

A Brief History of the BKK Landfill

The Cracked Colander



brian jobst

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Introduction

West Covina, California is unique. Much of its growth coincided with a plan for a suburban city of homes, churches and schools...with as few businesses as possible. The result today is a city of over 100,000 residents without a downtown, a common feature in even the smallest villages in the U.S.

West Covina is home to the world's largest Shoehorn Museum. No joke. It includes over 3,000 shoehorns. The oldest dates to 1500. Its collection includes hundreds of elaborately carved or decorated shoehorns, an art form before the advent of plastic. It's quirky, fun, and a must-see.

The city reached some national awareness as the setting for *Crazy Ex-Girlfriend*, a romantic musical comedy TV show that ran from 2015 to 2019. It followed the life of a Harvard educated lawyer that left New York and a top law firm to pursue her ex-boyfriend in West Covina.

West Covina is centrally located. It's just a dozen miles from the Rose Bowl and the Rose Parade in Pasadena. It's 22 miles from Hollywood and 29 miles from Disneyland. The nearest beach and ski slope are both about a 60-minute drive, in opposite directions.

West Covina is also home to the State of California's largest toxic hazardous waste landfill, called BKK. Buried there are over 5 million tons

of hazardous waste. Most of it was liquids, disposed of directly atop trash or injected into it. The landfill is also unlined – there is no physical barrier between it and adjacent land.

This is the story of how the BKK Landfill came to be, was eventually closed, the efforts to limit seepage of its contents, and attempts to move past its legacy.



BKK landfill today, center of photo. Over 26,000 people live within one mile of the site; nearly 200,000 live within 3 miles.

Chapter 1

Avoiding Sewage

The neighboring city of Covina was incorporated in 1901. By the early 1920s, it needed more land to dispose of its own sewage...and it looked to land that would shortly become West Covina.

Covina purchased unincorporated land between California and Glendora Avenues and south of the Walnut Creek Wash to be used as a "sewer farm". 507 residents of that area – farmers – were concerned that the sewage would contaminate the groundwater, damaging their health and livelihoods. They incorporated the city of West Covina on February 3, 1923 and the boundaries of the area's newest city included Covina's recent land purchase. West Covina's own zoning prohibited the planned sewer farm.

Covina did not give up its search for a sewage disposal site. It purchased another plot of unincorporated land on Hollenbeck Street south of Arroyo Avenue (later known as Garvey Avenue and even later as the San Bernardino Freeway). This resulted in the first expansion of West Covina's boundaries. West Covina annexed the land, once again thwarting the sewer farm.

So how did a city, founded and then expanded to prevent the disposal of sewage, become the home of California's largest toxic hazardous waste landfill decades later?



Location Map 1: West Covina lies approximately 20 miles east of downtown Los Angeles, 100 miles south of Santa Barbara, and 120 miles north of San Diego.

Chapter 2

Housing – a Park and a Golf Course

In 1959 Home Savings and Loan Association (Home Savings) acquired raw and undeveloped land in West Covina near the intersection of what today is Azusa Avenue and Amar Road (see Location Map 2). From 1950 to 1960 West Covina was one of the fastest growing cities in the United States. It grew 1000% in that decade, from 5,000 to well over 50,000 residents. Home Savings intended to further participate in the local housing boom with its land purchase.

Home Savings' plan called for up to 4,500 homes, a park, a golf course, and a cemetery. Expectations were the new housing would result in 20,000 or more new residents.

The cemetery was particularly controversial. It was intended to act as a buffer between high and lower priced homes according to Home Savings. Few residents spoke at Planning Commission or City Council meetings in favor of it, and it never came to fruition. West Covina's Planning Commission never approved it. Neither did the City Council.

Nevertheless, Home Savings did get traction on the landfills. Their plan, as pitched to the residents and city hall was for a large housing development with a park and golf course. In order to create the park and golf course, two portions of Home Savings land holdings, which consisted

of “unbuildable” steep ravines, would need to be filled in with “sanitary fill” – trash.

Home Savings emphasized the pressing need for additional landfills in the Los Angeles area, particularly in West Covina, which had experienced unprecedented population growth. The need was not exaggerated. In a time before recycling, small landfills were rapidly opening and closing throughout the Los Angeles area.

Home Savings estimated it would require 10 to 12 years to accumulate enough “sanitary fill” in the deep ravines to allow for the park and golf course, both of which were to be deeded over to the city of West Covina once completed. Home Savings’ position was the sooner the sanitary fill started, the sooner the park and golf course could be opened.

At Planning Commission and City Council meetings, some residents did express concern about these potential landfills. The most commonly cited concerns were odors and traffic. Some residents pointed out that West Covina’s hills and ravines – those of the San Jose Hills – were in fact buildable. They cited other communities to the west with similar topography, covered with homes (e.g., Hollywood Hills, parts of Beverly Hills, and Glendale). However, historic records indicate that during the early 1960s, substantially more residents spoke out against the cemetery than the landfills...that were promised to turn into a park and golf course.

