Final Environmental Impact Report
for the

John Smith Road Landfill Expansion Project

SCH# 2021020371

Prepared for:

San Benito County

September 27, 2023

DOUGLAS
ENVIRONMENTAL

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Prepared for:

San Benito County
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September 27, 2023

DOUGLAS ENVIRONMENTAL

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1 INTRODUCTION

In accordance with § 15088 of the State California Environmental Quality Act (CEQA) Guidelines, San Benito County, as the lead agency, has reviewed the comments received on the Draft Environmental Impact Report (Draft EIR) for the John Smith Road Landfill Expansion Project and has prepared written responses to those comments.

On July 15, 2022, San Benito County released for public review the Draft EIR for the John Smith Road Landfill Expansion Project. The Draft EIR public review period ended on September 6, 2022.

Chapter 2 of the Final EIR consists of all of the written and oral comments received on the Draft EIR and presents responses to potentially significant environmental issues raised in the comments (as required by the State CEQA Guidelines Section 15132). The focus of the responses to comments is on potentially significant environmental issues that are raised in the comments, as specified by Section 15088(c) of the State CEQA Guidelines. Detailed responses are not provided to comments on the merits of the proposed project. Comments not directed to significant environmental issues are noted in the responses.

For groundwater contamination comments raised by multiple commenters, the County determined that the preparation of a master response would be appropriate. The master response discusses the range of individual groundwater issues raised by commenters and specifically identifies which responses they are intended to address. The groundwater master response is presented at the beginning of Chapter 2. The individual comment letters and responses follow the groundwater master response in Chapter 2.

Each comment letter has been reproduced, individual comments identified and numbered, followed by correspondingly numbered responses to the comments. For example, the response to the fourth comment of the second letter would be indicated as Response to Comment 2-4. In some instances, responses to comments may warrant modification of the text of the Draft EIR. In those cases, the text of the Draft EIR is revised in the response and, for ease of reference, the changes also are compiled in Chapter 3, Corrections and Revisions to the Draft EIR. Generally, text deletions are shown in strikeout (~~strikeout~~) and additions are shown in underline (<u>underline</u>). For some revisions, the amended excerpt or mitigation measure was stated in its entirety without strikeout or bold underline for ease of reading.

This Comments and Responses document and the Draft EIR together, with all supporting documents, constitute the Final EIR that is being considered by San Benito County.

2 COMMENTS AND RESPONSES TO ENVIRONMENTAL ISSUES

2.1 INTRODUCTION

In conformance with State CEQA Guidelines Section 15088(a), this section of the Final EIR contains written comments (comment letters and emails) received during the 54-day Draft EIR public review period, which began on July 15, 2022 and concluded on September 6, 2022. This section also includes the oral comments received during the August 24, 2022 San Benito County Board of Supervisors Landfill Subcommittee Meeting on the Draft EIR.

In addition, the County received a comment letter from the California Department of Fish and Wildlife (CDFW) after the close of the public comment period on the Draft EIR. A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period (Pub. Res. Code § 21091(d); CEQA Guidelines § 15088). When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond (Pub. Res. Code § 21091(d)(1); Pub. Res. Code § 21092.5(c)). Nonetheless, for informational purposes, the County has elected to respond to the CDFW letter.

2.2 LIST OF COMMENTS ON THE DRAFT EIR

Table 1 indicates the number designation for each comment letter received, the author of the comment letter, the comment letter date, the comment number and the comment topic. The comment letters are organized in the order they were received by the County. The comment topics are summarized in Table 1. When a comment includes multiple topics or includes topics not specifically related to the Draft EIR, then the comment topic is identified as "General" in the Table 1.

Table 1
Written and Oral Comments Received on the Draft EIR

Letter #	Commenter	Date	Comment Number	Comment Topic
1	Robert Hillebrecht, Sunnyslope County Water District	7/15/22	1-1	Water Supply
			1-2	Water Supply
			1-3	Water Supply
			1-4	Water Supply
2	Megan Emslander, Environmental Scientist Permitting & Assistance Branch – South Unit Waste Permitting, Compliance & Mitigation Division CalRecycle	8/25/22	2-1	Project Desc.
			2-2	Project Desc.
			2-3	Project Desc.
			2-4	Project Desc.
			2-5	Project Desc.
			2-6	Project Desc.
			2-7	Project Desc.
3	Derrick Speights		3-1	Project Desc.
			3-2	Project Desc.

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			3-3	Project Desc.
4	Mark Dickson	7/19/22	4-1	Water Supply
			4-2	General
5	Jane Cruz		5-1	General
6	Jane Quigley	7/26/22	6-1	General
7	Ronald Steger et al.	7/26/22	7-1	General
			7-2	General
			7-3	Air and Water Quality
			7-4	Biology
			7-5	Economics
8	Shawn Shevlin	7/23/22	8-1	General
9	Jonni Schween		9-1	General
10	Ruth Lundsten	8/5/22	10-1	General
11	Maureen Nelson		11-1	General
			11-2	General
			11-3	General
12	Elvia G. Skow		12-1	Hazards
13	Dennis and Cathy Silva		13-1	General
			13-2	Traffic/Litter
			13-3	General
			13-4	Water Quality
			13-5	Economics
			13-6	Traffic/Visual
			13-7	Air and Water Quality
			13-8	General
			13-9	General
14	Maureen Nelson		14-1	General
15	Gary Moran	8/11/22	15-1	General
			15-2	Water Quality
			15-3	General
			15-4	General
16	Kozue Yamamoto		16-1	Water Quality
17	Monica Paciente		17-1	Traffic

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
18	Shannon Allen		18-1	General
			18-2	Traffic
			18-3	Noise
			18-4	Water Quality
			18-5	Visual
19	Patricia Rodriguez		19-1	General
20	Teresa Davis		20-1	General
21	Evelyn Torres		21-1	General
22	Melanie Baum		22-1	Health Risk
23	Karen Rogers		23-1	General
24	Brad Landthorn		24-1	General
			24-2	General
25	Barbara Snyder		25-1	General
26	Deborah A. Muscari		26-1	Traffic/Water Quality
			26-2	General
			26-3	Economics
27	Maryellen Basanese		27-1	Health Risk
28	Brian Moran		28-1	General
29	Gary and Julie Turk		29-1	General
30	Julie Arafeh	8/18/22	30-1	Traffic
			30-2	General
			30-3	Traffic
31	Cyndi Franks		31-1	General
32	Andy Rollins		32-1	General
33	Barb Taddeo		33-1	General
34	Mia Casey		34-1	Traffic/Alternatives
35	Phyllis Kate		35-1	General
			35-2	Water Supply
36	Zachary Headley		36-1	Water Supply
37	John Freeman		37-1	General
38	Angela Curro		38-1	Traffic
39	Lingling Yan		39-1	Economics
			39-2	Noise

