <Gerhard.Wolff@sdapcd.org>
Cc: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>, "richard.leclair@sdcounty.ca.gov" <richard.leclair@sdcounty.ca.gov>, "mayraa.cabral@sdcounty.ca.gov" <mayraa.cabral@sdcounty.ca.gov>, ALTate@sandiego.gov, JW August **005**

Fri, Jun 19, 2026 at 4:42 AM

<Jwaugustsd@gmail.com>, Jeffrey Davies <daviescre@gmail.com>, "King, Alarice" <AKing@sandiego.gov>, "Leal, Demontus" <DVLeal@sandiego.gov>

Mr. Wolff,

Thank you for your reply. Given the new evidence I am providing you with here today, the situation has changed from an odor complaint to a documented safety concern. As such I would respectfully ask that you reconsider your decision to not investigate this matter and take any appropriate corrective action that may be required.

Yesterday, I had the FRAC tank's roof vent and hatch reviewed, and I have attached the analysis. In brief: the corrosion is concentrated at the vent and hatch in a pattern consistent with hydrogen-sulfide and biogenic sulfuric-acid attack from the human waste stored in the tank. The same decomposition produces methane alongside the H₂S, so the headspace carries a mixture that is both toxic and flammable. The photographs do not show the ignition-control features expected for this service — flame arrestor, pressure/vacuum vent, bonding and grounding, hazardous-area electrical — and they show several red flags. The analysis is explicit that photographs alone cannot confirm the cause and that an on-site assessment by a licensed engineer is needed. That is precisely why I am asking the agency to look, rather than asking you to take my word for it.

I would ask you to weigh this alongside the record APCD already has. Inspector Sanchez personally documented the strong odor. Thirty-six people signed the petition with their names and phone numbers. And investigative reporter J.W. August visited the site yesterday and can independently confirm the odor even with the vent hatch cover partially closed but not tightly bolted down.

On whether this rises to a public nuisance, I would respectfully point to the text of Rule 51 and Health & Safety Code § 41700. Both are written in the disjunctive: the rule reaches material affecting a "considerable number of persons or... the public," material that endangers "comfort, repose, health or safety," and material with a "natural tendency to cause injury or damage to business or property." A petition signed by dozens of affected people is itself evidence going to the "considerable number of persons" element, and as the adjacent business owner I am reporting a direct effect on me and my property — a separate prong that has not yet been addressed. Furthermore, should a worst case scenario occur in which there is an explosion as a result of the assembled gasses I would like the record to show I was trying to alert anyone who has jurisdiction over this matter of the threat that exists.

I am not asking APCD to prejudge the outcome. I am asking it to investigate the evidence now before it — including the unanswered questions about the tank's contents, its destination, and the manifests under which it is hauled — and to apply whatever corrective measures the law provides.

Thank you for your consideration.

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 **4.10) 2026.06.18 FRAC_Tank_Roof_Vent_Corrosion and Explosion_Analysis.pdf**
3573K

Darryl Cotton <151darrylcotton@gmail.com>
To: Wolf Segal <Wolf@farmerinthesky.com>

Fri, Jun 19, 2026 at 5:00 AM

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 **4.10) 2026.06.18 FRAC_Tank_Roof_Vent_Corrosion and Explosion_Analysis.pdf**
3573K

Darryl Cotton <151darrylcotton@gmail.com>
To: Brendan Ozanne <brendan@dawson-ozanne.com>

Fri, Jun 19, 2026 at 7:06 AM

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4.10) 2026.06.18 FRAC_Tank_Roof_Vent_Corrosion and Explosion_Analysis.pdf
3573K

Darryl Cotton <151darrylcotton@gmail.com>
To: Zoe Villaroman <zoe.g.villaroman@gmail.com>

Sat, Jun 20, 2026 at 2:13 PM

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4.10) 2026.06.18 FRAC_Tank_Roof_Vent_Corrosion and Explosion_Analysis.pdf
3573K

Darryl Cotton <151darrylcotton@gmail.com>
To: Mike Hasstedt <mike.hasstedt@usfreedomfarms.org>

Sun, Jun 21, 2026 at 4:27 PM

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4.10) 2026.06.18 FRAC_Tank_Roof_Vent_Corrosion and Explosion_Analysis.pdf
3573K