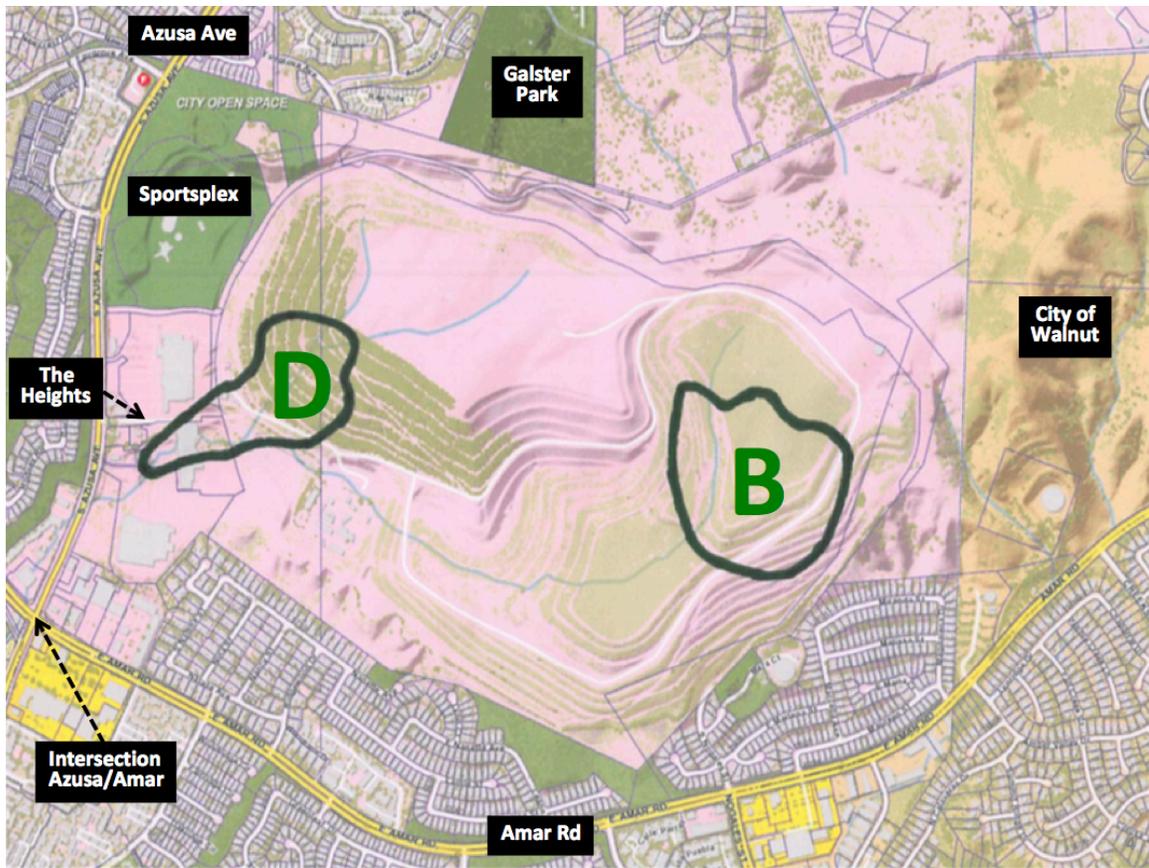
By 1963, Home Savings had obtained the necessary authorizations to operate the landfills. These were primarily approvals by West Covina’s

Planning Commission and City Council as well as the Regional Pollution Control Board.

In order to obtain the necessary authorizations from West Covina, Home Savings needed to find an experienced landfill operator. The city of West Covina had conditioned its approval for landfill operations on Home Savings securing an operator with landfill experience.

Home Savings searched...and found the BKK Corporation. That Corporation had experience in waste collection and landfill operations, was family owned and operated, and headed by Ben K. Kazarian (hence the name "BKK"). Their business was landfills, which they operated throughout California, particularly southern California. BKK's disposal experience dated back to the early 1950s when they operated open burning trash disposal sites and the Corporation had successfully transitioned from burning sites to buried disposal sites.

The city of West Covina found BKK Corporation's experience acceptable and shortly thereafter BKK was hired by Home Savings to commence landfill operations in West Covina. Home Savings retained ownership of the land, leasing it to BKK. Under the terms of the original lease agreement BKK paid Home Savings \$1,000 per month plus 20% of gross receipts. The first authorized loads of trash began arriving in 1963. It was disposed of in a location called Area D (see Location Map 2).



Location Map 2: Original disposal sites – Areas D and B. Surrounding homes and current landmarks such as the Heights Shopping Center, Sportsplex, and Galster Park were not present when the use of Areas D and B began.

Chapter 3

Sanitary Fill to Chemical Wastes

While BKK's West Covina site was used and profitable for trash disposal, both Home Savings and BKK Corporation realized there was a more profitable niche in the disposal business than receiving trash – that was the disposal of “chemical wastes” at landfills – today referred to as hazardous waste. Southern California was a major industrial hub (e.g., aerospace, automotive, refineries, and pesticides) and countless companies were producing thousands of tons of chemical wastes daily.

Shortly after commencing trash disposal operations in 1963, Home Savings, with the assistance of BKK, began soliciting permission to begin receiving chemical wastes at the site and to pave and widen the portion of Azusa Avenue that was integral to volume operations. By 1967, the paving and widening were complete and the necessary approvals for the disposal of chemical wastes had been obtained. By 1969, BKK Corporation began accepting its first loads of such wastes. Chemical wastes, as well as trash, were disposed of in a new location called Area B. Area B lies directly to the east of Area D where trash disposal had begun in 1963.

Information available at the time suggested solid bedrock was below the surface of Area B. Accordingly, the thinking of the time was that the chemical wastes would be contained within the landfill and not seep out into neighboring areas. Decades later, new and better science would reveal

that the landfill was actually atop formations of porous sandstone, much of it fractured along with multiple earthquake faults. The landfill was not a leak-proof bowl, but rather a cracked colander.

When BKK began accepting chemical waste in 1969, national consciousness about the dangers of commonly used chemical waste disposal techniques was years away. Newspaper headlines would not include Love Canal until 1978. The Comprehensive Environmental Response, Compensation, and Liability Act, the Environmental Protection Agency's (EPA) program designed to investigate and deal with sites contaminated by hazardous wastes became law in 1980. Liners for landfills would not be required until 1991. Landfill liners, physical barriers between the contents of a landfill and adjacent land, were not mandated by the EPA until seven years after BKK stopped accepting chemical wastes at the West Covina site.

It is unclear precisely when and why Home Savings abandoned its original plan for a large housing development, with a park and golf course built atop trash landfills. There are no newspaper articles, City Council meeting minutes, or other documents that describe the conscious shift from housing to landfills.

Nevertheless, by 1970 the BKK Corporation knew the West Covina site was a profitable one and that Home Savings was willing to sell its land to BKK. In 1970, the lease agreement between Home Savings and BKK was amended to include a provision allowing the latter to purchase the land. In 1976, BKK exercised that option and bought Home Savings' land. In

addition, BKK acquired about 500 acres of adjoining land in the city of Walnut.

