

12/14/2011

Eric Kiruja
CalRecycle
801 K Street, MS 19-01
Sacramento, CA 95815

Subject: Response to comments received on the Premier Recycle Project, File No. CPA97-011-01, dated 12/7/2011.

Dear Mr. Kiruja:

Thank you for your comments on the Premier Recycle project, dated 12/7/2011. Your original comment letter has been annotated with a numerical key, and the City has attached numbered responses to your comments. Other comments received by the City during the comment period are attached to this letter. The Initial Study document has been revised to reflect comments received, and those changes are also attached in strikethrough / underline format. Updated figures are also attached to this letter.

The Mitigated Negative Declaration proposed for adoption by the Planning Commission on December 14 is also attached.

The revised Initial Study can be viewed at: <http://www.sanjoseca.gov/planning/MND.asp>. If you have any questions or additional comments, please contact me at 408-535-7895 or by e-mail at john.davidson@sanjoseca.gov.

Sincerely,

John Davidson
Senior Planner

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

December 7, 2011

Ms. Jodie Clark, AICP
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
City Hall Tower, 3rd Floor
San José, CA 95113



Subject: **Mitigated Negative Declaration, State Clearinghouse No. 2011112033 for the Premier Recycling Facility, Solid Waste Facility Permit (SWFP) No. 43-AN-0023, City of San Jose**

Dear Ms. Clark:

On January 1, 2010, the California Integrated Waste Management Board (CIWMB) became the California Department of Resources Recycling and Recovery (CalRecycle).

CalRecycle staff has reviewed the Mitigated Negative Declaration (MND) cited above and offer comments under the regulatory purview of CalRecycle and comments on the project, as proposed in the MND. Our comments are intended to assist the lead agency with information that may be necessary for evaluation of the project as well as for regulatory oversight by the Local Enforcement Agency (LEA) and CalRecycle. If the project description varies substantially from the project as understood by the Lead Agency, the CalRecycle staff requests notification of any significant differences before adoption of the Mitigated Negative Declaration and approval of the project. A brief project description from the MND is included below for CalRecycle staff's future reference.

PROJECT DESCRIPTION FOR CALRECYCLE STAFF FUTURE USE

Conditional Use Permit Amendment for an existing recycling facility to increase the amount of material received and/or transferred on site from the previously approved 300 tons to 550 tons daily, to extend operation hours to 24 hours a day, and to extend operations to Sundays on a 1.75 acre site. No new construction is proposed.

Project Location and Assessor's Parcel No.: The site is located in the LI light Industrial Zoning District at 260 Leo Avenue in San Jose (South side of Leo Avenue, approximately 400 feet westerly of South 7th Street) APN No. 477-25-040

CALRECYCLE'S ROLE IN THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PROCESS

California Environmental Quality Act Review

CEQA compliance is required for the establishment, expansion, or change in operation(s) of a solid waste facility (SWF) requiring the issuance or revision of a Solid Waste Facility Permit (SWFP). CalRecycle staff's review of an MND is to help decision-makers (1) identify potential impacts from proposed projects, (2) determine whether any such impacts are significant, and (3) ascertain whether significant impacts can be mitigated to a level of insignificance in compliance with the CEQA Statute and Guidelines. In order for CalRecycle staff to ascertain that the forthcoming MND is complete and adequate for use in the solid waste facility (SWF) permitting process, the proposed project should be described in sufficient detail and the potential environmental impacts must be identified clearly in the environmental assessment/Initial Study (IS) Section of the MND. Mitigating measures to reduce potentially significant environmental impacts should be incorporated into the project, when feasible, in order to avoid potentially significant effects upon implementation of the project. When a potential significant environmental effect is identified and an argument is made as to why no mitigation is necessary, the discussion/analysis should be in sufficient detail that the reviewer/decision-maker can understand the lead agency's reasoning for their determination.

CalRecycle as a Responsible Agency

CalRecycle will be a responsible agency involved in the discretionary approval process for the solid waste facility design and operational aspects of the project proposal. Department staff will need to perform an environmental review and analysis for this project using the MND developed by the lead agency as required in CEQA Guidelines, Title 14 California Code of Regulations.

CALRECYCLE STAFF COMMENTS

CalRecycle staff comments are organized by topic, where the issue was found. Page and table numbers, as well as quoted text, are provided to assist the lead agency in finding the source of the comment(s).

Project Description

Page 3 of the Project Description: "The proposed project is to increase the processing tons per day limit of 300 to 550 tons per day, with the ability to accept public drop-off of material not in roll-off bins. No physical changes to the facility are proposed, other than the installation of a conveyor sort line, to improve efficiency."

Comment:

- The MND does not indicate the hours the facility is open to the public. Per the state minimum standards for solid waste handling facilities (Title 14, Section 17409.4), the operator should post easily visible signs at the main public entrance indicating the name of the operator, schedule of charges, hours of operation and a listing of general types of material accepted at the facility. 1
- Since the facility has the ability to accept public drop-off of waste material not in roll off bins, the facility should be designed, constructed, operated and maintained so that contact between the public and solid wastes is minimized. This may be accomplished through the use of railings, curbs, fences and/or spotter. 2
- With an 83.3% increase of incoming material (300 tons per day to 550 tons per day) and no new construction for the expanded operations proposed, the design capacity of the existing large volume transfer station should be calculated and documented (in the project description) in support of the tonnage increase. 3

Initial Study

Page 15, Noise Impacts from the Project: "Noise generated by the project would come primarily from equipment and recycling activities on site, and particularly from the proposed conveyor system. According to the Noise Report prepared on September 6, 2011 noise levels, expressed in DNL, would be up to 73 DNL at the southern property line."

"Although anticipated noise levels are less than CEQA threshold for significant impacts, noise levels will be greater than the standard in the Zoning Code. To ensure noise levels do not exceed the predicted 73 DNL, the project will be conditioned to limit operation of the conveyor belt system from 7 a.m. in the morning to 9 p.m. at night."

Comments:

- Since the proposed project will potentially be open to the public, CalRecycle recommends that the operator should post signs within the facility recommending or requiring the use of hearing protection by the public during waste drop off. 4

Environmental Noise Impact Study for Premier Recycle Center

Page 10, second paragraph: "The conveyor sorting system will result in a slight impact to the north, east and west property lines with 1 dBA or less increase in DNL. The south property line will be more significantly impacted with an increase of 2.7 dBA DNL due to proximity to the conveyor system. However, the planned orientation of the conveyor system (*figure 5*) appears to be the best design in terms of achieving the minimum noise impact to property lines."

