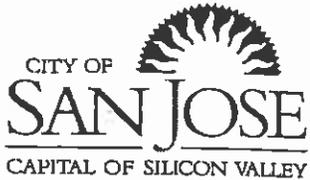


Appendix A Notice of Preparation (NOP) and Response Letters



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

**NOTICE OF PREPARATION
OF A
DRAFT ENVIRONMENTAL IMPACT REPORT
FOR THE
NEWBY ISLAND SANITARY LANDFILL AND THE RECYCLERY REZONING**

File number: PDC07-071
Applicant: AWIN Management for International Disposal Corp of California, Browning-Ferris Industries of California, Inc., and Los Esteros Ranch
APN: 015-40-003, 005; portion of 015-47-001

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this EIR may be used by your agency when considering subsequent approvals related to the project.

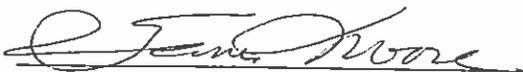
The project description, location, and probable environmental effects that will be analyzed in the EIR for the project are attached. According to state law, the deadline for your response is 30 days after receipt of this notice. However, we would appreciate an earlier response, if possible.

If you have any comments on this Notice of Preparation or the proposed project, please identify a contact person and send your correspondence to:

City of San Jose Planning Division, Attn: Janis Moore, Planner II
200 East Santa Clara Street, 3rd Floor, San Jose, CA 95113-1905
Phone: (408) 535-7815, e-mail: Janis.Moore@sanjoseca.gov

The Draft EIR for the Newby Island Sanitary Landfill Rezoning is currently being prepared. A separate EIR Notice of Availability will circulate when the Draft EIR becomes available for public review and comments (currently anticipated to begin in early 2008).

Joseph Horwedel, Director
Planning, Building and Code Enforcement


Deputy

December 3, 2007

INTRODUCTION. The purpose of an Environmental Impact Report (EIR) is to inform decision makers and the general public of the environmental effects of a proposed project that an agency may approve and implement. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment; to examine methods of reducing adverse impacts; and to consider alternatives to the project.

The EIR for the proposed project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR will include the following:

- A summary of the project;
- A project description;
- A description of the existing environmental setting, potential environmental impacts, and mitigation measures;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) the growth inducing impacts of the proposed project; (c) effects found not to be significant; and (d) cumulative impacts.

PROJECT LOCATION. The approximately 352-acre project site consists of the Newby Island Sanitary Landfill (NISL) and the adjacent Recyclery. The NISL property is approximately 342 acres in size. Immediately adjacent to the southeast, on a separate 10-acre property is The Recyclery, a materials recovery facility. Since the two operations (landfill and Recyclery) work together as an integrated operation, the project site is referred to as the “Newby Island Sanitary Landfill and The Recyclery.” The two properties are not owned by the same entities.

The project site is located within the City of San José at the western terminus of Dixon Landing Road. The NISL address is 1601 Dixon Landing Road, Milpitas. Although the address and public street access to the site are both in the City of Milpitas, the landfill property is entirely within the City of San José. Regional and vicinity maps are provided in Figures 1 and 2. An aerial photograph of the project site is provided in Figure 3.

The project site consists of three visually distinct subareas: (1) the approximately 325-acre sanitary landfill is the largest area and is the site of landfill activities; (2) the “D-shaped area” is approximately 17 acres in size, is located north of the main driveway just west of the entrance gate, and is currently used for offices and vehicle parking; and (3) the Recyclery which occupies most of a 10-acre parcel of land just south of the main driveway, west of the entrance gate, opposite the D-shaped area.

OVERVIEW AND DESCRIPTION OF THE PROJECT. The project proposes to rezone the 342-acre NISL and the adjacent 10-acre Recyclery from *R-M Multiple Residence, HI Heavy Industrial and A(PD) Planned Development Zoning Districts* to *A(PD) Planned Development Zoning District*. The proposed zoning would not change the lateral extent of the landfill footprint, but would raise the maximum height of the landfill to 245 feet above mean sea level (msl), adding approximately 15.12 million cubic yards to the capacity of the landfill. Presently, the landfill is designed and permitted to an elevation of 150 feet msl. The proposed zoning will update and clarify the legal non-conforming uses on NISL and will specify the allowable current and future uses. The project will not materially extend the life of the landfill beyond 2025 as identified in the NISL Closure Plan. The Recyclery will continue to operate after the landfill closes.

Background Information: Landfill Property. NISL is an important solid waste disposal facility for the cities of San José, Milpitas, Santa Clara, Cupertino, Los Altos, and Los Altos Hills. NISL is operated under permits issued to International Disposal Corp. of California (IDC). The property on which the landfill is located is owned by IDC, which is a wholly owned subsidiary of Browning-Ferris Industries of California, Inc. Newby Island is a Class III sanitary landfill facility as defined by the State Water Resources Control Board.¹

¹ Class III landfills accept non-hazardous municipal solid waste and meet specified requirements for protecting the environment [§20260 California Code of Regulations, Title 27].

NISL is a legal non-conforming land use in the City of San José. The site has been used as a landfill since the 1930's. It was annexed into the City of San José in 1968 as an operating landfill. The landfill area is currently designated as *Private Open Space* and *Public Park/Open Space* with a *Solid Waste Disposal Facility* overlay in the City's General Plan, with a small area having a *Heavy Industrial* designation. The landfill is zoned *R-M Multiple Residence Zoning District* with a small area zoned as *HI Heavy Industrial Zoning District*. The General Plan identifies the *Private Open Space* designation as appropriate to privately-owned lands used for "low intensity, open space activity primarily within the Urban Service Area." The *Solid Waste Disposal Facility* (SW) designation is used to identify active landfill sites. Uses allowed on sites with the SW designation include landfills and ancillary activities such as equipment maintenance, collection and processing of recycled materials, composting, and energy/transformation operations. The site is also within the boundary of the *Alviso Planned Community*. A portion of the parcel, referred to as the D-shaped area, has a General Plan designation of *Light Industrial* and is currently zoned *R-M Multiple Residence Zoning District*.

Under current California Integrated Waste Management Board (CIWMB) landfill permits (*Joint Technical Document Permit No. 43-AN-0003*), approximately 313 acres of the permitted landfill area will continue to be used for refuse disposal. This area is bounded by a perimeter levee. Approximately 29 acres consists of sloughs and marshland outside of the perimeter levee. The D-shaped area is a visually distinct area that is also part of the permitted landfill. The project site takes almost all access from Dixon Landing Road and contains various paved and temporary roads.² Under existing permits, landfill activities and final grading will achieve a maximum height of approximately 150 feet msl.

Recyclery Property. The Recyclery, which is a materials recovery facility (MRF), is located on a 10-acre portion of property owned by Los Esteros Ranch, a partnership. The Recyclery property is subject to a long-term lease to Browning-Ferris Industries of California, Inc ("BFIC"). BFIC has a permit to operate a Material Recovery Facility, a Processing Facility, and a Transfer Station on the Recyclery property. BFIC built the Recyclery on the property. The first Solid Waste Facilities Permit was issued for its operation in 1991, and it has operated continuously since that time. The site is designated *Public/Quasi-Public* on the General Plan and is zoned *A(PD) Planned Development Zoning District*. The Recyclery is also located within the boundary of the *Alviso Planned Community*.

The *Public/Quasi-Public* land use designation is intended for public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports. Joint development projects that include public and private participation – such as integrated convention center/hotel/restaurant complex – are allowed. This category is also used to designate lands used by some private entities, including public utilities and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications.

The proposed zoning would allow two phases of development associated with The Recyclery property. Phase I may include up to three buildings that may be used for recycling and administration, as defined:

Office and administrative functions, a public recycling and buyback center, a recycling education center, and a materials recovery center. The materials recovery center will receive a number of recyclable solid waste materials for processing. Materials will be extracted from the mixed waste stream through a series of mechanical and manual sorting systems. These materials will be composed primarily of one or more of the following components: paper, plastic, glass, metal, wood, or rubber. No burning of waste materials or recycled commodities is planned on-site.

Phase II of the development allowed by the proposed zoning covers the paved area west of the main Recyclery building. The paved area is approximately 100,000 square feet (or 2.3 acres) in size. The paved area for Phase II could be used for the expansion of the existing Recyclery building (the expanded portion would have a maximum height of 45 feet or 75 feet if public utility facilities such as radio towers/antennas and monopoles

² Unpaved access exists between the Newby Island property and the adjacent San José/Santa Clara Water Pollution Control Plant. This non-public access is only used by the City and other regulatory agencies.

were included), or for preliminary processing of green waste and/or wood waste. The proposed zoning defines in detail the purpose of the preliminary processing of green waste and/or wood waste, the actions it can include and the limitations on the activities.

The area of the property will not be used to process food waste or solid waste other than wood waste and/or green waste. Contaminants (which are defined to mean anything other than wood waste and/or green waste) found in loads of wood waste and/or green waste will be removed and disposed at a sanitary landfill. Recyclables, such as paper, plastic, glass and metal, will be processed at The Recyclery for recycling. Hazardous materials found in loads will cause such loads to be returned to the generator or, if the generator cannot be identified, the hazardous materials will be received and disposed in conformance with all relevant State and Federal regulations.

Waste Type and Volume. General wastes, or non-hazardous solid wastes which require no special handling prior to disposal are accepted at NISL and include mixed municipal wastes (residential and commercial), industrial wastes, agricultural wastes, and construction/demolition wastes. Other non-hazardous wastes and universal wastes accepted at NISL for recycling, beneficial use, or disposal include tires, car batteries, low-level contaminated soils, dredged soils, construction and demolition debris, and carpet.³ High liquid content wastes, or wastes that contain more than 50 percent water by weight, are not accepted at NISL except for sludges that meet specific criteria which are accepted for disposal in the lined areas of the landfill with a leachate collection and recovery system (LCRS). Designated wastes and hazardous wastes are also not accepted at NISL.

Materials that come in the gate of the NISL include waste that is disposed in the landfill; clean soil that is used for cover and for temporary roadways; construction and demolition (C&D) debris that is sorted, recycled, and processed for re-use both on-site and elsewhere; and materials that are used for alternate daily cover, which include but are not limited to sludge from the WPCP, low-level contaminated soil, source separated municipal green waste, and over-sized materials from the site composting operations. In addition to C&D waste, bulky recyclables are sent to NISL and either recycled or diverted for beneficial use, including appliances, tires, carpet, and cardboard.

Since 1998, waste quantities disposed have varied from an average of 2,560 tons of waste per day (tpd) in 1998 to 2,089 tpd in 2002. In 2006, the average tpd was 2,142. Since 1990, disposal volumes received at NISL have dropped steadily to their current level due to increased recycling, beneficial uses, and other diversions and reduction efforts. However, waste volumes may increase in the future as other landfills in the area close and more waste is directed to NISL.

NISL's current solid waste facility permit (SWFP) allows it to accept an annual average of 3,260 tpd of waste disposed and a maximum of 4,000 tpd on any one operating day. The current SWFP tonnage limits equate to a maximum of approximately 1.2 million tons of solid waste disposed per year.

The Recyclery is permitted as a MRF, a transfer station, and a processing facility. Its SWFP identifies its maximum permitted capacity as 1,600 tpd.

Existing and Proposed Operations. The following discussion contains a summary description of all substantial elements of the existing operations on the site, most of which are anticipated to continue through the life of the landfill. At those locations where changes would be allowed by the proposed zoning, the types of changes proposed are also discussed below.

The description of the existing facilities, specific activities, and operations are summarized from the most recently revised *Joint Technical Document Permit No. 43-AN-0003 (JTD)* for the Newby Island Landfill. The current approved JTD was prepared in February 2007. The JTD was prepared in conformance with state and federal regulations, and submitted to the oversight agencies to document conditions on the site and consistency

³ Beneficial use refers to use of a waste product for another purpose, sometimes requiring minor processing. Beneficial uses of waste material received at Newby Island include utilization of concrete waste for all weather pads on the landfill, and use of fines from the construction and demolition debris recycling operation for cover material. While the term beneficial use is sometimes used as a synonym for recycling, for clarity it is only used in this EIR to mean that it is re-used on the project site.

with permits. The JTD includes more detail than is included in this Project Description and a copy may be reviewed in the office of the City of San José Department of Planning, Building and Code Enforcement during normal business hours. The JTD is also on file with the Local Enforcement Agency, the San Francisco Bay Regional Water Quality Control Board, and the California Integrated Waste Management Board.

Figure 4 shows the existing site plan for NISL. Primary components of the combined facility include:

- Materials Recovery Facility: The Recyclery
- Hauling Company Offices and Shops
- Recyclery/Landfill Scales
- Landfill Gas to Energy Plants/Landfill Gas Export Plant
- Landfill Gas Flares
- Landfill Offices
- Construction and Demolition Recycling Area
- Maintenance Shops
- Stormwater Detention Pond
- Leachate Management System
- Fueling Facilities
- Compost Windrows

Each of these components is described briefly below.

Materials Recovery Facility: The Recyclery. As stated previously, The Recyclery (or MRF) is on a separate 10-acre parcel that is also owned separately from the landfill. The existing zoning for The Recyclery allows recycling and administration, outdoor processing of green waste and wood waste, and storage.

The Recyclery is located near the primary entrance to the site, on the south side of the main access road. The Recyclery processes source separated materials for recycling including wood waste, green waste, food waste, glass, paper, metals, and plastic. Outside The Recyclery, in a paved lot west of the building and within the Recyclery site boundary, organic wastes are stockpiled, ground and processed (refer to Recyclery Greenwaste Receiving and Grinding Area on Figure 4). Lumber received at the Recyclery is also ground, some of it is processed (screened and/or colorized), for sale off-site (see Recyclery Clean Lumber Reclamation and Processing area on Figure 4). The organic materials that are composted are transported to the compost windrow area on the landfill for composting (see composting windrows on Figure 4), curing, and screening. Some of the wood waste that is not dimensional lumber is also ground and sold off-site for fuel.

The Recyclery will continue to operate as a materials recovery facility on a parcel separate from the landfill. As markets, programs, and technologies change over time, it is likely that the materials coming into The Recyclery, the materials recovered, and the technologies used to process them will change accordingly. Some of the recyclable materials that come into The Recyclery will continue to be processed or managed on the landfill site, including wood waste and green waste. The zoning also proposes to allow preliminary processing of food waste on the paved area west of the Recyclery, which is incorporated into the composting operation elsewhere on the site. Some of the recyclable materials separated out of mixed waste loads delivered to the landfill will also continue to be transferred to and processed at The Recyclery, consistent with current operations.

BFIC is also proposing to continue uses on the Recyclery property that are not directly related to the operation of the Recyclery, as described below.

Hauling Company Offices and Maintenance Facility. An affiliate of BFIC, Allied Waste Services of North America, LLC operates as a waste collection company that collects municipal solid waste from commercial and residential sources, and maintains their offices and maintenance facility at the Newby Island Sanitary Landfill and The Recyclery. The offices and maintenance facility are located in two buildings located on part of the Recyclery site, south of the main access road. Trailers that are additional office space and employee locker rooms are located on the D-shaped area that is part of the permitted landfill, north of the main access road and

across from The Recyclery and hauling company offices. Waste collection equipment and trucks, as well as employee vehicles, are also parked on the D-shaped area.

Planned operations will continue to include the hauling company's maintenance facility and offices on the D-shaped area and the easterly portion of the Recyclery property, although some reconfiguration of the uses (*i.e.*, the offices and maintenance facility as well as the recycling activities) is likely. Over time, the trailers may be replaced with permanent buildings.

Recyclery/Landfill Scales. There are three scale houses and four scales that serve the landfill; three of the scales are for inbound traffic and one is for outbound traffic. All are located on the main access road west of the D-shaped area. In addition, the Recyclery has three scales and one scale house near its entrance; one scale is for inbound loads and two are for outbound. At least one scale and scale house is manned at all times during operating hours.

It is anticipated that the four landfill scales will need to be moved east, closer to the site entrance, as landfill activities continue. Depending on the final configuration, the scales may have to be located on the D-shaped area to accommodate queuing.

Landfill Gas to Energy Plants/Landfill Gas Export Plant/Flares. Gas Recovery Systems, Inc. (GRS) currently owns and operates an electricity generating facility on the southeastern portion of the landfill site that collects landfill gas through a system of wells and headers. The facility uses landfill gas to produce an average of 4,200 kilowatts (kW) per day of electricity using a flow of approximately 2,200 cubic feet of landfill gas per minute. Additionally, GRS treats and compresses up to 1,500 CFM of landfill gas for pipeline export to the San Jose WPCP for use in their wastewater treatment operations. GRS can currently process a total of 3,700 cubic feet per minute (CFM), and additional plant capacity can be added as needed.

NISL currently maintains two landfill gas destruction flares as back-up to the GRS facility. Landfill gas must be destroyed or otherwise properly managed for air quality purposes. The GRS facility accomplishes this but must be backed-up by other landfill gas destruction devices. The existing flares are located near the westernmost point of the D-shaped area. Historically, NISL has not had to operate the flares when the GRS facility is operating. The flares are, however, operable as necessary.

The GRS facility is located within the designated landfill development area and accordingly will need to be relocated when the area is developed for waste disposal. The facility will most likely be relocated to the east, onto the D-shaped area. The landfill operator would also like to utilize some of the energy generated by the plants for on-site operations in the future. The flares will remain operable for regulatory conformance; as landfill gas production increases relative to the GRS plants' capacity, the flares may operate more often.

Landfill Offices. The NISL offices are located on the northeast corner of the landfill. There are two office trailers and parking is available for employees and visitors adjacent to the trailers.

The offices are located on a portion of the landfill that has been built to its final design height. As such, the offices are not proposed to be moved until the site is ready to receive its final cover. However, the offices could be relocated in association with future site activities.

Construction and Demolition Recycling Area. A salvage/recovery program for C&D waste is located in the central portion of the landfill. Truckloads of C&D waste are directed to that part of the site to unload. The operation includes sorting, separation of materials by types, and some on-site processing. An example of processing would be concrete crushing to create base rock and wood grinding. Currently there is an elevated picking line for extracting recyclable or reusable materials from mixed loads. Materials recycled from the mixed loads currently include metal, drywall, wood, roofing, cardboard and other construction paper products, and plastics.

Asphalt, concrete, dirt, and rock may be diverted and stockpiled for use onsite for road surfacing or to construct working pads.

The equipment used for recycling C&D waste is portable. The location of the processing operation will be moved as necessary to accommodate landfill development and final grading up to and including installation of final cover. Criteria for relocation will include off-site visibility and compatibility with adjacent uses. As with all other recycling operations, it is anticipated that changes in both the materials diverted and the equipment used to process the materials may occur in the future to reflect market demands, advances in processing technology, and changes in the incoming material stream.

Salvaging at the Landfill. Salvaging at the working face of the landfill is a traditional activity that occurs at most operating landfills. In modern landfill operations, this refers to managed salvaging, on behalf of the landfill owner/operator, and is conducted to increase diversion from the landfill. All salvaged materials are tracked and reported as diverted from disposal. "Informal" salvaging done by either employees, or customers, on their own behalf, is not allowed. Salvaging may occur from the active filling area, or landfill employees may direct loads (such as C&D waste) to a designated area away from the active filling area. Salvage is usually stockpiled near the active area and is subsequently removed for processing and recycling. Salvage activities would likely not significantly change during the landfill's operating life.

Landfill Maintenance Shop. A 120-foot by 80-foot corrugated metal building in the central portion of the landfill site is used for landfill equipment and vehicle repair and maintenance. Hazardous materials, used for equipment maintenance, are also stored in the building in accordance with the site's Hazardous Materials Management Plan (HMMP). As described below, there is a fueling station next to the shop building.

The maintenance shops may be relocated on a different part of the landfill or to the D-shaped area when landfill phasing requires that waste be disposed at their current location. The fueling station will be located with the maintenance facility.

Stormwater Detention Pond. All surface stormwater runoff and subdrain water within the facility is diverted and channeled within a series of drainage ditches and berms or in pipes to the stormwater retention pond located in the southern portion of the site. The water is tested quarterly to confirm that it meets standards set by the Regional Water Quality Control Board (RWQCB) for discharge. Water is not discharged until it meets the appropriate standards.

The stormwater detention pond may be relocated off-site and the on-site drainage conveyed (either by gravity flow or by pumping) to that location.

Leachate Management System. Leachate from all 14 sumps on the landfill is pumped to 12 mobile storage tanks currently located adjacent to the landfill maintenance shop in the center of the site, where it is then loaded into tanker trucks for transport to a permitted treatment plant. The site currently generates leachate at an average rate of approximately 7,404,000 gallons per year (2006).

The leachate holding tanks and ancillary facilities may be relocated to the D-shaped area. A pipeline conveying leachate may be constructed to the adjacent San Jose WPCP.

Fueling Facilities and Hazardous Materials. An 8,000-gallon above ground diesel fueling station is located on the central portion of the landfill site near the C&D recycling area. The tank is used to fuel on-site equipment and to refill a 2,500-gallon diesel dispensing truck. Site vehicles are fueled at a 500-gallon above-ground unleaded fueling station located near the landfill maintenance building.

Hazardous materials collected during load checking and found on the working face are stored in a special container near the C&D recycling area. Other hazardous materials used or generated on-site are stored in tanker trucks and in double contained tanks in the shops.

The diesel fueling station may be moved to the D-shaped area. The 500-gallon tank may be moved if the maintenance building is moved.