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			39-3	Water Quality
			39-4	Alternatives
40	Melinda Casillas		40-1	Visual
			40-2	Traffic
			40-3	Traffic
			40-4	Traffic
			40-5	Traffic
			40-6	General
41	Barry Katz		41-1	Economics
42	Karl Broussard		42-1	Economics
43	Heather Simpson-Bluhm		43-1	General
			43-2	Economics
			43-3	Water Quality
44	Caitlin Bynum		44-1	Traffic
			44-2	Noise and Air Quality
			44-3	Health Risks
45	Cristina Jurevich		45-1	General
46	Maureen Nelson		46-1	General
47	H8318012268@vzwpix.com		47-1	General
48	Karl Broussard		48-1	Economics
			48-2	Economics
			48-3	General
			48-4	Visual
49	Melanie Baum		49-1	General
50	James F O'Donnell		50-1	Project Description
51	Kent Gordon		51-1	General
52	Shannon Allen		52-1	General
53	Jim Brown		53-1	General
54	Tony Yadegari		54-1	General
55	Brian Schmidt, Committee for Green Foothills		55-1	Wastewater
			55-2	Groundwater
			55-3	Agriculture
			55-4	General

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			55-5	Greenhouse Gases
			55-6	Greenhouse Gases
			55-7	Hazards
			55-8	General
			55-9	General
56	Barbara Taddeo	8/28/22	56-1	Air Quality
			56-2	Water Quality
57	Gary Moran		57-1	Noise and Air Quality
			57-2	Traffic
			57-3	Traffic
			57-4	Alternatives
58	Noel Provost		58-1	Alternatives
59	Christy Poole		59-1	General
60	Tim Poole		60-1	General
61	Rudain Arafeh		61-1	Alternatives
62	Louk and Sherrie Markham		62-1	Project Description
63	Judith and Milton Wolf	9/1/22	63-1	General
64	Nancy and Mike Matulich		64-1	General
65	John Freeman		65-1	Groundwater
			65-2	Project Description
			65-3	General
			65-4	Noise and Air Quality
			65-5	Traffic
			65-6	Alternatives
			65-7	General
			65-8	General
66	Brigette Thorp		66-1	Air Quality
			66-2	General
			66-3	Traffic
67	Neal Anderson		67-1	Hazards
68	Debbie Landthorn		68-1	General
			68-2	Traffic
			68-3	General

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
69	Carol Stalder		69-1	General
70	Gary Moran		70-1	Traffic
			70-2	Traffic
71	Tom Armbruster		71-1	Health Risks
72	Heather Simpson-Bluhm		72-1	General
			72-2	Water Quality
			72-3	Hydrology
			72-4	Water Supply
			72-5	Noise
			72-6	Traffic
73	Gary Moran		73-1	Air Quality
			73-2	Noise
74	Brad Chatten		74-1	Traffic
75	Brigitte Baumann-Thorp		75-1	Traffic
			75-2	Air Quality
			75-3	Air Quality
			75-4	Air Quality
			75-5	Wastewater
			75-6	Wastewater
			75-7	General
			75-8	Visual
76	Annette Perez	9/1/22	76-1	General
			76-2	Greenhouse Gases
			76-3	Noise
			76-4	Noise
			76-5	Noise
			76-6	Noise
			76-7	Greenhouse Gases
77	Indigenous Solidarity		77-1	Cultural Resources
78	Victoria Moore		78-1	General
79	Maureen Nelson and Mark R. Wolfe M. R. Wolfe & Associates, P.C On Behalf of Don't Dump on San Benito	9/6/22	79-1	General
			79-2	Biology
			79-3	Biology

Table 1
Written and Oral Comments Received on the Draft EIR

Letter #	Commenter	Date	Comment Number	Comment Topic
			79-4	Biology
			79-5	Biology
			79-6	Biology
			79-7	Biology
			79-8	Biology
			79-99	Biology
			79-10	Biology
			79-11	Biology
			79-12	Biology
			79-13	Biology
			79-14	Biology
			79-15	Biology
			79-16	Biology
			79-17	Biology
			79-18	Biology
			79-19	Biology
			79-20	Biology
			79-21	Biology
			79-22	Biology
			79-23	Biology
			79-24	Biology
			79-25	Health Risks
			79-26	Groundwater
			79-27	Groundwater
			79-28	Groundwater
			79-29	Groundwater
			79-30	General
			79-31	Water Supply
			79-32	Groundwater
			79-33	General
80	Carol Heiderich and Shawn Tennenbaum, Ed.D. Superintendent San Benito High School District	9/2/22	80-1	General
			80-2	General
			80-3	General
			80-4	General

Table 1
Written and Oral Comments Received on the Draft EIR

Letter #	Commenter	Date	Comment Number	Comment Topic
			80-5	Project Description
			80-6	Project Description
			80-7	Project Description
			80-8	Project Description
			80-9	Project Description
			80-10	Project Description
			80-11	Project Description
			80-12	Project Description
			80-13	Project Description
			80-14	Project Description
			80-15	Project Description
			80-16	Project Description
			80-17	Project Description
			80-18	Project Description
			80-19	Land Use
			80-20	Traffic
			80-21	Traffic
			80-22	Traffic
			80-23	Traffic
			80-24	Traffic
			80-25	Traffic
			80-26	Traffic
			80-27	Traffic
			80-28	Traffic
			80-29	Traffic
			80-30	Air Quality
			80-31	Air Quality
			80-32	Air Quality
			80-33	Air Quality
			80-34	Air Quality
			80-35	Air Quality
			80-36	Air Quality
			80-37	Air Quality
			80-38	Air Quality