Comments:

- The MND/IS did not have a map clearly showing the orientation of the proposed conveyor system; please include the conveyor system orientation on the "Site Map". 5

CONCLUSION

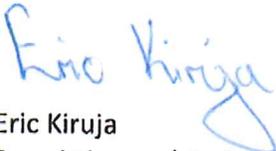
The Environmental Review staff thanks the Lead Agency for the opportunity to review and comment on the Initial Study/Mitigated Negative Declaration and hopes that this comment letter will be useful to the Lead Agency in carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of and consultation on any subsequent or revised environmental documents on the proposed project. CalRecycle staff requests that the Department be noticed of the date, time and location of any meetings or public hearings regarding the project proposal at least three days in advance.

Please note that correspondence for staff of CalRecycle's Permitting and Certification Division should continue to be sent to 1001 I Street, P.O. Box 4025, Sacramento, CA 95812. Correspondence specifically for the attention of the Director of CalRecycle should be sent to the address in the letterhead of this letter.

If you have any questions regarding these comments, please contact me at (916) 341-6427, facsimile at (916) 319-7769, or e-mail me at Eric.Kiruja@CalRecycle.ca.gov.

Sincerely,



Eric Kiruja
Permitting and Assistance Branch
Permitting and Certification Division
CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

cc: State Clearinghouse
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Sharon Clute
Department of Planning, Building, and Code Enforcement
Local Enforcement Agency
200 E. Santa Clara Street, Tower 1-C
San Jose, CA 95113

RESPONSE TO CAL RECYCLE, dated 12/7/2011

1. Text will be added to the project description indicating the hours that the facility is open to the public. In addition, a condition will be added to the permit requiring a sign to be posted that indicates the hours that the facility is open.
2. The comment is acknowledged. Contact between the public and solid waste will be minimized through conditions in the permit issued by the local enforcement agency (LEA).
3. Text will be added to the project description indicating the maximum potential tonnage capacity for the facility. In addition, the tonnage capacity calculations have been added to the Initial Study as Appendix 2.
4. The comment is acknowledged. A condition will be added to the permit requiring a sign recommending hearing protection while on site.
5. A revised site plan more clearly indicating the location of the conveyor line has been incorporated in to the Initial Study.

12/14/2011

Martin Eber, Attorney at Law
7 Mann Drive
Kentfield, CA 94904

Subject: Response to comments received on the Premier Recycle Project, File No. CPA97-011-01, dated 12/12/2011.

Dear Mr. Eber:

Thank you for your comments on the Premier Recycle project, dated 12/12/2011. Your original comment letter has been annotated with a numerical key, and the City has attached numbered responses to your comments. Other comments received by the City during the comment period are attached to this letter. The Initial Study document has been revised to reflect comments received, and those changes are also attached in strikethrough / underline format. Updated figures are also attached to this letter.

The Mitigated Negative Declaration proposed for adoption by the Planning Commission on December 14 is also attached.

Sincerely,

John Davidson
Senior Planner

Clark, Jodie

From: Jeanne Eber [j.eber@comcast.net]
Sent: Monday, December 12, 2011 11:30 AM
To: Clark, Jodie
Subject: Comment on MND re 260 Leo Avenue; CPA97-011-01
Attachments: Final Response to Mitigated Neg Dec.pdf; Gypsum Safety Data.pdf

Jodie Clark, Project Manager, 260 Leo Avenue

Dear Ms. Clark:

Attached is a six page comment on the MND for 260 Leo Avenue, File No. CPA97-011-01, hearing date December 14, 2011. Also attached is a seven page Material Safety Data Sheet on gypsum board which is referenced in detail in the comment. Please note that in addition to my signature, the comment is signed by owners of three properties and four businesses located across the street from 260 Leo Avenue. If you have any questions, feel free to contact me at this e-mail address or at 415-264-2340. Please confirm receipt of this transmission so I may avoid worrying.

Martin H. Eber

Attorney at Law
7 Mann Drive
Kentfield, CA 94904
415-459-3119

LAW OFFICE OF MARTIN H. EBER

7 Mann Drive

Kentfield, CA 94904

Telephone: (415) 459-3129

Facsimile: (415) 459-2232

Joseph Horwedel, Director
Department of Planning, Building,
and Code Enforcement, City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

Attn: Jodie Clark, Project Manager
Re: 260 Leo Avenue, San Jose
File Number: CPA97-011-01
Date of Hearing: December 14, 2011

VIA E-mail: jodie.clark@sanjoseca.gov and Via first class mail

Dear Ms. Clark:

I am writing on behalf of the owners and the users of 237, 245, and 275 Leo Avenue, three properties directly across the street from the above Conditional Use applicant. We are writing to call attention to inaccuracies and errors in the Initial Study and the minimally Mitigated Negative Declaration, to provide additional facts which have not been considered, and to voice our strong opposition to the adoption of the published "Mitigated Negative Declaration."

It is our strong belief that the proposed project at 260 Leo Avenue will indeed have a significant effect on the environment within the meaning of Public Resources Code section 21080 and California Code of Regulations sections 15070 through 15075, and should either require an Environmental Impact Report or at the very least significant mitigation to deal with the concerns set forth below. Certainly the Mitigated Negative Declaration should not be adopted in its current form, at the risk of causing serious damage to both the overall environment and the small business people on Leo Avenue.

Some preliminary facts are in order. Leo Avenue is a narrow two lane one block street which begins at South 7th Street and dead ends at the end of one block. Since there is no egress on the west end of Leo Avenue, virtually all vehicles (including many large trucks) which have entered Leo Avenue will have to either make a U-turn or back up the one block, through traffic.

The tenants in 237, 245, and 275 Leo Avenue are small, minority owned businesses dependent upon attracting customers to their businesses. This requires ease of access and

ease of parking. In view of the current recession, each tenant is already finding it difficult to succeed. The well being of small minority owned businesses is part of the environment CEQA was designed to protect.

As admitted in the Initial Study, the applicant recycling facility is serviced by very large trucks that are already making it difficult to navigate up and down Leo Avenue. According to the Mei Wu Acoustics report appended to the Initial Study, "...the operations expansion would result in an increase of maximum peak daily material volume of 300 tons per day to 550 tons per day – an 83.3 percent increase." According to the Initial Study the daily vehicle trips will increase from 184 to a proposed 288, an increase of 56.5 percent in daily vehicle trips. The Initial Study fails to explain how an 83.3 percent increase in tonnage will result in only a 56.5 percent increase in daily vehicle trips. Could it be bigger trucks? Nor is this apparent discrepancy covered in the "Mitigated Negative Declaration" either.

1

The numbers underlying the Negative Declaration rely on this and other discrepancies. The Negative Declaration certainly does not deal with an almost doubling of large trucks and other vehicular traffic. These numbers do not support the issuance of a Negative Declaration or a "Mitigated" Negative Declaration which fails to mitigate the impact of traffic. Another discrepancy in the Negative Declaration deals with the claim that the proposed increase will not result in any increase in personnel. How will an 83.3 percent tonnage increase be handled by the same number of workers now employed? Logically, the proposed increase in tonnage will result in an increase in workers as well as their vehicles, further increasing parking and traffic problems on Leo Avenue. Paragraph 1.2 of the Initial Study states that only nine parking stalls are currently provided for both trucks and automobiles. No additional stalls are provided for in the Initial Study for the expanded operation. On site operations are conducted by fifteen persons. After the increased employee and truck access, how many spaces will be available for employee parking?