Wolff, Tim <Gerhard.Wolff@sdapcd.org>
To: Darryl Cotton <151darrylcotton@gmail.com>

Mon, Jun 22, 2026 at 7:42 AM

Cc: "Sanchez, Melanie" <Melanie.Sanchez@sdapcd.org>, "LeClair, Richard" <Richard.LeClair@sdcounty.ca.gov>, "Cabral, Mayra A" <MayraA.Cabral@sdcounty.ca.gov>, "ALTate@sandiego.gov" <ALTate@sandiego.gov>, JW August <Jwaugustsd@gmail.com>, Jeffrey Davies <daviescre@gmail.com>, "King, Alarice" <AKing@sandiego.gov>, "Leal, Demontus" <DVLeal@sandiego.gov>

Mr. Cotton,

Thank you for reaching out. We've concluded our air quality complaint investigation and provided guidance on how to proceed if you continue to experience strong odors from this facility. Safety concerns related to explosion risks or waste handling/transport questions should be directed to the [County Haz Mat Team](#).

[Quoted text hidden]

Analysis: APCD's Stated Reasons and Rule 51

Re: 6144 Federal Blvd., San Diego, CA 92114 — FRAC tank odor complaint (APCD Case No. APCD2026-CMP-1888) · Prepared June 18, 2026

QUESTION PRESENTED

Please analyze the entire APCD email thread and provide an analysis as to whether or not APCD provides a legitimate reason to not perform their job relative to Rule 51. I have elected to not reengage with them but instead have forwarded this email exchange to counsel for further evaluation.

ANALYSIS

Note: The following is issue-spotting for comparison against counsel's conclusions, not legal advice.

What Rule 51 actually requires

The current District rule provides that a person shall not discharge air contaminants or other material that “cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public,” or that endanger “the comfort, repose, health or safety” of such persons or the public, or that have a “natural tendency to cause injury or damage to business or property.” It mirrors California Health & Safety Code § 41700. The structure matters: the prongs are written in the disjunctive (“or”). A violation can rest on impact “to the public,” or on endangering comfort/health, or on a natural tendency to injure business or property — not solely on counting affected individuals.

Where APCD's position is defensible

The strongest legitimate ground in the thread is enforcement discretion, even though it is never labeled as such. APCD did investigate (Inspector Sanchez visited the site), made the operator aware of Rule 51, and made a referral to County DEH, which holds the hazardous-materials permit for the site. Agencies generally have discretion over whether a given set of facts warrants a formal Notice of Violation, and courts are typically deferential to that discretion — compelling discretionary enforcement by mandamus is difficult. Supervisor Wolff's conclusion that the situation “does not rise to” a public nuisance is, as an administrative-law matter, the kind of judgment call an agency is permitted to make. That part is harder to attack head-on.

Where the reasoning is weak or contestable

The “no jurisdiction” framing was wrong and was retracted. Sanchez first stated that APCD “does not have jurisdiction for this type of odorous enforcement,” then corrected herself: the facility “is still subject to District Rule 51.” Odor nuisance is squarely within APCD's authority — the District has issued multiple Rule 51 Notices of Violation over odors elsewhere (e.g., the Tijuana River Valley wastewater odors). Any suggestion that APCD lacks authority here is not a legitimate basis, and their own follow-up concedes it.

Their inspector confirmed the factual predicate. Sanchez personally detected and documented “strong odors” from the tank. That undercuts any claim that the odor is unverified or de minimis. What remains disputed is the threshold question — how many people are affected — not whether an objectionable odor exists.

The treatment of the petition is the softest point. Wolff says he has “only 1 complaint” and that a 37-signature petition is “noted as part of your complaint” but that each affected person must report individually. Rule 51 contains no numeric complaint threshold, and “considerable number of persons” is a contextual judgment, not a tally of formal intake filings. A signed petition is, on its face, documentary evidence that numerous persons are affected — going directly to the “considerable number of persons or to the public” element. The demand that each signer file separately appears to be an internal intake practice rather than anything required by the text of the rule or § 41700. This is the part most worth counsel’s scrutiny.