Table 1
Written and Oral Comments Received on the Draft EIR

Letter #	Commenter	Date	Comment Number	Comment Topic
			80-39	Air Quality
			80-40	Air Quality
			80-41	Air Quality
			80-42	Air Quality
			80-43	Air Quality
			80-44	Air Quality
			80-45	Air Quality
			80-46	Air Quality
			80-47	Air Quality
			80-48	Air Quality
			80-49	Air Quality
			80-50	Air Quality
			80-51	Air Quality
			80-52	Air Quality
			80-53	Air Quality
			80-54	Air Quality
			80-55	Air Quality
			80-56	Air Quality
			80-57	Greenhouse Gases
			80-58	Greenhouse Gases
			80-59	Greenhouse Gases
			80-60	Noise
			80-61	Noise
			80-62	Noise
			80-63	Noise
			80-64	Biology
			80-65	Hydrology and Water Quality
			80-66	Hydrology and Water Quality
			80-67	Hydrology and Water Quality
			80-68	Hydrology and Water Quality
			80-69	Hydrology and Water Quality
			80-70	Hydrology and Water Quality
			80-71	Hydrology and Water Quality
			80-72	Hydrology and Water Quality

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			80-73	Hydrology and Water Quality
			80-74	Hydrology and Water Quality
			80-75	Hydrology and Water Quality
			80-76	Hydrology and Water Quality
			80-77	Hydrology and Water Quality
			80-78	Hydrology and Water Quality
			80-79	Hazards
			80-80	Hazards
			80-81	Hazards
			80-82	Hazards
			80-83	Public Services
			80-84	Public Services
			80-85	Public Services
			80-86	Public Services
			80-87	Public Services
			80-88	Public Services
			80-89	Cumulative Impacts
			80-90	Cumulative Impacts
			80-91	Cumulative Impacts
			80-92	Cumulative Impacts
			80-93	Alternatives
			80-94	General
			80-95	General
81	Maureen Nelson		81-1	Water Supply
			81-2	Traffic
			81-3	Traffic
			81-4	Traffic
			81-5	Economics
			81-6	General
			81-7	Air Quality
			81-8	Greenhouse Gases
			81-9	Biology
			81-10	Cultural Resources
			81-11	Hazards

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			81-12	General
82	Gary Moran		82-1	Traffic and Visual
83	Gladwyn d'Souza Conservation Committee Chair Sierra Club Loma Prieta Chapter	9/6/22	83-1	Alternatives
			83-2	Alternatives
			83-3	Greenhouse Gases
			83-4	Alternatives
			83-5	Project Description
			83-6	Project Description
			83-7	Alternatives
			83-8	Alternatives
			83-9	Alternatives
			83-10	Alternatives
			83-11	Alternatives
			83-12	General
			83-13	Air Quality
			83-14	General
			83-15	Air Quality
			83-16	Air Quality
			83-17	Biology
			83-18	Biology
			83-19	Water Supply
			83-20	Groundwater
			83-21	Water Supply
84	Jaya Kopalle		84-1	General
85	Lou Chiaramonte, Jr. Member, Santa Cruz County Democratic Central Committee Lead Organizer, South Bay Indigenous Solidarity		85-1	Cultural Resources
86	Madhu Kopalle	9/6/22	86-1	General
87	Janell Bautista		87-1	Economics
88	Darby Connolly	9/6/22	88-1	General
89	Robert Thorp	9/6/22	89-1	Traffic
90	Rudy Picha B.S., M.B.A.		90-1	Traffic
			90-2	Hydrology and Water Quality
			90-3	General

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
91	Gary Moran		91-1	Traffic
			91-2	Traffic
			91-3	Traffic and Visual
			91-4	Alternatives
92	Sherrie Markham		92-1	General
Public Hearing				
93	Public Hearing Meeting Minutes	8/24/22	93-1	General
			93-2	Alternatives
			93-3	Alternatives
			93-4	Alternatives
			93-5	Biology
			93-6	Traffic
			93-7	Traffic
			93-8	General
			93-9	General
			93-10	Traffic
			93-11	General
			93-12	Economics
			93-13	Project Description
			93-14	Air Quality
			93-15	Alternatives
			93-16	General
			93-17	General
			93-18	Traffic
			93-19	Traffic
			93-20	Traffic
			93-21	Cultural Resources
			93-22	General
Letters Received After Close of Comment Period				
A	Julie A. Vance Regional Manager California Department of Fish and Wildlife	12/6/22	A-1	Biology
			A-2	Biology
			A-3	Biology

Table 1 Written and Oral Comments Received on the Draft EIR				
Letter #	**Commenter**	**Date**	**Comment Number**	**Comment Topic**
			A-4	Biology
			A-5	Biology
			A-6	Biology
			A-7	Biology
			A-8	Biology
			A-9	Biology
			A-10	Biology
			A-11	Biology
			A-12	Biology
			A-13	Biology
			A-14	Biology
			A-15	Biology
			A-16	Biology
			A-17	Biology
			A-18	Biology
			A-19	Biology

2.3 COMMENTS AND RESPONSES ON THE DRAFT EIR

The written comments received on the Draft EIR and the responses to those comments are provided in this section Each comment letter is reproduced in its entirety and is followed by the response(s) to the letter. Each comment is indicated by a line bracket and an identifying number in the margin of the comment letter. In addition, groundwater-contamination related comments raised by multiple commenters are addressed in a Master Response, which is presented below. Individual comments on this topic are cross-referenced to the Master Response.

Groundwater Contamination Comments and Master Response

Summary of Comments

Groundwater contamination issues raised by individual commenters are summarized below. These comments have been organized by topic with the original comment number identified at the end of each comment.

Groundwater Aquifer and Water Supply Contamination from Leachate Discharge

1. There will be an increased risk of groundwater contamination, based on the fact that historically many dumps leak toxic chemicals (Comment 7-3).

2. Groundwater contamination is highly likely due to the inevitable seeping of sewage/garbage into the ground water system, almost a guarantee that the Heatherwood Estates water system will be affected by the expansion to some degree (Comment 13-4).

3. Ground water contamination is always a danger with any landfill. A larger expansive landfill just increases the risk of contamination (Comment 15-2).

4. The project is too close to residents and agriculture wells (Comment 16-1).

5. The increased water runoff from the landfill may contaminate wells in the Heatherwood and Fox Hill neighborhoods. In the 1960s when the landfill first began operating there was no protective liner and waste of all categories has been mixed. That layer of waste is still leaching toxins. Groundwater contamination from toxic waste is increasing and spreading to nearby communities, such as Heatherwood Estates and eventually Santana Ranch (Comment 18-4).

6. If the landfill leachate contaminates local agricultural wells, many agricultural producers will suffer (Comment 26-1).

7. Possible groundwater contamination from an enlarged landfill would appreciably contribute to a reduced standard of living for the local residents (Comment 26-2).