2

3

A further discrepancy stems from the Initial Study using "daily vehicle trip" to determine "impact" or lack thereof. Recognizing that Leo Avenue is the only means of access to the applicant's site, the Initial Study admits that "daily vehicle trip" constitutes one trip onto Leo Avenue and one trip out of Leo Avenue. In terms of impact on street traffic and congestion, the Initial Study utilizes the number of "daily vehicle trips" rather than the number of daily uses of Leo Avenue. To be an accurate reflection of impact on the environment, the number of daily vehicle trips should be doubled to reflect the reality of the impact of *vehicle use*. In other words, the 288 "daily vehicle trips" proposed in the Initial Study really equals 576 distinct uses of Leo Avenue in a given day, and the proposed increase of 104 "daily vehicle trips" really equals 208 additional uses of Leo Avenue per day.

4

Another fact omitted from consideration in the Initial Study is the proposed public drop off of material not in roll off bins. How many individuals or daily vehicle trips will be generated by people pulling up to disgorge material for recycling? Will there be lines of cars double parked on Leo Avenue as individuals wait for their turn to bring their

5

material into the recycling facility? For example, a pickup truck loaded with newspaper or aluminum cans still occupies a full lane on Leo Avenue forcing the large trucks to either line up or double park. Furthermore, the Mei Wu Acoustics report appended to the Initial Study indicates that “increased traffic would be due to Dumpster Delivery and Transfer Trucks.” There also seems to be no consideration of the placement or impact of dumpsters. Will they also wind up on Leo Avenue further increasing congestion on Leo Avenue?

6

Also ignored is the impact of the fact, according to the Initial Study” that roll-off box unloading and transfer truck loading will be done between the hours of 3 am to 6 pm, covering the basic business day relied upon by the businesses along Leo Avenue.

7

Page 4 paragraph 1 states that “current average early inflow of waste *consistently* nears the 300 tons per day permitted maximum.” Yet page 4 paragraph 4 states “...*occasionally* operates near or at its permitted capacity of 300 tons per day.” Does the applicant *occasionally* or *consistently* hit 300 tons per day? Which version will the Planning Commission rely upon? And what about the planned increase from 300 to 550 tons per day? Is it anticipated that the applicant will hit that amount occasionally or consistently? With the Initial Study failing to deal with any of these and similar questions, the need for an environmental impact report is clear.

8

Page 4 paragraph 5 of the Initial Study states “Based on the existing inbound and outbound splits, it is estimated that the project would result in an increase of 5 truck trips during the AM peak hour (7 am) and an increase of 2 truck trips during the PM peak hour (4 pm).” This accounts for an increase of 7 truck trips. Yet according to the Initial Study the proposed project would result in 104 additional trips or 208 additional uses of Leo Avenue. When would the other 97 daily trips (really 194 discreet uses of Leo Avenue if one counts trips in and out) take place? Again the Initial Study is mute on the subject although the number of trips and/or uses is critical to understanding the impact of the proposed project.

9

Some of the “Issues” listed in the Initial Study need comment category by category, as well.

Air Quality. The Initial Study states that the proposed project would have less than a significant impact on air quality. Nevertheless, there is no indication that any consideration was given to the cumulatively considerable net increase of diesel fumes generated by the proposed 288 (really 576) daily vehicle trips by predominately very large trucks plus the additional vehicle trips generated by the pickup trucks and other vehicles dropping off their individual recycling material. Failure to quantify these trips, idling time, etc. along with the significant diesel fumes generated by the many large trucks raises serious question about the validity of the Air Quality finding in the Initial Study. Furthermore, no mention is made of what type of material will be brought to the recycling facility by the individuals who would be authorized by the proposed Negative Declaration.

10

A serious impact on air quality of a different sort comes from the fact that even at its current size the applicant's operations create significant health hazards for the people working across the street on Leo Avenue. Airborne pollution composed of dust, debris, particles from drywall, possible fiberglass and other noxious matter comes from the applicant's current facility and blows across Leo Avenue into and into the businesses located at 237, 245, and 275 Leo Avenue. Owners and employees at these locations indicate continuing impact on their businesses and on their health. Each one complains of the above kind of airborne pollution entering into and covering everything in their businesses. They each complain of continuing effects on their breathing, causing coughs, allergies, and respiratory distress, and continuing eye irritation. They all indicate a fine coating of dust constantly covers all the cars both on the street and in their businesses as well as desks and furniture in their facilities. A cursory examination of the trees on the street shows that they are covered with the fine dust. Each of the persons interviewed at the three addresses indicated that the airborne pollution is the worst in summer mornings. None of these matters is dealt with in the Initial Study.

11

12

Under the heading "Existing Operations" the Initial Study states that "PRF is contracted by various construction contractors to collect construction/demolition debris" for sorting and recycling purposes. According to the Initial Study, this construction debris includes among other materials sheetrock. We do not have specific information about the type of sheetrock delivered to and recycled by the applicant or which would be involved in an enlarged operation. Nor do we have specific information regarding what condition the sheetrock is in when received and/or when recycled, nor the process used to recycle the sheetrock. We also do not have specific information regarding the quantity of particulate matter generated from sheetrock by the applicant. We do, however know that the absence of such information should prevent the adoption of the Mitigated Negative Declaration.

13

While not necessarily about the exact sheetrock recycled by the applicant, we are attaching to this letter for the Commission's information, the "Material Safety Data Sheet" for Gold Bond Brand XP Gypsum Board. This MSDS was prepared to comply with the OSHA Hazard Communication Standard (29 CFR 1910.1200). Under the heading "Emergency Overview" the MSDS states that such operations as sawing, sanding or machining of gypsum board results in the generation of airborne particulate, and recommends wearing a particulate respirator whenever working with this product in exposure exceeding prescribed limits. While we do not know if the sheetrock recycling operation by the applicant triggers the type of particulate matter covered by this MSDS or any other MSDS, the fact that immediate neighbors are experiencing health effects similar to those listed in section 2 of the MCDS certainly mandates further investigation, and precludes the granting of a Negative Declaration.