By November 1980, BKK West Covina was the only landfill in the state of California between Casmalia (66 miles north of Santa Barbara) and the Mexican border that could lawfully accept virtually any type of hazardous waste. Much of the hazardous waste produced by industry and businesses in southern California had only one place to go. In addition, BKK West Covina received hazardous waste shipments from military sources in Arizona, Nevada, Maryland, and Guam.

Every day hundreds of trucks unloaded up to 2,500 tons of hazardous waste. Most of it was liquid. While BKK contains some barrels, most of the liquid hazardous waste was pumped directly on to ground covered with compacted municipal trash or injected into the compacted trash. All these practices were completely lawful at the time.

According to the EPA, these are some examples of hazardous waste disposed of at BKK: acids, arsenic, cyanide, lead, mercury, asbestos, chromium, degreasing agents, oil sludge, gasoline, pesticides, vinyl chloride, plating solutions, acetone, paint waste, pharmaceuticals, contaminated equipment, heavy metal solutions, chemical toilet contents, hazardous spill cleanups, polychlorinated biphenyls (PCBs), and even some of the contents of the Stringfellow Acid Pits – an EPA Superfund site in Riverside, California.



Injection of liquid hazardous waste at BKK. Los Angeles Times, July 13, 1986.

Chapter 4

The Evacuations

From 1980 to mid 1984, West Covina residents (and neighboring ones in the City of Walnut) spoke out in increasing numbers against the landfill. Sometimes they arrived at City Council meetings carrying signs “Waste Covina” and “Toxic Capital of the World”. For the residents living near the landfill the main issues were the odors and health concerns. For other residents the key issue was the steadily increasing closures of Azusa Avenue, the busiest street in West Covina, for the cleanup of hazardous materials spills as trucks made their way to the landfill. For example, 24 closures of Azusa Ave occurred from 1982 through 1983 for hazardous materials spill clean ups.

By 1983, gross revenues for BKK West Covina were \$23 million and the city was receiving its 10% share, \$2.3 million. In today’s 2021 dollars, these values are \$63.4 million and \$6.3 million respectively.

While public outcry against the landfill steadily increased, Federal and State regulators, as well as the Los Angeles County and State Health Departments and local West Covina officials, repeatedly provided assurances to the public that BKK was not a health risk. Those assurances effectively ended on July 16, 1984.

On that date, a routine inspection by the Southern California Gas Company detected gas in a water meter box at the curb of a home on Lynn Court, just south of BKK. On July 17th technicians from the Los Angeles County Health Department and South Coast Air Quality Management District gathered air samples at the box housing the water meter and the surrounding area. On July 18th test results of the air samples revealed it contained vinyl chloride, a known carcinogen and a chemical waste disposed of at BKK as well as methane, the byproduct of decomposing trash.

By late in the day of July 18, 1984 evacuations of the homes nearest the gas leak site had been largely completed. 21 homes were evacuated. On July 20th West Covina's City Council, in an emergency meeting declared the BKK landfill a public nuisance and directed the City Attorney to take all necessary actions to abate the nuisance.

The Los Angeles Times and numerous national publications noted that the evacuations pushed public concern to outrage and intensified regulatory scrutiny. BKK was pressured to stop accepting hazardous waste (except asbestos) in November 1984 – four months after the evacuations.

As for the evacuated, the last of them were allowed to return after about six months out of their homes. They were allowed to return after the installation of landfill gas collection wells was completed near the site of the evacuations. The wells proved effective; gas concentration levels in and around the homes south of the landfill typically stayed below State and Federal limits.



Hazardous waste landfill to the left; homes to the right. Photo by Keri Oberly & Stella Kalinina 2021.

Chapter 5

The Lawsuits

Several years prior to the evacuations, residents near the landfill had already begun filing lawsuits. In November 1980, residents living south of BKK filed the first lawsuit. By 1981, 164 other residents were party to this and other lawsuits against BKK, W & A builders, Professional Brokers Inc., the State of California, and the city of West Covina. These suits were ultimately consolidated into a single jury trial set to begin in April 1986. Prior to consolidating the lawsuits, a ruling in Superior Court removed the State of California and the city of West Covina as defendants.

The primary allegations in the lawsuits were “odors, stench, noxious gases and smells” emanating from BKK was injurious to health and had “deprived those residents the enjoyment of their lives and properties.” The plaintiffs sought over \$150 million in damages. Lawyers on both sides of the lawsuits acknowledged it was likely the largest and most complex hazardous waste case in California to date.

Lawyers representing the plaintiffs also alleged that the disclosure documents the home buyers had received indicated the landfill was a sanitary (trash) landfill, and that they were unaware the landfill was accepting hazardous waste.

BKK asserted that the landfills had been operating long before the homes of W & A Builders were constructed about 1977, BKK's activities were not secret, and it was public record that it was the only hazardous waste landfill between Santa Barbara and the Mexican border. While BKK acknowledged odors emanating from the dump, it pointed to numerous health studies that had concluded there was no linkage between some residents' legitimate health problems and landfill operations.

By the time the litigation was settled in late 1986, 508 residents shared a \$43 million settlement (\$102.5 million in 2021 dollars). While residents had sought a \$150 million settlement, State Proposition 51 (The Fair Responsibility Act), passed by California voters in June 1986, limited the ability to receive compensation for pain, suffering, inconvenience or emotional distress. In July 1986, Los Angeles Superior Court ruled Proposition 51 did apply to the BKK lawsuits even though the lawsuits had been filed prior to passage of the Proposition.

The 1986 settlement still allows children, whose parents were parties to the lawsuits, to sue for health problems allegedly associated with the landfill – provided they were under the age of 18 when the settlements were signed.

Huge Settlement in BKK Landfill Case

L.A. TIMES ARCHIVES

MAY 4, 1989 12 AM PT

More than 500 people who lived near the BKK Landfill in West Covina before it was closed to toxic waste in 1984 are sharing in one of the largest settlements ever obtained in a toxic-waste case--\$43 million, lawyers disclosed Wednesday.

A suit filed in 1980 against BKK Corp. and W&A; Builders Inc., which built homes near the dump, was settled in 1986. The amount of money involved, however, was not disclosed until documents were unsealed Wednesday in Los Angeles Superior Court.