8. The landfill had a toxic plume in the past and it was mediated by piping it down John Smith Road to the bottom into a storm drain. Toxins are real and cause people to get sick. Neighbors and family members who have been diagnosed with cancer in the area (Comment 27-1).

9. If leachate is detected by the monitoring system, doesn't that mean the ground water is already contaminated? How can groundwater be "on-site"? How can leachate be eliminated from the ground water that has gone everywhere and how far has it traveled (Comment 39-3)?

10. Groundwater wells are already contaminated and currently undrinkable, yet the landfill operator has not recognized their wells (which lie on John Smith Road in the direct path of their wastewater flow) in their maps or hydrology section (Comment 43-3).

11. The plastic or clay lining leakage creates leachate that contaminates nearby water resources and damages ecosystems (Comments 44-3).

12. The Heatherwood Estates groundwater aquifer has been contaminated for several months with high levels of arsenic and other chemicals which make it necessary to use bottled water. The aquifer is downhill from the landfill and water drains down John Smith Road. Water quality tests need to be done before an approval of this project. Toxic chemicals are going to go into the ground and eventually make their way into the aquafer (Comment 56-2).

13. Two wells lying on John Smith Road directly in the path of water discharge flow from the landfill that serve 48 homes were not identified on Figure 4.8-5. In addition, the data provided for the limits of the leachate area are nearly 30 years old. Best Road Mutual Water Company’s water often tests high in arsenic and/or manganese, making the water non-potable (Comment 72-2).

14. The confidence levels that leachate will be contained should be described (Comment 79-29).

15. The cumulative impacts on groundwater quality should be described if a failure occurs (Comment 79-32).

PFAS Contamination of Groundwater

16. Per and polyfluoroalkyl substances (PFAS) testing should be scheduled within Heatherwood Estates (Comment 43-3).
17. JSRL has been mandated to perform PFAS testing and in 2020 found PFAS in the leachate. There is no information on when the multi-phase workplan will be executed (Comment 72-2).
18. The expansion will increase the potential for future PFAS detection in landfill leachate. The Draft EIR should include specific mitigation and monitoring requirements to address this concern in both groundwater and stormwater discharges (80-75).

Stormwater Contamination

19. Runoff carrying suspended sediments and commingling with uncontrolled leachate are sources of stormwater pollutants. Other sources of pollutants at the site were not addressed (80-71).
20. It is unclear how industrial stormwater would be segregated from contact water if leachate water and landfill gas condensate are applied as dust control water. This practice could cause water quality and groundwater quality impacts (Comment 80-72).
21. The expansion would increase the area exposed to erosive forces, which could degrade water quality. Also, the disposition of pollutants onto ground surfaces could contaminate surface and ground water. Additional mitigation is necessary to offset this impact (Comment 80-77).

The following Master Response provides an overview of the water quality issues related to the existing and proposed future landfill operations and specifically addresses the three general topics raised in the summarized comments above (i.e., groundwater aquifer and water supply contamination from leachate discharge, PFAS contamination of groundwater, and stormwater contamination). The comments being addressed are identified by number at the beginning of the topic discussion.

For some of the comments summarized above, specific responses have been included in the individual responses that directly follow the comment letters rather than in this Master Response. This approach was used to allow the Master Response to focus on the general topics raised by multiple commenters.

Master Response on Groundwater Contamination

General Information

At the time the Notice of Preparation was prepared and throughout the preparation of the Draft EIR, the landfill was regulated by Central Coast Regional Water Quality Control Board (CCRWQCB)-issued site-specific Waste Discharge Requirements (WDR) R3-2013-0047 as referenced in the Draft EIR. In 2020, the CCRWQCB issued General Order No. R3-2020-0001 (also referenced in the Draft EIR), which required submittal of an updated Joint Technical Document (JTD; including a Report of Waste Discharge (ROWD)) that reflects the requirements of the General Order. Following CCRWQCB staff review and acceptance of the JTD and ROWD, the CCRWQCB would issue a Notice of Applicability for coverage under the General Order. When the Notice of Applicability is issued, the current site-specific WDR R3-2013-0047 would be terminated, and the General Order and an approved JTD would fulfill the role of the previous site specific WDR. That process concluded, for the current landfill, with issuance of a *Notice of Applicability and Site Specific Monitoring and Reporting Program: General Waste Discharge Requirements Order No. R3-2020-001, John Smith Road Landfill, Hollister, California*, dated September 16, 2022. Therefore, the current landfill is now subject to General Order R3-2020-0001 and a new landfill-specific Monitoring and Reporting Program (MRP), which is consistent with the previous site-specific MRP.

For the expanded landfill, if the project is approved by the County, an updated JTD would be submitted for review and approval by the CCRWQCB, prior to implementing changes related to the landfill expansion. The new, approved JTD, combined with the General Order and the IGP, would fulfill the requirements for CCRWQCB regulation of the landfill.

The information included herein has been summarized from the Draft EIR and from a letter from Clayton E. Coles, Principal Engineering Geologist with Lawrence & Associates dated November 28, 2022 regarding the Effectiveness of Landfill Lining System and Groundwater (attached as Appendix A).

Surface and Groundwater Quality Protection

With regard to water quality, the comments received raised concerns regarding the project's potential to degrade both surface water quality and groundwater quality. To facilitate responding to comments, each of these two topics are discussed separately below.

Surface Water Quality Protection

As described in Section 4.8, Hydrology and Water Quality, of the Draft EIR, and above, the CCRWQCB regulates the design and monitoring of the existing (and expanded) landfill via General Order R3-2020-0001 and the associated MRP. General Order R3-2020-0001 and the associated MRP include numerous design and monitoring requirements to protect surface water. In addition, the CCRWQCB regulates stormwater via the State-wide Industrial General Stormwater Permit (IGP), Order 2014-0057-DWQ (as amended). These regulatory orders contain provisions to protect surface water quality. The General Order, in particular, includes provisions for "imposing civil monetary liability" (fines) as well as criminal liability for failing to comply with the order. CCRWQCB personnel monitor landfills regularly for compliance with these orders. A letter from the CCRWQCB to landfill owners and operators (Central Coast Regional Water Quality Control Board September 8, 2022) regarding their Wet Weather Preparedness Notification related to their Land Disposal Program is an example of the routine, on-going enforcement activities performed by the CCRWQCB. This letter notes that CCRWQCB "staff will conduct landfill inspections prior to and throughout the rainy season to verify compliance with WDRs and Stormwater Pollution Prevention Plans (SWPPPs), as required by the Stormwater Industrial General Permit (IGP)."