Greenhouse Gas Emissions. The material covered in the previous paragraph dealing with Air Quality is equally valid in analyzing the impact on greenhouse gas emissions. In addition, the Analysis under this category is also contradictory. While admitting that the number of truck trips will increase "which would increase green house gas emissions", and while admitting that the increase in truck trips would be 104 daily (really 208 distinct

14

uses), somehow the Initial Study claims that by utilizing an “avoided emissions” scenario, the total emissions would actually decline. How? The Initial Study says that the proposed project would eliminate transporting material to the two landfills now used by the applicant thereby eliminating emissions caused by the truck trips to the landfill. If the material from 550 tons of refuse no longer goes to landfills, where do they go, and what means of transport would be used to move the material. The Initial Study is again silent on the subject. The Initial Study admits that the proposed project would increase green house gas emissions by 2,563 tons per year, but somehow offsets these emissions by 2,951 tons miraculously diverted from local landfills.

14

Land Use and Planning. In claiming there would be no significant impact in this category, the Initial Study does not deal with the effects of traffic congestion, a legitimate source of inquiry in Land Use environmental studies.

15

Noise. The findings under this category assume, according to the Mai Wu Acoustics study appended to the Initial Study, that an 83.3% increase in tonnage volume will be handled without any additional employees, and commensurately without their cars which one would expect would take up numerous parking spaces on Leo Avenue beg credibility. Further with regard to the predominant source of noise in the area, truck traffic, the Mai Wu report is based on approximately 104 trips per day. As stated above, this ignores the fact that a trip in generates a trip out, doubling the number of uses on Leo Avenue, and the amount of noise generated into the environment.

16

Public Services. No mention is made of the extra wear and tear on Leo Avenue by the increased number of very large trucks. It is well known that paving is highly vulnerable to being torn up by the weight of very large trucks, necessitating increased public services to repair or repave the street. Given the additional wear and tear on the asphalt on Leo Avenue, does the Department of Public Works have money budgeted for the repair and repaving of Leo Avenue?

17

Transportation. Never mentioned in the Initial Study is the fact that Leo Avenue is a very narrow two lane street, highly vulnerable to parking problems, double parking, and very large trucks trying to pass each other in the narrow space. Furthermore, the Department of Public Works analysis determining there was conformance with the city’s Transportation Level of Service Policy was, for no understandable reason, based by DPW on *minimal* net peak hour trips. Why minimal? What about at *maximal* net peak hour trips? What about at non-peak hours? If all the applicant needs is a minimal number of trips, why is the conditional use even needed? Again, despite stating that the project would incrementally increase truck traffic along 7th Street, it fails to mention that the project would significantly increase truck traffic along Leo Avenue. A mere glance at the street map on the reverse side of the Notice of Public Hearing shows that trucks from the applicant’s facility must traverse Leo Avenue to even get to 7th Street.

18

Mitigation. With all the above, the single mitigation measure in the Mitigated Negative Declaration deals only with the subject of Air Quality. There is no mention whatsoever regarding the potentially hazardous particulate affecting Leo Avenue businesses. The

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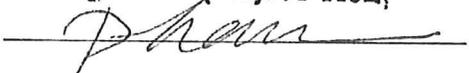
mitigation section regarding air quality simply fails to provide any mitigation regarding the diesel fumes and the automobile fumes which would be generated by the project. There is no mitigation material about all the matters raised above.

Public Resources Code section 21080(e)(1) and (2) requires that a finding of substantial evidence sufficient to adopt a negative declaration must be based on fact. Clearly the numerous contradictory statements of alleged facts throughout the Initial Study and the Mitigated Negative Declaration preclude any finding based upon fact. The failure of the Initial Study and the Mitigated Negative Declaration to deal with the above material strongly suggests that a Negative Declaration is not appropriate and does not conform to the requirements of Public Resources Code section 21080 and California Code of Regulations sections 15070 through 15075. The foregoing "significant impacts" mandate requires an environmental impact report, or at the very least a Mitigated Negative Declaration which contains real and significant mitigations dealing with the impacts on Leo Avenue and the business people on that street.

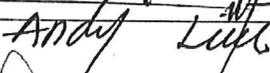
Sincerely,

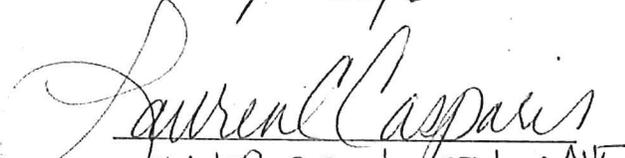

Martin M. Eber

The undersigned consent to adopt the above.
B2 Auto Dismantlers
245 Leo Ave.
San Jose, CA 95112
Bus. Ph. (408)971-1152

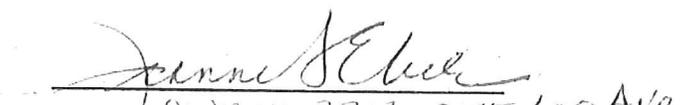


NEW T&L AUTO SERVICE
237 LEO AVE
SAN JOSE, CA 95112


Andy Lutz


OWNER 237 E 275 LEO AVE

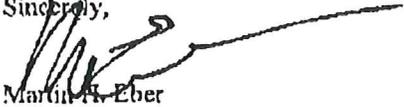

Jose Portillo
Portillo Diesel
237 Leo Ave


OWNER 237 E 275 LEO AVE

mitigation section regarding air quality simply fails to provide any mitigation regarding the diesel fumes and the automobile fumes which would be generated by the project. There is no mitigation material about all the matters raised above.

Public Resources Code section 21080(c)(1) and (2) requires that a finding of substantial evidence sufficient to adopt a negative declaration must be based on fact. Clearly the numerous contradictory statements of alleged facts throughout the Initial Study and the Mitigated Negative Declaration preclude any finding based upon fact. The failure of the Initial Study and the Mitigated Negative Declaration to deal with the above material strongly suggests that a Negative Declaration is not appropriate and does not conform to the requirements of Public Resources Code section 21080 and California Code of Regulations sections 15070 through 15075. The foregoing "significant impacts" mandate requires an environmental impact report, or at the very least a Mitigated Negative Declaration which contains real and significant mitigations dealing with the impacts on Leo Avenue and the business people on that street.

Sincerely,


Martin H. Eber

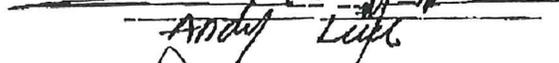
The undersigned hereby adopt the above.
B2 Auto Dismanter
245 Leo Ave.
San Jose, CA 95112
Bus. Ph. (408)971-1152

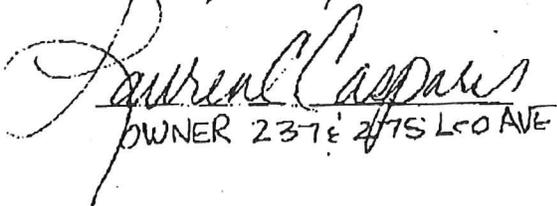


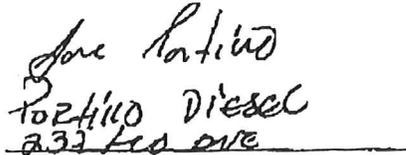
NEW T&L AUTO SERVICE

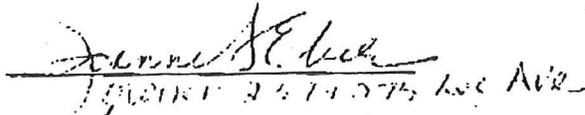
137 LEO AVE.