Attorney Herbert Hafif, who represents 508 residents, said his clients are receiving \$7 million from BKK Corp. and \$3.2 million from W&A; Builders. The rest of the money is coming from insurance companies that issued policies to BKK.

Residents said in their suit that the dump created health and safety problems. More than 3.4 million tons of hazardous waste are buried in the BKK Landfill, making it one of the nation's largest toxic-waste sites.

Chapter 6

The Newer Landfill at BKK

While the disposal of hazardous waste at BKK stopped in 1984 (except asbestos), that particular landfill at BKK (originally Area B) was still in use until 1987. From 1984 through 1987 municipal trash was still disposed of at this landfill.

By 1987, BKK had received necessary regulatory approvals for another landfill. That landfill site was directly west of the now closed hazardous waste landfill. Part of the new landfill site included Area D, where trash had been disposed of from 1963 through 1969. The new landfill included a clay and polyethylene sheeting liner and was authorized only to receive municipal trash. It began doing so in 1987.

The newest landfill at BKK also had its own controversies. The most noteworthy involved sewage treatment sludge from the city of Los Angeles. The EPA ruled that Los Angeles' massive Hyperion sewage treatment plant had to terminate the dumping of sewage treatment sludge into the ocean by no later than December 1987. With this federal deadline looming, the city of Los Angeles began trucking up to 90% of the Hyperion plant's daily output of sewage treatment sludge to the new landfill at BKK. At its peak, this amounted to over 1000 tons of sewage treatment sludge delivered daily at BKK.

West Covina residents vigorously protested this sewage disposal and Los Angeles County Supervisor Pete Schabarum led efforts that were ultimately successful in having the City of Los Angeles assume responsibility for its own sewage. By the early 1990s, sewage treatment sludge was no longer being disposed of at BKK.

The disposal of sewage treatment sludge at BKK is particularly noteworthy from an historical perspective. In the early 1920s the city of West Covina was founded and then expanded in order to avoid becoming a neighboring city's sewer farm. Decades later the city of West Covina was importing thousands of tons of sewage treatment sludge daily.

Schabarum Out to Derail L.A. Plan to Bury Sewer Sludge

By KEVIN RODERICK and DENISE HAMILTON, *Times Staff Writers*

Plans to bury sewage sludge that Los Angeles cannot burn because of failures in a \$350-million cogeneration plant ran into political trouble Tuesday, raising the possibility that Mayor Tom Bradley and other officials may be forced to violate federal orders and dump sludge in the ocean.

The biggest obstacle to arise Tuesday was county Supervisor Pete Schabarum, an old nemesis of the city who objects to any Los Angeles waste coming to a final resting place in his San Gabriel Valley district.

Schabarum said in a letter to 35,000 supporters that he will try to stop Los Angeles from trucking wet cake sludge, a partially treated form of sewage, to the BKK landfill in West Covina. The BKK landfill takes about 1,000 tons of the sludge a day, and there is no other nearby landfill that can handle so much.

Access Blocked

Schabarum has already been influential in closing landfills run by county sanitation districts to Los Angeles refuse. His insistence that city officials ignore residents' wishes and reopen the Mission Canyon landfill in the Santa Monica Mountains has also delayed efforts to find new landfills that Los Angeles can use outside the city limits.

"I am adamantly opposed to this sludge being dumped in this [BKK] landfill. . .," Schabarum said in the letter dated Dec. 23. It was reported to Los Angeles City Council members Tuesday. A Schabarum aide, Tom Hageman, said Tuesday that the supervisor will try to persuade West Covina officials to block sludge from going to the privately owned landfill.

Los Angeles Deputy Mayor Mike Gage said Tuesday that the city was not concerned by Schabarum's opposition. "This is nothing new for Mr. Schabarum," Gage said. "We disagree with Mr. Schabarum on a number of items."

Relied on BKK

But Los Angeles has relied on BKK to take more than 90% of the sludge since the city stopped dumping in the ocean from its Hyperion sewage treatment plant on Nov. 2. The landfill is the only one nearby with the drainage controls needed to accept wet cake sludge without special treatment.

The landfill's owners, who welcome the business, said Tuesday that Schabarum should back off.

"We're open to the public," said BKK Corp. President Ken Kazarian. "In fact, our operating permit requires that we don't discriminate with our customers."

Please see SLUDGE, Page 8

Chapter 7

Lawsuits and Rancor Continue

While the residents' lawsuit was settled in 1986, the lawsuits did not end there. The next noteworthy lawsuit was filed in June of 1993. The city of West Covina sued BKK Corporation to force the termination of all landfill operations – the disposal of trash – by 1995. BKK's lawyers included former State Attorney General John K. Van de Kamp.

In 1971, the city of West Covina had issued a land use permit to BKK Corporation for landfill operations through 2006. While hazardous waste disposal had stopped in late 1984, this permit still allowed for the disposal of trash for another 22 years – another two plus decades of trash and cash. The new landfill at BKK had been open since 1987 and had capacity for 20 years or more of additional trash.

In 1985, BKK Corporation and the city of West Covina signed a Memorandum of Understanding (MOU). Under the terms of the MOU, BKK Corporation would terminate trash disposal by the end of 1995 instead of 2006 provided the city of West Covina allow BKK to create commercial and/or office developments on land it owned at the site, most of which had never been used for disposal of trash or hazardous waste. BKK intended for revenue from these developments to offset revenue lost due to terminating landfill operations in 1995 instead of 2006.

The city of West Covina did not approve BKK's development plans, contending the plans were inadequate. BKK contended that regardless, the city could not enforce the 1995 landfill closure date because BKK's commercial/office developments had not been built.

As the 1993 lawsuit about the MOU slowly played out with trial delays, more lawsuits, and countersuits, public sentiment against the landfill steadily grew. Civic groups like the RACOONS (Residents Against Contamination of our Neighborhoods), West Covina Homeowners Association, as well as local Parent Teacher Associations and churches steadily increased pressure to permanently close BKK by 1995. Groups like these circulated petitions, protested, testified before the State Legislature, and forced sitting City Council members and candidates to take unequivocally clear positions on when BKK should close. BKK Corporation used phone banks, mailers and newspaper ads during the city council campaign to influence the vote.