Compost Windrows. As described above, incoming organics, which includes green waste, food waste, and wood waste destined for composting are first processed (including grinding) at The Recyclery. The materials are then hauled in walking-floor trucks to a location that is currently near the northerly end of the landfill and most of the green waste is composted in turned windrows. The food waste is typically mixed with other compostable materials (such as green waste) and is then composted in either aerated static piles or in-vessel composting equipment. The permitted compost processing area currently utilizes approximately 18 acres of the landfill site, including the open windrows and curing areas, aerated static piles, and in-vessel composting. After the compost has cured, most of the compost is loaded in transport trucks and hauled to customers off-site. A small portion of the completed compost may be kept on-site for sale to small quantity (e.g., residential) customers. The compost operation processes a maximum of 980 tpd of throughput annually.

The composting area may be relocated to different areas of the landfill property in order to allow for landfill development.

Site Capacity/Life Projection. As discussed above, NISL's refuse disposal area consists of approximately 313 acres. The total facility capacity is determined based on the difference between the pre-landfill topography and the final disposal area contours. This capacity is expressed as "airspace." The existing design and associated permits specify that the landfill can only be constructed to elevation 150 feet msl. IDC estimates that the landfill property will be fully built out around 2025 (JTD, February 2007).

Remaining currently designed and permitted airspace as of March 2006 was about 10.7 million cubic yards. With the proposed redesign, approximately 26 million additional cubic yards can be landfilled at the NISL. Vertical expansion to elevation 245 feet msl would provide a maximum of approximately 15.12 million cubic yards of additional capacity.

The proposed redesign would specify filling to an elevation of 245 feet msl. Regardless of the design, landfill activities are anticipated to be completed around 2025.

End Use of the Site. All of the existing and future operations will combine to leave the site in condition for final closure in 2025. After landfill activities have ceased, final cover will be installed as will the appropriate monitoring systems. Currently, the final use for most of the NISL is planned to be passive open space indefinitely. Part of the NISL will be used for ongoing environmental control and monitoring facilities, consistent with the final closure plan. Other than the proposed height increase and associated grading changes, the currently proposed project does not propose any change in the closure plan or the planned end use. The Recyclery will continue to operate after the landfill closes.

CHANGES PROPOSED BY THE PROJECT. As discussed above, the NISL is a legal non-conforming use. The project proposes to rezone the project site to *A(PD) Planned Development Zoning District* to recognize the current landfill and related operations and practices, and increase the permitted top elevation of the landfill from 150 feet msl to 245 feet msl. This increase in elevation will increase the capacity of the landfill by approximately 15.12 million cubic yards, excluding cover materials.

In addition to the increased height and capacity, the project includes some refinements to the existing site plan and incremental changes in operations that may be necessary or desirable for the remaining life of the landfill. Some of the incremental changes were also referred to in the description of existing operations and improvements in the previous section.

Specific physical changes include the following:

Landfill Site Plan/Operations

- The top elevation of the landfill will be increased, compared to both existing and permitted conditions. The existing landfill height where the additional height is proposed varies between 100

and 130 feet msl⁴, and the currently approved permit allows a maximum of 150 feet msl. The proposed permitted height would be increased to 245 feet msl, which will add approximately 15.12 million cubic yards of capacity beyond that already permitted;

- The landfill maintenance shop may be relocated to either a different portion of the landfill area or the D-shaped area;
- The fueling station may be relocated to the D-shaped area;
- An off-site stormwater detention pond may be constructed on nearby land owned by the City of San José;
- The existing landfill scales will be relocated to the east, possibly on the D-shaped area in order to allow sufficient queuing distance.
- Leachate management system (holding tanks and ancillary facilities) may be relocated to the D-shaped area;
- Construction and demolition materials recycling, tire shredding, rock crushing, and concrete processing may be relocated to a different part of the landfill area and expanded to include recycling of carpet and/or other types of bulky materials;
- Transporting leachate to the City of San Jose publicly owned treatment works (POTW) by pipe, instead of truck.

Composting

- The compost windrows may be moved to one or more different locations on the landfill.

Hauling Company

- Hauling company employee locker room, shop, and offices may be located on the Recyclery property or D-shaped area;

Other Operations

- The GRS plant (see Landfill Gas to Energy Plants and Landfill Gas Export Plant on Figure 4) may be relocated to the east, probably to D-shaped area;
- Biosolids may be used as a constituent of interim or final cover, to facilitate vegetation;
- Import additional soil, if necessary for operations or closure;
- Import bentonite, or similar soil, for liner construction, or closure;
- Utilize landfill gas for on-site energy needs;
- Implement operational or physical changes necessary to reduce greenhouse gas emissions;
- Implement operational or physical changes necessary to comply with existing and new regulations; and
- Direct piping of leachate, condensate, or other wastewaters generated on-site to the San José/Santa Clara Water Pollution Control Plant.
- Other emerging technologies having no greater or substantially different environmental impacts than the project elements addressed above.

POTENTIAL ENVIRONMENTAL IMPACTS OF THE PROJECT. The EIR will describe the existing environmental conditions on the project site and will identify the significant environmental impacts anticipated to result from the proposed project. Where potentially significant environmental impacts are identified, the EIR will also discuss mitigation measures to avoid or reduce significant impacts, as appropriate. The analysis in the EIR will include the following specific categories of environmental impacts and concerns related to the proposed projects. Additional subjects may be added at a later date, as new information comes to light.

Land Use and Aesthetics: The EIR will describe existing operations and surrounding land uses, including The Recyclery. The visual appearance of the site as viewed from off-site, including the Refuge, nearby industrial

⁴ Since this is within the active landfill area, the elevation changes continuously.

and commercial development, and the proposed Bay Trail alignment will be addressed. Land use compatibility issues of the proposed project will also be addressed.

Geology and Soils: The EIR will address geology and soils impacts, including slope stability, impacts from additional waste and soil placed at the project site, soil erosion, and grading impacts.

Biological Resources: The EIR will address biological resources on-site and in the vicinity of the site. Direct and indirect impacts of the proposed project on sensitive habitats and special-status species will be identified.

Hydrology and Water Quality: The EIR will address existing drainage and flooding conditions of the project site, as well as the project site's stormwater control system. Drainage and flooding impacts from the proposed project will be discussed.

Transportation: The EIR will describe the existing traffic conditions in the project area and analyze the proposed project's impacts on the transportation system.

Air Quality: The EIR will discuss the project's impacts on local and regional air quality.

Noise: The EIR will describe existing noise conditions and noise impacts resulting from the proposed project.

Recreation: Recreational facilities in the immediate area include an extension of the regional Bay Trail and the existing Wildlife Refuge. The EIR will discuss any adverse effects on recreational facilities that could occur if the project is implemented as proposed.

Cultural Resources: The EIR will discuss the potential for archaeological resources to be present on the site and possible impacts of the project on cultural resources.

Hazardous Materials: The EIR will describe any existing contamination on-site and analyze possible hazardous materials impacts resulting from the proposed project.

Utilities and Service Systems: The EIR will discuss the ability of existing infrastructure on-site and in the project area to serve the proposed project.

Energy: The EIR will describe current energy demand from existing operations on the site and describe potential impacts associated with the proposed project.

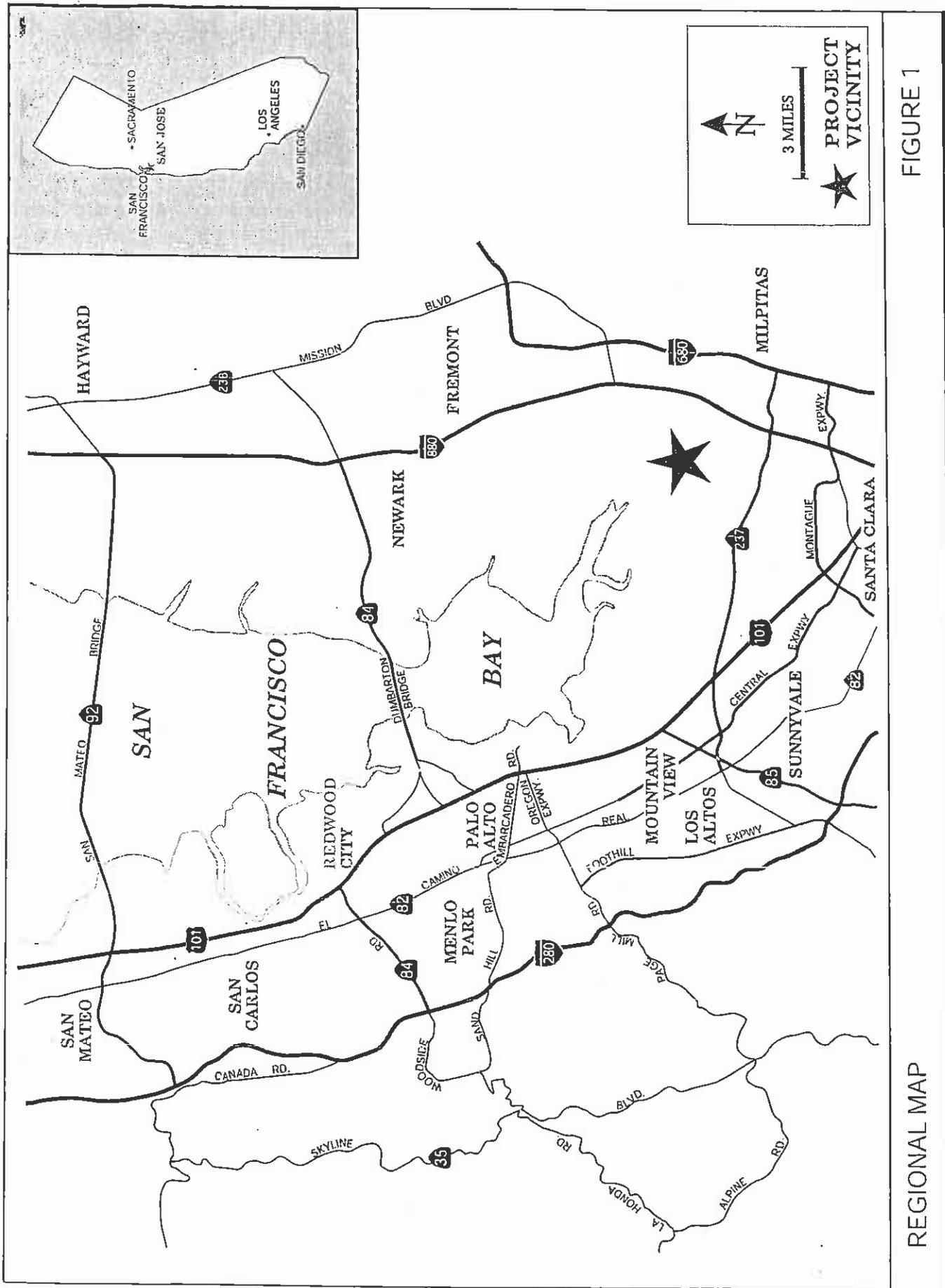
Global Climate Change: The EIR will include a broad discussion of global climate change. The EIR will describe the regulatory context surrounding the issue of global climate change and evaluate the project's greenhouse gas emissions and contribution to global climate change.

Availability of Public Facilities and Services: The EIR will discuss the availability of public facilities and service systems, and the likelihood for the project to require the construction of new facilities.

Cumulative Impacts: The EIR will address significant cumulative impacts of the project when considered with other past, present, and reasonably foreseeable future projects in the area.

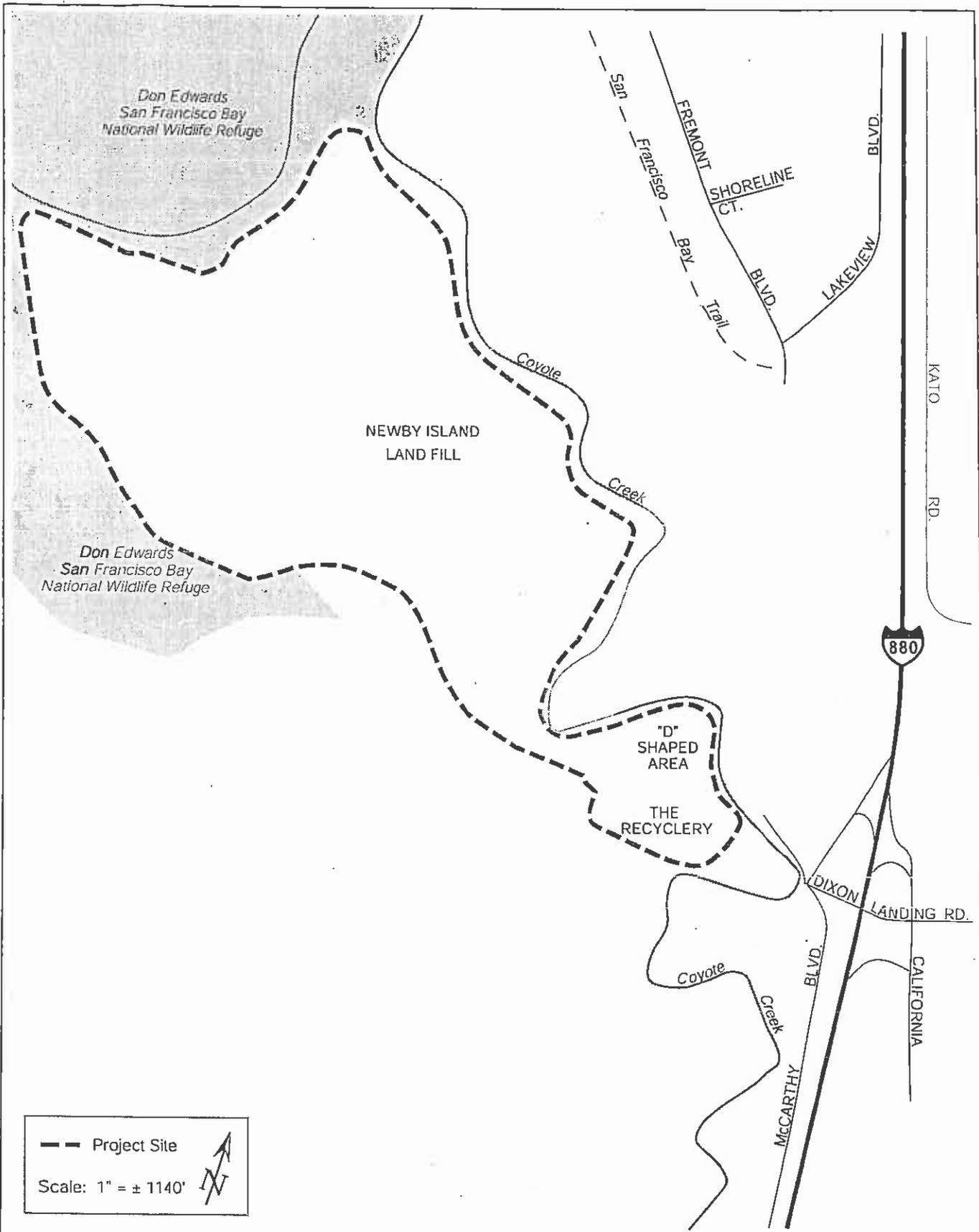
Growth Inducing Impacts: The EIR will address the potential for significant growth inducing impacts of the project.

Alternatives to the Project: Alternatives to the project as proposed, including a "No Project" alternative, will be addressed. This section of the EIR will focus on alternatives that would reduce or avoid any significant, adverse impacts identified as resulting from the proposed project.



REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2

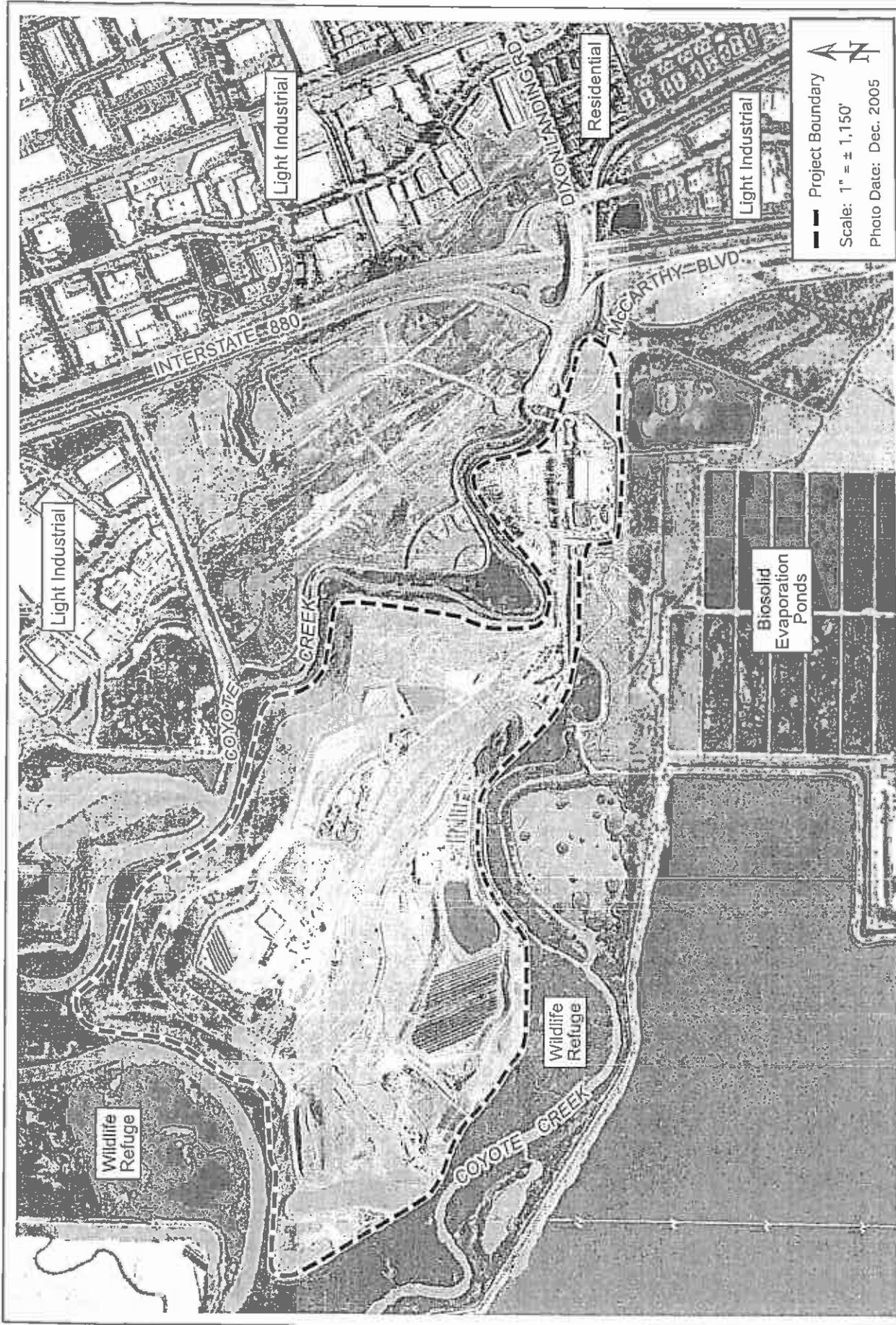


FIGURE 3

AERIAL PHOTOGRAPH

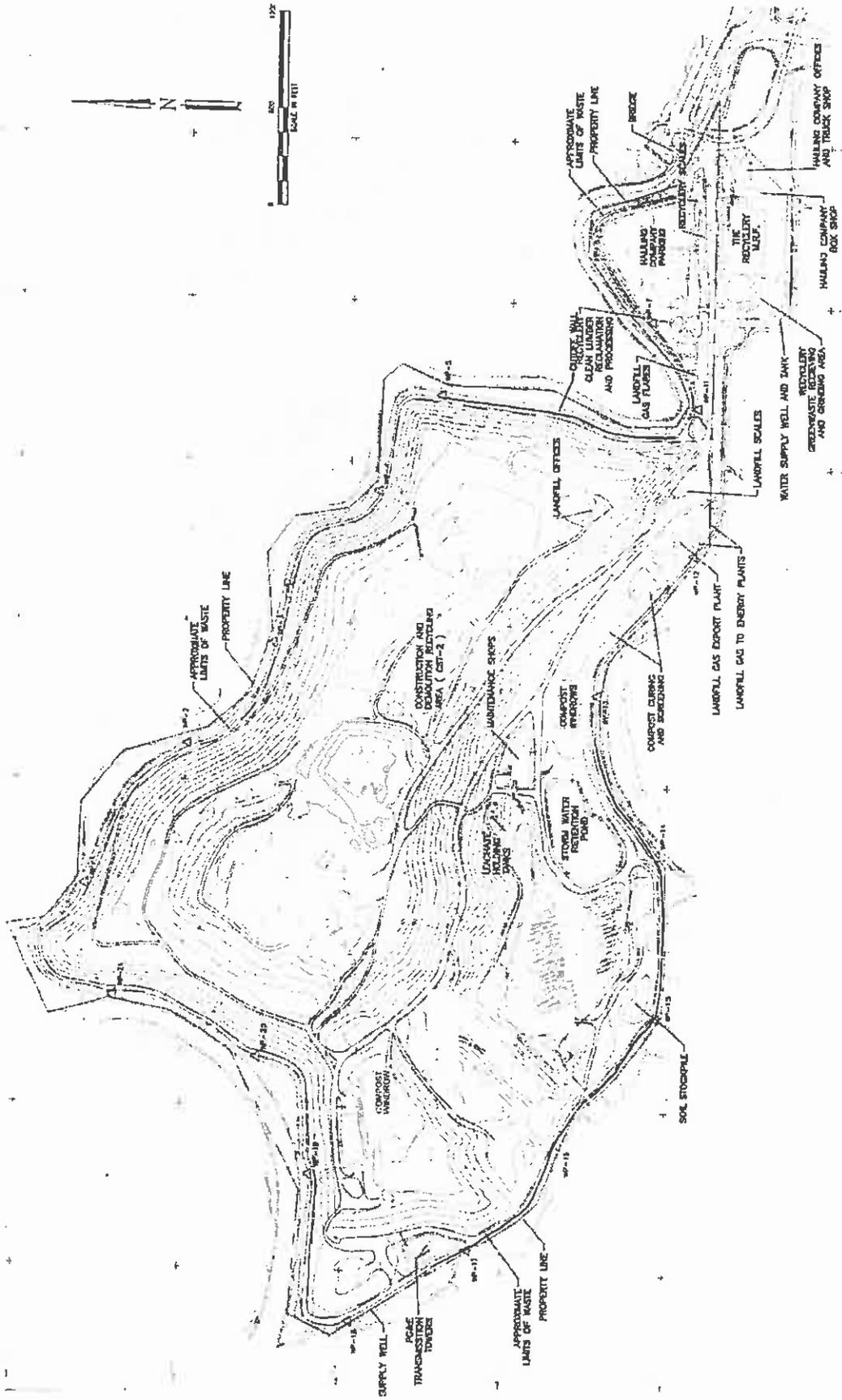


FIGURE 4

EXISTING SITE PLAN



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
 STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER
 GOVERNOR

CYNTHIA BRYANT
 DIRECTOR

Notice of Preparation

December 5, 2007



To: Reviewing Agencies

Re: Newby Island Sanitary Landfill & The Recyclery Planned Development Rezoning (File No. PDC07-071)
 SCH# 2007122011

Attached for your review and comment is the Notice of Preparation (NOP) for the Newby Island Sanitary Landfill & The Recyclery Planned Development Rezoning (File No. PDC07-071) draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Janis Moore
 City of San Jose
 200 East Santa Clara Street
 San Jose, CA 95113-1905

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
 Project Analyst, State Clearinghouse

Attachments
 cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2007122011
Project Title Newby Island Sanitary Landfill & The Recyclery Planned Development Rezoning (File No. PDC07-071)
Lead Agency San Jose, City of

Type NOP Notice of Preparation
Description Planned Development Rezoning of approximately 352 acres from the R-M, HI, and A(PD) Planned Development Zoning Districts to an A(PD) Planned Development Zoning District to recognize the current landfill and related operations and practices and increase the permitted top elevation of the landfill from 150 to 245 feet msl to allow an increase in the capacity of the landfill by approximately 15.12 million cubic yards, excluding cover materials. The project also includes some refinements to the existing site plan and incremental changes in operations that may be necessary for the remaining life of the landfill.