As described in Section 4.8, Hydrology and Water Quality, of the Draft EIR, the landfill expansion would alter the quantities and timing of discharges in stormwater runoff relative to existing conditions. The General Order requires submittal of a design report for review and approval prior to construction of each Module. Title 27 CCR requires that closure-cap designs be submitted to the CCRWQCB two years prior to closure construction. Each of these documents provides drainage design calculations based on the most recent National Oceanic and Atmospheric Administration (NOAA) rainfall intensity data. NOAA updates their rainfall data periodically and over the life of the landfill drainages for new modules will be constructed to reflect updated data, thereby accommodating climate change. As described in the Draft EIR and incorporated into the project, some drainages would have higher post-project flow than pre-project flow and would require detention of peak stormwater runoff and release of the water gradually after the runoff peak passes. Other drainages would have less post-project peak flow than pre-project flow and would not require stormwater detention. The design for these requirements would be incorporated into the design reports required by the WDR and General Order, as required by Mitigation Measure 4.8-1.

As described in Section 4.8, Hydrology and Water Quality, of the Draft EIR, landfill operations include daily soil disturbance, including excavation of soil for daily cover, waste covering, and other landfill activities. The proposed landfill would be constructed in modules every two years or so. Periodic module construction includes bulk excavation and stockpiling of soil, and construction of roads and liner systems. These activities would temporarily increase the area that would be exposed to erosive forces, which could potentially increase the

transport of sediments into local waterways. This additional exposed area has the potential to degrade water quality in off-site drainage channels and downstream waterbodies. Also, the deposition of pollutants (gas, oil, etc.) onto the ground surface by vehicles associated with site operations could similarly result in the transport of pollutants to surface waters by stormwater runoff.

As described in Section 4.8, Hydrology and Water Quality, of the Draft EIR, both the current and expanded landfill operations are subject to requirements to control the discharge of sediments and pollutants from the project site including the following:

a. The existing landfill is subject to the Industrial General Stormwater Permit (IGP) for landfill construction and operation, including grading, filling, and ancillary construction. Prior to grading activity within the expansion area, the site operator would be required to revise the landfill's Notice of Intent (NOI) under the IGP to include the expansion area and to revise the SWPPP associated with the IGP.

b. Grading activities for final closure and activities unrelated to module construction would be subject to the Construction General Permit (CGP) when required by the CCRWQCB and would require preparation of a project specific SWPPP, NOI for coverage under the CGP, and post project inspection prior to closing the CGP.

c. The landfill operator is and would be required to comply with the existing (and future) General Order and related State regulations regarding landfill design operations. In particular, sections B.4, B.5, C.1 - C.5, C.9 - C.13, C.15, C.16, C.18, C.19, C.22, E.3, E.6, E.7, F.5, F.6, and G.5 (Central Coast Regional Water Quality Control Board September 8, 2022) of the General Order include provisions to protect surface water quality. In addition, the MRP includes numerous requirements for monitoring storm/surface water quality and reporting those results to the CCRWQCB.

d. With regard to use of leachate or condensate for dust control, the operator would be required to comply with General Order Specification 14, which describes requirements for this item. With regard to per- and polyfluoroalkyl substances (PFAS), the CCRWQCB has required development of a "leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts."[1] The leachate management strategy would be submitted to the CCRWQCB for approval prior to implementation. The CCRWQB cites California Water Code Section 13267 as the reason the landfill is required to perform monitoring and develop a leachate management strategy.[2]

Implementation of the proposed project consistent with the regulatory requirements described above would (1) prevent post-project peak flow from exceeding pre-project peak flow, and (2) minimize or avoid the potential for the offsite discharge of site soils and surface-water pollutants associated with site operations. Therefore, as described in Impact 4.8-3 in the Draft EIR, the project's operation-related surface-water quality impacts are considered less than significant.

Class I Area

The clean closure of the Class I Area could expose contaminated waste to erosive forces during the closure activities. Clean closure would be performed after the overlying soil stockpile is consumed and would include removing the capping materials, excavating, manifesting, and disposing of the remaining hazardous residuals in a

[1] Central Coast Regional Water Quality Control Board, July 14, 2021, *Land Disposal Program: John Smith Road Landfill, San Benito County – PFAS Detection Follow-up Work Plan, WDID No. 3 350300001*. In a letter from Matthew T. Keeling to John Rodgers.

[2] Letter from Matthew T. Keeling, of the Central Coast Regional Water Quality Control Board to John Rodgers of John Smith Road Landfill, dated July 14, 2021, titled: *Land Disposal Program: John Smith Road Landfill, San Benito County – PFAS Detection Follow-up Workplan, WDID No. 350300001*.

permitted Class I disposal site. With approval of the Department of Toxic Substances Control (DTSC) and CCRWQCB, the clean closure would also include screening and using less-contaminated native soil (or existing fill) beneficially as a soil operations layer on the expansion area side slopes of the Class III area. If the clean closure activities occurred during a storm or high wind event, exposed soils could be transported by wind (see Section 4.3, Air Quality) or water from the Class I Area. The clean closure plan that would be submitted to DTSC for approval would address these potential construction impacts. As described in the Section 4.10, Hazards, Hazardous Materials and Wildfires, of the Draft EIR, the excavation and removal of these hazardous materials from the site would eliminate the long-term risk of public exposure to hazardous materials present within the Class I Area. Therefore, as described in Impact 4.10-4 on page 4.10-16 of the Draft EIR, this impact would be considered less than significant.

Groundwater Quality Protection

As noted in the Draft EIR and above, General Order R3-2020-0001 and the MRP regulate the existing landfill and would regulate the proposed project. CCRWQCB personnel monitor landfills continually for compliance with this order.

The existing, unlined portion of the landfill has affected groundwater quality locally through migration of leachate and landfill gas to groundwater, as described in further detail below. The landfill impact to local groundwater was identified by detecting volatile organic compounds (VOCs) in local groundwater samples. VOCs are generally synthetic chemicals that do not occur naturally in the environment. Therefore, they are an indication of human impacts to the environment (pollution).

As described in the WDRs, the effects of this leakage are being controlled by the Discharger (John Smith Road Landfill) through groundwater extraction, which would continue during the expansion phase. The extracted groundwater is disposed in a sanitary sewer line and treated at the City of Hollister wastewater treatment plant.