The contentiousness further increased as the city of West Covina imposed hundreds of thousands of dollars in fines against BKK for alleged violations at the landfill. BKK countered by running TV and newspaper ads describing the significant adverse economic consequences that West Covina and its residents would incur should the landfill close prior to 2006. Funded by a grant from BKK Corporation, the Rose Institute, part of Claremont McKenna College, issued a report concluding that the premature closure of the BKK trash landfill could cost the local San Gabriel Valley economy over \$1 billion.

In 1980 the U.S. Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) – informally called the Superfund Act – to respond to the Nation’s most contaminated sites. Tensions escalated still further when BKK announced that should it be forced to close in 1995, the site might become a Federal Superfund site. This idea, now floated by BKK Corporation would play out and be tested a decade later.

The 1993 lawsuit over interpretation of the 1985 MOU was finally resolved in January 1996 just before the trial was set to begin. Under a Stipulated Agreement by Los Angeles Superior Court, the BKK Corporation and the city of West Covina agreed that trash would no longer be accepted at the landfill by September 15, 1996. That permanent “cessation date” was one year later than West Covina wanted, but a decade earlier than what BKK had originally sought.

The city of West Covina would need to wean itself from its lucrative relationship with BKK. By 1994 payments from BKK to the city totaled about \$4 million annually (\$7.4 million in 2021 dollars).

At its peak, the trash landfill at BKK was accepting over 12,000 tons of municipal trash daily. BKK stopped accepting trash at the West Covina site on the cessation date.



Bulldozer and trash at BKK. Los Angeles Times, July 13, 1986.

Chapter 8

State Takeover - Superfund Status

BKK had stopped accepting hazardous waste (except asbestos) in November 1984. The disposal of municipal trash at BKK had stopped in September 1996.

Until 2004, the BKK Corporation was responsible for post-closure care of both the hazardous waste and trash landfills. That was overseen by multiple State and Federal regulatory agencies. In October 2004, BKK informed the California Department of Toxic Substances Control (DTSC) it would no longer be financially able to care for the hazardous waste landfill and that BKK personnel at the site would be laid off shortly.

The DTSC immediately responded in order to ensure the continuity of post closure care activities. This included ensuring that the primary public health and environmental protection systems were operated and maintained. Those systems include a landfill gas monitoring and collection system, a power plant and flare stations that burn the landfill gas, a leachate monitoring and collection system (leachate is the toxic liquid that leaches out of the sides and bottoms of landfills), a leachate processing plant, and the cap and cover over the landfill. The hazardous waste landfill at BKK is particularly prone to landfill gas and leachate issues because the landfill is unlined – there is no physical barrier between the contents of that landfill and surrounding land.

In December 2004, the DTSC issued a legally binding order – the “Imminent and Substantial Endangerment Determination and Order” – to the largest Potentially Responsible Parties (PRPs). Under the order some of the largest PRPs, those that disposed of hazardous waste at the site, were required to assume financial responsibility for the hazardous waste landfill.

In 2021, this arrangement is still intact today. BKK is still the legal landowner of both landfills. BKK is largely financially responsible for the post-closure care of the municipal trash landfill. The largest Potentially Responsible Parties (PRPs) are financially responsible for the post-closure care of the hazardous waste landfill.

Eight State and Federal Regulatory agencies oversee both landfills. Those include the DTSC, California Department of Resources Recycling and Recovery (CalRecycle), U.S. Environmental Protection Agency, South Coast Air Quality Management District, Los Angeles Regional Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and the United States Army Corps of Engineers.

The DTSC has the lead for the hazardous waste landfill. CalRecycle has the lead for the municipal trash landfill. Since the closure of both landfills, all eight agencies have typically worked together in a coordinated and cooperative manner. Resource conservation agencies, such as Fish and Wildlife, are involved at BKK because parts of site and surrounding areas are key habitat for wildlife including some endangered species; there is also some land that remains undisturbed which contains native California

vegetation.

BKK was never declared a federal Superfund site. There are three primary considerations in order to possibly be designated as a Superfund site under the 1980 Comprehensive Environmental Response, Compensation and Liability Act. A site must be relatively large, highly contaminated...and no other party other than the U.S. Federal taxpayer is available to fund response actions to protect public health and the environment. Relatively detailed records exist for BKK regarding those that disposed of hazardous waste at the site including what they disposed of and in what quantities. Accordingly, taxpayers do not need to pay for BKK.

As of October 2021, nearly 70 of the largest PRPs have paid for response actions at BKK. That is changing. In April 2021, the DTSC announced a program called the “De Minimis Party Cost Recovery Settlement Initiative”, a cooperative effort between the DTSC and BKK Working Group. The latter term is used to describe a grouping of the largest PRPs.

Under this Initiative, funds will be collected from over 11,000 parties that disposed of hazardous waste at BKK in de minimis quantities – defined as 4,000 tons of hazardous waste or less.

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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:
BKK Landfills and
Leachate Treatment Plant
2210 South Azusa Avenue
West Covina, California 91792
Respondents:
American Honda Motor Company, Inc.
Appliance Industries, Inc., a division of
W.R. Grace and Company
Appropriate Technologies II, Inc.
Atlantic Richfield Corporation
BKK Corporation

) Docket No. I/SE-D 04/05-004
) **IMMINENT AND SUBSTANTIAL**
) **ENDANGERMENT DETERMINATION**
) **AND ORDER AND**
) **REMEDIAL ACTION ORDER**
) Health and Safety Code
) Sections 25355.5(a)(1)(B),
) 25358.3(a), 58009 and 58010

Excerpt of DTSC's "Imminent and Substantial Endangerment Determination and Order", 2004.

Chapter 9

Redevelopment – Round 1

In 2003, the city of West Covina (through the City of West Covina Redevelopment Agency) purchased 231 acres of land from the BKK Corporation for \$6.24 million. That acreage shares boundaries with the closed landfills (hazardous waste and trash) on three sides – north, east and west. Most of the 231 acres of land was not used for the burial of either hazardous waste or trash. It was used as buffer land, a physical separation between landfill operations and neighboring homes and open space.