The disjunctive prongs were never addressed. Even insisting on a complaint count, the rule independently reaches material with a “natural tendency to cause injury or damage to business or property.” Cotton is a neighboring business owner reporting an intolerable effect on his property. APCD’s analysis collapses the entire rule into the “considerable number of persons” prong and never engages the property/business prong or the “to the public” prong.

Bottom line

APCD did not actually decline jurisdiction — the one statement suggesting that was incorrect and was walked back. What they did was make a discretionary determination that, on a single formal complaint, the facts do not yet rise to a public nuisance. That discretionary call is legally defensible in the abstract. But the *reasoning* supporting it is shaky: it rests almost entirely on complaint-counting, treats a 37-signature petition as a single complaint despite the rule’s “considerable number of persons / to the public” language, and ignores the rule’s disjunctive property-and-business prong — all while their own inspector confirmed the odor.

In short: APCD has a *procedurally* legitimate posture (they investigated and exercised discretion), but their *substantive* reason for inaction is questionable and internally inconsistent. The gap between “we documented strong odors” and “this does not rise to a public nuisance” is the seam counsel can press — particularly the petition’s evidentiary weight and the unaddressed prongs of the rule.

One structural dynamic worth flagging: this site sits at a referral boundary. IWCP (sewer) disclaims it, APCD points partly to DEH, and DEH holds the hazmat permit. That inter-agency referral loop can leave the odor/composition question — the three FRAC-tank questions about contents, destination, and manifests — without a clear owner, which may itself be useful context.



Darryl Cotton <151darrylcotton@gmail.com>

06.27.26 PRR - 6144 Federal Blvd, San Diego, CA 92114

2 messages

APCD, Records <apcdrecords@sdapcd.org>
To: Darryl Cotton <151darrylcotton@gmail.com>

Thu, Jul 2, 2026 at 12:03 PM

Good afternoon,

The San Diego County Air Pollution Control District (SDAPCD) is in receipt of your California Public Records Act request dated 06/27/2026 regarding [6144 Federal Blvd., San Diego, CA 92114](#).

We estimate that any responsive, non-exempt records, will be provided to you by 09/02/2026.

Due to an increased volume of research-intensive requests, our team is working diligently to provide timely responses. Thank you for your patience – we are addressing all inquiries as quickly as possible, based on the order they are received.

Thank you,

SDAPCD Public Records Unit

SDAPCD Public Records | APCDRecords@sdapcd.org |

www.sdapcd.org



From: Darryl Cotton <151darrylcotton@gmail.com>

Sent: Saturday, June 27, 2026 6:40 PM

To: APCD, Records <apcdrecords@sdapcd.org>

Cc: JW August <Jwaugustsd@gmail.com>; Jeffrey Davies <daviescre@gmail.com>

Subject: 06.27.26 PRR - [6144 Federal Blvd, San Diego, CA 92114](#)

Companion request: this concerns the same matter as City of San Diego Public Records Act Request No. 26-6357 (filed June 27, 2026). It is directed to the District because the District holds air-quality and nuisance records the City does not.

This is a request under the California Public Records Act (Government Code § 7920.000 et seq.) to inspect and obtain copies of the District records described below concerning the odor and air-quality complaints arising from the Operation.

Definitions and scope

“The Property” means 6144 Federal Blvd., San Diego, CA 92114. **“The Operation”** means the porta-potty septage hauling and storage activity at the Property, operated by United Rentals (North America), Inc. through its “Reliable Onsite Services” division (Branch 70M; USDOT 899748). **“The Companies”** means United Rentals (North America), Inc. / Reliable Onsite Services and Westport Properties, Inc. (the listed owner/landlord of the Property). **“Records”** has the meaning given in Government Code § 7920.530 and includes emails, letters, memoranda, notices, citations, orders, field notes, text messages, reports, case files, logs, photographs, and their attachments, in any format.

Date range: January 1, 2023 to the date this request is processed — except that permits, applications, approvals, and registrations are requested regardless of date.