Lead Agency Contact

Name Janis Moore
Agency City of San Jose
Phone (408) 535-7815 **Fax**
email
Address 200 East Santa Clara Street
City San Jose **State** CA **Zip** 95113-1905

Project Location

County Santa Clara
City San Jose
Region
Cross Streets Dixon Landing Road and McCarthy Boulevard, west of Highway 880
Parcel No. 015-40-003, 005; northern portion of 015-47-001
Township **Range** **Section** **Base**

Proximity to:

Highways 237, 680, 880
Airports
Railways UPRR
Waterways Coyote and Lower Penitencia Creeks, Don Edwards S.F. Bay National Wildlife Refuge
Schools Santa Clara and Milpitas Unified School District
Land Use Sanitary Landfill and Recyclery / R-M Multiple Residence Zoning District, HI Heavy Industrial Zoning District, A(PD) Planned Development Zoning District (Recyclery) / Public/Quasi-Public, Private Open Space, Public Park/Open Space, Light Industrial

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Growth Inducing; Landuse; Noise; Other Issues; Public Services; Recreation/Parks; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 2; Department of Parks and Recreation; Native American Heritage Commission; Integrated Waste Management Board; Public Utilities Commission; Cal Fire; Department of Fish and Game, Region 3; California Energy Commission; California Highway Patrol; Caltrans, District 4; Air Resources Board, Major Industrial Projects; Department of Toxic Substances Control

Date Received 12/05/2007 **Start of Review** 12/05/2007 **End of Review** 01/03/2008

<input type="checkbox"/> Fish & Game Region 2 Banky Curtis	<input type="checkbox"/> Public Utilities Commission Ken Lewis	<input type="checkbox"/> Caltrans, District 8 Dan Kopulsky	<input type="checkbox"/> Regional Water Quality Control Board (RWQCB)
<input checked="" type="checkbox"/> Fish & Game Region 3 Robert Floerke	<input type="checkbox"/> Santa Monica Bay Restoration Guangyu Wang	<input type="checkbox"/> Caltrans, District 9 Gayle Rosander	<input type="checkbox"/> RWQCB 1 Cathleen Hudson North Coast Region (1)
<input type="checkbox"/> Fish & Game Region 4 Julie Vance	<input type="checkbox"/> State Lands Commission Jean Satino	<input type="checkbox"/> Caltrans, District 10 Tom Dumas	<input checked="" type="checkbox"/> RWQCB 2 Environmental Document Coordinator San Francisco Bay Region (2)
<input type="checkbox"/> Fish & Game Region 5 Don Chadwick Habitat Conservation Program	<input type="checkbox"/> Tahoe Regional Planning Agency (TRPA) Cherry Jacques	<input type="checkbox"/> Caltrans, District 11 Mario Orso	<input type="checkbox"/> RWQCB 3 Central Coast Region (3)
<input type="checkbox"/> Fish & Game Region 6 Gabrina Gatchel Habitat Conservation Program	<input type="checkbox"/> Business, Trans. & Housing	<input type="checkbox"/> Caltrans, District 12 Ryan P. Chamberlain	<input type="checkbox"/> RWQCB 4 Teresa Rodgers Los Angeles Region (4)
<input type="checkbox"/> Fish & Game Region 6 I/M Gabrina Gatchel Inyo/Mono, Habitat Conservation Program	<input type="checkbox"/> Caltrans - Division of Aeronautics Sandy Hesnard	<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> RWQCB 5 Central Valley Region (5)
<input type="checkbox"/> Dept. of Fish & Game M George Isaac Marine Region	<input type="checkbox"/> Caltrans - Planning Terri Pencovic	<input type="checkbox"/> Airport Projects Jim Lerner	<input type="checkbox"/> RWQCB 5F Central Valley Region (5) Fresno Branch Office
<input type="checkbox"/> Other Departments	<input type="checkbox"/> California Highway Patrol Shirley Kelly Office of Special Projects	<input type="checkbox"/> Transportation Projects Ravi Ramalingam	<input type="checkbox"/> RWQCB 5R Central Valley Region (5) Redding Branch Office
<input type="checkbox"/> Food & Agriculture Steve Shaffer Dept. of Food and Agriculture	<input type="checkbox"/> Housing & Community Development Lisa Nichols Housing Policy Division	<input type="checkbox"/> Industrial Projects Mike Tollstrup	<input type="checkbox"/> RWQCB 6 Lahontan Region (6)
<input type="checkbox"/> Dept. of General Services Public School Construction	<input type="checkbox"/> Dept. of Transportation	<input type="checkbox"/> California Integrated Waste Management Board Sue O'Leary	<input type="checkbox"/> RWQCB 6V Lahontan Region (6) Victorville Branch Office
<input type="checkbox"/> Dept. of General Services Robert Sleppy Environmental Services Section	<input type="checkbox"/> Caltrans, District 1 Rex Jackman	<input type="checkbox"/> State Water Resources Control Board Regional Programs Unit Division of Financial Assistance	<input type="checkbox"/> RWQCB 7 Colorado River Basin Region (7)
<input type="checkbox"/> Dept. of Health Services Veronica Malloy Dept. of Health/Drinking Water	<input type="checkbox"/> Caltrans, District 2 Marcelino Gonzalez	<input type="checkbox"/> State Water Resources Control Board Student Intern, 401 Water Quality Certification Unit Division of Water Quality	<input type="checkbox"/> RWQCB 8 Santa Ana Region (8)
<input type="checkbox"/> Independent	<input type="checkbox"/> Caltrans, District 3 Jeff Pulverman	<input type="checkbox"/> State Water Resources Control Board Steven Herrera Division of Water Rights	<input type="checkbox"/> RWQCB 9 San Diego Region (9)
<input type="checkbox"/> Commissions/Boards	<input checked="" type="checkbox"/> Caltrans, District 4 Tim Sable	<input type="checkbox"/> Dept. of Toxic Substances Control CEQA Tracking Center	<input type="checkbox"/> Other
<input type="checkbox"/> Delta Protection Commission Debbie Eddy	<input type="checkbox"/> Caltrans, District 5 David Murray	<input type="checkbox"/> Department of Pesticide Regulation	
<input type="checkbox"/> Office of Emergency Services Dennis Castrillo	<input type="checkbox"/> Caltrans, District 6 Marc Birnbaum		
<input type="checkbox"/> Governor's Office of Planning & Research State Clearinghouse	<input type="checkbox"/> Caltrans, District 7 Cheryl J. Powell		
<input checked="" type="checkbox"/> Conservancy			
<input type="checkbox"/> Land Game			
<input type="checkbox"/> Dept. of Fish & Game Scott Flint Environmental Services Division			
<input type="checkbox"/> Fish & Game Region 1 Donald Koch			
<input type="checkbox"/> Fish & Game Region 1E Laurie Harnsberger			
<input type="checkbox"/> Native American Heritage Comm. Debbie Treadway			

Moore, Janis

From: Burton, Chris
Sent: Monday, October 22, 2007 2:43 PM
To: Moore, Janis
Subject: FW: Planned Development Rezoning from the R-M (PD) and HI zoning to the A(PD) PlannedDeeveopment Zoning District to allow landfill uses on a 352 gross acresite in the City of San Jose, Santa Clara County, California (PDC07-071; APN01540005)

Chris Burton

Planner
 Department of Planning, Building & Code Enforcement
 Planning Implementation
 200 E Santa Clara Street
 San Jose, Ca 95113-1905
 Tel: (408) 535-7891
 Fax: (408) 292-6055
Chris.Burton@sanjoseca.gov
www.sanjoseca.gov/planning/

From: Chris_Nagano@fws.gov [mailto:Chris_Nagano@fws.gov]
Sent: Monday, September 17, 2007 6:16 PM
To: Christopher.Burton@sanjoseca.gov
Cc: djohnston@dfg.ca.gov; Ryan_Olah@fws.gov; Darryl.Boyd@sanjoseca.gov; Eric_Tattersall@fws.gov; Jonathan.Ambrose@noaa.gov; Mike_Thomas@fws.gov; Jared.Hart@sanjoseca.gov; Cori_Mustin@fws.gov; ldavis@dfg.ca.gov
Subject: Planned Development Rezoning from the R-M (PD) and HI zoning to the A(PD) PlannedDeeveopment Zoning District to allow landfill uses on a 352 gross acresite in the City of San Jose, Santa Clara County, California (PDC07-071; APN01540005)

Dear Mr. Burton:

This electronic mail message is in response to the proposed development rezoning from the R-M (PD) and HI zoning to the A(PD) Planned Development Zoning District to allow landfill uses on a 352 gross acre site in the City of San Jose, Santa Clara County, California (PDC07-071; APN 01540005). At issue are the potential adverse effects of the proposed project on the endangered Contra Costa goldfields (*Lasthenia conjugens*), endangered vernal pool tadpole shrimp (*Lepidurus packardii*), endangered California least tern (*Sterna antillarum browni*), endangered California clapper rail (*Rallus longirostris obsoletus*), endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), threatened California tiger salamander (*Ambystoma californiense*), and other listed species under the authority of the U.S. Fish and Wildlife Service (Service). We also are concerned about the potential effects of the project on the burrowing owl (*Spetylo canicularia*). This review is based on the information dated September 6, 2007, that was provided to the Service by the San Jose Department of Planning, Building and Code Enforcement. The information was received by this Field Office on September 12, 2007. Based on the information provided by the City of San Jose and otherwise available to us, the proposed project is located in an area of Santa Clara County that may provide suitable habitat for the Contra Costa goldfields, vernal pool tadpole shrimp, California least tern, California clapper rail, salt marsh harvest mouse, California tiger salamander, other listed species, and the burrowing owl, or is otherwise naturally accessible to them. Our comments and recommendations are made under the authority of the Endangered Species Act of 1973, as amended (16 USC 1631 *et seq*)(Act).

Section 9 of the Act prohibits the take of any federally listed animal species by any person subject to the jurisdiction of the United States. As defined in the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only are the vernal pool tadpole shrimp, California least tern, California clapper rail, salt marsh harvest mouse, and the California tiger salamander protected from such activities as collecting and hunting, but

also from actions that result in their death or injury due to the damage or destruction of their habitat. The Act prohibits activities that "...remove and reduce to possession any listed plant, such as the Contra Costa goldfields, from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law." The term "person" is defined as "...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States."

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

As part of the environmental review for this proposed project, the Service recommends that habitat evaluations and/or surveys, as appropriate, by qualified biologists following Service and California Department of Fish and Game protocols be completed for the Contra Costa goldfields, vernal pool tadpole shrimp, California least tern, California clapper rail, salt marsh harvest mouse, and the California tiger salamander in the action area. We recommend the City of San Jose provide us and the California Department of Fish and Game with the results of these assessments and/or surveys. If it is determined that the proposed project may result in take or adverse effects, including indirect or cumulative effects, as described in the Act, to any of these six listed species, and/or other federally listed species under the authority of the Service, we recommend that the City of San Jose require the applicant to obtain authorization for incidental take for the appropriate listed species pursuant to sections 7 or 10(a)(1)(B) of the Act prior to certification of the final environmental documents.

We recommend adequate habitat assessments/surveys, as appropriate, for the burrowing owl, loggerhead shrike (*Lanius ludovicianus*), horned lark (*Eremophila alpestris*), and nesting raptors be completed by a qualified biologist in the action area. Photocopies of the data and findings from the habitat assessments/surveys should be provided to the Service and the California Department of Fish and Game. The Service recommends that adequate avoidance or conservation measures be implemented if it is determined that any of these species will be adversely affected by the proposed project.

The City of San Jose should contact NOAA - Fisheries regarding the potential effects of this project on the listed species, and animals and plants under their authority. The NOAA - Fisheries contact may be reached at: Jonathan.Ambrose@noaa.gov.

If you have any questions, please contact me via electronic mail or at telephone 916/414-6600.

s/Christopher D. Nagano

Deputy Assistant Field Supervisor
Endangered Species Program
Sacramento Fish and Wildlife Office
U.S. Fish and Wildlife Service
2800 Cottage Way Room W-2605
Sacramento, California 95825

Burton, Chris

From: Brian Wines [BWines@waterboards.ca.gov]
Sent: Thursday, September 20, 2007 4:54 PM
To: chris.burton@sanjoseca.gov
Cc: Dale Bowyer; Terry Seward; Vic Pal
Subject: City File NO. PDC07-071, APN # 01540005 Newby Island Landfill Zoning Change

Hi Christopher

I am writing to share some of the Water Board's concerns with respect to the proposal to change the zoning at the Newby Island Landfill and the proposal to allow the landfill to be expanded to a height of 245 feet above sea level.

The landfill is adjacent to several areas of sensitive habitat: Coyote Creek, the Don Edwards National Wildlife Refuge, and the South Bay Salt Ponds Restoration Project.

Coyote Creek runs along approximately half of the perimeter of the landfill site. This creek provides habitat for the endangered Central California Coast Steelhead. The landfill could impact the steelhead through at least two mechanisms: leachate discharge to the creek via direct release to surface water or via migration of contaminated groundwater to the creek; or physical blockage of the creek channel in the event of seismic failure of the landfill slopes. The most significant, self-sustaining run of steelhead in the south bay would be impacted if the landfill were to impact the creek channel.

Last summer, leachate seeps were observed near Coyote Creek, so the potential threat to the creek should be considered.

Both the Don Edwards Refuge and the Salt Ponds provide habitat for endangered species. Predators, such as gulls, that are attracted by the landfill are also preying upon the endangered species in the refuge and the salt ponds. Allowing the landfill to expand may increase the negative impact to sensitive species and compromise the success of the salt pond restoration project. In addition, the Refuge reports that it is currently impacted by windblown refuse from the landfill.

We will provide more detailed comments during the CEQA review process.

Brian Wines
Water Resources Control Engineer
San Francisco Bay Regional Water Quality Control Board

Burton, Chris

From: Clyde_Morris@fws.gov
Sent: Thursday, September 20, 2007 6:52 PM
To: chris.burton@sanjoseca.gov
Cc: Winnie_Chan@fws.gov; Mendel_Stewart@fws.gov; sritchie@scc.ca.gov; Brian Wines; ltrulio@earthlink.net; LaRIVIERE@refuge.org
Subject: City File NO. PDC07-071, APN # 01540005 Newby Island Landfill ZoningChange

Chris:

Today, I learned that the city is considering allowing the Newby Island Landfill to enlarge. I am very concerned by this proposal and would much rather the City consider closing the landfill to avoid ongoing impacts to the Don Edwards San Francisco Bay National Wildlife Refuge and future restoration of wildlife, including endangered species, habitat in the South San Francisco Bay. Currently, the landfill provides an large and unnatural source of food for avian predators (eg California Gulls) which is negatively impacting wildlife. The landfill is allowing the predator population to increase exponentially which has a secondary impact of unacceptable predation on adjacent breeding populations such as the endangered snowy plover and most likely the salt marsh harvest mouse along with other species such as American avocet, black necked stilt and Forester Terns. These are the very species which are to benefit from the proposed South Bay Salt Pond Restoration Project for which over \$100,000,000.00 has already been spent.

In addition to this very serious major impact, the landfill has also resulted in trash blowing onto the Refuge and is an eyesore for those using the adjacent Refuge public trails. To think that the landfill might get bigger is just going to make the impact on the Refuge and South Bay wildlife worse.

Please notify the Refuge of any opportunities to become involved this decision.

Clyde Morris, Manager
Don Edwards San Francisco Bay National Wildlife Refuge 9500 Thornton Ave.
Newark, CA 94560
Phone: 510/792-4275 X25
Cell: 510/377-2781
Fax: 510/792-5828

Burton, Chris

From: Steve Ritchie [sritchie@scc.ca.gov]
Sent: Thursday, September 20, 2007 3:51 PM
To: chris.burton@sanjoseca.gov
Cc: 'Lynne Trulio'
Subject: Landfill Height increase
Follow Up Flag: Follow up
Flag Status: Red

Hi Chris – I'm managing the South Bay Salt Pond Restoration Project which is a major habitat restoration project in the South Bay, and particularly in and around Coyote Creek. Information on the Project is available at the website below. I understand that the City is considering a landfill height increase for one of the landfills adjacent to the Creek. We have at least one major issue with landfills in the area which is the explosive population growth of California Gulls that appear to be feeding at the landfills and occupying valuable habitat in the former salt ponds to the detriment of other, more desirable species. Please include me on the list of interested parties for the City's consideration of this matter.

Thanks,
Steve Ritchie

Steven Ritchie
Executive Project Manager
South Bay Salt Pond Restoration Project
e-mail: sritchie@scc.ca.gov phone: (510) 384-4105
www.southbayrestoration.org

Moore, Janis

From: Avi Zelmanovich [aviz333@mindspring.com]
Sent: Friday, December 07, 2007 1:31 PM
To: janis.moore@sanjoseca.gov
Subject: Draft Enviromental Impact on NISL Landfill on western terminus of Dixon Landing Road

Avi Zelmanovich

440 Dixon Landing Rd (Mill Creek Apts.)

Milpitas, CA 95035

Dec 7, 2007

Dear Janis Moore

This email is in response to the mailed Notice of Draft Environmental Impact on NISL Landfill on western terminus of Dixon Landing Road.

I have resided in 440 Dixon Landing Road for the past 11 years. During this time, I was strongly affected by the overwhelming foul odors wafting from the said landfill, all too often, year around and even worse on summers.

As a person afflicted with severe medical conditions, some of which are potentially adversely affected by proximity to toxicological agents, (refer to http://www.medscape.com/viewarticle/553130_3) the landfill may have **adversely** affected my well being. I therefore must **strenuously object** to the notion of raising the landfill by approx. 70% height (245 feet from current 150 feet) - and thereby **exacerbating** the said adverse affects.

Additionally, I would like to point out the economical adverse affect. It is a well known fact that proximity to landfill sites have observable negative effects on adjacent property values. This would further negatively affect the housing market which is already in pretty bad shape. Please refer to http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6VDY-3T8365G-1&_user=10&_rdoc=1&_fmt=&_orig=search&_sort=d&view=c&_acct=C000050221&_version=1&_urlVersion=0

Sincerely

Avi

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Ecological Economics
Volume 24, Issue 1, January 1998, Pages 1-14

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doi:10.1016/S0921-8009(97)00038-4 Cite or Link Using DOI
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SURVEY

Undesirable facilities and property values: a summary of empirical studies

Stephen Farber*

Graduate School of Public and International Affairs, University of Pittsburgh,
Pittsburgh, PA 15260, USA

Received 10 September 1996; accepted 13 March 1997. Available online 27 July 1998.

Abstract

Undesirable land uses are expected to impose health or amenity risks on surrounding communities. These risks are expected to be translated economically into negative effects on adjacent property values. These negative effects may be present even when such uses possess offsetting advantages of proximity, such as employment opportunities. The purpose of this study is to summarize empirical studies completed to date that test whether undesirable land uses have observable negative effects on adjacent property values. This information may be useful in assessing minimum valuations of terminating undesirable land uses, such as electric substations, or compensation necessary to ameliorate the economic impacts of new undesirable uses.

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Composite dielectrics; Power capacitors

Tel.: +1 412 648-7602; e-mail: eofarb@vms.cis.pitt.edu

Ecological Economics
Volume 24, Issue 1, January 1998, Pages 1-14

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County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400



December 14, 2007

Ms. Janis Moore, Planner II
City of San Jose, Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Subject: File Number: PDC07-071
Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the
Newby Island Sanitary Landfill and Recycler Rezoning

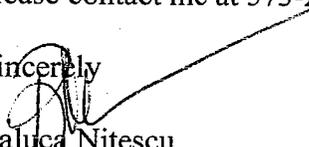
Dear Ms. Moore,

Your December 3, 2007 Notice along with the attachment for the subject application have been reviewed. Our comment is as follow:

1. Please the DEIR should incorporate the study of Montague Expressway intersections for traffic impact.

Thank you for the opportunity to review and comment on this application. If you have any questions, please contact me at 573-2464.