The city's redevelopment plan for the 231 acres included three key elements: commercial retail space, a Sportsplex, and an 18-hole golf course. The first two elements were completed. The Heights Shopping Center opened in the spring of 2007. Its anchor tenants today are as they were when the Heights opened – Target and Home Depot. The Sportsplex opened shortly thereafter in the fall of 2007. It includes six baseball fields, batting cages, and a covered multi-use pavilion.

Because of their proximity to the closed municipal trash landfill, the buildings of the Heights and Sportsplex are uniquely constructed; for example, specialized vapor barriers are included in the foundations, landfill gas monitoring alarms are located inside the buildings, as well as groundwater-monitoring wells inside and out.

Prior to building the Heights Shopping Center some excavation of trash was necessary. Area D, where trash had been disposed of from 1963 to 1969 included a “tail” which extended to the west towards Azusa Avenue. Three excavations occurred between 1987 and 1994 to remove this tail and replace it with clean fill dirt.

The golf course never came to fruition. The city spent about \$10 million importing soil to the site and contouring it for the golf course. However in 2008, during the Great Recession, a new City Council determined the golf course would never be profitable, the result of an abundance of local golf courses, the declining popularity of golf and most importantly, a construction price tag that had increased to an estimated \$43 million. The golf course project was cancelled.

As a result of legislation in 2011, all redevelopment agencies were dissolved statewide. The “golf course” parcels (134 acres of land) then came under the jurisdiction of the “Successor Agency to the Redevelopment Agency of the City of West Covina”. That Successor Agency sold the “golf course” parcels of land, all 134 acres to the city of West Covina for \$3 in 2018. The low value of this sales transaction (three dollars) was the result of a negotiated agreement with the California Department of Finance.



Sportsplex in the foreground, Heights Shopping Center mid-photo to the right, Trash landfill mid-photo to the left. Photo by Keri Oberly & Stella Kalinina, 2021.

Chapter 10

Redevelopment – Round 2

Since the city's golf course never came to fruition, it still owns 134 acres of former BKK land that it acquired from BKK in 2003.

In 2013, the city of West Covina reinitiated efforts to market this land for development. This effort consisted largely of advertising and attending conferences expressly designed for cities and other public entities to market themselves.

In December 2016 the headlines in the San Gabriel Valley Tribune announced: “West Covina wants an amusement park on site of former landfill.” The article stated the West Covina City Council, in closed session, had executed a 90-day exclusive negotiating agreement with the Singpoli Group LLC for an amusement park, a hotel and conference center. Singpoli, based in Pasadena, is a hotel and mixed use developer that began as a construction company in Hong Kong, China.

Within a month, residents of West Covina, Walnut and surrounding communities had already begun mobilizing against Singpoli's proposed development and began attending City Council meetings speaking out against intensive development at the site. The residents' chief concerns were public health, traffic and congestion, as well as the preservation of open space and habitat.

A year later Singpoli transitioned its development plan for the BKK site from an amusement park to partnering with Santa Anita Park in Arcadia, California, for the training and housing of thoroughbred racehorses. The BKK site would still include a hotel; but the amusement park had been replaced with two full sized racetracks (one grass and one dirt), 1400 horse stalls, and employee dormitories along with a cafeteria. According to Singpoli, racehorses would be trained at BKK and transferred by truck and trailer to Santa Anita Park on race days.

Singpoli's latest plan increased residents' pressure on the City Council. The most commonly recurring themes to the Council were the health risks that intensive development posed, traffic and congestion, and the continued lack of a public and open process for determining the future of the city owned land (public lands) at BKK.

Bowing to public pressure, the city held two community workshops for residents in January 2019. Both were well attended. Each workshop included 15 tables, each table comprised of 8 to 10 residents. The purpose of the workshops was to provide residents the opportunity to vote for their preferred future use of BKK. Using the land as a solar generation field, open space and a nature preserve, or hiking, biking and walking trails were uses the residents favored, by a large margin.

Singpoli's exclusive negotiation agreement with the city, which had been extended multiple times by the City Council, had been allowed to expire in December 2018. Its expiration, combined with the outcome of the

workshops and nearly two years of public pressure against intensive development, resulted in the City Manager announcing in late January 2019 the city was “hitting the reset button” on BKK – all possibilities for future land reuse were “now on the table.”

In March 2019, the City released a Request For Proposals (RFP), a normal business process that the city had avoided up until then, for the “Development Opportunity Site” at BKK. This is the city’s term for the 134 acres of city owned land at BKK plus an additional 84 acres of land. The latter is land that the city of West Covina has the right to use under a 2003 license agreement between the city and BKK Corporation. The license agreement intended for this 84 acres of land, on the elevated top deck of the closed trash landfill, to be utilized as part of the now defunct golf course project.

Under the terms of the RFP, proposals were due to the city just one month after the RFP was released. The city received four proposals:

From Justus Enterprises: This proposal called for 14 soccer fields atop the closed trash landfill. In addition, a large 15,000-seat amphitheater would be constructed to the south on city owned land near Amar Road. A 250-room hotel would serve these venues, constructed near the existing Sportsplex. Most of the 134 acres of city owned land would be dedicated to parking for the soccer fields and the amphitheater. A noteworthy feature of this proposal included using millions of cubic yards of soil to fill in the wide and deep ravine that today is a noticeable gap between the closed trash and hazardous waste landfills. Once filled, this was to be used

as additional soccer fields under Justus' proposal.

From PV Navigator and Great Ecology: Though submitted as separate proposals, these were a joint offering by the firms. The city could accept either proposal or both. PV Navigator proposed a zero penetration solar generation field on the 84 acre elevated top deck of the closed trash landfill. Great Ecology proposed light recreational use of the 134 acres of city owned land (trails) along with preservation of open space as well as habitat restoration and preservation. Both proposed solutions would have been at zero cost to the city. Both firms had already implemented these approaches elsewhere in the U.S. on and around landfills and other environmentally compromised land.