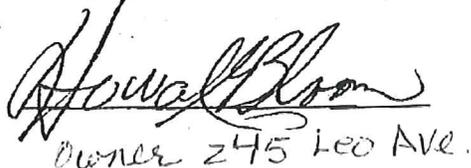
SAN JOSE, CA 95112




OWNER 237 E 275 LEO AVE


Jose Portillo
Portillo Diesel
237 Leo Ave


Joanne E. Eber
137 LEO AVE


Howard Bloom
owner 245 LEO AVE.

National Gypsum

Material Safety Data Sheet

Gold Bond® BRAND XP® Gypsum Board

MSDS No: GB-1003

Page 1 of 7

Date: July 1, 2009

Supersedes Date: May 22, 2006

1. PRODUCT AND COMPANY INFORMATION

Manufacturer Information:

National Gypsum Company
2001 Rexford Road
Charlotte, NC 28211

For Emergency Product Information Call:

Director Quality Services
(704) 551-5820 - 24 Hour Emergency Response
Website: www.nationalgypsum.com

Product Name: XP® Gypsum Board ½" Regular
XP® Gypsum Board ½" FSC
XP® Gypsum Board 5/8" FS

Use: Interior building walls, elevator shaft construction, Area Separation Wall Systems

Generic Descriptions: Article composite. XP Gypsum Board products consist of a fire resistant, moisture resistant gypsum core encased in a heavy moisture/mold/mildew resistant 100% recycled purple paper on face side and heavy mold/mildew-resistant liner paper on the back side.

2. HAZARDS IDENTIFICATION

Appearance and Odor: A gypsum core wrapped with paper. Composite material provides mildew protection. Surface finish will vary with product, no odor.

Contains no asbestos. HMIS Hazard Class No. 1, 0, 0.

Emergency Overview

Gold Bond® BRAND XP® Gypsum Board products do not present an inhalation, ingestion, or contact health hazard unless subjected to operations such as sawing, sanding or machining which result in the generation of airborne particulate. This product contains quartz (crystalline silica) as a naturally occurring contaminant. It is recommended that a NIOSH approved particulate respirator be worn whenever working with this product results in airborne dust exposure exceeding the prescribed limits.
(See Section 11 - Toxicological Information)

OSHA Regulatory Status

While this material is not considered hazardous by the OSHA Hazard Communication Standard (29CFR 1910.1200), this MSDS contains valuable information critical to the safe handling and proper use of the product. This MSDS should be retained and available for employees and other users of this product.

2. HAZARDS IDENTIFICATION (CONTINUED)**Potential Health Effects**

Primary Routes of Entry: Inhalation, Dermal contact

Target Organs: Respiratory system, skin, eyes.

Inhalation: Acute exposure to airborne dust concentrations in excess of the PEL/TLV may result in coughing, dyspnea, wheezing, general irritation of the nose, throat, and upper respiratory tract, and impaired pulmonary function. Chronic exposures may result in lung disease (silicosis and/or lung cancer). (See Section 11 - Toxicological Information)

Exposures to respirable crystalline silica have not been documented during normal use of this product. However, good housekeeping practices and industrial hygiene monitoring is recommended when the potential for significant exposure exists.

Skin Contact: Continued and prolonged contact may result in dry skin. Contact with dust or glass fibers may produce itching, rash and/or redness. Repeated or prolonged exposure may result in dermatitis.

Eye Contact: Direct contact may cause mechanical irritation.

Ingestion: No known adverse effects. May result in obstruction or temporary irritation of the digestive tract.

3. COMPOSITION/INFORMATION ON INGREDIENTS

Component	CAS-Number	Weight Percent
Calcium Sulfate Dihydrate (Gypsum)	10101-41-4	>85
Crystalline Silica (Quartz)	14808-60-7	<5
Cellulose (Paper Fiber)	9004-34-6	<10
Proprietary Additives	NA	<1

4. FIRST AID MEASURES

- **Inhalation:** Remove exposed individual to fresh air immediately. If breathing difficulty persists, seek medical attention.
- **Skin:** Flush and wash skin with soap and water. Utilize lotions to alleviate dryness if present. Seek medical attention if irritation persists.
- **Eye:** Immediately flush eyes with water for 15 minutes. Remove contact lenses (if applicable). Seek medical attention if irritation persists.
- **Ingestion:** Gypsum is non-hazardous and no harmful effects are expected upon ingestion of small amounts. Larger amounts may cause abdominal discomfort or possible obstruction of the digestive tract. Seek medical attention if problems persist.

5. FIRE FIGHTING MEASURES

Flammable Properties

- Not flammable or combustible
- NFPA Hazard Class No: 1/0/0

Extinguishing media

- Dry chemical, foam, water, fog or spray

Protection of firefighters

- Standard protective equipment and precautions

Fire and Explosion Hazards

- None

Hazardous Combustion Products

- None
- Above 1450°C, material can decompose and release sulfur dioxide (SO₂) and oxides of carbon.

6. ACCIDENTAL RELEASE MEASURES

Not applicable, as product is an article composite.

General recommendations:

- Wear appropriate Personal Protective Equipment. (See Section 8)
- Maintain proper ventilation.
- Pick-up larger pieces to avoid a tripping hazard. Return large pieces of damaged/scraped material for recycling. Sweep or vacuum remaining material into a waste container for disposal. Use a light water spray to minimize dust generation.
- Waste material is not a hazardous waste. Dispose of in accordance with applicable federal, state, and local regulations.

7. HANDLING AND STORAGE

- Avoid contact with eyes, skin and clothing.
- Wear recommended personal protective equipment when handling. (See Section 8)
- Avoid breathing dust.
- Minimize generation of dust.
- Utilize proper lifting techniques when moving product and employ mechanical/ergonomic assistance when possible (i.e. move with forklifts, hold in place with lifts) to minimize the risk of back injury.
- Store material in a cool, dry, ventilated area.
- Store panels flat to minimize damage and warping.
- Do not stack panels too high when storing to minimize the risk of falling.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Exposure Guidelines

Component	Exposure Limits	
	OSHA PEL (mg/m3)	ACGIH TLV (mg/m3)
Calcium Sulfate Dihydrate (Gypsum)	15 ^(T) 5 ^(R)	10 ^(T)
Crystalline Silica (Quartz)	0.1 ^(R)	0.025 ^(R)
Cellulose (Paper Fiber)	15 ^(T) 5 ^(R)	10 ^(T)
Proprietary Additives	NE	NE

T- Total Dust
 R- Respirable Dust
 NE- Not established

Engineering Controls

- Work/Hygiene Practices: The score and snap method of cutting is recommended. Sawing, drilling or machining will produce dust.
- Ventilation: Provide local and general exhaust ventilation to maintain a dust level below the PEL/TLV.
- Utilize wet methods, when appropriate, to reduce generation of dust.