The WDRs further note that, "…Landfill operations have also reduced leachate production." One of the features implemented at the landfill is a preferential leachate pathway (PLP) layer to divert leachate from the unlined Module 1 to lined modules. Finding 15 of WDR Order No. R3-2013-0047 describes this feature (as it existed at the time):

> *The Discharger operates the Landfill utilizing the cut and cover area and canyon fill methods for waste disposal. Unlined Module 1 and lined Modules 2, 3A, 3B, and 4 immediately abut, thus continued disposal operations will result in a waste "overlap" as disposal volume increases vertically and horizontally in the new lined units. In the overlap area, the Discharger constructed a Water Board approved engineered preferential leachate layer to facilitate leachate drainage to LCRS Sump LC 1 – 6 at the base of the new lined modules. LCRS Sump LC 1 – 6 collects leachate draining from lined Modules 2 through 6 and future LCRS Sump LC 7 – 11 will collect leachate draining from lined Modules 7 through 11.*

In addition, as shown below, Specification C.8 of General Order R3-2020-0001 requires this PLP layer for all future modules in which new wastes will overlay the existing unlined unit:

> *The Discharger must construct a preferential leachate pathway layer on slope(s) where waste disposal will overlap previously disposed wastes in unlined areas that are adjacent to lined WMUs with an LCRS, except in locations where placement of a preferential pathway would produce an unstable slope or other potential impacts (i.e., leachate seeps). The Discharger must construct the layer so that leachate generated within the overlapping waste area will flow to the LCRS of CCR, title 27 and CFR, title 40, part 258, lined portions of the WMU for collection and removal.*

Although the unlined landfill area has affected groundwater quality, the effects are mainly from organic compounds. There is no evidence that the landfill has imparted arsenic to the groundwater in significant amounts. Migration of leachate and landfill gas from the expanded landfill would be prevented through construction of Title 27-compliant liners and controls (see Impact 4.8-5 commencing on page 4.8-28 of the Draft EIR for discussion of landfill liner and controls and Appendix A). Therefore, because the existing groundwater contamination source is being controlled through groundwater extraction, and future landfill modules would include Title 27-compliant liners, the proposed project would not be expected to contribute to groundwater contamination and this impact would be considered less than significant, as described in Impact 4.8-5 in Section 4.8, Hydrology and Water Quality, of the Draft EIR.

Landfill Design and Leachate Management Requirements

While landfills are designed to shed rainwater from the landfill soil covers and into surrounding drainages, some of the water infiltrates into the waste. Some of the water is consumed by microbes in the decaying waste, but some makes its way to the bottom of the landfill. Water that passes through waste and absorbs some of the waste constituents is called "leachate." Historically, leachate has been considered non-hazardous because under the requirements of Title 22, CCR it does not bear the characteristics of toxicity, corrosivity, reactivity, or flammability (the characteristics of hazardous wastes). However, leachate does contain constituents such as inorganic salts (such as sodium chloride) and volatile organic compounds that can degrade groundwater quality if left uncollected.

As described in the Design Basis Report for the project, the expanded landfill would include an expanded leachate collection and recovery system (LCRS) that would include the following alternative engineered design[3] that appropriate regulatory agencies have approved for use at the site (Appendix A):

- Leachate drainage layer beneath the waste (and the operations layer described below) on the entire bottom of the landfill to prevent buildup of over 12 inches of head (leachate depth) on top of the liner system.
- A system of pipes to drain the leachate into sumps designed for no less than double the peak leachate flow.
- Leachate sumps with a pumping system designed for twice the peak flow and underlain by a leak-detection sump.[4]

On the bottom of the landfill, the LCRS system would be underlain by a composite liner system including the following from top to bottom:

- 12-inch soil "operations" layer (to protect the LCRS and liner system from damage during waste placement).
- Geotextile separator fabric (to prevent soil from entering and clogging the LCRS).
- LCRS.
- 60-mil high-density polyethylene geomembrane.
- Geosynthetic clay liner.
- 12 inches of clay with a permeability no faster than 1×10^{-6} centimeters/second (one foot per year at one foot of head or 1/10 of a foot per year with 1/10 of a foot of head).
- Minimum of 5-foot separation from the top of the geomembrane to highest anticipated groundwater.

[3] Both Federal RCRA (Subtitle D) and California solid waste regulations (CalRecycle/CCRWQCB) allow an alternative engineered design to address a particular site condition if it can be demonstrated to provide equivalent protection from leachate leakage to groundwater as the standard prescriptive design.

[4] The project proposes that leachate generated and routed to the sumps would be collected and applied on lined areas of the site to control dust and/or be reinjected into the buried waste to accelerate waste decomposition.

On the sideslopes the following system would be used. Note that an LCRS is not used on the sideslopes because they shed water (due to the relatively steep slope) without a gravel LCRS.

- 24-inch soil operations layer (to protect the liner from damage during waste placement).
- 60-mil high-density polyethylene geomembrane.
- Geosynthetic clay liner.
- Prepared (smooth) soil subgrade.

Any new landfill modules would be required, per Title 27 CCR, to maintain a five-foot separation between the highest anticipated groundwater level and the bottom of the waste. Throughout most of the current landfill and proposed expansion area, the first encountered groundwater is located 20 feet or more below the current and proposed base grades. However, in wells that are constructed to intersect groundwater under confined conditions,[5] groundwater was observed to rise from the depth at which it is first encountered to a higher level because it is under confining pressures. That is, the true water level is deeper than that measured in the wells. In those cases, the highest anticipated water levels based on water levels measured in wells could be less than 5 feet from the base grades, but not represent the true (and in this case deeper) separation from the waste in certain locations under the expansion area. Previous groundwater monitoring has revealed that this could occur in two small, localized areas on the east sides of proposed Phases 2A and 2B. During the design and construction of Phases 2A and 2B, an additional well would be installed to verify the confined condition and track groundwater elevations. If the proposed base grades are determined to be less than 5 feet from the top of the highest groundwater levels, the landfill would refine the groundwater model as necessary, and if needed, revise the cell design with base grade elevations to ensure that a separation of 5 feet or greater is maintained during landfill operations and post-closure (Lawrence and Associates 2021). This would be necessary to comply with the 5-foot separation requirements pursuant to Title 27.

The project also includes clean closure of the Class I Area. The Class I area contains sediment that contains hazardous pesticide residues and additional non-hazardous, yet contaminated, soil. Clean closure of the Class I Area would include removal and proper disposal of the contaminated soil, thereby eliminating the future potential for groundwater contamination from the residual pesticides.