Records requested

1. The complete file for any **odor or nuisance complaint** concerning the Property or the Operation, including under District Rule 51 — including the complaint intake record, complaint number, inspector field notes, observations, photographs, and any odor logs.
2. All records of any **District inspector’s site visit(s)** to or near the Property concerning the odor or the Operation, including dated field notes and any documentation of the odor.
3. All records reflecting the District’s **determination to close, decline, or take no further action** on any such complaint, and the stated basis for that determination (including any reliance on the number of complainants).
4. All records reflecting any **referral by the District** of the matter (including any explosion or safety concern) to any other agency — the County of San Diego, the City of San Diego, or Fire authorities — and any response received.
5. Any **Air Pollution Application (APP), Authority to Construct (ATC), Permit to Operate (PTO), Notice to Comply (NTC), or Notice of Violation (NOV)** associated with the Property, the Operation, or either of the Companies (regardless of date).
6. All communications **sent by the District** to either of the Companies concerning the Operation, the Property, or any odor or nuisance complaint.
7. All communications **received by the District** from either of the Companies (or their representatives, agents, or counsel) on the same subject.
8. All **internal District communications** concerning the Operation, the Property, or any related complaint, inspection, referral, or enforcement decision.

Format, delivery, and fees

Please provide records electronically, in their native format with metadata where available, by email to the address above. Partial or rolling production is preferred. To minimize cost, electronic delivery is requested; consistent with the District’s records policy, please contact me before any duplication cost exceeds \$20 so I can confirm before fees are incurred.

Response, assistance, and withheld records

Please provide the determination required by Government Code § 7922.535(a) within 10 days. If any part of this request is unclear, or if you can suggest ways to focus it to speed production, please contact me — I am glad to work with you, and this request expressly invokes the agency’s duty to assist under § 7922.600(a).

If any record or portion is withheld, please cite the specific exemption claimed and produce all reasonably segregable non-exempt portions (Gov. Code §§ 7922.525, 7922.000). If anything is withheld as privileged, please provide a log identifying the date, author, recipients, and privilege asserted.

This request seeks records already in the agency’s possession; it does not ask the agency to create new records.

Attachments

The following are provided for context, to help locate responsive records:

- **(1.0) Summary — Human-Waste Hauling, On-Site Storage, and an Unaccounted Disposal Trail at 6144 Federal Blvd.** A short narrative overview of the operation, the timeline, and the documented complaints.
- **(1.1) Neighbor Petition (roughly 75 signatories).** Signed statements from area residents and businesses reporting the odor and noise.
- **(4.9) Master Noise Nuisance Report.** An analysis of dated recordings characterizing a continuous, tonal, low-frequency pump noise tied to the ongoing early morning operation.
- **(4.10) FRAC Tank Roof Vent — Corrosion & Explosion-Risk Analysis.** A photo-based engineering assessment of headspace gas corrosion and the absence of visible ignition controls.
- **(4.11) 6144 Federal Blvd. Timeline Images.** Dated satellite and ground-level photographs bracketing the tank's appearance (no tank June 2023; tank present February 2024)
- **(5.2) EMAIL Communications with APCD Investigators**
- **((8.1) Westport Properties (Property Owner) and United Rentals (Tenant) information.** Public-records identification of the operator and the listed owner/landlord.

Thank you for your assistance.

Darryl Cotton

619.954.4447

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Darryl Cotton <151darrylcotton@gmail.com>
To: "APCD, Records" <apcdrecords@sdapcd.org>

Thu, Jul 2, 2026 at 3:06 PM

Thank you for the July 2 acknowledgment and the September 2, 2026 estimate. I appreciate the District's workload, and I'd like to make this easier to manage on both ends.

My request expressly asked for **partial/rolling production**, and several items should be readily available well before September. Could the District please produce those now, on a rolling basis, rather than holding the entire request:

1. The complaint intake record and complaint number for the odor/nuisance complaint concerning 6144 Federal Blvd. (request item 1);
2. The District inspector's dated field notes and any documentation of the odor from the site visit(s) (item 2); and
3. The records stating the District's basis for closing, declining, or taking no further action on the complaint, and any referral of the matter to another agency (items 3–4).

Separately, so the record is clear: could you confirm the determination required by Government Code § 7922.535(a) — whether the District holds disclosable records responsive to the request, and whether any portion will be withheld under a claimed exemption (with a privilege log for anything withheld).

7/2/26, 3:06 PM

Gmail - 06.27.26 PRR - 6144 Federal Blvd, San Diego, CA 92114

Thank you again for your assistance. I'm glad to work with you to focus or sequence the production.