Personal Protective Equipment

- Respiratory Protection: A NIOSH approved particulate respirator is recommended in poorly ventilated areas or if the PEL/TLV is exceeded. OSHA's 29 CFR 1910.134 (Respiratory Protection Standard) must be followed whenever work conditions require respirator use.
- Eye Protection: Safety glasses or goggles.
- Skin: Gloves, protective clothing and/or barrier creams may be utilized if conditions warrant.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance: paper faced gypsum boards with white/gray core
Odor: None
Physical State: Solid
Ph: ~7
Solubility (H2O): 2.1 g/L @ 20°C
Boiling, Freezing, Melting Point: Not Applicable
Decomposition Temperature: 1450°C
Vapor pressure: Not Applicable
Vapor density: Not Applicable
Volatile organic compounds (VOC) content: Not applicable

Flammability: Not Applicable
Flash Point: Not Applicable
Upper/Lower explosive limits: Not applicable
Auto-ignition temperature: Not Applicable
Partition coefficient: n-octanol/water: Not applicable
Evaporation rate: Not Applicable
Molecular weight: 172.2 grams
Molecular formula: CaSO₄·2H₂O
Specific Gravity: 2.31 g/cc
Bulk Density: ~55 lb/ft³

10. STABILITY AND REACTIVITY

Chemical stability: Stable in dry environments.

Conditions to avoid: Contact with strong acids may result in generation of carbon dioxide.

Incompatibility: None

Hazardous decomposition: Above 1450°C gypsum will decompose to calcium oxide (CaO), with releases of sulfur dioxide (SO₂) and various oxides of carbon.

Hazardous polymerization: Will not occur.

11. TOXICOLOGICAL INFORMATION

Data presented is for the major component of this product: Gypsum (calcium sulfate dihydrate)

Human Data

There is no information on toxicokinetics, metabolism and distribution.

There have been reports of irritation to mucus membranes of the eyes and respiratory tract upon acute exposure to dusts in excess of the recommended limits.

Chronic exposure to crystalline silica (a naturally occurring contaminant in gypsum) in the respirable size has been shown to cause silicosis, a debilitating lung disease. In addition, the International Agency for Research on Cancer (IARC) classifies crystalline silica inhaled in the form of quartz or cristobalite from occupational sources as carcinogenic to humans, Group 1. The National Toxicology Program (NTP) classifies respirable crystalline silica as a substance which may be reasonably anticipated to be a carcinogen. OSHA does not regulate crystalline silica as a human carcinogen. Industrial hygiene monitoring to date has not identified any detectable respirable crystalline silica in dust sampling conducted during gypsum panel installation utilizing recommended procedures.

Animal Data

The acute oral toxicity study [OECD TG 420, Fixed dose procedure] of calcium sulfate dihydrate showed that this chemical did not cause any changes even at 2,000 mg/kg b.w. Therefore, the oral LD₅₀ value was more than 2,000-mg/kg b.w. for female rats (Sprague-Dawley).

Calcium sulfate, dihydrate was not irritating to the skin of rabbits at 1, 24, 48 and 72 hours after removal of test patches [OECD TG 404]. There is no indication of skin sensitization in guinea pigs [OECD TG 406].

In vivo and *In vitro* studies for mutagenicity were negative.

Reproduction/Developmental Toxicity Screening Tests were negative.

12. ECOLOGICAL INFORMATION

This product does not present an ecological hazard to the environment.

Ecotoxicological Information

Toxicity studies performed with fish, aquatic invertebrates and aquatic plants showed no toxic effect.

Environmental Fate

Gypsum is a naturally occurring mineral. Biodegradation and/or bioaccumulation potential is not applicable.

13. DISPOSAL CONSIDERATIONS

- Dispose of according to Local, State, Federal, and Provincial Environmental Regulations.
- Recycle if possible.

14. TRANSPORTATION INFORMATION

- This product is not a DOT hazardous material
- Shipping Name: Same as product name
- ICAO/IATA/IMO: Not applicable

15. REGULATORY INFORMATION

All ingredients are included on the TSCA inventory.

Federal Regulations

SARA Title III: Not listed under Sections 302, 304, and 313

CERCLA: Not listed

RCRA: Not listed

OSHA: Dust and potential respirable crystalline silica generated during product use may be hazardous.

State Regulations

California Prop 65: Respirable crystalline silica is known to the state of California to cause cancer. Industrial hygiene monitoring during recommended use of this product failed to identify any respirable crystalline silica.

Canada WHMIS

All components of this product are included in the Canadian Domestic Substances List (DSL).
Crystalline silica: WHMIS Classification D2A

16. OTHER INFORMATION**MSDS Revision Summary**

Effective Date Change: 5/22/06

Supersedes: 1/15/03

Format Changes: ANSI Z400.1-2004

Key/Legend

ACGIH	American Conference of Governmental Industrial Hygienists
CAS	Chemical Abstract Services Number
CFR	Code of Federal Regulations
DOT	Department of Transportation
EPA	Environmental Protection Agency
HEPA	High Efficiency Particulate Air
HMIS	Hazardous Material Identification System
IARC	International Agency for Research on Cancer
IATA	International Air Transport Association
ICAO	International Civil Aviation Organization
IMO	International Maritime Organization
NIOSH	National Institute for Occupational Safety and Health
NFPA	National Fire Protection Association
NTP	National Toxicology Program
OSHA	Occupational Safety and Health Administration
PEL	Permissible Exposure Limit
PPE	Personal Protective Equipment
TLV	Threshold Limit Value
TSCA	Toxic Substance Control Act
TWA	Time Weighted Average
WHMIS	Workplace Hazardous Materials Information System

16. OTHER INFORMATION (CONTINUED)

The information and recommendations contained herein are based upon data believed to be correct. However, no guarantee or warranty of any kind expressed or implied is made with respect to the information contained herein. This material safety data sheet was prepared to comply with the OSHA Hazard Communication Standard (29 CFR 1910.1200) and with the Workplace Hazardous Materials Information System (WHMIS).

Disclaimer of Liability:

As the conditions or methods of use are beyond our control, we do not assume any responsibility and expressly disclaim any liability for any use of the material. Information contained herein is believed to be true and accurate, but all statements or suggestions are made without any warranty, express or implied, regarding accuracy of the information, the hazards connected with the use of the material, or the results to be obtained for the use thereof.