As described in the Design Basis Report (Lawrence & Associates 2021) and in Appendix A of this Final EIR, the peak leakage through the liner system would be less than 0.1 gallons per acre per day, (e.g., negligible) and has negligible potential to affect groundwater quality.

To further ensure that leachate and the contaminants it may contain (e.g., PFAS) are not contaminating the groundwater basin underlying and surrounding the project site, Title 27 requires that groundwater monitoring wells be installed both upgradient and downgradient from the landfill as close to the "point of compliance" or edge of waste as possible. These wells provide a mechanism to identify contaminants migrating offsite before they enter the groundwater basin. Early identification of offsite contaminant migration allows for the development of remediation strategies, which would be reviewed and approved by the CCRWQCB prior to implementation.

The strategy to reduce the potential for PFAS contamination is outlined in the PFAS Follow-up Workplan submitted to the CCRWQCB on June 6, 2022 (Golder Associates 2022). The general requirements for monitoring-well design, installation, monitoring, and statistical analysis are described in Title 27 CCR. For the expanded landfill, an updated Joint Technical Document (JTD) would be prepared and submitted to both the CCRWQCB and CalRecycle. The CCRWQCB would use the JTD as a basis to enroll the expanded landfill under General Order R3-2020-0001, with an associated MRP. As noted above, the General Order is the landfill

[5] Confined groundwater conditions refer to groundwater that is under pressures greater than atmospheric due to the presence of an overlying impervious or semi-impervious confining layer. Groundwater under confined conditions rises to a "potentiometric surface" in a well, which refers to the imaginary surface representing the total pressure head of the groundwater under confined conditions.

permit that controls the design of the landfill and other aspects that could affect water quality. The MRP describes the required groundwater and surface water monitoring for the landfill. General Order R3-2020-0001 also requires that waste be no closer than 50 feet from the property line, unless approved by the Executive Officer.

As discussed on page 4.8-30 of the Draft EIR, the current landfill has 34 monitoring wells that are monitored semiannually under the MRP. The current wells are divided into background wells and detection compliance wells, of which seven are used for "detection" monitoring and are monitored semiannually, 14 are monitored to evaluate the "corrective action" related to a release of volatile organic compounds from the existing unlined Module 1 and are monitored semiannually, and four wells (of which one is also used for Class III Detection Monitoring) are used for the Class I Area detection monitoring and are monitored yearly to every 5 years. The remaining wells are used for water levels only. There are also five groundwater extraction wells that intercept groundwater downgradient from unlined Module 1. In addition, 10 landfill-gas monitoring probes are monitored annually for volatile organic compounds. Monitoring of these wells would continue under the expansion and the monitoring network would be modified over time if determined necessary for increased monitoring efficiency or as required by the CCRWQCB.

As shown on Figure 4.9-6 on page 4.9-11 of the Draft EIR, 11 wells have been installed in the landfill expansion area, seven of the wells (N-1, N-2, N-3, N-4, N-5, N-7, and N-8) have been installed so that they can be used as upgradient (i.e., background) or compliance wells for the expanded landfill. Compliance wells would identify leachate migrating offsite before the contaminants enter the underlying groundwater basin. If contaminants are detected, the landfill would develop remediation strategies (e.g., groundwater extraction), which would require approval by the CCRWQCB prior to implementation. The remainder of the wells would be used temporarily and then decommissioned prior to landfill construction in that area.

As described in the Chapter 3, Project Description, of the Draft EIR, page 3-22, perimeter landfill-gas monitoring wells would be installed around the perimeter of the facility as the expansion modules are constructed. If permitted under the MRP, an alternative approach could involve a network of temporary wells placed at a determined compliance boundary closer to the waste and then moved as the landfill expands. As needed and required, the probes within the additional wells would be added to the list of probes monitored for trace gases.

As discussed on page 4.8-30 of the Draft EIR, prior to expansion of the landfill, the landfill operator would submit a JTD containing a Report of Waste Discharge (ROWD) that would propose the monitoring network for the expanded area. The CCRWQCB would review the JTD and request changes to the monitoring network if it identifies a need to add, remove, or relocate monitoring points. The CCRWQCB would then enroll the expanded landfill under General Order R3-2020-0001 and request additional monitoring points, as needed. General Order R3-2020-001 requires that the JTD be reviewed and updated if needed every five years at which time the monitoring network and WDRs would be reviewed and updated, if needed.

Because the construction of new landfill modules associated with the proposed landfill expansion would (1) include an LCRS underlain with a composite liner system, (2) include clean closure of the Class I area, (3) include the installation of groundwater monitoring wells both upgradient and downgradient from the landfill, (4) maintain a 5-foot separation between the highest encountered groundwater and the bottom of the waste, and (5) comply with the General Order and a site-specific MRP, the proposed project would not be expected to degrade groundwater quality or contribute contaminants to domestic groundwater wells within the project vicinity. Therefore, the project's impacts on groundwater quality would be less than significant.

Potential for Groundwater Aquifer and Water Supply Contamination from Leachate Discharge (Responses to Comments 1 through 15)

Commenters raised concerns regarding the existing landfill and future expansion potentially contaminating groundwater and specifically contaminating domestic wells such as those in the Best Road Mutual Water

Company (BRMWC) and Fox Hills Estates, Heatherwood Estates, and Fisher Subdivisions. Specific concerns were raised regarding the limits of the existing VOC plume from the unlined portion of the landfill and the potential for the existing or expanded landfill to contaminate groundwater quality in the domestic wells within these areas. The following discussion addresses these comments.

Background

As described above, recognizing the potential for groundwater impairment from unlined landfills, the US EPA promulgated Subtitle D regulations. In addition to the requirements for composite-lined landfills, Subtitle D (40CFR Part 258.50) contains requirements for installation of groundwater-monitoring wells, periodic sampling of those wells, and statistical analyses of the groundwater analyses. The requirements were subsequently adopted by the State of California, incorporated into Title 23 CCR, and subsequently rolled into the current Title 27 CCR (Section 20005 et seq). Title 27 regulations include requirements for sampling and statistical data evaluation called a "detection monitoring program" (Section 20425). If a release is detected, the regulations require implementation of an evaluation monitoring program (Section 20425) to assess the nature and extent of the release. Once the nature and extent of the release have been determined, "a corrective action program" (Section 20430) is required to identify a remediation method and verification monitoring to contain and correct the release.