[Quoted text hidden]

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Darryl Cotton
619.954.4447

Analysis of the APCD Response to Public Records Act Request re 6144 Federal Blvd.

Companion analysis to the District's July 2, 2026 acknowledgment (this file, pp. 4–6)

Re: SDAPCD CPRA request filed June 27, 2026 · District response received July 2, 2026 · Prepared July 2, 2026

Scope — This reviews the San Diego County Air Pollution Control District's response (pp. 4–6 of this file) to the CPRA request reproduced at pp. 1–3. Issue-spotting for counsel, not legal advice.

1. What the District sent

On July 2, 2026 at 12:03 p.m., the SDAPCD Public Records Unit acknowledged receipt of the June 27, 2026 request and estimated that “any responsive, non-exempt records will be provided to you by 09/02/2026,” citing “an increased volume of research-intensive requests” (p. 4). It is an acknowledgment with a production estimate — not yet a production, and not a substantive ruling on the records.

2. What it does — and does not — do

Timely acknowledgment. The request was filed June 27 and acknowledged July 2 — within the 10-day window contemplated by Government Code § 7922.535(a). On timeliness, the District is fine.

Not a substantive determination. The response does not state whether the District actually holds disclosable records, does not describe the scope of what exists, and does not identify any exemption it may assert. It sets a date without making the determination the statute contemplates. That leaves the requester unable to tell what is coming.

It sidesteps the rolling-production request. The request expressly asked for partial/rolling production. A single production date of September 2, 2026 — roughly nine weeks out — brushes past that, even though several requested items should be readily at hand: the complaint intake record and number (item 1), the inspector's dated field notes documenting the odor (item 2), and the District's written basis for closing or declining the complaint and any referral (items 3–4).

3. Why this production matters

The items requested go to the heart of the earlier analyses of the District's handling (files 5.0, 5.1, 5.2). In particular, item 3 — the records stating the District's basis for closing the complaint, including any reliance on the number of complainants — is what would confirm or rebut the concern that the closure rested on a complaint count rather than the disjunctive text of Rule 51 and Health & Safety Code § 41700. Item 2 (the inspector's field notes documenting the odor) and item 4 (any referral of the explosion/safety concern) are similarly central. The District's own characterization of the request as “research-intensive” suggests there is a substantive file to gather — which is what the record needs.

4. Recommended response

- **Push for rolling production now.** A short reply asking the District to honor the rolling-production request by releasing the readily-available items (the complaint file/number, the inspector's field notes, and the written closure/referral basis) rather than holding everything to September 2.

- **Ask it to confirm the § 7922.535(a) determination.** Whether disclosable records exist, and whether any portion will be withheld under a claimed exemption (with a privilege log for anything withheld).
- **Calendar September 2, 2026.** Diarize the estimated production date and follow up if records are not produced or a further extension is asserted.

5. Bottom line

The District responded on time but thinly: it acknowledged the request and set a two-month production estimate without making a substantive determination or honoring the rolling-production request. Nothing here is a refusal, and the “research-intensive” framing implies a real file exists. The productive move is a brief reply that presses for early, rolling release of the three items most central to testing the District's closure (the complaint file, the inspector's field notes, and the written basis for closing/referring), and asks the District to confirm its § 7922.535(a) determination — while calendaring the September 2 date.

Prepared as internal issue-spotting, not legal advice. This analyzes an interim acknowledgment; it does not assess records not yet produced. CPRA timing and exemption questions should be confirmed with counsel.



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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)

PART 4. NONVEHICULAR AIR POLLUTION CONTROL [41500 - 42710] (*Part 4 added by Stats. 1975, Ch. 957.*)

CHAPTER 3. Emission Limitations [41700 - 41999] (*Chapter 3 added by Stats. 1975, Ch. 957.*)

ARTICLE 1. General Limitations [41700 - 41712] (*Article 1 added by Stats. 1975, Ch. 957.*)

41700. (a) Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

(b) This section shall become operative on January 1, 2014.