RESPONSE TO CITY OF MARTIN EBER, ATTORNEY AT LAW dated 12/12/2011

1. The difference between the increase in tonnage and the increase in truck trips is due to a planned increase in the average size of trucks using the site.
2. The Transportation Section of the Initial Study acknowledges an increase in the number of trips to the site. A traffic study was performed by Hexagon Transportation Consultants to analyze an increase in traffic from 184 daily vehicles trips to 288 daily vehicle trips. Traffic was counted at the driveways during the AM and PM peak hours to estimate the amount of new vehicle trips occurring during the peak hours. Based in the data, the project will result in an increase of 10 truck trips during the AM peak hour and 4 trucks trips during the PM peak hour.

Based on the information submitted, the 104 additional truck trips generated by the proposed expansion of the use, only 14 new trips occur during the peak hours. The City's Transportation Policy, Council Policy 5-3 requires traffic to be measured at the adjacent signalized intersections only during the peak travel periods in conformance with the City's thresholds established by the General Plan for CEQA. Off-peak traffic is not required to be measured and there are no established thresholds. The closest signalized intersection that would be affected by the proposed new traffic would be the intersection of 7th/Tully. This intersection is operating at LOS C and LOS D during the AM and PM peak hours respectively. The addition of project traffic would not cause the level-of-service to degrade to an unacceptable Level-of-Service, therefore the proposed project will be in conformance with the City's LOS Policy, Council Policy 5-3.

3. The project applicant has indicated that the proposed expansion will not require an increase in the number of employees on site. The proposed sort line will help to increase processing speeds.
4. "Vehicle trips" are defined as one-way trips either to or from the project site. The proposed project will result in 104 new daily truck trips either to or from the site. Both segments of each round trip are accounted for in the total.
5. The total daily tonnage allowed includes material recycled by the public. The projected number of new daily vehicle trips to the site as a result of the new public drop-off is expected to be a small number, on the order of 10 trips per day, due to the limitations in the types of material that Premier Recycle can accept, which are primarily construction and demolition debris.
6. Dumpsters will be stored off site at a separate Premier Recycle facility.
7. The comment is acknowledged. Hours of operation, in and of itself, is not a CEQA impact.
8. The baseline condition and proposed project are delineated in the project description. The current permitted processing limit is 300 tons of recyclable material per day. The proposed processing limit is 550 tons per day.
9. Per the City's Level-of-Service Policy, non-peak hour trips are not considered a CEQA impact.
10. Particulate matter from diesel trucks was not quantified due to the relatively small increase in the number of trips to and from the site. Diesel particulate matter is considered a Toxic Air Contaminant (TAC) by the Bay Area Air Quality Management District (BAAQMD). The

BAAQMD document entitled, "Recommended Methods for Screening and Modeling Local Risks and Hazards" indicate that, "Roads with less than 10,000 total vehicles per day, and less than 1,000 trucks per day" are considered to be minor, low-impact sources and are exempt from review for TACs. The proposed project would lead to an increase of approximately 104 vehicle trips per day.

11. Recycled materials that are processed at Premier recycle are described in the project description and include construction and demolition debris and other non-hazardous solid waste. The proposed expansion does not change the types of materials being processed.
12. The mitigation measures identified in the Air Quality section directly address the issue of visible dust from the project site.
13. Per the project description, materials recycled at the site are non-hazardous materials including construction and demolition debris, of which sheetrock is a typical component.
14. The Greenhouse Gas Analysis is consistent with the methodology spelled out in the BAAQMD CEQA Guidelines, which states that, "If a proposed project involves the removal of existing emissions sources, BAAQMD recommends subtracting the existing emissions levels from the emissions levels estimated for the proposed land use." (BAAQMD CEQA Guidelines, May 2001, p. 4-5) The subtraction of existing truck trips to landfills is consistent with that methodology.
15. See response #2, above.
16. The applicant has indicated that the proposed expansion will not require an increase in the number of employees. Per the noise report, any increase in noise from the site is largely due to the addition of the new sorting equipment at the site.
17. Industrial streets are designed to industrial standards to accommodate truck traffic.
18. The project is located along Leo Ave. which is a two-lane industrial cul-de-sac. The project is consistent with the adjacent land uses and the existing traffic is typical of an industrial street including a higher percentage of truck traffic. Based on the site plan and the traffic queuing analysis, the site can easily queue 3 large trucks on site and any given time and queuing on the street would not be necessary. In addition, the analysis indicates that during the highest hour of traffic, eleven (11) trucks could be expected during the hour with at most 2-3 trucks arriving simultaneously. Therefore the queue can be accommodated onsite.
19. As mentioned in Response #12, the mitigation measure in the Air Quality section directly addresses the issue of visible dust from the site. See response #10 regarding diesel particulate matter.

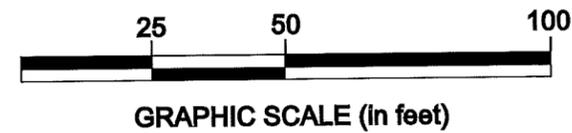
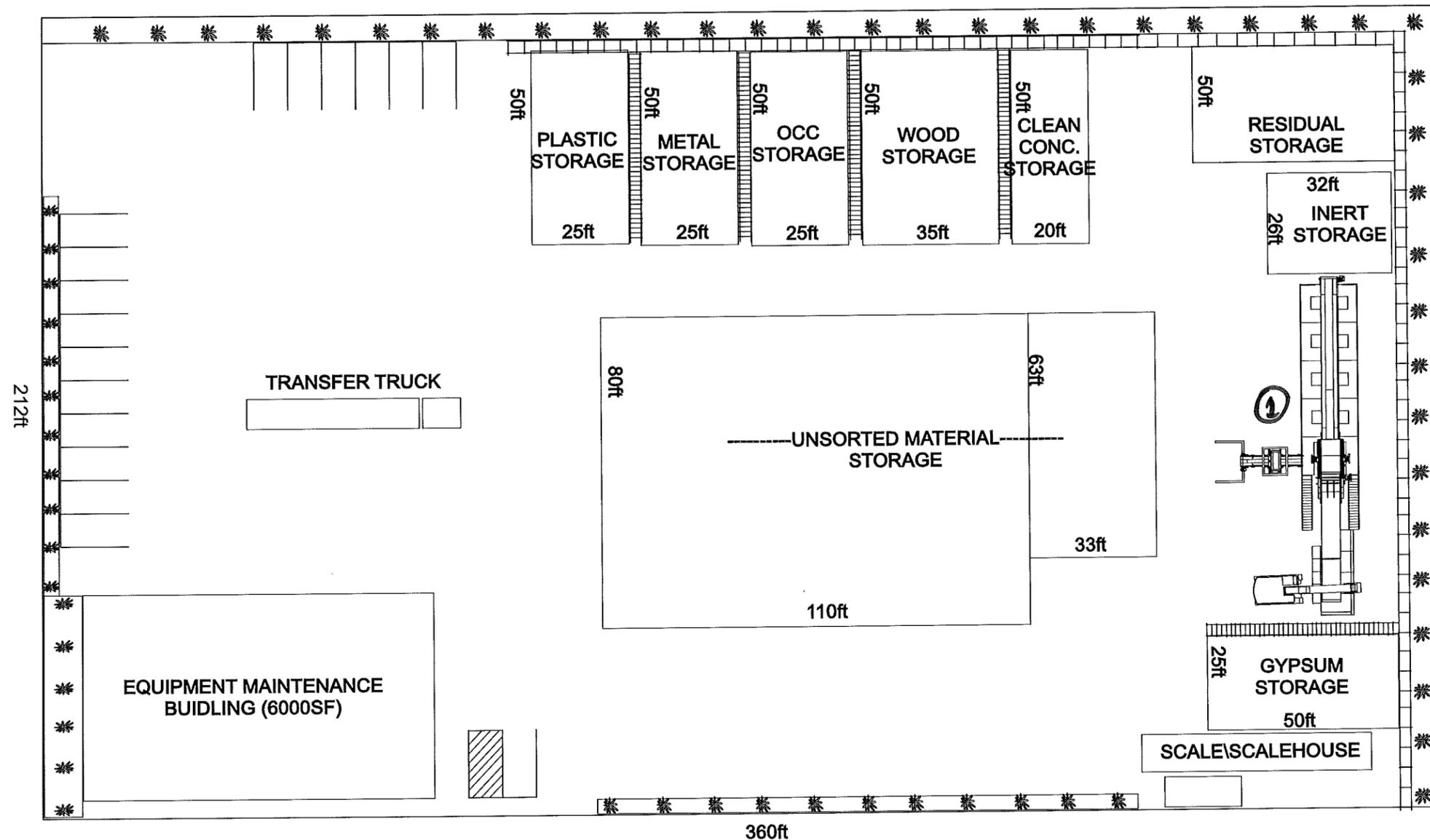
TEXT CHANGES