Sincerely,


Raluca Nitescu
Project Engineer

cc: MA, AP, WRL, File



LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD



ARNOLD SCHWARZENEGGER
GOVERNOR

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812-4025
(916) 341-6000 • WWW.CIWMB.CA.GOV

MARGO REID BROWN
CHAIR,
MBROWN@CIWMB.CA.GOV
(916) 341-6051

January 2, 2008

Ms. Janis Moore, Planner II
City of San José
Dept. of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, California 95113-1905

JEFFREY DANZINGER
JDANZINGER@CIWMB.CA.GOV
(916) 341-6024

ROSALIE MULÉ
RMULE@CIWMB.CA.GOV
(916) 341-6016

CHERYL PEACE
CPEACE@CIWMB.CA.GOV
(916) 341-6039

Subject: SCH No.2007122011 - Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for Planned Development Rezoning (File No. PDC07-071) including an increase in landfill capacity at the Newby Island Sanitary Landfill (NISL), Solid Waste Facilities Permits (SWFP) No. 43-AN-0003, & Recyclery, SWFP No. 43-AN-0014, and a change in the feedstocks at the Newby Island Compost Facility (NICF), Compostable Materials Handling Facility Permit (CMHFP) No. 43-AN-0007, requiring a revision of each of the aforementioned SWFPs and/or Joint Technical Documents (JTD) and/or Report of Site Information (RSI), located in the City of San José (City), in Santa Clara County.

Dear Ms. Moore:

Staff of the Northern California Permits (North Permits) Section of the California Integrated Waste Management Board (CIWMB or Board) have reviewed the NOP for the project cited above. Following is a brief description of the proposed project for Board staff's use in the solid waste facility permitting process, a brief description of the Board's role as a responsible agency, followed by recommendations on information and analysis to consider in the EIR and that will aid decision-makers at the CIWMB to determine whether the EIR is adequate for the Board's needs when considering concurrence in the issuance of the NISL SWFP. If the CIWMB project description varies substantially from the project as understood by the lead agency, North Permits staff requests that the discrepancies, if any, be clarified in the EIR.

PROJECT DESCRIPTION

Background Information

The City of San José's Department of Planning, Building and Code Enforcement, acting as lead agency, has prepared and circulated an NOP for a Planned Development Rezoning (File No. PDC07-071) for changes in at the Newby Island



Solid Waste Facility (NISWF).

The approximately 352-acre NISWF is located at 1601 Dixon Landing Road in San José, in Santa Clara County. The NISWFs are operated by AWIN Management for the International Disposal Corporation (IDS), a wholly owned subsidiary of Browning Ferris Industries, Inc. (BFI). The NISWF service area includes the cities of San José, Milpitas, Santa Clara, Cupertino, Los Altos, and Los Altos Hills. The current land uses for properties surrounding the NISL are the abandoned Fremont Airport and the Recyclery and Interstate 880 to the east, salt evaporation ponds to the west and north, and the City's biosolids, drying ponds, and bomb facilities to the south. The nearest residence is approximately 1100 feet to the northeast.

The NISL property is approximately 342 acres in size and is permitted to accept 4000 tons per day (tpd) of municipal solid waste (MSW) and designated waste. Approximately 313 acres of the permitted landfill area is used for disposal. This area is bounded by a perimeter levee. Approximately 29 acres consists of sloughs and marshland outside of the perimeter levee. Immediately southeast of the NISL, on a separate 10-acre property is the Recyclery, a Material Recovery Facility (MRF) permitted to accept up to 1,600 tons per day of mixed waste. The NISL is approximately a 10-acre site located on the landfill. The NISL and Recyclery work together as an integrated operation; however, the two properties are not owned by the same entities. The proposed project site consists of three visually distinct subareas: (1) the approximately 325-acre landfill is the largest area and is the site of landfill activities; (2) a 'D-shaped area', that is approximately 17 acres of the landfill, is located north of the main driveway just west of the entrance gate, and is currently used for offices and vehicle parking; and, (3) the Recyclery which occupies most of the 10-acre parcel of land just south of the main driveway, west of the entrance gate, opposite the D-shaped area.

The NISL site has been used as a landfill since the 1930's. The landfill area is currently designated as *Private Open Space* and *Public Park/Open Space* with a *Solid Waste Disposal Facility* overlay in the City's General Plan, with a small area having a *Heavy Industrial* designation. The landfill is zoned *R-M Multiple Residence Zoning District* with a small area zoned as *HI Heavy Industrial Zoning District*. The *Solid Waste Disposal Facility* (SWDF) designation is used to identify active landfill sites. Uses allowed on sites with the SWDF designation include landfills and ancillary activities such as equipment maintenance, collection and processing of recycled materials from the wastestream, composting, and energy/transformation operations. The site is also within the boundary of the *Alviso Planned Community*. A portion of the parcel, referred to as the D-shaped area, has a General Plan designation of *Light Industrial* and is currently zoned *RM Multiple Residence Zoning District*.

The Recyclery is located on a 10-acre portion of property owned by Los Esteros Ranch, a partnership. The Recyclery property is subject to a long-term lease to BFI. The Recyclery SWFP allows for the operation of a Material Recovery Facility, a Processing Facility, and a Transfer Station on the property. SWFP No. 43-AN-0014 was issued in 1991 and has operated continuously since that time. The site is designated *Public/Quasi-Public* in the General Plan and is zoned *A(PD) Planned Development Zoning District*. The Recyclery is also located within the boundary of the *Alviso Planned Community*. The *Public/Quasi-Public* land use designation is intended for public land uses, including schools, colleges, corporation yards, homeless shelters,

libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports.

The greenwaste material for the existing compost facility, SWFP No. 43-AN-0007, is diverted from the NISL waste stream and either taken directly to the compost pad for incorporation into the windrows or taken to the Recyclery for processing. Materials received that are of appropriate particle size and free of contaminants can be taken directly to the compost pad for incorporation into windrows. Materials that have larger particle sizes and/or contaminants are taken to the Recyclery for sorting and grinding. When processed, this material is taken to the compost facility for incorporation into the windrows.

In 1998 the NISL operator was awarded a grant to evaluate the use of in-vessel and aerated static pile composting of mixed waste materials. This pilot program has consisted of in-vessel composting and aerated static pile composting of post-consumer food waste, biosolids, sludges, and pre-consumer food waste. This pilot project has been in operation since November 1999.

Proposed Project

The project proposes to rezone the 342-acre NISL and the adjacent 10-acre Recyclery from *RM Multiple Residence, HI Heavy Industrial and A(PD) Planned Development Zoning Districts* to *A(PD) Planned Development Zoning District*. The proposed zoning would not change the lateral extent of the landfill 'footprint', but would raise the maximum elevation of the landfill to 245 feet above mean sea level (msl), adding approximately 15.12 million cubic yards (cu. yds.) to the capacity of the landfill. Presently, the landfill is designed and permitted to an elevation of 150 feet msl. The proposed zoning will update and clarify the legal non-conforming uses on the NISL and will specify the allowable current and future uses. The project will not materially extend the estimated closure date of the landfill beyond 2025 as identified in the NISL Closure/Postclosure Maintenance Plan. The Recyclery will continue to operate after the landfill closes.

Primary components of the combined facilities include:

- Material Recovery Facility: The Recyclery
- Hauling Company Offices and Shops
- Recyclery/Landfill Scales
- Landfill Gas (LFG) to Energy Plants/Landfill Gas Export Plant
- LFG Flares
- Landfill Offices
- Construction and Recycling Area
- Maintenance Shops
- Off-site Stormwater Detention Pond
- Leachate Management System
- Fueling Facilities
- Compost Windrows

Changes to each of these components is listed as follows:

Landfill Vertical Expansion:

- The approximately 352-acre NISL is currently permitted to a maximum elevation of 150 feet msl. The existing elevation of the landfill varies between 100 and 130 feet msl.
- The proposed zoning would not change the lateral extent of the landfill 'footprint', but would raise the maximum elevation of the landfill to 245 feet msl.

Landfill Increase in Capacity:

- The proposed final grading plan at the proposed elevation of 245 feet msl would increase the landfill capacity by approximately 15.12 million cubic yards beyond that already permitted.

Material Recovery Facility: The Recyclery:

- Processing of source separated materials including wood waste, green waste, food waste, glass, paper, metals, and plastic.
- Outdoor processing of wood waste in addition to green waste.
- Preliminary processing of food waste on the paved area.
- Outdoor stockpiling of ground and processed organic wastes.

Stormwater Detention Pond:

The stormwater detention pond, located in the southern portion of the NISWF site, may be relocated off-site and on a drainage conveyed (either by gravity flow or by pumping) to the appropriate location.

Recyclery/Landfill Scales:

- Three scale houses and four scales serve the landfill (three for inbound, one for outbound) will need to be moved east, closer to the site entrance.
- The Recyclery has three scales and one scale house near its entrance (one scale for inbound loads and two are for outbound vehicles).

Composting Operations:

- The permitted compost area currently utilizes approximately 18 acres of the landfill site and may be relocated to different areas of the landfill property in order to allow for landfill development.

Landfill Gas (LFG) Export Plant:

- Gas Recovery Systems, Inc. (GRS), treats and compresses LFG for export, the LFG 'plant currently processes up to 1,500 cubic feet per minute (CFM) of LFG for pipeline

export to San José. GRS can process a total of 3,700 CFM, and additional plant capacity can be added if needed.

- GRS will need to relocate their LFG Processing Plant to another area when the current location is developed for waste disposal.

Construction and Demolition (C&D) Recycling Area:

- Located in the central portion of the landfill, but may be moved when it becomes necessary for landfill development.
- Operations include an elevated picking/sorting line, separation of materials by types, on-site concrete and rock crushing, tire shredding, and wood grinding.
- Materials sorted from the C&D material includes: metal, drywall, wood, roofing, cardboard and other construction paper products, and plastics.
- Asphalt, concrete, dirt, and rock will be stockpiled for use onsite for road surfacing to the construction of working pads.

BOARD'S ROLE as a RESPONSIBLE AGENCY

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 SWFP. CIWMB staff's review of a draft EIR 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 CIWMB staff to ascertain that a draft EIR is complete and adequate for our use in the SWFP 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 draft EIR. Mitigating measures to reduce potentially significant environmental impacts should be incorporated into the project, when feasible, in order to avoid potentially significant effects upon project implementation. 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. In order to expedite document preparation and minimize redundancy - supporting documentation and/or studies would be helpful and should be incorporated by referenced in the draft EIR.

CIWMB as a Responsible Agency

Since the CIWMB would be a responsible agency involved in the discretionary approval process for the SWF design and operational aspects of the project proposals, Permits North staff will need to perform an environmental review and analysis for this project using the EIR developed by the lead agency as required in CEQA Guidelines, California Code of Regulations (CCR) Section 15096. The draft EIR must detail all provisions for NISL design and operation in order to indicate the ability of the facility to meet State Minimum Standards for environmental protection (see CCR Title 27, §§ 20005, et. seq.). To assist Permits North staff's analysis and evaluation of this project, and aid Permits North staff in the determination of the adequacy of the

EIR and related CEQA document(s) for CIWMB SWFP concurrence purposes, we request that the following comments and questions be addressed in the draft EIR under preparation by the lead agency prior to circulation of the document. If these have already been addressed in an existing document (e.g. Report of Facility Information, Closure Plans, previous environmental documents), please indicate the document, page number(s) and section(s), and provide copies to the State Clearinghouse and CIWMB along with the draft EIR.

PERMITS NORTH STAFF COMMENTS

The following is a short-list of typical considerations that Permits North staff recommend for inclusion in the draft EIR in order to help evaluate the scope and content of the EIR for issuance of a revised SWFP and proposed changes in at the NISWF facility:

Increase in Final Fill Elevation

Please provide a detailed description of the proposed increase in maximum landfill elevation. Describe the final elevation, slopes and contours of the landfill, and if the final height of 245 feet msl will be the highest the landfill will be at any point of the project, or if the proposed height will be the maximum height after the landfill is capped and settled. This is a very aesthetically sensitive area with high levels of concern for the skyline views of the surrounding area from the community. Therefore, please provide photos showing views of the area from the east, south, west and north prior to, and digital representations of the views after the proposed increase in elevation.

Describe in detail the fill plan for the proposed vertical expansion of the NISL. Exactly what areas of the landfill expansion will be directly over buried refuse which does not have the benefit of a composite liner system and/or a leachate collection and removal system (LCRS)? How will the additional overburden of waste materials affect the LCRS's ability to manage leachate, if applicable? Has potential groundwater contamination been detected during solid waste assessment tests (SWAT)? What is the potential for accelerated leachate production and migration due to a vertical expansion?

Will there be a shortfall of on-site soil material necessary for daily and intermediate cover and use in placing the final cover/cap? If soil materials need to be imported to the NISL for daily, intermediate and/or final cover, what potentially significant impacts could occur from the transport and storage of this material?

Expanded Landfill Gas Management and Utilization

Please provide a detailed description of proposed operation and systems, and the location of each. What will be the expected gas volumes? What provisions are in place to deal with the possibility of system failure? The EIR should include specific information on the environmental effects of proposed systems for use and management of landfill gas, proposed operating methods and limits, and all solid waste non-disposal operations to be conducted within the area governed by the SWFP.

Salvaging Operations

Please provide responses to the following questions in the draft EIR: Who will be allowed to salvage waste from the tipping floor and/or the landfill's working face? What training workers will receive? What provisions will be in place for the security, protection, and safety of salvage workers such as measures that will ensure stability of working face, eliminate exposure to hazardous waste and materials, and any other human health and safety issues relating to the proposed salvaging operation? Will salvaging be performed in non-daylight hours, and if so, what lighting will be provided? Where will salvaged materials will be stored? Will the salvage material storage area be managed by facility personnel? Will salvaged materials be sold to the public? Is a public buy-back area planned, and if so, where this area will be located on-site?

Ancillary Operations

Exactly what facilities/operations are proposed to be located on or immediately adjacent to the landfill? If a facility/structure is located on or near buried landfill refuse, what provisions will be required to assure that there won't be any impacts associated with the migration of landfill gas (LFG)?

What provisions are made in the design or operations of the facility to prevent project related impacts from litter, odor, dust, noise, glare, vectors, vehicle queuing, drainage, and health and safety?

Which proposed operations and storage areas are to be covered? Which materials being processed and/or stored will potentially come in contact with storm water?

What special circumstance provisions will be required for the handling, processing, transport and storage of wet wastes, liquid wastes and 'dusty' or colloidal wastes?

Exactly how much of each type of material is proposed for storage at the NISL and where will these materials be located on site? What is the exact size of each proposed storage area? Where is the exact location of each proposed storage area?

Since much of the information needed for a clear detailed project description is normally included in the Joint Technical Document (JTD), and the Closure Postclosure Maintenance Plan, they be incorporated in the draft EIR by reference and made available for public and agency review.

PERMITS NORTH STAFF IMPACT ASSESSMENT RECOMMENDATIONS

Potentially Significant Environmental Impacts

Permits North staff has identified potentially significant project related impacts in the areas of Water Quality related to the ability of the existing landfill liner to hold the additional height/weight of the waste without compromise; landfill slope stability that could be compromised during a significant storm event or earthquake; and Aesthetics related to the visual character of the landfill mass both during operations and once the landfill has been closed. Most potentially

significant project related impacts may be reduced to less than significant levels by project features and designs and/or mitigation measures. It may be that one or more potentially significant environmental impacts cannot be avoided if the project as proposed in this NOP is implemented.

Cumulative Impacts

It is important that the draft EIR address the cumulative impacts resulting from the individual/proposed project(s) and the combined projects as well as those incremental impacts resulting from the proposed projects' implementation.

Land Use Compatibility

The draft EIR should identify the proposed NISL surrounding land use with a description of the density of the occupancy for commercial and residential areas. The draft EIR should be specific regarding the distance to the nearest sensitive receptor(s).

The project's surrounding land use must be designated as compatible with the proposed/current land uses at the project sites. The local government, in whose jurisdiction the facilities will be located, must make a finding that the facility is consistent with the General Plan (Public Resources Code Section 50000) and is identified in the most recent County Integrated/Solid Waste Management Plan (Public Resources Code Section 50001).

Earthquake Faulting and Seismic Stress

Identify in the draft EIR any known earthquake faults in the vicinity of the proposed facility and the frequency of seismic activity as well as a range of most probable earthquake (MPE) magnitudes and maximum ground acceleration (MGA). Please include a map of historic epicenters within a radius of ten miles of the facility. How will the proposed NISL structure stand up to the MPE and MGA considering that the facility may be located over buried landfill refuse?

Surface Drainage

The draft EIR should include a drainage plan, which identifies the paved and exposed surfaces where the projects' proposed operations may take place. The plan should identify surface water runoff, including, but not limited to creeks, rivers, and/or diversion channels in areas adjacent to the project area. Indicate on a map drawn to scale the location of all project proposals to be carried out over buried landfill refuse. Identify on this map any diversion berm(s) that will redirect flow away from/around the facility proposals and any drainage basins to keep drainage on-site. Will the proposed facilities be able to handle a 100-year, 24-hour storm event? CIWMB staff recommends that the Regional Water Quality Control Board (RWQCB) be contacted to determine if a Report of Waste Discharge (ROWD) or a National Pollution Discharge Elimination System (NPDES) permit is required for the proposed facility.

Traffic and Related Transportation System Impacts

Maximum traffic volumes are not proposed to increase in the NOP. However, new wastestreams are proposed which may require additional vehicles for both ingress and egress to the NISWF. Total traffic counts should be projected over a minimum of five years for the project at peak throughput considering both short haul and possible long haul aspects of the project proposal? Discuss the cumulative effect of traffic for all of the projects proposed for analysis in the draft EIR.

A traffic study may be necessary to determine whether the existing infrastructure can handle the projected vehicular movement, and whether improvements may be necessary to accommodate increased traffic; including the repair of, and maintenance of, existing roads, additional lighting, turn lanes, and pedestrian walk-ways; as well as cumulative impacts on the circulation within the landfill vicinity. The regional district of CalTrans should be contacted regarding potential issues related to an increase in traffic volumes around the NISL.

Air Quality/Global Warming

Local and regional impacts on air quality from vehicles, trucks, and equipment emission sources accessing the facility should be analyzed in detail, including emissions from equipment handling waste materials and potential dust generation during operations at the NISL. Dust particulates (PM₁₀) and ozone precursors may be of particular concern if the regional air basin is 'non-attainment' for PM₁₀ and ozone precursors. If the proposed projects are located within a 'non-attainment' air basin, cumulative impacts affecting the projected federal 'attainment' dates may be significant and unavoidable.

What odors might emanate from the NISWF facility and from which operations/areas? Please identify the distance to the nearest residential and/or commercial receptor(s) in the draft EIR. Mitigation measures, which will be employed to address impacts for the proposed facility, should be incorporated into the draft EIR with a description of the 'attainment' plan for the air basin(s) air quality. Please briefly describe and reference the Odor Impact Minimization Plan (OIMP) in the draft EIR. The local Air Pollution Control District should be contacted regarding air pollution discharge permits, which may be required to ensure compliance with ambient air quality standards.

Noise

Activities associated with vehicular transport of waste materials and the use of heavy equipment (e.g. large vehicles, rock/concrete crusher, tub grinder, trommel screen, etc.) to process materials may result in significant on-site and off-site noise levels. A noise study may be necessary if local receptors are impacted, and should be included in the draft EIR. Appropriate noise-attenuating mitigation measures, which can be implemented to reduce noise levels, should be incorporated into the draft EIR. Short term and cumulative impacts should be assessed as well as operations related noise.

Risk of Upset/Human Health

In the event of an accident, explosion, fire, or the release of hazardous substances due to upset conditions or mechanical malfunctions, an Emergency Response Preparedness Plan should be prepared and available at the proposed NISL facility. Personnel should be properly trained to handle emergency situations, including identification, location and use of fire suppression equipment, procedures for evacuation of the premises, and noticing for contacting the appropriate authorities in the event of such an occurrence. What is the response time for the nearest City/County Fire Department location? CIWMB staff request that such a plan be briefly described or referenced in the draft EIR with the appropriate mitigation measures in the event of such an occurrence. The plan should include such information as: existing and/or proposed hygienic facilities on site as well as first aid equipment accessibility and employee training. What is the distance to the nearest hospital? What will be the provisions for the permanent water supply? This information can be referenced in supporting documentation.

Please include in the draft EIR a map drawn to scale with a description of the security on and around the proposed NISL location, including fencing, lighting, gates and access roads.

Please be aware that the 8 CCR § 3203 requires all employers in the State to implement and maintain an effective Injury Prevention Program (IPP). The Labor and Penal Codes have been amended to provide administrative, civil, and criminal penalties for failure to comply and/or for injuries or deaths occurring due to the absence of an effective IPP.

Consideration and Discussion of Alternatives to the Proposed Project

The EIR should include a detail discussion of alternate plans to the proposed project that would also achieve the City's goals. The City should clarify exactly what they hope to accomplish from the proposed projects as a whole. After these goals are defined, the County must include in the EIR alternatives to the proposed projects. Public Resources Code (PRC) §15126.6 (c) states; "The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or lessen one or more of the significant effects." This analysis should include a "No Project" alternative as well as a range of reasonable alternatives to the project. PRC §15064 (b) also states "...an activity which may not be significant in an urban area may be significant in a rural area." Therefore, alternatives should address issues such as the significant aesthetic effect to the community near the NISWF.