(*Repealed (in Sec. 1) and added by Stats. 2010, Ch. 411, Sec. 2. (SB 1224) Effective January 1, 2011. Section operative January 1, 2014, by its own provisions.*)

Analysis: APCD's Stated Reasons and Health & Safety Code § 41700

Companion to the Rule 51 analysis (file 5.0)

Re: 6144 Federal Blvd., San Diego, CA 92114 — FRAC tank odor/safety complaint (APCD Case No. APCD2026-CMP-1888) ·
Prepared July 1, 2026

QUESTION PRESENTED

The Rule 51 analysis concluded that APCD's stated reasons for not acting are procedurally legitimate but substantively shaky. Because Rule 51 mirrors Health & Safety Code § 41700, does the statute itself — the source of APCD's authority — supply additional, independent grounds that further undermine APCD's refusal to act? Prepared as issue-spotting for counsel.

Note: This is issue-spotting for comparison against counsel's conclusions, not legal advice. Statutory cross-references were checked against the published California codes; counsel should confirm the current text and any amendments.

Why § 41700 matters independently of Rule 51

Rule 51 is not a free-standing local invention; it is the District's implementation of a statewide statutory command. Health & Safety Code § 41700 sets the substantive prohibition, and the District's rulemaking and enforcement authority under Division 26 exists to carry that command out. Two consequences follow. First, APCD cannot construe or apply its rule more narrowly than the statute it implements — the statutory text sets the floor. Second, the very fact that APCD has authority to act here comes from the Code: the same Code that prohibits the discharge (§ 41700) also gives the District the power to enter and inspect (§ 41510) and to penalize (§ 42400 et seq.). Pointing to the statute therefore does two things at once — it confirms APCD's jurisdiction and it fixes the standard against which APCD's stated reasons must be measured.

The statutory text, prong by prong

Section 41700(a) provides, in full: “Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.”

Read carefully, the statute is broader than the single “public nuisance” test APCD applied:

- **It is disjunctive.** The prohibited effects are joined by “or.” A violation can rest on any one of them; no single prong is a prerequisite for the others.
- **The threshold word is “annoyance.”** The statute reaches material causing “injury, detriment, nuisance, or annoyance” — “annoyance” is a deliberately low bar, well below proof of a full Civil Code public nuisance.
- **“Or to the public” is an alternative to counting persons.** The phrase “any considerable number of persons or to the public” means an effect on the public will suffice even without an individual headcount.
- **“Safety” is expressly named.** The statute independently reaches material that “endanger[s] the comfort, repose, health, or safety” of persons or the public. Emissions that create a toxic/flammable hazard fall within this prong on its own terms.

- **The business/property prong needs no public-wide effect.** Material with a “natural tendency to cause ... injury or damage to business or property” violates the statute regardless of how many members of the public are affected.
- **“Or other material.”** The prohibition is not limited to classic “air contaminants”; it also reaches “other material,” which comfortably covers odorous gases and vapor-phase emissions from a septage tank.

The only exemptions are agricultural and composting — not septage

Section 41700’s single carve-out is “as otherwise provided in Section 41705.” Section 41705 exempts odors emanating from agricultural operations necessary to the growing of crops or raising of fowl or animals, and certain defined composting operations. A commercial port-a-potty servicing yard storing and hauling human septage is neither an agricultural operation nor a composting operation. The Legislature knew how to exempt malodorous activities and chose to exempt only farming and composting. By its own terms, then, § 41700 covers this operation with no applicable exemption — a point Rule 51 shares but which is even clearer at the statutory level.