Singpoli Group LLC: The centerpiece of their proposal remained a hotel, though its size had been increased from 270 rooms to 400 rooms. The amusement park, which had been replaced by the training and housing of racehorses, was now an outdoor amphitheater. The proposal also included some recreational trails and zip lines as well as a police K9 training center and a firefighter training facility. Since the BKK site is currently only served by one entrance and exit (Giambi Lane off of Azusa Avenue), a second entrance and exit was proposed off Amar Road near the site's border with the City of Walnut. Singpoli's proposal was also at zero cost to the city, however the cost of operating and maintaining the police K9 training center and firefighter training facility once built were to be paid for by the city of West Covina.

No information was released about the city's income potential associated with any of the proposals.

Proposals were due back to the city on April 24, 2019. Four business days later the City Council, in closed session voted 4 to 1 to accept Singpoli's proposal. A month earlier, in open City Council session, one councilmember had already decried the entire RFP process was "a sham," done only to appease the residents. On May 22, 2019 a near capacity crowd attended the City Council meeting to voice its displeasure with the RFP process and the selection of the Singpoli proposal.

In rapid succession the city executed a series of agreements with Singpoli to consummate the land sale: A Letter of Intent was executed in May 2019, a Deposit and Funding Agreement that same month, a Right of Entry and Access Agreement in July 2019, and a Purchase & Sale Agreement in August 2019.

The Purchase & Sale Agreement (PSA) and the Right of Entry and Access Agreement are both noteworthy. Under the terms of the PSA, Singpoli agreed to acquire the 134 acres of city owned land for \$13.5 million, more than double its appraised value.

The Right of Entry and Access Agreement was particularly problematic for the city. In its original version the city granted Singpoli permission to conduct any intrusive investigations on the BKK site, including penetrating cap and cover on the hazardous waste landfill. The city was unaware it had no authority to grant access to the hazardous waste landfill, much less allow

for any digging on or under its surface. The city lacked institutional memory and knowledge about BKK, the likely result of turnover of all senior city staff in the preceding two years.

The DTSC reacted quickly. In a certified mailing to the City Manager, the DTSC reminded the city that BKK is an “on-going public health threat”, that parts of the land the city was trying to sell were still legally part of the landfill, that the city’s agreements with Singpoli did not address existing land use restrictions and the city’s obligations under those restrictions, and that the existing covenant not to sue between the city and the DTSC was enforceable only if the city was meeting its obligations at BKK.

In July 2020, West Covina’s residents again besieged the City Council. The Council was voting to extend and amend the PSA. The original version of the PSA required completion of an environmental impact analysis prior to closing the land sale. The amendment deemed the land sale “as is” and pushed any impact analysis to after the land sale.

Due to COVID protocols, residents were not allowed into council chambers. Instead, 321 comments were submitted via email to the City Clerk for the public comment period prior to the Council voting on the amendment. After reading several aloud during the Council meeting, the City Clerk deemed the remainder of the comments substantively similar and declined to read any additional public comments. Subsequently, the City Council voted 4 to 1 to extend and amend the PSA. In the weeks following, cartoons circulated on social media decrying censorship by the

City Council.

According to the PSA and Escrow Instructions, the land sale was to have closed no later than the end of October 2020. The date came and went without comment by either the city or Singpoli. In the following months both the city and Singpoli did not return phone calls and emails from reporters or residents inquiring about why the land sale had failed to close.

That remains the case today – no comment from either the city or Singpoli. However, by early and mid 2021 some insight into Singpoli's financial condition was available. Though Singpoli is a privately held company, bankruptcy proceedings and property sales are public record.

In February 2021, Singpoli filed for the bankruptcy of its flagship Hotel Constance in Pasadena. Singpoli creates one or more limited liability corporations (LLCs) for each project it undertakes. The Singpoli LLC that owned the Hotel Constance, Park Place Limited, was bankrupt.

In August 2021, Singpoli sold its 242,000 square foot office complex at the corner of North Lake Avenue and East Colorado Boulevard in Pasadena. It was purchased by M&A Gabae (also known as Gabay and the Charles Company). Coincidentally perhaps, Gabae has owned two parcels of land at BKK near the Sportsplex since 2006.

Although the land sale had fallen through, Singpoli physically re-visited the 134 acres of city owned land at BKK along with prospective investors

in July, August, and October of 2021. It appears that Singpoli is again pursuing the city owned land at BKK, for the project local residents dubbed years ago the “Landfill Hotel.” The site visits proved problematic for the city. The July site visit occurred without the permission of the city, which the Right of Entry and Access Agreement required. The August and October site visits occurred after that Agreement had expired.

As of October 2021, the city has declined to disclose to the public or discuss its next steps at BKK for the public lands owned there.



“West Covina residents stood at Tuesday’s City Council meeting to indicate how many came to speak in opposition of Singpoli’s proposal to develop the former BKK landfill site”. Caption and photo by San Gabriel Valley Tribune, May 22, 2019.

Chapter 11

BKK Today

Today the closed landfills at BKK cover nearly 400 acres of land.

The DTSC refers to the hazardous waste landfill at BKK as the Class I landfill. It operated from 1969 to 1987. It covers 195 acres of land.

The DTSC refers to the mostly municipal trash landfill at BKK as the Class III landfill. It covers 175 acres of land. It operated from 1963 to 1969 as Area D and then over a much larger surface area from 1987 through 1996 as the Class III landfill.

These terms, Class I and Class III are a bit misleading. Hazardous waste and municipal waste have been comingled in both landfills particularly the Class I landfill. The practice of co-mingling hazardous waste and municipal trash in the same landfill is now prohibited by State and Federal regulations.

BKK contains an estimated 5.18 million tons of hazardous waste, most of which was disposed of as liquids. It would require about 2,000 Olympic sized swimming pools to contain this amount of liquid. The Class I landfill at BKK is the State of California's largest hazardous waste landfill.

BKK also contains an estimated 20 million tons of decomposing

municipal trash. This is about the equivalent volume of about five Great Pyramids of Egypt. The decomposing trash may be producing methane and other gases for 50 years or more. The methane fuels a power plant at BKK.

BKK is also up to 595 feet deep. The typical closed landfill in California is just 35 to 50 feet deep. The tallest building in West Covina is Eastland Tower at 165 feet tall. Four Eastland Towers would need to be stacked a top one another to exceed BKK's maximum depth.