As required by CCR Title 14, §§ 5126.2, 15126.4 and 15126.6, Permits North staff requests that the EIR contain detailed considerations and discussions of the significant effects, mitigation measures and alternatives for the proposed project.

REGULATIONS which MAY AFFECT ASPECTS of the PROJECT PROPOSAL

Wood Waste, Construction and Demolition and Inert Debris

Storing and processing of construction and demolition wastes may be subject to the Construction and Demolition and Inert Debris Transfer/Processing regulations in 14 CCR §§ 17380 - 17386.

Please see the following Internet link to the regulations:
<http://www.ciwmb.ca.gov/Regulations/Title14/ch3a59a.htm>.

Acceptance, Processing and/or Storage of Organic Materials

Permits North staff requests that mitigation in the draft EIR include that all wood waste, green waste, and food waste accepted at the NISWF should not have a moisture content greater than 50 percent, and that these organic wastes be handled/processed in a manner so as to not exceed 122 degrees Fahrenheit (° F). Organic waste exceeding 122° F should be removed by the operator as soon as possible and transported to the NISCF (CMHFP No. 43-AN-0007).

NISL Operations, Location, Construction and Monitoring

Please be aware of the following regulations which apply to the project proposal:
Title 27, CCR, Section 21190 – **Postclosure Land Use:**

- (a) Proposed postclosure land uses shall be designed and maintained to:
 - (3) prevent landfill gas explosions.
- (g) All on site construction within 1,000 feet of the boundary of any disposal area shall be designed and constructed in accordance with the following, or in accordance with an equivalent design which will prevent gas migration into the building, unless an exemption has been issued:
 - (1) a geomembrane or equivalent system with low permeability to landfill gas shall be installed between the concrete floor slab of the building and subgrade;
 - (2) a permeable layer of open graded material of clean aggregate with a minimum thickness of 12 inches shall be installed between the geomembrane and the subgrade or slab;
 - (3) a geotextile filter shall be utilized to prevent the introduction of fines into the permeable layer;
 - (4) perforated venting pipes shall be installed within the permeable layer, and shall be designed to operate without clogging;
 - (5) the venting pipe shall be constructed with the ability to be connected to an induced draft exhaust system;
 - (6) automatic methane gas sensors shall be installed within the permeable gas layer, and inside the building to trigger an audible alarm when methane gas concentrations are detected; and
 - (7) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with Article 6, of Subchapter 4 of this chapter (section 20920 et seq.).

You may contact Scott Walker of the Remediation, Closure, and Technical Services Branch at (916) 341-6319, or e-mail at swalker@ciwmb.ca.gov for technical assistance.

Title 14, CCR, Section 17410.1. Solid Waste Removal

- (a) All solid wastes shall be removed at the following frequencies or at an alternate frequency approved by the Enforcement Agency (EA), in order to prevent the propagation or attraction of flies, rodents or other vectors:

- (1) operations shall remove solid wastes accepted at the site within 7 days from the date of receipt;
- (2) facilities shall remove solid waste accepted at the site within 48 hours from the time of receipt.

Note:

Authority cited:

Sections 40502, 43020, and 43021 of the Public Resources Code.

Reference:

Sections 40053, 43020 and 43021 of the Public Resources Code.

Title 14, CCR, Section 17407.5. Hazardous, Liquid, and Special Wastes

- (a) An operation or facility shall not intentionally accept or store hazardous wastes, including batteries, oil, paint, and special wastes, unless it has been approved to handle the particular waste by the appropriate regulatory agencies. Such approvals shall be placed in the operating record.
- (b) At operations and facilities where unauthorized hazardous wastes are discovered, control measures as are necessary to protect public health, safety and the environment, such as elimination or control of dusts, fumes, mists, vapors or gases shall be taken prior to isolation or removal from the operation or facility,
- (c) Liquid wastes and sludges shall not be accepted or stored at an operation or facility unless the operator has written approval to accept such wastes from the appropriate agencies and the EA. The LEA shall authorize acceptance of these wastes only if the operation, facility, and the transfer vehicles are properly equipped to handle such wastes in a manner to protect public health, safety, and the environment.

Note:

Authority cited:

Sections 40502, 43020, and 43021 of the Public Resources Code.

Reference:

Sections 40053, 43020 and 43021 of the Public Resources Code.

Mitigation Reporting or Monitoring Program (MRMP)

As required by Public Resource Code (PRC) Section 21081.6, the lead agency should submit a MRMP at the time of local certification of the EIR. This program should identify the environmental impacts associated with the proposed project, identify mitigation measures to reduce impacts to a less than significant level, identify agencies responsible for ensuring the implementation of the proposed mitigations are successful, and specify a monitoring/tracking mechanism. PRC Section 21080(c)(2) requires that mitigation measures "...avoid the effects or mitigate the effects to the point where clearly no significant effects on the environment would occur." The MRMP is required to be completed as a condition of project approval. PRC Section 21081.6(b) requires that "A public agency shall provide the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures." The MRMP should also clearly indicate the agencies or private entities designated to enforce each mitigation measures in the EIR and that they have reviewed

the MRMP and agreed that they have the authority and means to accomplish the designated enforcement responsibilities.

CONCLUSION

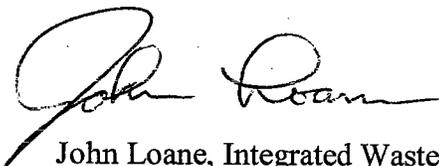
Following is a URL that contains detailed CEQA information germane to landfills, composting facilities/operations, and MRF design and operations for those seeking a SWFP from the CIWMB. You can access the complete checklist of information over the Internet at: <http://www.ciwmb.ca.gov/PermitToolbox/CheckItems/CEQA/default.htm#Guidelines>.

Permits North staff requests copies of and consultation on any subsequent or revised environmental documents (EDs). The proposed draft EIR and any subsequent or revised draft EIRs should be circulated through the State Clearinghouse as required in Section 15205(a) of the CEQA Guidelines. Permits North staff requests that the CIWMB be noticed of the date, time and location of any public hearings regarding the project proposal at least ten days in advance.

Thank you for the opportunity to comment on this project in the early planning stages. Permits North staff are available for any planned scoping meetings, workshops or other public meetings upon your written request at least ten days in advance.

If you have any questions regarding these comments, please contact me at (916) 341-6327, facsimile at (916) 319-7213, or e-mail me at jloane@ciwmb.ca.gov

Sincerely,



John Loane, Integrated Waste Management Specialist (IWMS)
Permits Branch North, Region 2
Waste Compliance and Mitigation Program
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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

Sue O'Leary, Supervisor
Permits Branch North, Region 2
Waste Compliance and Mitigation Program
CIWMB

NISWF NOP
January 2, 2008

Virginia Humphreys, IWMS
Permits Branch North, Region 2
Waste Compliance and Mitigation Program
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Dennis Ferrier, Program Manager
City of San José LEA
Department of Planning, Building, and Code Enforcement
170 West San Carlos Street
San Jose, CA 95113



January 3, 2008

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Janis Moore

Subject: City File No. PDC07-071 / Newby Island Sanitary Landfill

Dear Ms. Moore:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the NOP for a Draft EIR to raise the capacity of the landfill by an additional 15.12 million cubic yards at the western terminus of Dixon Landing Road. We have no comments at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Molseed", is written over the word "Sincerely,".

Roy Molseed
Senior Environmental Planner

RM:kh

cc: Ebrahim Sohrabi, San Jose Development Services



Community Development

39550 Liberty Street, P.O. Box 5006, Fremont, CA 94537-5006
www.fremont.gov

January 4, 2008

City of San Jose Planning Division
Attn: Janis Moore
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

RE: Newby Island Landfill NOP

Thank you for the opportunity to provide input on the scope of the Draft EIR for the Newby Island Landfill project. The Notice of Preparation outlined scope for the EIR appears to identify the appropriate range of topics for consideration in the Draft EIR. The City of Fremont's concerns pertain primarily to aesthetics, land use, and transportation. We specifically request the Draft EIR consider land use and aesthetic compatibility impacts to both the surrounding natural area and nearby commercial industrial development for both operational issues and the long term effect of the increased overall height and final appearance upon closure.

For transportation issues we have identified that the analysis should consider the completion of the Fremont Boulevard extension to Dixon Landing Road and factor in known significant projects for cumulative project analysis. Please contact us to discuss background projects and cumulative project lists for the southern part of Fremont.

Please feel free to contact me with any questions and we look forward to reviewing the Draft EIR when it is made available for public comment.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Diekmann".

Kelly Diekmann,
Senior Planner
City of Fremont
kdiekmann@ci.fremont.ca.us

cc: Director of Community Development
Planning Director



Building & Safety
510 494-4400

Engineering
510 494-4700

Housing & Redevelopment
510 494-4500

Planning
510 494-4440

Moore, Janis

From: Laura Thompson [LauraT@abag.ca.gov]
Sent: Friday, January 04, 2008 2:08 PM
To: janis.moore@sanjoseca.gov
Subject: Newby Island Sanitary Landfill NOP Comments

Attachments: Bay Trail Newby Island NOP Comment Letter.pdf; Newby_Landfill_NOP_map.pdf



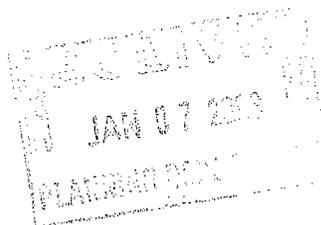
Bay Trail Newby Newby_Landfill_NO
Island NOP Com... P_map.pdf (60...

Hi Janis,

Attached is a comment letter and map from the Bay Trail Project for the Newby Island Sanitary Landfill NOP. I will mail a hard copy of both documents to you as well.

Thanks,
Laura

Laura Thompson
Bay Trail Project Manager
Association of Bay Area Governments
101 Eighth Street
Oakland, CA 94607
p. 510-464-7935
f. 510-433-5535
laurat@abag.ca.gov
www.baytrail.org



January 4, 2008

Ms. Janis Moore
Planner II
City of San Jose Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

**Subject: Notice of Preparation: Newby Island Sanitary Landfill and
Recyclery Rezoning**

Dear Ms. Moore:

Thank you for the opportunity to comment on the Notice of Preparation for the Newby Island Sanitary Landfill and Recyclery Rezoning. The Bay Trail Project is a nonprofit organization administered by the Association of Bay Area Governments (ABAG) that plans, promotes and advocates for the implementation of a continuous 500-mile bicycling and hiking path around San Francisco Bay. When complete, the trail will pass through 47 cities, all nine Bay Area counties, and cross seven toll bridges. To date, 290 miles of the Bay Trail alignment have been developed.

The Bay Trail in San Jose is approximately 30 miles long and over 10 miles are complete. The Bay Trail is proposed along the levees around the perimeter of Newby Island landfill, with connections to the existing Coyote Creek trail in Milpitas and a future trail to the north in Fremont. Two main goals of the Bay Trail Project are to locate the trail as close as possible to the shoreline, and to provide a fully separated, multi-use bicycle and pedestrian facility. The rezoning of the Newby Island Sanitary Landfill presents an opportunity to expand shoreline access and provide interpretive education along the edge of the bay.

Plans and Policies

In the DEIR, please discuss ABAG's San Francisco Bay Trail Plan and how the future Bay Trail alignment around the perimeter of the landfill may be impacted by the proposed rezoning. We are pleased to see Bay Trail extension mentioned in the recreation section of the NOP, but it should be made clear that the proposed Bay Trail alignment is identified around the perimeter of the landfill in an adopted regional plan. Please see the attached map for the location of the perimeter alignment.

Please describe in detail, the following potential environmental impacts of the Newby Island Sanitary Landfill Rezoning as it related to the Bay Trail:

Administered by the Association of Bay Area Governments
P.O. Box 2050 • Oakland, CA 94604-2050
Phone: 510-464-7900 • Fax: 510-464-7970
Web: www.baytrail.org

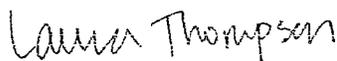
- Land Use and Aesthetics – The DEIR should provide an assessment of the visual appearance of the site from adjacent Bay Trail alignments as well as an analysis of the visual impacts from the future Bay Trail around the perimeter of the landfill.
- Transportation – The DEIR should identify potential traffic impacts (i.e. large trucks, vehicle trail crossings) to bicyclists and pedestrians using the Bay Trail around the landfill or along adjacent trails and it should recommend mitigations for identified conflicts.
- Recreation – The DEIR should identify potential adverse effects on recreational facilities, including the proposed perimeter trail and adjacent trail connections. It should also identify completion of the perimeter Bay Trail alignment as mitigation for identified impacts to recreation.

End Use of the Site

The NOP states that the final closure of the landfill will be in 2025 and the final use for most of the landfill will be passive open space. Under the rezoning, the DEIR should consider identifying sections of the perimeter Bay Trail that can be opened in phases as the landfill moves towards closure. As an example, the West County Landfill in Richmond opened a section of the perimeter Bay Trail loop in 2006 while the landfill and recycling facility is continues to operate. The complete landfill loop is expected to be open in 2009.

Please add me to the mailing list to receive the Draft Environmental Impact Report. If you have any questions regarding the Bay Trail, please contact me at (510) 464-7935, or by e-mail at laurat@abag.ca.gov.

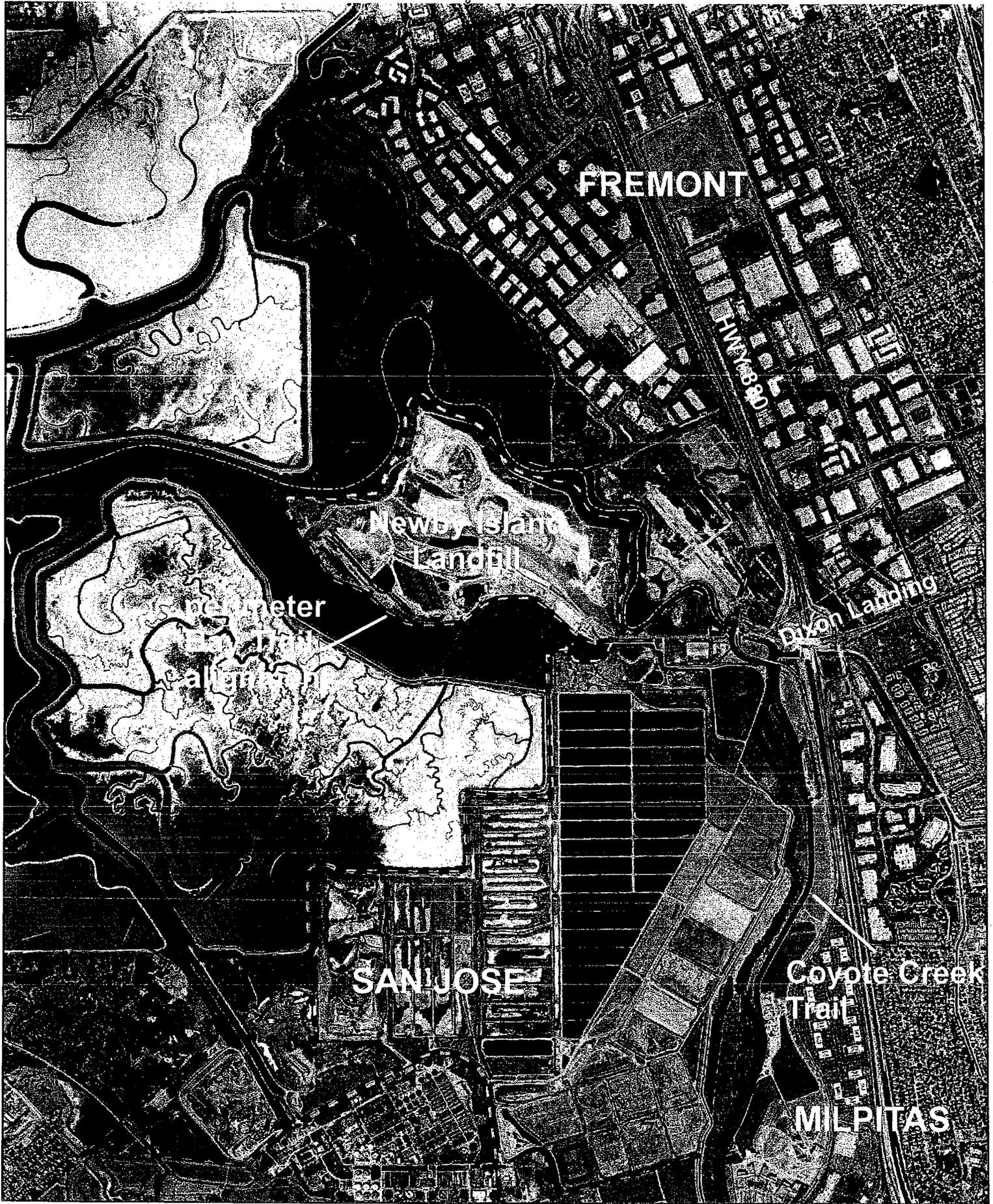
Sincerely,



Laura Thompson
Bay Trail Project Manager

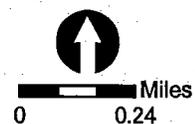
cc: Elish Ryan, Park Planner, Santa Clara County Parks Department
Yves Zsutty, Trail Program Manager, City of San Jose

Encl.



San Francisco Bay Trail
 Newby Island Landfill Vicinity

- Existing Bay Trail
- - - - Proposed Bay Trail



Moore, Janis

From: John Zentner [johnz@zentner.com]
Sent: Friday, January 04, 2008 12:15 PM
To: Janis.Moore@sanjoseca.gov
Cc: Bud Lyons; Jeff Schwob; clyde morris
Subject: Newby Island NOP

Attachments: 901newbyislandnop.rsp.doc



901newbyislandnop
.rsp.doc (28 ...

Dear Ms. Moore:

Please accept the attached comments on the Newby Island NOP. As noted in the letter, Michelle Giolli of my staff had e-mailed you earlier to determine the closing date for comments and we seem to have missed your response. Hard copy of the letter coming by mail.

Regards,

John

ZENTNER 
and ZENTNER

RECEIVED
JAN - 9 2008
PLANNING DEPT

95 Linden Street

January 4, 2008

Ms. Janis Moore
City of San Jose Planning Division
200 East Santa Clara Street,
3rd Floor, San Jose, CA 95113-1905

Suite 6

Re: Newby Island Landfill Expansion NOP

Oakland

Dear Ms. Moore:

Zentner and Zeniner represents King & Lyons, LLC, the owners of the Bayside property immediately northeast of Newby Island and these comments are submitted on their behalf. Based on our initial review of the proposed expansion, we believe this project would have significant and deleterious impacts to the adjoining landowners and land uses.

California 94607

I understand that the comment period extends until early next week, based on our review of the NOP. Michelle Giolli of my staff had e-mailed you on January 2 to confirm this but we have not yet had your reply so I assume this statement is accurate.

Tel: 510.622.8110

We have the following concerns with the proposed project:

Fax: 510.622.8116

Project purpose: The NOP does not provide an adequate description of the need for the proposed expansion of the landfill. As I understand the proposal, the landfill is projected to close at the same time as the current permits require yet it will accept substantially more materials than previously allowed. What is the genesis for this additional fill? The EIR should provide detailed information on the need for the additional fill, its genesis and any governmental approvals required.

Land Use and Aesthetics: The project site is within an area of intense use and visually important; adjacent and nearby land use and views would be significantly affected by an expanded landfill. The EIR should fully describe existing operations and surrounding land uses including the proposed retail center at the bayside property. The visual appearance of the site as viewed from off-site, including the FWS Refuge, the Bayside property, and the proposed Bay Trail alignment on the bayside property should be addressed in detail. Land use and aesthetic compatibility must be examined and a series of depictions of the various proposed heights prepared to allow adequate assessment of impacts.

Geology and Soils: The site is within an area of known geologic instability and is bordered by tidal streams. The EIR should address geology and soils impacts, including slope stability, impacts from additional waste and soil placed at the project site, soil erosion, and grading impacts. Additionally, impacts from Coyote Creek or proposed flows along the Creek must be reviewed and their impacts on stability examined.

Biological Resources: The project site is adjacent to extremely sensitive habitats, including some of the last salt marsh harvest mouse (SMHM) habitat in the region. Given that previous City wastewater actions have almost eliminated SMHM habitat in the region, this issue alone presents potentially significant impacts. The EIR should address all biological resources on-site and in the vicinity of the site and past impacts. Direct and indirect impacts of the proposed project on sensitive habitats and special-status species should be fully identified.

Hydrology and Water Quality: The project site is at the southern terminus of the bay and is adjacent to important tidal creeks that support important Bay wildlife. The EIR should address existing drainage, flooding and stormwater treatment conditions of the project site and proposed action. Consistency with recent NPDES requirements should also be explored.

Transportation: The project site is within a relatively congested area; the current impacts of traffic into and out of the landfill are an issue for adjacent land uses. The EIR should describe the existing traffic conditions in the project area and analyze the proposed project's impacts on the transportation system. Accurate assessments and counts of the existing types of vehicles using the landfill need to be completed and attention paid to their characteristics, e.g. slow-moving, heavily laden trucks, and the impacts of these vehicles noted.

Air Quality: This region is a non-attainment area for several important air quality constituents; vehicles using the landfill are typically problematic for those constituents. The EIR should discuss the project's impacts on local and regional air quality with accurate assessments of the vehicles using the landfill and the need apparent acceleration of the traffic and air quality impacts as a result of an increase in operations.

Noise: The EIR should describe existing noise conditions and noise impacts resulting from the proposed project.

Recreation: Recreational facilities in the immediate area include an extension of the regional Bay Trail and the existing Wildlife Refuge as well as the potential expansion of the Refuge into the bayside property. The EIR should discuss any effects on these facilities that could occur if the project is implemented as proposed.