Measuring APCD’s stated reasons against the statute

- 1) **“Does not rise to ... a public nuisance.”** Supervisor Wolff’s June 18 conclusion imports a “public nuisance” framing that § 41700 does not require. The statute never uses the phrase; it sets its own disjunctive standard reaching “annoyance,” effects “to the public,” endangerment of “safety,” and “injury or damage to business or property.” Measuring the complaint only against a Civil Code-style public-nuisance headcount applies a higher and narrower test than the statute APCD enforces.
- 2) **“Only 1 complaint” and the petition treated as one.** Nothing in § 41700 sets a numeric complaint threshold or requires each affected person to file separately; that is an intake practice, not a statutory element. A signed petition — approximately 75 named signers with contact numbers in the current petition (file 1.1, dated June 25, 2026), and about 37 already before APCD when it made its June 18 determination — is documentary evidence going to the “considerable number of persons” element. And the complaint-count objection is beside the point for the “to the public,” “safety,” and “business/property” prongs, none of which turn on how many intake forms were filed.
- 3) **The retracted “no jurisdiction” statement.** Inspector Sanchez’s initial “APCD does not have jurisdiction for this type of odorous enforcement” was corrected the same day (“still subject to District Rule 51”). Section 41700 is the statewide command districts are charged with enforcing; jurisdiction over odor/emission nuisance is confirmed, not doubtful, and APCD’s own correction concedes it.
- 4) **The June 22 close-out routing “safety” to County HazMat.** This is the point § 41700 sharpens most. APCD closed its investigation and directed “safety concerns related to explosion risks” to the County HazMat team. But § 41700 — the statute APCD enforces — expressly reaches material that “endanger[s] the comfort, repose, health, or safety” of persons or the public. The corrosion/explosion evidence submitted June 19 is squarely a “safety” matter within § 41700’s text. Referring the safety dimension entirely elsewhere, without engaging the statute’s own safety prong, sets aside a part of APCD’s own mandate. Referral to HazMat and APCD’s independent § 41700 authority are not mutually exclusive.

APCD holds the investigative tools it declined to use

The three questions at the heart of the complaint — the tank’s contents/composition, its destination, and the manifests under which it is hauled — are answerable by APCD itself. Section 41510 gives the air pollution control officer a right of entry to any premises with an emission source “for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained.” In other words, APCD can enter, sample the headspace/emissions, and inspect records — and, if warranted, § 42400 et seq. supply civil and criminal penalties for a § 41700 or rule violation. Against that backdrop, an investigation “concluded” after an inspector documented “strong odors” but without sampling, without addressing the statute’s safety, public, or business/property prongs, and without engaging the newly submitted safety evidence, is a thin record for inaction.

What the statute does not do (for balance)

Section 41700 does not convert every documented odor into a mandatory Notice of Violation. As the Rule 51 analysis noted, agencies retain enforcement discretion, and courts are generally reluctant to compel discretionary enforcement by mandamus. The argument here is not that APCD had a non-discretionary duty to cite on this record. It is narrower and stronger: the reasons APCD actually gave do not track the statute it enforces — they apply a “public nuisance” headcount the text does not require, leave the disjunctive safety and business/property prongs unaddressed, and close the file without using the inspection authority that exists precisely to answer the open questions. That mismatch between the stated reasons and the statutory standard is the seam.

Bottom line

Section 41700 reinforces and hardens the Rule 51 critique. The statute is disjunctive; its threshold effect is mere “annoyance”; it reaches effects “to the public,” endangerment of “safety,” and “injury or damage to business or property”; its only exemptions are agricultural and composting operations; and it is backed by the District’s own entry/sampling authority and penalty power. APCD reduced this multi-prong statutory standard to a single public-nuisance headcount and then closed. The strongest combined points for counsel: (a) the unaddressed “safety” prong, now supported by the corrosion/explosion evidence APCD received before closing; (b) the unaddressed “business or property” prong, supported by the lost \$935,000 sale; (c) the petition’s evidentiary weight on the “considerable number / to the public” element; and (d) the unused § 41510 sampling and records authority that could resolve the contents/destination/manifest questions the agencies keep passing among themselves.

Prepared as internal issue-spotting, not legal advice. Verify current statutory text and any case authority with counsel before relying on this in any filing or correspondence.

**RULE 50.1. NSPS AND NESHAPS VISIBLE EMISSIONS
REQUIREMENTS (Effective 11/8/76)**

A person owning or operating any source subject to the provisions of any federal New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAPS) which has been delegated to the Air Pollution Control District of San Diego County must, in addition to complying with Rule 50, comply with Regulation X or Regulation XI, respectively.

RULE 51. NUISANCE

A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property. The provisions of this rule do not apply to odors emanating from agricultural operations in the growing of crops or raising of fowls or animals.

Analysis: APCD's Stated Reasons and Rule 51

Re: 6144 Federal Blvd., San Diego, CA 92114 — FRAC tank odor complaint (APCD Case No. APCD2026-CMP-1888) · Prepared June 18, 2026

QUESTION PRESENTED

Please analyze the entire APCD email thread and provide an analysis as to whether or not APCD provides a legitimate reason to not perform their job relative to Rule 51. I have elected to not reengage with them but instead have forwarded this email exchange to counsel for further evaluation.