As of October 2021, the city of West Covina remains silent on its plans and next steps for its land at BKK. The regulators are not. Several of the eight regulators are pursuing the city to fulfill unmet commitments, many of which date back to the development of the Heights Shopping Center and the Sportsplex.

BKK also remains a beehive of activity even though its disposal operations ended a quarter of a century ago. Dozens of personnel operate and maintain the systems and equipment that keep the site safe. These include groundwater monitoring and extraction wells, landfill gas monitoring probes and wells, miles of piping for leachate and gas, and plants which process both. Still other personnel are on site conducting the fieldwork associated with two large-scale studies that are underway. Inspectors from each of the regulatory agencies frequent the site as well.

The DTSC has announced the preliminary cost estimate for the remediation of BKK. That cost is \$869,286,436. Both the DTSC and U.S.

EPA describe remediation as the implementation of a “final protective remedy” for a contaminated site. Presumably the PRP’s will bear the \$869 million price tag.

The development of the final cost estimate depends on the completion of two studies that remain in progress as of 2021. The first is the Remedial Investigation/Feasibility Study (RI/FS). The RI/FS focuses on determining the extent and nature of soil and groundwater contamination beyond BKK’s property lines. The Engineering Evaluation/Cost Analysis (EE/CA) focuses on developing and estimating the cost of methods and systems to remove or neutralize hazardous substances at BKK. Both the RI/FS and EE/CA will require additional years to complete.

Multiple civic groups serving West Covina, Walnut and other nearby communities continue to closely monitor and participate in matters associated with BKK. All these groups continue to repeat the same message to West Covina’s City Council and City staff: Allow the remediation of BKK to be completed.

Once the remediation is completed, the city will find itself in the position of considerably more certainty associated with the city owned land that is beside the unlined hazardous waste landfill. Fewer public health risks would also result if intensive development like a hotel occurred after remediation. And post remediation, the city may also find its land – public lands – more valuable and less encumbered with regulatory restrictions.

The history of the landfills at BKK is a mix of good and bad decisions, even in hindsight. BKK's next chapters – remediation and redevelopment – are being written now. Hopefully the authors of those chapters will have learned from BKK's history.

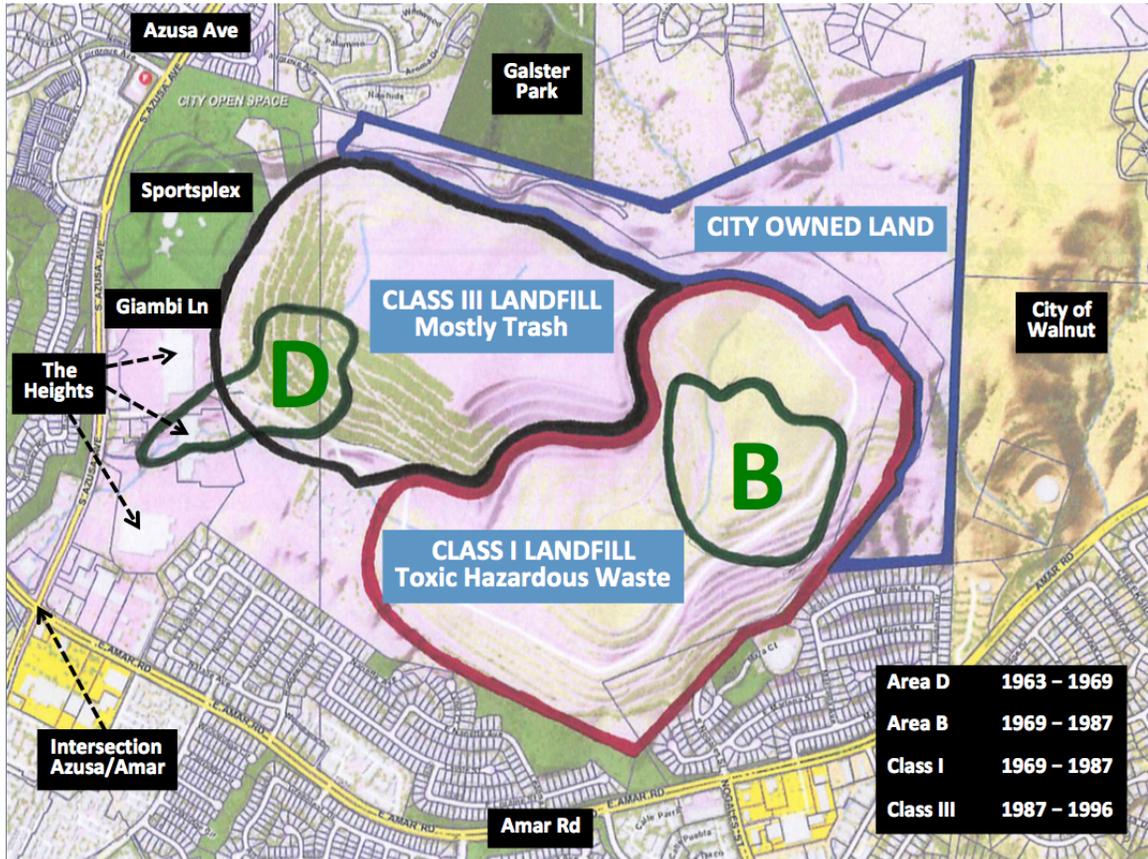


Image by Livable West Covina www.LivableWestCovina.org

About the author

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Brian Jobst is a 33-year resident of West Covina. His professional work includes nearly four decades on and around contaminated and environmentally compromised land. He is a member of multiple civic groups and serves on the boards of several. In 2016, he co-founded Livable West Covina, a group dedicated to public health, environmental protection, and sensible land reuse associated with the landfills of BKK. His wife of the past 39 years remains the best decision he ever made.

If you'd like to add photographs, documents, artifacts or other information to the archives associated with BKK please contact the author at BKKhistory41@gmail.com

Special thanks to the Historical Society of West Covina for their encouragement, suggestions, fact checking, proofreading, and the use of their archives.

History, despite its pain, cannot be unlived. However, if faced with courage, need not be lived again.

Based on quote by Maya Angelou

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