On p.3, fourth paragraph, under project description, **add** the following sentence before the last sentence:
“The hours of operation for the public component of the project are from 7 a.m. to 5 p.m. daily.”

On p.3, fourth paragraph, under project description, **add** the following sentence after the last sentence:
“Per the Tonnage Capacity Study, which is attached as Appendix 2, the site has a tonnage capacity of 607 tons per day.”

Replace p. 21, the site plan, with a new site plan calling out the location and orientation of the sort line.

After p. 32, **Add** Appendix 2 entitled, “Premier Recycle Sorting Facility Tonnage Capacity Study”.



Project Location:
260 Leo Avenue
San Jose, CA 95112

Assessor's Parcel Number
477-25-040

Total Gross Acres:
1.75

Total Net Acres:
1.61

Total Existing Floor Space:
6,000 SF

Existing On-Site Parking Spaces:
17 (1 ADA)
31 (if double parking
is utilized)

Existing On-street Parking
9

Notes:

1. Conveyor/Sort line
(see location on site plan)
2. Maximum height of piles
shall be 25 feet and shall not
be visible for the public
right-of-way

PHASE 2: SITE MAP/PILE DIMENSIONS

PREMIER RECYCLE FACILITY

Scale: As shown
Drawn by: Brock Hill
Date: May 2011



PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

File No. CPA97-011-01. Premier Recycle.

Project Description: Conditional Use Permit Amendment for an existing recycling facility to increase the amount of material received and/or transferred on site from the previously approved 300 tons to 550 tons daily, to extend operation hours to 24 hours a day, and to extend operations to Sundays on a 1.75 gross acre site. No new construction is proposed.

PROJECT LOCATION: 260 Leo Avenue, San Jose (South side of Leo Avenue, approximately 400 feet westerly of South 7th Street) APN 477-25-040. (Council District 7).

The City has performed environmental review on the project. Environmental review examines the nature and extent of any adverse effects on the environment that could occur if a project is approved and implemented. Based on the review, the City has prepared a draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment if protective measures (mitigation measures) are included in the project.

The public is welcome to review and comment on the draft Mitigated Negative Declaration.

The public comment period for this draft Mitigated Negative Declaration begins on **November 10, 2011**, and ends on **December 12, 2011**.

The draft Mitigated Negative Declaration, initial study, and reference documents are available online at: <http://www.sanjoseca.gov/planning/eir/MND.asp> .

The documents are also available for review from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

For additional information, please contact Jodie Clark at (408) 535-7818, or by e-mail at jodie.clark@sanjoseca.gov .

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 11/9/2011

Idun Davison
Deputy

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Premier Recycle

PROJECT FILE NUMBER: CPA97-011-01

PROJECT DESCRIPTION: Conditional Use Permit Amendment for an existing recycling facility to increase the amount of material received and/or transferred on site from the previously approved 300 tons to 550 tons daily, to extend operation hours to 24 hours a day, and to extend operations to Sundays on a 1.75 gross acre site. No new construction is proposed.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The site is located in the LI Light Industrial Zoning District at **260 Leo Avenue on San Jose** (South side of Leo Avenue, approximately 400 feet westerly of South 7th Street) APN 477-25-040.

COUNCIL DISTRICT: 7

APPLICANT CONTACT INFORMATION: Premier Recycle, attn: Brock Hill, 348 Phelan Avenue, San Jose, 95112

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. **AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

III. AIR QUALITY. Premier Recycle handles construction, demolition and residential recycling. In addition to trucks that transport bins to and from the recycling yard, the operations use loaders and excavators in processing and sorting the incoming material. Air Quality impacts may result from the movement of materials around the site. Implementation of the following mitigation measures will reduce the temporary construction impacts to a less than significant level.

MITIGATION MEASURES: The following practices shall be implemented to prevent visible dust emissions from leaving the site.

- Water all active areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site all paved access roads, parking areas, and staging areas; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.

IV. BIOLOGICAL RESOURCES. The project will not have a significant impact on biological resources, therefore no mitigation is required.

V. CULTURAL RESOURCES. The project will not have a significant impact on cultural resources, therefore no mitigation is required.

VI. GEOLOGY AND SOILS. The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. GREENHOUSE GAS EMISSIONS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS. The project will not have a significant hazards and hazardous materials impact, therefore no mitigation is required.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. LAND USE AND PLANNING. The project will not have a significant land use impact, therefore no mitigation is required.

- XI. MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.
- XIII. POPULATION AND HOUSING.** The project will not have a significant population and housing impact, therefore no mitigation is required.
- XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. TRANSPORTATION / TRAFFIC.** The project will not have a significant traffic impact, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.
- XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings beyond the air quality impacts previously identified, and therefore no additional mitigation is required.

File#: 478 11/10/2011

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 12, 2011**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulation period, from November 10, 2011 to December 12, 2011.



Deputy

Revised 5-6-11 jam