Cultural Resources: The project site was, in the pre-European context, an upland island in the tidal marshes of the South bay. These areas were typically highly important for the native Americans in the region. The EIR should discuss the potential for archaeological resources to be present on the site and possible impacts of the project on cultural resources.

Page three

Hazardous Materials: The EIR should describe any existing contamination on-site and analyze possible hazardous materials impacts resulting from the proposed project.

Utilities and Service Systems: The EIR should discuss the ability of existing infrastructure on-site and in the project area, including all areas within a reasonable service distance, to serve the proposed project.

Global Climate Change: The EIR should include a discussion of global climate change using the most recent assessments for the Bay Area. The potential impact of increased tidal elevations should be fully discussed.

Alternatives to the Project: All reasonable alternatives to the project, including a "No Project" alternative and alternatives that do not result in increased elevations, should be addressed. These would include increased recycling or other actions that would reduce the waste stream.

Please add me to the mailing list for this project and keep me apprised of the project's progress and any further opportunities for public comment.

Very truly yours,



John Zentner

cc: Bud Lyons, King & Lyons
Clyde Morris, Don Edwards Refuge
Bob Batha, BCDC
Jeff Schwob, City of Fremont

Moore, Janis

From: Ryan, Elish [Elish.Ryan@PRK.SCCGOV.ORG]
Sent: Monday, January 07, 2008 2:09 PM
To: Janis.Moore@sanjoseca.gov
Cc: Mark, Jane
Subject: Response for Newby Island Landfill NOP

Dear Janis,

I have arranged for a hard copy of the County Parks response to the NOP for the Newby Island Landfill Draft EIR to you today. As you will recall, we submitted our comments in electronic format to you via email last Friday's email. We ask that you please consider the signed hard copy, with referenced attachments, our final comments.

Thank you for your consideration.

Elish Ryan

from the desk of:

Elish Ryan
Park Planner
Santa Clara County Parks Department
298 Garden Hill Drive
Los Gatos, CA 95032 main line: (408)355-2200
direct line: (408)355-2236 fax: (408)355-2290
email: elish.ryan@prk.sccgov.org
www.parkhere.org

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201
www.parkhere.org

RECEIVED

JAN - 7 2008

CITY OF SAN JOSE
DEVELOPMENT SERVICES



January 4, 2008

Janis Moore, Planner II
City of San Jose, Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Subject: NOP of a DRAFT EIR to the Newby Island Sanitary Landfill and Recyclery
Rezoning Application

File Number: PDC07-071

APN: 015-40-003, 015-40-005 and a portion of 015-47-001

Dear Ms. Moore,

Thank you for the opportunity to provide input on the preparation of an EIR for proposed rezoning of the Newby Island Sanitary Landfill and Recyclery (NISL) in north San Jose. It is understood that this project will not change the lateral extent of the landfill footprint but raise the maximum height of allowable fill by approximately 100 feet, increase landfill capacity, and update and clarify the legal non-conforming uses on the site to specify the allowable current and future uses. As such the Draft EIR should analyze impacts to the environment as a result of the project and associated increases of use or modification of daily operations.

IMPACTS TO COUNTYWIDE TRAILS ROUTES

The County Parks and Recreation Department, in partnership with other public agencies, is charged with furthering the implementation of the Santa Clara Countywide Trails Master Plan Update, adopted as part of the County's General Plan in 1995. As such, we have identified potential impact to a number of existing Countywide Trail routes that need to be analyzed as result of the project and any associated modifications of daily operations. The trail routes identified in the Countywide Trails Master Plan include:

- Trail Route R1-B: Juan Bautista de Anza NHT-Bay Recreation Retracement Route
- Trail Route R4: San Francisco Bay Trail
- Trail Route S5: Coyote Creek Trail
- Trail Route C7: Calaveras Trail (Scenic Road)

Trail routes R-B, R4 and S5 are existing major national and regional trail routes that follow the alignment of Coyote Creek as it enters the San Francisco Bay in the vicinity of the project and



Board of Supervisors: Donald F. Gage, Blanca Alvarado, Peter McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutras, Jr.

extend far beyond the immediate limits of the City of San Jose. The On-Street alignment of Trail Route C7 provides crucial public non-vehicular access to an over-crossing of U.S. Hwy. 880 and is a key connection to regional trail routes on both sides of the highway. The Draft EIR should analyze potential impacts to the alignment of, access to, operation of, or traffic conflicts with these trail alignments as result of the project and any associated modifications of daily operations at the landfill site. These impacts should be analyzed under impacts to Land Use, Transportation and Recreation. The Draft EIR should included mitigations to address any impacts to public safety on these trail alignments and impacts to trail connectivity to adjacent land uses and travel ways. The Draft EIR should also include measures to promote multi-modal connectivity across a major vehicular corridor in the vicinity of this project. For reference, the Draft EIR should consider the recommendations of the Countywide Trails Master Plan Uniform Inter-jurisdictional Trail Design, Use, and Management Guidelines, available on the Parks Department's website: www.parkhere.org.

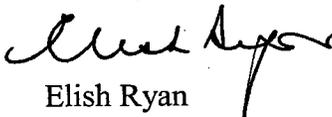
IMPACTS TO THE SAN FRANCISCO BAY TRAIL

Long range planning for the San Francisco Bay Trail (Bay Trail), a project of the Association of Bay Area Governments (ABAG) includes an extension of the Bay Trail from the intersection of McCarthy Blvd. and Dixon Landing Road to go around the perimeter of the project site. This segment was included in the Bay Trail Plan, adopted by ABAG in 1989, and reasserted as a preferred alignment in ABAG's 2005 Bay Trail Gap Analysis Report. As such, this proposed alignment will complete a major portion of the southern alignment of the Bay Trail and access to the Don Edwards SF Bay National Wildlife Refuge. As a member of the San Francisco Bay Trail Board, the County Parks Department supports an extension of the Bay Trail alignment around the Newby Island Landfill site. Impacts to this alignment should be considered in the Draft EIR. As the end use of the site is passive open space, phased implementation of the Bay Trail should be included for compliance with adopted regional trails planning efforts.

We look forward to working with you in the development of this project to provide safe and convenient access for these major trail routes that will enhance recreational and commuter use and further the public's use of the extensive trails system in Santa Clara County. Please forward a copy of the Draft EIR to our attention.

If you have any questions, you may contact me at 408-355-2236 or at elish.ryan@prk.sccgov.org.

Thank you,



Elish Ryan
Park Planner

Enc. Countywide Trails Master Plan Trails Route Map and detail
San Francisco Bay Trail Alignment for Santa Clara County

Cc: Julie Mark, County Parks
Jane Mark, County Parks
Stan Bond, NPS De Anza Trail Coordinator
Laura Thompson, SF Bay Trail

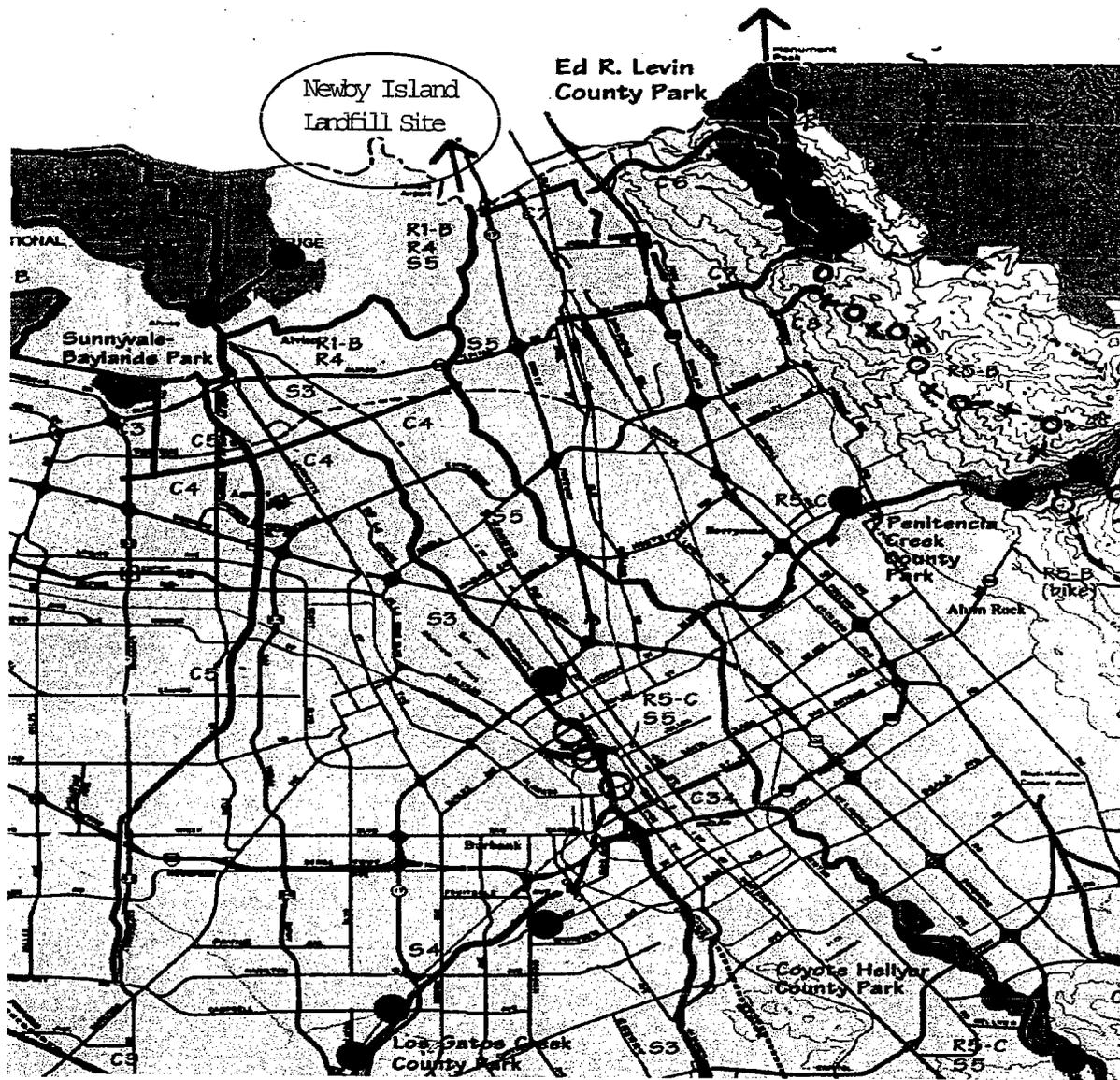


Board of Supervisors: Donald F. Gage, Blanca Alvarado, Peter McHugh, Ken Yeager, Liz Kniss
County Executive: Peter Kutas, Jr.

Santa Clara County Trails Master Plan Update

County of Santa Clara Parks and Recreation Department

Countywide Trails Master Plan



KEY REGIONAL TRAIL ROUTES

- R1 Juan Bautista de Anza National Historic Trail
- R1-A Northern Recreation Retracement Route
 - R1-A (bike) Northern Bicycle Retracement Route (Scenic Road -- Partial)
 - R1-B Bay Recreation Retracement Route
- R4 San Francisco Bay Trail

KEY SUB-REGIONAL TRAIL ROUTES

- S5 Coyote Creek /Llagas Creek Trail (Scenic Road -- Partial)

Santa Clara County Trails Master Plan Update

County of Santa Clara Parks and Recreation Department

Countywide Trails Master Plan

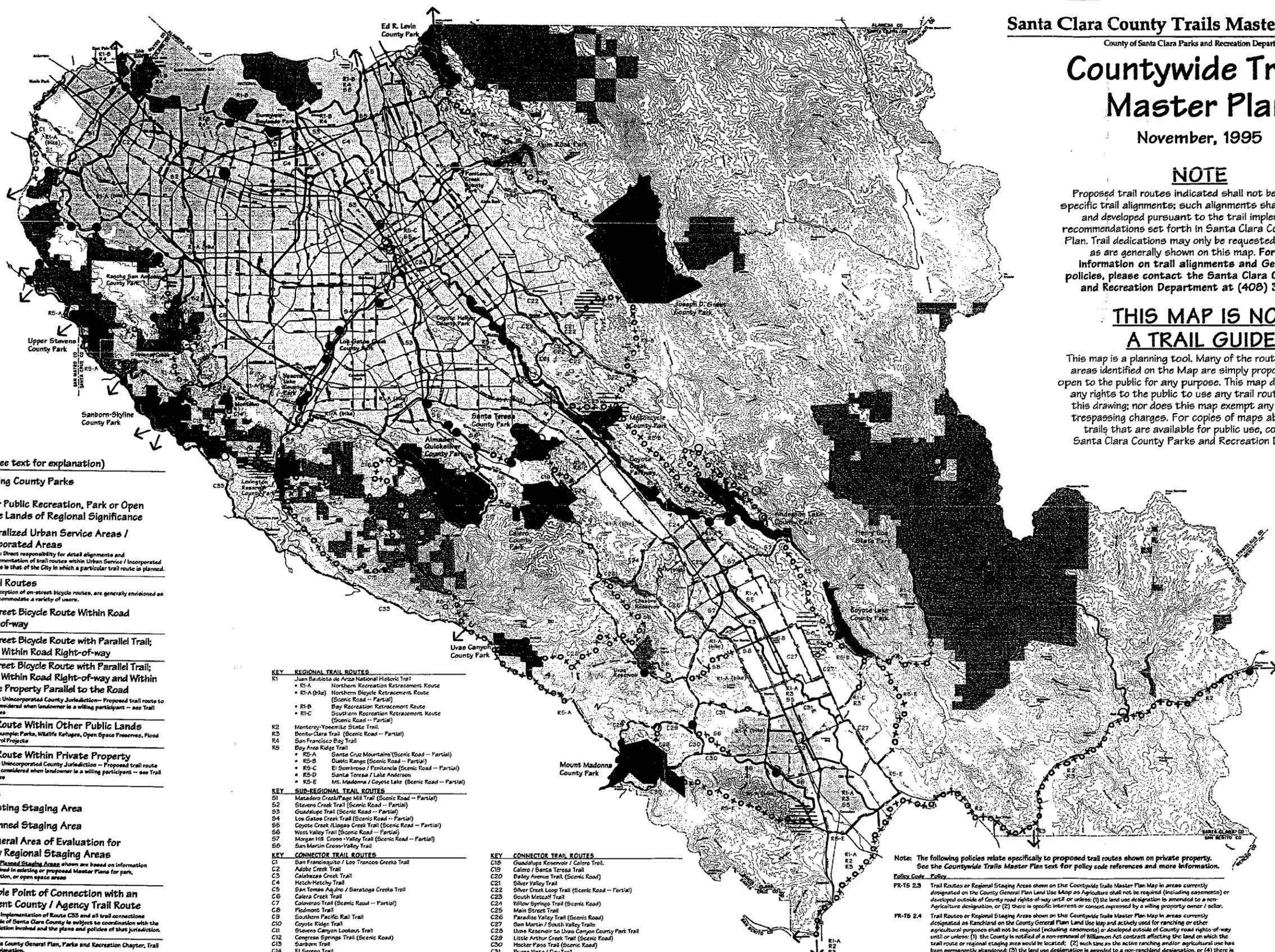
November, 1995

NOTE

Proposed trail routes indicated shall not be considered specific trail alignments; such alignments shall be obtained and developed pursuant to the trail implementation recommendations set forth in Santa Clara County General Plan. Trail dedications may only be requested along routes as are generally shown on this map. For further information on trail alignments and General Plan policies, please contact the Santa Clara County Parks and Recreation Department at (408) 358-3147.

THIS MAP IS NOT A TRAIL GUIDE

This map is a planning tool. Many of the routes or staging areas identified on the Map are simply proposed and not open to the public for any purpose. This map does not convey any rights to the public to use any trail routes shown on this drawing; nor does this map exempt any person from trespassing charges. For copies of maps about existing trails that are available for public use, contact the Santa Clara County Parks and Recreation Department.



Legend (see text for explanation)

- Existing County Parks
- Other Public Recreation, Park or Open Space Lands of Regional Significance
- Generalized Urban Service Areas / Incorporated Areas

Note: Direct responsibility for detail alignments and implementation of trail routes within Urban Service / Incorporated Areas is that of the City in which a particular trail route is planned.

Proposed Trail Routes

Trail routes, with the exception of on-street bicycle routes, are generally envisioned as shared-use trails to accommodate a variety of users.

- On-street Bicycle Route Within Road Right-of-way
- On-street Bicycle Route with Parallel Trail; Route Within Road Right-of-way
- On-street Bicycle Route with Parallel Trail; Route Within Road Right-of-way and Within Private Property Parallel to the Road

Note: Unincorporated County Jurisdiction - Proposed trail route to be considered when landowner is a willing participant - see Trail Policies

- Trail Route Within Other Public Lands

Note: Unincorporated County Jurisdiction - Proposed trail route to be considered when landowner is a willing participant - see Trail Policies

- Trail Route Within Private Property

Note: Unincorporated County Jurisdiction - Proposed trail route to be considered when landowner is a willing participant - see Trail Policies

- Existing Staging Area
- Planned Staging Area

Note: Planned Staging Areas shown are based on information contained in existing or proposed Master Plans for park, recreation, or open space areas

- General Area of Evaluation for New Regional Staging Areas

Note: Implementation of Route C35 and all trail connections outside of Santa Clara County is subject to coordination with the jurisdiction involved and the plans and policies of that jurisdiction.

- Possible Point of Connection with an Adjacent County / Agency Trail Route

Notes: • See Santa Clara County General Plan, Parks and Recreation Chapter, Trail Section for explanation.
• No trespassing on private property.



- | | |
|--|--|
| KEY REGIONAL TRAIL ROUTES | KEY SUR-REGIONAL TRAIL ROUTES |
| R1 Juan Bautista de Anza National Historic Trail | S1 Matadero Creek / Page Mill Trail (Scenic Road - Partial) |
| • R1-A Northern Recreation Retracement Route (Scenic Road - Partial) | S2 Stevens Creek Trail (Scenic Road - Partial) |
| • R1-A (bike) Northern Bicycle Retracement Route (Scenic Road - Partial) | S3 Guadalupe Trail (Scenic Road - Partial) |
| • R1-B Bay Recreation Retracement Route (Scenic Road - Partial) | S4 Los Gatos Creek Trail (Scenic Road - Partial) |
| • R1-C Southern Recreation Retracement Route (Scenic Road - Partial) | S5 Coyote Creek / Llagas Creek Trail (Scenic Road - Partial) |
| R2 Monterey-Yosemite State Trail | S6 West Valley Trail (Scenic Road - Partial) |
| R3 Santa Clara Trail (Scenic Road - Partial) | S7 Morgan Hill Cross-Valley Trail (Scenic Road - Partial) |
| R4 San Francisco Bay Trail | S8 San Martin Cross-Valley Trail |
| R5 Bay Area Ridge Trail | |
| • R5-A Santa Cruz Mountains (Scenic Road - Partial) | |
| • R5-B Diablo Range (Scenic Road - Partial) | |
| • R5-C El Sombrero / Peninsula (Scenic Road - Partial) | |
| • R5-D Santa Teresa / Lake Anderson | |
| • R5-E Mt. Madonna / Coyote Lake (Scenic Road - Partial) | |

- | | |
|---|---|
| KEY CONNECTOR TRAIL ROUTES | KEY CONNECTOR TRAIL ROUTES |
| C1 San Francisco / Los Trancos Creeks Trail | C10 Guadalupe Reservoir / Galero Trail |
| C2 Adobe Creek Trail | C19 Calero / Santa Teresa Trail |
| C3 Calaveras Creek Trail | C20 Bailey Avenue Trail (Scenic Road) |
| C4 Hetch-Hetchy Trail | C21 Silver Valley Trail |
| C5 San Tomas Aquino / Saratoga Creeks Trail | C22 Silver Creek Loop Trail (Scenic Road - Partial) |
| C6 Calera Creek Trail | C23 South Merced Trail |
| C7 Calaveras Trail (Scenic Road - Partial) | C24 Willow Springs Trail (Scenic Road) |
| C8 Piedmont Trail | C25 Main Street Trail |
| C9 Southern Pacific Rail Trail | C26 Paradise Valley Trail (Scenic Road) |
| C10 Coyote Ridge Trail | C27 San Martin / South Valley Trails |
| C11 Upper Los Gatos Creek / Mt. Umunhum Trail (Scenic Road - Partial) | C28 Uvas Reservoir to Uvas Canyon County Park Trail |
| C12 Calaveras Springs Trail (Scenic Road) | C29 Little Arthur Creek Trail (Scenic Road) |
| C13 Sanborn Trail | C30 Hester Pass Trail (Scenic Road) |
| C14 El Sereno Trail | C31 Buena Vista / Day Trail |
| C15 Upper Los Gatos Creek / Mt. Umunhum Trail (Scenic Road - Partial) | C32 West Branch Llagas Creek Trail |
| C16 Upper Guadalupe Trail | C33 Skyline-Summit Trail (Scenic Road) |
| C17 Almaden-Hicks Road Loop (Scenic Road) | C34 Guadalupe River / Coyote Creek Trail |

Note: Use of the term 'Scenic Road' means that the trail route parallels a road designated as 'Scenic' in 1995 Santa Clara County General Plan. 'Partial' indicates that any part of the trail route parallels a Scenic Road.

Note: The following policies relate specifically to proposed trail routes shown on private property. See the Countywide Trails Master Plan text for policy code references and more information.