ANALYSIS

Note: The following is issue-spotting for comparison against counsel's conclusions, not legal advice.

What Rule 51 actually requires

The current District rule provides that a person shall not discharge air contaminants or other material that “cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public,” or that endanger “the comfort, repose, health or safety” of such persons or the public, or that have a “natural tendency to cause injury or damage to business or property.” It mirrors California Health & Safety Code § 41700. The structure matters: the prongs are written in the disjunctive (“or”). A violation can rest on impact “to the public,” or on endangering comfort/health, or on a natural tendency to injure business or property — not solely on counting affected individuals.

Where APCD's position is defensible

The strongest legitimate ground in the thread is enforcement discretion, even though it is never labeled as such. APCD did investigate (Inspector Sanchez visited the site), made the operator aware of Rule 51, and made a referral to County DEH, which holds the hazardous-materials permit for the site. Agencies generally have discretion over whether a given set of facts warrants a formal Notice of Violation, and courts are typically deferential to that discretion — compelling discretionary enforcement by mandamus is difficult. Supervisor Wolff's conclusion that the situation “does not rise to” a public nuisance is, as an administrative-law matter, the kind of judgment call an agency is permitted to make. That part is harder to attack head-on.

Where the reasoning is weak or contestable

The “no jurisdiction” framing was wrong and was retracted. Sanchez first stated that APCD “does not have jurisdiction for this type of odorous enforcement,” then corrected herself: the facility “is still subject to District Rule 51.” Odor nuisance is squarely within APCD's authority — the District has issued multiple Rule 51 Notices of Violation over odors elsewhere (e.g., the Tijuana River Valley wastewater odors). Any suggestion that APCD lacks authority here is not a legitimate basis, and their own follow-up concedes it.

Their inspector confirmed the factual predicate. Sanchez personally detected and documented “strong odors” from the tank. That undercuts any claim that the odor is unverified or de minimis. What remains disputed is the threshold question — how many people are affected — not whether an objectionable odor exists.

The treatment of the petition is the softest point. Wolff says he has “only 1 complaint” and that a 37-signature petition is “noted as part of your complaint” but that each affected person must report individually. Rule 51 contains no numeric complaint threshold, and “considerable number of persons” is a contextual judgment, not a tally of formal intake filings. A signed petition is, on its face, documentary evidence that numerous persons are affected — going directly to the “considerable number of persons or to the public” element. The demand that each signer file separately appears to be an internal intake practice rather than anything required by the text of the rule or § 41700. This is the part most worth counsel’s scrutiny.

The disjunctive prongs were never addressed. Even insisting on a complaint count, the rule independently reaches material with a “natural tendency to cause injury or damage to business or property.” Cotton is a neighboring business owner reporting an intolerable effect on his property. APCD’s analysis collapses the entire rule into the “considerable number of persons” prong and never engages the property/business prong or the “to the public” prong.

Bottom line

APCD did not actually decline jurisdiction — the one statement suggesting that was incorrect and was walked back. What they did was make a discretionary determination that, on a single formal complaint, the facts do not yet rise to a public nuisance. That discretionary call is legally defensible in the abstract. But the *reasoning* supporting it is shaky: it rests almost entirely on complaint-counting, treats a 37-signature petition as a single complaint despite the rule’s “considerable number of persons / to the public” language, and ignores the rule’s disjunctive property-and-business prong — all while their own inspector confirmed the odor.

In short: APCD has a *procedurally* legitimate posture (they investigated and exercised discretion), but their *substantive* reason for inaction is questionable and internally inconsistent. The gap between “we documented strong odors” and “this does not rise to a public nuisance” is the seam counsel can press — particularly the petition’s evidentiary weight and the unaddressed prongs of the rule.

One structural dynamic worth flagging: this site sits at a referral boundary. IWCP (sewer) disclaims it, APCD points partly to DEH, and DEH holds the hazmat permit. That inter-agency referral loop can leave the odor/composition question — the three FRAC-tank questions about contents, destination, and manifests — without a clear owner, which may itself be useful context.