Policy Code Policy

- PR-16 2.3 Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated on the County General Plan Land Use Map as Agriculture shall not be required (including easements) or developed outside of County road rights-of-way until or unless: (1) the land use designation is amended to a non-Agriculture designation, or (2) there is specific interest or consent expressed by a willing property owner / seller.
- PR-16 2.4 Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated as Ranchland on the County General Plan Land Use Map and actively used for ranching or other agricultural purposes shall not be required (including easements) or developed outside of County road rights-of-way until or unless: (1) the County is notified of a non-renewal of Williamson Act contract affecting the land on which the trail route or regional staging area would be located; (2) such time as the active ranching and/or agricultural use has been permanently abandoned; (3) the land use designation is amended to a non-ranchland designation, or (4) there is specific interest or consent expressed by a willing property owner / seller.
- PR-16 2.5 Trail Routes or Regional Staging Areas shown on the Countywide Trails Master Plan Map in areas currently designated as Hillsides on the County General Plan Land Use Map and actively used for ranching or other agricultural purposes shall not be required (including easements) or developed outside of County road rights-of-way until or unless: (1) the County is notified of a non-renewal of Williamson Act contract affecting the land on which the trail route or regional staging area would be located; (2) such time as active ranching and/or agricultural use has been permanently abandoned; or (3) there is specific interest or consent expressed by a willing property owner / seller.



SAN FRANCISCO BAY TRAIL

Santa Clara County



— Completed Trail Segment - - - Proposed Trail Segment ○ Segment Break --- County Lines



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306

Tel 650 493-5540

Fax 494-7640

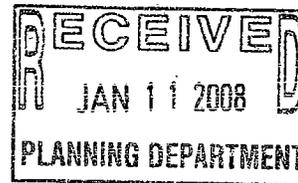
email florence@refuge.org

October 31, 2007

ENDORSERS

- Acterra
- Baylands Conservation Committee
- California Hawking Club, Inc.
- California Waterfowl Association
- California Wildlife Federation
- Citizens for Alameda's Last Marshlands
- Citizens for Open Space In Alvarado
- Friends of Foster City
- Save our South Bay Wetlands
- Save Wetlands in Mayhews
- Whistling Winds/Pintail Duck Clubs
- Committee for Green Foothills
- Communities for a Better Environment
- Defenders of Wildlife
- East Bay Green Alliance
- Federation of Fly Fishers
- Friends of Charleston Slough
- Friends of Redwood City
- Golden Gate Audubon Society
- Green Belt Alliance
- League of Women Voters of the Eden Area
- League of Women Voters of the Fremont Area
- League of Women Voters of Palo Alto
- League of Women Voters of South San Mateo County
- Mission Creek Conservancy
- Loma Prieta Chapter, Sierra Club
- Madrone Audubon Society
- Marin Audubon Society
- Mission Creek Conservancy
- Mono Lake Committee
- Mount Diablo Audubon Society
- Napa-Solano Audubon Society
- Native Plant Society, Santa Clara Valley Chapter
- Ohlone Audubon Society
- Planning and Conservation League
- San Francisco Chapter, Sierra Club
- Santa Clara Valley Audubon Society
- Save San Francisco Bay Association
- Sequoia Audubon Society
- Sportsmen for Equal Access
- Trout Unlimited
- United Anglers of California
- Urban Creeks Council

Mr. Chris Burton
 Planning Department
 City of San Jose
 200 E. Santa Clara Street, Third Floor
 San Jose CA 95113



Re: Newby Island Landfill

Dear Mr. Burton,

We respectfully ask the City of San Jose to abandon plans to enlarge the Newby Island Landfill.

Many years ago, this landfill was the subject of intense public scrutiny and objection. At that time, if my memory serves me correctly, about in the 1980s money was paid into a fund as restitution for the destruction of valuable land. I would appreciate a record of the disposition of that fund.

Objections are numerous, but a couple seem most egregious to us. First, a dump of the height contemplated here is potentially disastrous in the case of an earthquake. In the event of liquefaction at the site, any jurisdiction that has dumped on the site would share liability. And the liability could be very great since slumping could block the adjoining Coyote Creek, possibly flooding parts of San Jose. Also to be considered would be the effect on the steelhead trout nursery in Alum Rock creek.

Have any geotechnical studies been made to determine the stability of the underlying substrate of the island? Also, has the possibility of leachate contamination of bay waters been assessed?

For decades we have worked toward the establishment of the Don Edwards San Francisco Bay National Wildlife Refuge, and more recently, for the restoration of thousands of acres to tidal marsh. The value of these efforts is imperiled with the establishment of attractive habitat for a major predator of local wildlife—the California gull. Dumps are the greatest food source for this avian predator. They destroy the very wildlife, some of it endangered, for which this refuge was established.

In addition, there are other effects from the height of the projected addition, 245 feet, not only visually disruptive but a large source of dangerous debris, like plastics, scattered about and into the bay.

The Newby Island Landfill has never been zoned for that purpose. Therefore we not only object to expansion plans, we in fact strongly urge that the landfill be closed permanently.

Thank you for inviting comments on this on this subject. We would be pleased to be informed of all future actions related to the Newby Island Landfill.

Yours sincerely,

Florence LaRiviere
Chairwoman

cc: RWQCB
A 501(c)(3) Nonprofit Public Benefit Corporation



ROBERT MORALES
Secretary-Treasurer

RECEIVED

SANITARY TRUCK DRIVERS AND HELPERS 14 2009

Local No. 350

AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

CITY OF SAN JOSE
DEPARTMENT OF PUBLIC WORKS



Office: CEDAR HILL OFFICE BUILDING
295 89th STREET, SUITE 304
DALY CITY, CALIFORNIA 94015
Telephone: (650) 757-7290
FAX: (650) 757-7294

January 13, 2009

AFFILIATED WITH
Joint Council of Teamsters No. 7
Bay Area Union Labor Party

Janis Moore
San Jose Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Re: Newby Island Sanitary Landfill Project

Dear Ms. Moore:

I have received a copy of your Department's Notice of Preparation of a draft of an Environmental Impact Report for the Browning Ferris Industries ("Allied Waste") project to enlarge the capacity and operation of the Newby Island landfill. I am writing to inform you of the continuing interest of Teamsters Local 350 in this project, and to request that our Union be included in all notices from your office for public comment and/or hearings involving the permit(s) sought by Allied Waste of Santa Clara County.

As you may know, Local 350 represents employees not only of Allied Waste but also of the many collection companies that utilize the Newby Island landfill. We are particularly concerned about the health and safety of our members whose employment brings them in daily contact with the Newby Island facilities. I have not seen sufficient concern in the Notice document before me of recognition of the risks to our members that are inherent in this project.

Be sure to copy me with the draft EIR. I will reserve any specific comments until after I have had an opportunity to review it.

Respectfully yours,

Robert Morales
Secretary-Treasurer

cc: Duane Beeson Attorney at Law

RM/ah

Moore, Janis

From: JLucas1099@aol.com
Sent: Monday, January 14, 2008 3:37 PM
To: Janis.Moore@sanjoseca.gov
Subject: NOP of DEIR for Newby Island Sanitary Landfill and the Recycling Rezoning

January 14, 2008

City of San Jose Planning Division,
 200 East Santa Clara Street, 3rd floor
 San Jose, CA 95113-1905

Attn: Janis Moore, Planner II

File number: PDC07-071
 Applicant: AWIN Management for International Disposal Corp of California, Browning Ferris Industries of California, Inc., and Los Esteros Ranch
 APN: 015-40-003, 005: portion of 015-47-001

In regards the Notice of Preparation of a Draft Environmental Impact Report for Newby Island Sanitary Landfill and the Recycling Rezoning I do have the following concerns which I believe need to be addressed in a NOP.

Potential Environmental Impacts of the Project:

Land Use and Aesthetics should include scenic views of Newby Island from #580, Union Pacific Railroad, the National Wildlife Refuge and all water and land based South Bay recreational uses, both present and future. Views from throughout the City of Milpitas would be impacted by any increase in elevation of Newby Island.

Geology and Soils analysis needs to include substrata data and composition and depth of original underliner to landfill site. An early Refuge Manager remarked some thirty years ago that landfills around Bay would never have been permitted in his home state of Wisconsin. Analysis should evaluate load of proposed 100 ft. increase in landfill elevation on natural as well as engineered substrata, for degree of induced base splaying.

One Biological Resource that is essential to be addressed is overwhelming population of seagulls, drawn to dump, which are predators of special status species and biodiversity that Refuge was designed to sustain. Newby Island and levees of Coyote Creek historically provided upland refugia for Salt Marsh Harvest Mouse, and extensive mouse mitigation acreage lies adjacent to southern boundary of site, and this needs to be addressed in regards extension of landfill operations here. Also, the continued increase in traffic and lighting of landfill and recycling operations impacts integrity of this adjacent mouse mitigation acreage. A haul road to Newby Island that crosses this Salt Marsh Harvest Mouse mitigation area was only a temporary permit.

Upland grasses and saltmarsh vegetation would accelerate restoration of Newby Island and mitigate air and water pollution blowing and draining off dump operation. Please include biological appeal of this alternative. Restored to an island it would have high refugia value for most species found in the National Wildlife Refuge.

Hydrology and Water Quality are critical elements of this DEIR. Such a landfill should not have been sited in a floodplain, let alone a floodway, of Santa Clara County's major river. Though flows in Coyote Creek have a degree of control by upstream reservoirs, an anticipated one meter rise in Bay levels and increase in storm frequency and intensity due to global warming, dispel any assurances in past watershed runoff guidelines. Please address full range of increased storm water runoff flows in Coyote Creek.

Besides new FEMA floodplain criteria, this DEIR must reference alignments of COE South Bay superlevee. The Round the Bay Trail routing is also critical element in and around Newby Island, (reference BCDC).

The Project Site is different in Figure 2 from the Project Boundary in Figure 3. The latter overruns McCarthy Boulevard and abuts Coyote Creek in manner that impacts wetlands and Salt Marsh Harvest Mouse habitat. This recycling siting with its noise and lights needs to be reevaluated if it is moved east into sensitive marsh. The present recycling project site as shown in Figure 2 should be evaluated as a non-expanded alternative.

I am submitting this comment under a response extension that I believe has been granted to Citizens Committee to Complete

1/14/2008

the Refuge, and therefore do thank you for all due consideration of my concerns.

Libby Lucas
174 Yerba Santa Ave.,
Los Altos, CA 94022

Start the year off right. Easy ways to stay in shape in the new year.

Moore, Janis

From: Winnie_Chan@fws.gov
Sent: Thursday, January 17, 2008 1:27 PM
To: Moore, Janis
Cc: Mendel_Stewart@fws.gov; John_Bradley@fws.gov; Clyde_Morris@fws.gov; Cheryl_Strong@fws.gov; Joy_Albertson@fws.gov
Subject: RE: newby island
Attachments: newby_island_Jan08.pdf



newby_island_Jan08.pdf (112 KB...)

Hi Janis,

Here's the Refuge's comments. Yes, I will be the main Refuge contact regarding Newby Island.

Thanks,
Winnie

(See attached file: newby_island_Jan08.pdf)

Winnie Chan
Refuge Planner
SF Bay National Wildlife Refuge Complex
510-792-4275 x45

9500 Thornton Ave.
Newark, CA 94560
(FEDEX/UPS ADDRESS is still: 1 Marshlands Rd., Fremont, CA 94536)

"Moore, Janis"
<Janis.Moore@sanjoseca.gov>

01/09/2008 10:23 AM

"Winnie_Chan@fws.gov"
<Winnie_Chan@fws.gov>

To

cc

Subject

RE: newby island

Winnie,

We have extended the NOP comment period to Jan. 22, 2008. Please send your comments on the NOP directly to me. Thanks and I look forward to hearing from you.

In addition, I will be scheduling a scoping meeting in the near future so that City staff, the environmental consultant, and Fed., State & local agencies may meet to discuss the

environmental analysis for the EIR. Are you the main contact for all future mailing for the Newby Island EIR?

Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement 200 E. Santa Clara Street, Tower,
3rd Floor San Jose, CA 95113
T: (408) 535-7815
F: (408) 292-6055
E: janis.moore@sanjoseca.gov
W: www.sanjoseca.gov/planning/

From: Moore, Janis
Sent: Tuesday, January 08, 2008 10:42 AM
To: 'Winnie_Chan@fws.gov'
Subject: RE: newby island

I already have the FWS on my distribution list for this EIR, once it becomes available for public review, which probably won't be until late summer, 2008. If you like, I can place your email on my NOA distribution list so you will be notified when the Draft EIR becomes available. You will then be able to review the Draft EIR on our web site @ <http://www.sanjoseca.gov/planning/eir/eir.asp>

If you have comments on the NOP, please get them to me ASAP. Email is ok.

Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement 200 E. Santa Clara Street, Tower,
3rd Floor San Jose, CA 95113
T: (408) 535-7815
F: (408) 292-6055
E: janis.moore@sanjoseca.gov
W: www.sanjoseca.gov/planning/

From: Winnie_Chan@fws.gov [mailto:Winnie_Chan@fws.gov]
Sent: Friday, January 04, 2008 3:53 PM
To: Janis.Moore@sanjoseca.gov
Subject: newby island

Hi Janis,

I'm not sure if we're on your mailing list, but we like to be included regarding the Newby Island project. Thanks!

We plan to submit comments to the NoP, but they are likely to be past the comment period. Would you still accept them?

Thanks,
Winnie

Winnie Chan
Refuge Planner
SF Bay National Wildlife Refuge Complex
510-792-4275 x45

9500 Thornton Ave.
Newark, CA 94560
(FEDEX/UPS ADDRESS is still: 1 Marshlands Rd., Fremont, CA 94536)



United States Department of the Interior



FISH AND WILDLIFE SERVICE
San Francisco Bay National Wildlife Refuge Complex
9500 Thornton Avenue
Newark, California 94560

City of San Jose Planning Division
Attention: Janis Moore
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

JAN 17 2008

SUBJECT: Comments regarding the Notice of Preparation of a Draft Environmental Impact Report for the Newby Island Sanitary Landfill and the Recyclery Rezoning

Dear Ms. Moore:

The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Newby Island Rezoning. The Refuge has lands on three sides of the landfill and expects to obtain more land next to the landfill near Dixon Landing Road in the near future. We have substantial concerns with the impacts of the existing landfill and believe that the expansion of Newby Island will only exacerbate the impacts. We would like to note the following concerns:

- *Trash impacts.* The proposed expansion increases the height of the landfill by more than 60 percent, which would significantly increase the capacity of waste to the area. Currently, ravens and tens of thousands of gulls forage at the landfill and roost on Refuge property adjacent to the landfill to the exclusion of other waterbirds. The birds not only feed at the landfill, but also prey on nesting shorebirds and listed species on and likely off the Refuge. Over the years, the landfill has provided a source of food that has allowed the numbers of raven and gull species to increase dramatically. Increasing landfill capacity would only further these and other nuisance wildlife populations that are attracted by the trash.

The Refuge was expanded in 2003 when \$100 million was spent to purchase South Bay salt ponds to provide additional habitat for public trust wildlife resources. An even larger sum of money is proposed to be spent to expand wildlife habitat on these ponds (see additional information at: www.southbayrestoration.org). The wildlife populations that are to be increased by these restoration projects are the very ones most sensitive to impacts from the expanding avian species that feeds off the landfill. The expansion of the landfill could reduce the ability of this restoration project to meet its goals. The subject EIR should analyze the wildlife impact of the expected expansion. Mitigation measures to prevent expansion of the impacts should be identified and assessed, though efforts

should also be made to reduce the existing impacts as well.

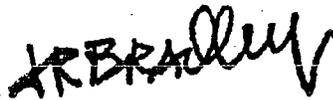
- *Aesthetics and Noise.* The noise and view of the enormous facility will certainly detract from the experience of visitors using the Refuge's trail. The Refuge's 2.5-mile Coyote Creek Trail is located within 100 yards of the landfill. The landfill is visible from miles of other Refuge trails located in the Alviso Pond System. The increased size of the landfill would significantly impair the current viewscape at the Refuge. This impact should be analyzed and mitigated.

We are also interested in whether the operation hours of this facility will be expanded. The noise from expanding the operation will undoubtedly impact the natural atmosphere we try to maintain at the Refuge. We would also expect the noise resulting from the proposed expanded operation to deter wildlife from selecting the Refuge for resting, breeding or feeding. The noise impacts could be especially detrimental during the breeding season.

- *Water Quality.* The Refuge is concerned with the impacts of the landfill to the water quality of the South Bay including the Refuge. Please analyze the history of water quality impacts to adjacent waterways such as Coyote Creek and the potential increased impacts with the increased capacity of the landfill.
- *Environmental Justice.* No other facility in San Jose is as large as this facility. This landfill is within the viewscape of the town of Alviso. The Zanker Material Recycling Facility, also in the Alviso community, is being proposed for expansion. These landfills combined appear to unequally burden this community. This issue should be explored in the EIR's section on environmental justice.

Thank you for including our comments. Please keep us informed of the EIR process, especially any future opportunities to provide comment. If you have questions regarding our comments, please contact me at 510-792-0222.

Sincerely,



for G. Mendel Stewart
Manager,
San Francisco Bay NWR Complex

Cc: RWQCB
California Coastal Conservancy
Citizens to Complete the Refuge

Moore, Janis

From: Brian Wines [BWines@waterboards.ca.gov]
Sent: Friday, January 18, 2008 11:02 AM
To: Janis.Moore@sanjoseca.gov
Subject: RE: NOP for DEIR, Newby Island Sanitary Landfill - File NumberPDC07-071

Attachments: CEQAcomment_NOP_NewbyIslandLandfill.pdf



CEQAcomment_NC
'_NewbyIslandLan..

Hi Janis

Here's a pdf of our comment letter.
Hard copy will follow.
Thanks for the extension!
Brian

Brian Wines
Water Resources Control Engineer
San Francisco Bay Regional Water Quality Control Board 510-622-5680

>>> "Moore, Janis" <Janis.Moore@sanjoseca.gov> 1/8/2008 3:44 PM >>>
Things happen, unfortunately. Our clerical person is out of the office today (and this is my first day back from being out sick) so I will check w/ her tomorrow. She was supposed to send a copy directly to the RWQCB at the Oakland Office (I can provide you w/ all relevant distribution lists). However, I checked the green card receipts in my file and there isn't one from your office.

Scott Morgan, SCH Project Analyst, sent me a copy of their routing/distribution list, and it appears they also sent a copy to the RWQCB. You might want to check w/ him to determine which Regional board he sent it to.

I spoke a rep from Citizens Committee to Complete the Refuge today, who was also upset about not getting an NOP. I think I know what the problem was (Chris didn't get me her name). So, I gave her a two-week extension (from today). I would be happy to give you the same two-week extension. Please let me know if that will work for you. Also, you can access the NOP document on our web site at <http://www.sanjoseca.gov/planning/eir/eir.asp>.

Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement 200 E. Santa Clara Street, Tower,
3rd Floor San Jose, CA 95113
T: (408) 535-7815
F: (408) 292-6055
E: janis.moore@sanjoseca.gov
W: www.sanjoseca.gov/planning/

-----Original Message-----

From: Brian Wines [mailto:BWines@waterboards.ca.gov]
Sent: Tuesday, January 08, 2008 3:05 PM
To: Janis.Moore@sanjoseca.gov
Subject: RE: NOP for DEIR, Newby Island Sanitary Landfill - File NumberPDC07-071

Janis
That's the correct address for me. But I haven't received a copy in my mailbox. And I haven't received a copy from the Clearinghouse. I'm usually pretty good at keeping on top of CEQA doc's, so it's troubling that I missed

seeing the NOP sent directly by the City and the copy from the Clearinghouse.

Do you have a receipt from the certified mail to our office? Maybe it has a signature from the person who signed for it, so I can figure out what happened. Someone may not be distributing documents correctly to our inboxes.

Also, do you have a point of contact with the clearinghouse? Or a copy of their routing slip? Sometimes the Clearinghouse will send projects to the wrong Regional Board.

Also, I know that the Refuge and the South Bay Salt Pond Restoration Project sent comments to Chris Burton in September. They were anticipating getting a copy of the NOP as a result of the comments. The separation of the rezoning and environmental review may have created confusion. I thought all of our comments to Chris were getting passed on to whoever was working on the NOP (I assumed it would be Chris, actually. I spoke with him briefly in September. He didn't say he was doing the EIR, but he didn't say he wasn't either).

Can you please contact the Refuge and the restoration project? I included email addresses for them in the cc list of my prior email, so you can use those email addresses to get in touch with them. I know they were very interested in providing input on the NOP.

Thanks
Brian

>>> "Moore, Janis" <Janis.Moore@sanjoseca.gov> 1/8/2008 1:25 PM >>>
On Dec. 5, 2007, we mailed out (by certified mail) Notices of Preparation (NOP) for the Newby Island Rezoning EIR. We mailed copies to the California Regional Water Quality Control Board (Region 2), the State Water Resources Control Board and the State Dept. of Water Resources. You may also have received a copy of the NOP from the State Clearinghouse, according to their records.

I believe the address we have for your office is:

CA Regional Water Quality Control Bd.
SF Bay Region #2
Attn: Brian Wines
1515 Clay Street, Suite 1400
Oakland, CA 94612-1404

Please let me know if this address is incorrect and I will revise the list we use for certified mailings.

This NOP has been circulated for the requisite 30-day period, from 12/5/07 to 1/3/08; however, I will accept a late comment from you if you can get it emailed to me in the next few days.

Perhaps there was some confusion w/ respect to contact persons for this project. PLEASE NOTE that all CEQA comments, questions, etc. pertaining to the CEQA analysis, process or documents (i.e. NOP, NOA, EIR, NOD, etc.) for this project should be referred to me directly, as I am the Environmental Manager for the EIR.

All comments, questions, etc. relating to the REZONING PROJECT, should be referred to Chris Burton, the Project Manager for the rezoning.

Hope this info is helpful.

Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement

200 E. Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113
T: (408) 535-7815
F: (408) 292-6055
E: janis.moore@sanjoseca.gov
W: www.sanjoseca.gov/planning/

-----Original Message-----

From: Brian Wines [mailto:BWines@waterboards.ca.gov]
Sent: Monday, January 07, 2008 10:51 AM
To: Janis.Moore@sanjoseca.gov
Cc: sritchie@coastalconservancy.ca.gov; Clyde_Morris@fws.gov;
sritchie@scc.ca.gov; Dale Bowyer; Shin-Roei Lee
Subject: NOP for DEIR, Newby Island Sanitary Landfill - File NumberPDC07-071
Importance: High

**** High Priority ****

Hi Ms. Moore

I just became aware of the NOP for the DEIR for the Newby Island Sanitary Landfill Rezoning. The Water Board would like to provide comments on the NOP, but I am not sure when the comment period will be ending.

I am also concerned that the Water Board does not appear to have been provided with a copy of the NOP. On 9/20/2007, I sent an email to Mr. Chris Burton in the San Jose Planning Department, expressing this agencies initial concerns with respect to the proposed rezoning. Since our agency had expressed interest in the project, I believe we should have been provided with a copy of the NOP.

I am requesting that the City of San Jose hold the comment period on the NOP open until all parties who commented in September of 2007 (e.g., this agency, the Don Edwards Refuge, the South Bay Salt Ponds Restoration Project) have been provided with a copy of the NOP and given sufficient time to prepare letters of comment.

Thanks

Brian Wines

Water Resources Control Engineer

San Francisco Bay Regional Water Quality Control Board

510-622-5680

The text of my 9/20/2007 email follows.

Hi Christopher

I am writing to share some of the Water Board's concerns with respect to the proposal to change the zoning at the Newby Island Landfill and the proposal to allow the landfill to be expanded to a height of 245 feet above sea level.

The landfill is adjacent to several areas of sensitive habitat: Coyote Creek, the Don Edwards National Wildlife Refuge, and the South Bay Salt Ponds Restoration Project.

Coyote Creek runs along approximately half of the perimeter of the landfill site. This creek provides habitat for the endangered Central California Coast Steelhead. The landfill could impact the steelhead through at least two mechanisms: leachate discharge to the creek via direct release to surface water or via migration of contaminated groundwater to the creek; or physical blockage of the creek channel in the event of seismic failure of the landfill slopes. The most significant, self-sustaining run of steelhead in the south bay would be impacted if the landfill were to impact the creek channel.

Last summer, leachate seeps were observed near Coyote Creek, so the

potential threat to the creek should be considered.

Both the Don Edwards Refuge and the Salt Ponds provide habitat for endangered species. Predators, such as gulls, that are attracted by the landfill are also preying upon the endangered species in the refuge and the salt ponds. Allowing the landfill to expand may increase the negative impact to sensitive species and compromise the success of the salt pond restoration project. In addition, the Refuge reports that it is currently impacted by windblown refuse from the landfill.

We will provide more detailed comments during the CEQA review process.

Brian Wines
Water Resources Control Engineer
San Francisco Bay Regional Water Quality Control Board

Kristy Le

From: Moore, Janis [Janis.Moore@sanjoseca.gov]
Sent: Friday, January 18, 2008 11:42 AM
To: Kristy Le; Burton, Chris; Lacaze, Skip
Cc: Danielsen, Akoni
Subject: FW: NOP of DEIR for Newby Island Sanitary Landfill and Recycling Rezoning

FYI

Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113
T: (408) 535-7815
F: (408) 292-6055
E: janis.moore@sanjoseca.gov
W: www.sanjoseca.gov/planning/

From: JLucas1099@aol.com [mailto:JLucas1099@aol.com]
Sent: Friday, January 18, 2008 11:09 AM
To: Janis.Moore@sanjoseca.gov
Subject: NOP of DEIR for Newby Island Sanitary Landfill and Recycling Rezoning

City of San Jose Planning Division
200 East Santa Clara Street, 3rd floor
San Jose, CA 95113-1905

January 18, 2008

Attn: Janis Moore, Planner II

File number: PDC07-071
Applicant: AWN Management for International Disposal Corp of California, Browning Ferris Industries of California, Inc., and Los Esteros Ranch
APN: 015-40-003, 005; portion of 015-47-001

Dear Janis Moore,

As a postscript to my earlier submittal this week in regards the Newby Island Sanitary Landfill and Recycling Rezoning Notice of Preparation, I would like to give you the State of Wisconsin website for Landfill Location, Performance, Design, and Construction Criteria. <http://dnr.wi.gov/org/aw/wm/information/wiaccess.htm>

It states:

"(3) Locational Criteria. No person may establish, construct, operate, maintain or permit the use of property for a landfill where the limits of filling are or would be within the following areas:

- (a) Within 1,000 feet of any navigable lake, pond or flowage not including landfill drainage of sedimentation control structures.
- (b) Within 300 feet of any navigable river or stream.
- (c) Within a floodplain.

(d) Within 1,000 feet of the nearest edge of the right-of-way of any state truck highway, interstate or federal aid primary highway or the boundary of any public park or state natural area, unless the landfill is screened by natural objects, plantings, fences or other appropriate means so that it is not visible from the highway, park or natural area.

(e) Within an area where the design or operation of the landfill would pose a significant bird hazard to aircraft. (There are two detailed subsections 1. and 2. to this airport sphere of influence criteria.)

(f) Within 1,200 feet of any public or private water supply well.

(g) Within 200 feet of a fault that has had displacement in Holocene time.

(h) Within seismic impact zones.

(i) Within unstable areas.

(4) Performance Standards. No person may establish, construct, operate, maintain or permit the use of property for a landfill if there is a reasonable probability that the landfill will cause:

(a) A significant adverse impact on wetlands as provided in ch. NR 103.

(b) A take of an endangered or threatened species in accordance with s. 29.604, Stats.

(c) A detrimental effect on any surface water,

(d) A detrimental effect on groundwater quality or will cause or exacerbate an attainment or exceedance of any preventative action limit or enforcement standard at a point of standards application as defined in ch. NR 140. For the purposes of design the point of standards application is defined by s. NR 140.22 (1).

(e) The migration and concentration of explosive gasses in any landfill structures excluding the leachate collection system or gas control or recovery system components in excess of 25% of the lower explosive limit for such gases at any time. The migration and concentration of explosive gases in the soils outside.....

(f) The emission of any hazardous air contaminant exceeding the limitations for those substances....."

The entire 11 pages of this State of Wisconsin Department of Natural Resources Chapter NR 504 on Landfill is impressive in its scope and substantive criteria and contains language, precise for intent in governance.

I hope this will provide some guidance for a sustainable natural resource landfill in this Notice of Preparation.

Libby Lucas
CNPS, Conservation
174 Yerba Santa Ave.,
Los Altos, CA 94022

Start the year off right. Easy ways to stay in shape in the new year.



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

San Francisco Bay Region

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 FAX (510) 622-2460



Arnold Schwarzenegger
Governor

January 18, 2008
File No. 2188.05 (BKW)

Ms. Janis Moore, Planner II
City of San Jose Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

**Re: Notice of Preparation of a Draft Environmental Impact Report for the Newby Island Sanitary Landfill and the Recyclery Rezoning
SCH # 2007122011**

Dear Ms. Moore:

Regional Water Quality Control Board (Water Board) staff have reviewed the *Notice of Preparation of a Draft Environmental Impact Report for the Newby Island Sanitary Landfill and the Recyclery Rezoning* (NOP). The project proposes to rezone the 342-acre Newby Island Sanitary Landfill (NISL) and the adjacent 10-acre Recyclery from *R-M Multiple Residence, HI Heavy Industrial and A(PD) Planned Development Zoning Districts* to *A(PD) Planned Development Zoning District* (Project). The proposed zoning would not change the lateral extent of the landfill footprint, but would raise the maximum height of the landfill to 245 feet above mean sea level (msl), adding approximately 15.12 million cubic yards to the capacity of the landfill. Presently, the landfill is designed and permitted to an elevation of 150 feet msl. The proposed zoning will update and clarify the legal non-conforming uses on NISL and will specify the allowable current and future uses. The project will not materially extend the life of the landfill beyond 2025 as identified in the NISL Closure Plan. The Recyclery will continue to operate after the landfill closes. Water Board staff have the following comment on the NOP.

Comment 1

Biological Resources, Coyote Creek.

The landfill is adjacent to several areas of sensitive habitat: Coyote Creek, the U.S. Fish and Wildlife Service's Don Edwards National Wildlife Refuge, and the South Bay Salt Ponds Restoration Project. The Environmental Impact Report (EIR) should evaluate potential impacts to these habitats.

The *San Francisco Bay Basin Water Quality Control Plan* (Basin Plan) defines the beneficial uses of waters of the State. Coyote Creek, which runs along more than half of the perimeter of the landfill site, has existing and potential beneficial uses of: cold freshwater habitat, fish migration, preservation of rare and endangered species, contact and non-contact water recreation, fish spawning, warm freshwater habitat, and wildlife habitat. The beneficial use of "preservation of rare and endangered species" includes providing habitat for the endangered Central California Coast Steelhead. Adult fish may migrate through the site between January and May, and juveniles may move through the site during other portions of the year if conditions are appropriate.

California Environmental Protection Agency

Current portions of the Bay Trail follow Coyote Creek, near the entrance to NISL, and the planned alignment of the Bay Trail includes a trail around the perimeter of the facility, following the banks of Coyote Creek. The Bay Trail is one aspect of Coyote Creek's beneficial use of non-contact water recreation. The EIR should evaluate the Project's potential impacts on the beneficial uses of Coyote Creek. This evaluation should include the potential impacts of the landfill on persons using the Bay Trail. In addition, potential impacts to habitat values in Coyote Creek should be evaluated. The landfill could impact the steelhead through at least two mechanisms: leachate discharged to the creek via direct release to surface water or via migration of contaminated groundwater to the creek¹; or physical blockage of the creek channel in the event of seismic failure of the landfill slopes. Since the most significant, self-sustaining run of steelhead in the south bay would be impacted if the landfill were to impact the creek channel, the EIR should fully address potential impacts to Coyote Creek.

Comment 2

Biological Resources, Predator Control

The U.S. Fish and Wildlife Service's Don Edwards Refuge, the South Bay Salt Ponds, and Coyote Creek provide habitat for endangered species. Predators, such as gulls, that are attracted by the landfill have been observed preying upon endangered species in the refuge and the salt ponds. Allowing the landfill to expand may increase the negative impact to sensitive species and compromise the success of the salt pond restoration project.

Based on conversations between NISL staff and Water Board staff, NISL intends to use pyrotechnics to discourage predators from scavenging at the active landfill. The EIR should evaluate the potential for these pyrotechnics to negatively impact clapper rails, snowy plovers, and salt marsh harvest mice in habitat adjacent to the NISL site. Potential noise and light impacts to endangered species that may be associated with the use of pyrotechnics should be evaluated. The analysis of impacts should include impacts to foraging and breeding success. If the EIR evaluates alternative means of discouraging predators from scavenging at the landfill, potential impacts of these alternate scavenger control measures on endangered species should be evaluated. The EIR should demonstrate how control measures could discourage gulls from gathering at NISL, without impacting species in the adjacent refuge.

Comment 3

Biological Resources, Windblown Refuse

Staff at the Don Edwards Refuge have reported that the refuge has been impacted by windblown refuse from the landfill. The EIR should evaluate potential impacts to Coyote Creek and the surrounding marsh lands from windblown refuse.

¹ Note: Leachate seeps were detected on the landfill face in the Summer of 2007.

Comment 4

Leachate Management

The NOP states that a pipe may be constructed between NISL and the City of San Jose publicly owned treatment works (POTW) to transport leachate from the landfill to the POTW. The EIR should evaluate the route of the proposed pipeline for any potential impacts to endangered species habitat. Spill prevention measures associated with the proposed pipeline should also be discussed.

If you have any questions, please contact me at (510) 622-5680 or e-mail to bwines@waterboards.ca.gov.

Sincerely,



Brian Wines
Water Resources Control Engineer

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306

Tel 650 493-5540

Fax 650 494-7640

Florence@refuge.org

January 22, 2008

Joseph Horwedel
Director, Planning, Building and Code Enforcement
City of San Jose Planning Division
Attn: Janis Moore, Planner II
200 East Santa Clara Street, 3rd floor
San Jose, CA 95113-1905

RE: Comments on the Notice of Preparation and Project involving the Newby Island Sanitary Landfill and Recyclery Rezoning.

Dear Mr. Horwedel:

Thank you for the opportunity to comment on the above referenced Notice of Preparation (NOP) and, as became necessary, the comment extension that you provided to us. In this letter we wish to bring to your attention a set of issues and information that we believe the intended draft EIR/S document will need to address.

The nature of the changes proposed for a uniquely located, naturally-formed island and former wetland cause us to believe that the entire project must be viewed from its broadest aspects as means to inform alternatives considered and chosen. As part of the historic wetlands of the San Francisco Bay, inappropriate usage decisions would have devastating effects on the environmental health of the entire region.

We raise particular attention to the fact that, as the subject project's neighbor on three sides, the Don Edwards San Francisco Bay National Wildlife Refuge, decisions about the proposed project [?and lying within its expansion boundary?] bare substantial responsibility for protection of wildlife and the lands upon which they depend.

For these reasons, we recommend that the draft EIR/S substantially discuss topics we describe here:

Landscape: Newby Island and the operations planned (NISL) must be described as a land element within the broad domain of the most southerly reaches of the San Francisco Bay, indicating the dynamics of issues-in-common and defining issues of project impact upon all other elements of that land system.

The description needs to identify by name, designate by map and describe in text all boundary and interrelationships with elements within this land system inclusive of but not limited to the following:

1. **Watershed**: Maps and other materials of placement of NISL within the watershed of southern Alameda County and that of the cities of Milpitas, San Jose and Santa Clara that

demonstrate historic, current and anticipated status and changes, discussing impacts such as subsidence, runoff and restoration.

2. **Don Edwards San Francisco Bay National Wildlife Refuge:** Map of the current and expansion boundaries of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), including anticipation of boundary changes as known by the U.S. Fish and Wildlife Service and especially wherever the project site is adjacent to lands managed as part of the Refuge.

3. **Municipal-Commercial waste material complex:** Map of the municipal-commercial waste material complex of lands inclusive of the San Jose/Santa Clara Sewage Treatment Plant, the Zanker landfill and recyclery sites, NISL and Recyclery and any other sites of like usage or intention in the area.

4. **Alviso-area Master Plan:** Master Plan with map for the North San Jose Alviso Area including current zoning and non-conforming use in addition to description of any other proposed zoning or development changes.

5. **Bay Conservation and Development Commission:** Map and text describing jurisdiction of the Bay Conservation and Development Commission involving the project site.

6. **Wildlife habitats:** Map and other materials demonstrating NISL site relationships, contiguous or downstream, to wildlife habitats especially as involves endangered species and where ongoing or anticipated restoration project habitat changes prior to and after closing of the NISL, including identification of ownership/management of all such sites. Examples include the South Bay Salt Pond Restoration Project and the riparian area adjacent to the San Jose/Santa Clara Sewage Treatment Plant.

Exposure to natural catastrophic events: Site stability and the security of contiguous and downstream environment is highly dependent on site ability to withstand the worst that nature can send its way. As such the project must be reviewed in light of that potential:

1. **Seismic event:** The EIR/S should include the most recent USGS and other projections, in map and text, of effects the seismic liquefaction and shaking may have on the various alternatives proposed if there were a major event of any of the significant faults of the South Bay region.

2. **Flood event:** The document produced must include a map showing the 100-year flood zone involving the region inclusive of the subject site. In addition descriptive information needs to include detail about the current levee system and any related flood and runoff management infrastructure. Descriptions need to detail the history of the levee structures, any significant changes since initial construction, current engineering assessment, maintenance programs and changes that may be required associated with the proposed project. Discussion should address peril to the project site and its waste content resulting from an extreme upstream flood event.

3. **Army Corps of Engineers/Santa Clara Valley Water District South Bay Shoreline Study, Phase I:** The document should discuss the jurisdiction, purpose and the potential impact that this project and subsequent levee construction/reconstruction that may be expected along the Milpitas/San Jose/Santa Clara shoreline.

4. **Hazard potential:** Subsequent to site damage by a catastrophic event, the document needs to detail potential damage to water, land and wildlife involving contiguous or

downstream sites and as relates to each alternative described and back-up systems, if any, that are or will be in place.

Landfill Height: In a landscape that is historically sea level and that is a product of watershed hydrology, a landfill that peaks at the height of a 15-story building, grading across acres to contours of 12- or 10-story height, can only be described as an extreme modification of the landscape. As such, the draft EIR/S and its source studies are obliged to create extraordinary and explicit opportunities for public assessment of the maximum height alternative or any other.

1. **Graphical representation:** Provide multiple graphical presentations for each alternative composing 360 degree views of the project and as viewed from varying distances from the subject site.
2. **Physical representation:** Place a structure on the landfill site that demonstrates the height of the landfill, as proposed, for a period of publicized public review and utilized within the EIR/S as photographic documentation and public response.

Landfill Comparisons: Given the extreme height changes suggested, the EIR/S needs to include extensive material describing reference landfills, chosen on comparative criteria predictive of project feasibility, as below:

1. **Landfill height**
2. **Wetland location**
3. **Catastrophic event susceptibility (flood, seismic)**
4. **Waste type and volume**
5. **Planned land use of closed site**

Hazardous landfill content: As this landfill location began operation in the 1930s, it can be concluded that it includes hazardous materials deposited prior to newer standards for landfills. Prior to any expansion of the landfill, it is necessary to be informed fully regarding preexisting hazardous conditions that involve any part of the project site.

1. **Waste content:** List and describe the types of hazardous materials known or, from historic reference, expected to be present i.e. drums of noxious materials, junked automobiles, discarded batteries, and the like.
2. **Waste location(s):** Map the site to demonstrate the location of historic, hazardous materials in relationship to changes proposed in any alternative.
3. **Waste stability:** Discuss the status of degradation in site locations that include historic, hazardous materials i.e. demonstrating stability and environmental safety.

Municipal-Commercial waste complex: The NOP describes the interdependency of the current and proposed operations of the subject project with the San Jose/Santa Clara Sewage Treatment Plant (the Plant). As such, the success of NISL expansion is dependent on that plant's processing capacity. It is also known that the City of San Jose is embarking on a Master Plan for large scale renovation of the Plant that may or may not match leachate production of an expanded source landfill. As such, the EIR/S document produced must address the larger picture. Additionally, as the Zanker landfill and recyclery operations also partner with the Plant and have recently embarked on expansion plans, these lands and operations must be considered as well.

1. **Parallelism of development:** The NOP discusses the transfer of leachate from the Newby Island facility to the Plant. Increasing landfill volume will increase leachate

production. Therefore it will be important to discuss the rate of increased need for leachate processing and the readiness of the Sewage Treatment Plant to process that volume along with leachate from any other source(s).

2. Leachate and Methane volumes: Current and past production of these byproducts of landfill operation should be discussed with estimates of projected changes produced by landfill expansion, as determined by the volume of each alternative presented.

Land usage upon closure: The NOP describes projected land use upon closure as passive and includes mention of coordination with the San Francisco Bay Trail. In this instance again, land use projections are best seen in broad, landscape mode. Ultimately, a landfill must have a contour plan and, in this case, that contour plan supportive of trail access and to support interconnectivity with multiple public trail systems as listed here.

1. **The Refuge.**
2. **South Bay Salt Pond Restoration Plan, as proposed.**
3. **City of San Jose Master Plan for the Sewage Treatment Plant.**
4. **City of San Jose's Guadalupe River Trail.**
5. **San Francisco Bay Trail.**

In summary, we believe the draft EIR/S can be an excellent guide to the best environmental decisions. We genuinely appreciate this opportunity to contribute to its successful development of suitable alternatives.

Sincerely,

Florence LaRiviere
President



Eileen P. McLaughlin
Member, CCCR for Shoreline Watch of San Jose, Santa Clara and Milpitas



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Office of the Regional Administrator

P.O. Box 92007
Los Angeles, CA 90009-2007

FEB 06 2008

Ms. Janis Moore, Planner II
Environmental Review Section
City of San Jose
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113

Dear Ms. Moore:

This letter is in response to your email dated January 30, 2008, requesting comments on NOP-Newby Island EIR. You can review the Federal Aviation Regulation (FAR) Part 77, Objects Affecting Navigable Airspace on-line at www.faa.gov. If necessary, the City or the project proponent needs to file Notice of Proposed Construction or Alteration with the FAA. Please use FAA Form 7460-1 to file such notice with FAA.

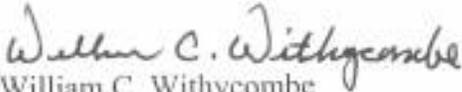
You have advised us in your notification that the Municipal Solid Waste Landfill (MSWLF) identified as the Newby Island Sanitary Landfill/Recyclery that you propose to physically change is located within 5 miles of the Norman Y. Mineta – San Jose International Airport. The Norman Y. Mineta – San Jose International Airport is certificated under 14 CFR Part 139, serves large turbine powered aircraft and has an approach, departure and circling airspace that covers at least 5 miles from the airport boundary. Operation of the landfill proposed for change must meet the requirements of FAA Advisory Circular 150/5200-33B, Section 2, paragraph 2-2, c. **Consideration for existing waste disposal facilities within the limits of separating criteria** and Section 4-2(b).

Owners or operators of existing MSWLF units located within the separation listed in Sections describing separation criteria, must demonstrate that the unit is designed and operated so it does not pose a bird hazard to aircraft.

A copy of FAA Form 7460-1 can be obtained on-line at www.faa.gov. The notice can also be file electronically at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

If you have any question or need further assistance you may contact TJ Chen, Acting Manager, San Francisco Airports District Office at 650-876-2778, ext. 628. .

Sincerely,


William C. Withycombe
Regional Administrator