VOC Release from the Unlined Portion of JSRL

The existing VOC release and groundwater-extraction system are described in Section 4.8 of the Draft EIR and the referenced documents in Section 4.8.4. The referenced Golder 2020 First Semi-Annual Monitoring Report and other Monitoring Reports can be viewed on the Regional Water Quality Control Board GeoTracker Website: https://geotracker.waterboards.ca.gov/profile_report?global_id=L10008478954.

In 1987, during the initial state-mandated Solid Waste Assessment Program, traces of VOC contamination above the California primary Drinking Water Standard (Maximum Contaminant Level [MCL] were found in groundwater downgradient of the unlined landfill (now called Module 1 Figure 4.8-4).[6] The detected contaminants are commonly found in landfill gas and landfill leachate (see the above reference report for detected constituents).

Over subsequent years, using additional monitoring wells, additional groundwater sampling (See DEIR Page 4.9-7), permeability testing, mapping and data evaluation, a conceptual model was developed describing the hydrogeologic conditions (e.g., geologic units, permeability and groundwater flow direction), vertical and horizontal limits of the VOC release. By 1993, the source of the VOCs was identified to be from the base of the unlined Class III landfill (Module 1) where groundwater was at or near the bottom of the waste. It was also found that that the pesticides and herbicides from the adjacent Class I Area were not present in the landfill leachate or VOC plume.[7] It was found that the unlined landfill had been filled in a valley underlain by shallow alluvium on top of weathered Panoche Formation Bedrock. Groundwater contamination followed the shallow valley alluvium from beneath the unlined Class III Area, down slope towards the existing landfill entrance and beneath the field across John Smith Road southwest of the entrance to the Landfill. The shallow valley alluvium is identified on the geologic map in the Draft EIR as "Qal – Alluvium." In another version of the same map, the unit has been identified as "Qa - alluvial gravel, sand, and clay of valley areas."[8] The VOC "plume" migrated through the 5- to 10-foot thick shallow valley alluvium and uppermost (10 to 20 feet) of the underlying Panoche Formation approximately in the area shown on Figure 4.8-4 in the Draft EIR.[9]

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6 WDR Order No. R3-2013-0047, December 5, 2013, Item 37 (paraphrased).

7 Wahler Associates, March 1993, *County of San Benito County and City of Hollister, Additional Studies Report (On-Site Investigations), John Smith Road Landfill Class III Area, EPA I.D. No. CAAD 990665432.*

8 Dibblee, Thomas W., 2006, *Geologic Map of the Tres Pinos Quadrangle, San Benito County California*. Dibblee Geologic Center Map #DF-232 published by Santa Barbara Museum of Natural History, 2559 Puestra Del Sol Road, Santa Barbara, CA.

9 Note that the limit of VOC contamination above drinking water standards (MCL) remain within the landfill property.

In the process of developing conceptual model for the release, Wahler Associates found that the permeability of underling Panoche Formation varied widely and was one to three orders of magnitude lower than the shallow valley alluvium. In general, however, permeability was relatively low and groundwater moved slowly (average of 0.27 feet per day) downgradient.[10]

In 1993, a groundwater-extraction system was installed downgradient of Module 1 using three extraction wells (E-1 through E-3) on the landfill property near the current landfill entrance and two extraction wells (E-4 and E-5) in the field southwest of JSRL. The extraction wells are used to intercept water in the plume. As described in Section 4.8 (Page 4.8-9) of the Draft EIR:

> "*The overall declining concentrations of VOCs indicate that the on-site groundwater extraction system has been effective at capturing affected groundwater. Improvements in landfill operations have also reduced leachate production, thus reducing the source for the historical impact identified as originating from unlined Module 1*."

Figure 4.8-4 from the Draft EIR identifies the limits of the plume (limits of detectable VOC). The direction of groundwater is down the valley to the northwest. The plume does not reach Monitoring Well WA-20 or the adjacent Lima 3 Well. As shown on the geologic map in the Draft EIR (Figure 4.9-2), the shallow alluvium ends west of the landfill entrance and does not provide a preferential path for groundwater movement downgradient past that point. As shown on Figure 1 below, prepared by Golder Associates, the nearest known residential well (A Lima (2006)) is approximately 0.75 miles west of Monitoring Well Lima 3 and is well removed from the potential for VOC contamination from the landfill.

Operation of the groundwater-extraction system and the limits of the VOC plume in the surrounding area are part of the ongoing corrective action program. While the existing release and successfully controlled plume are an existing baseline condition, it provides an example of successful application of the regulations, corrective action by the landfill owner and operator, and oversight by the CCRWQCB.

The existing plume was the result of groundwater located close to the bottom of an unlined portion of the landfill in a valley underlain by shallow valley alluvium and shallow groundwater. It is a lithologically (layered rock strata) and topographically controlled system (waste in a valley). It is not related to regional structural control such as factures and bedding. A release similar to the existing one cannot occur in the expansion area because (1) the shallow valley alluvium does not occur within the expansion area, (2) the expanded landfill will be lined, and (3) a minimum 5-foot separation between the bottom of the waste and highest anticipated groundwater elevation must be maintained. Having said this, should a release occur, the unlined area release demonstrates that there is a regulatory process to successfully control and correct the releases to prevent impacts to downgradient groundwater users. On this basis, as described in Impact 4.8-3, the potential for long-term degradation of water quality remains less than significant.

Because (1) the current release has been controlled and does not continue downgradient past the plume limit described above, and (2) the nearest known domestic well is 0.75 miles west of the plume limit, there is no evidence that VOCs have contributed contaminants to the downgradient domestic wells. Because the conditions that caused the VOC plume cannot occur in the expanded landfill, as described in Draft EIR Appendix C, Section 8.6.3, the proposed project would not be a source of contamination for the downgradient domestic wells. Because the existing release has been controlled and the proposed project would not be a source of contamination for the downgradient domestic wells, the proposed project would not expose residents to contaminants through groundwater discharges and would not contribute to cancer risks associated with the use of domestic well water within residential areas in the project vicinity.

[10] Wahler Associates, March 1993, County of San Benito County and City of Hollister, Additional Studies Report (On-Site Investigations), John Smith Road Landfill Class III Area, EPA I.D. No. CAAD 990665432. Page III-10.

Arsenic in Groundwater West of Landfill (Responses to Comments 12 and 13)

Several commenters raised concerns regarding the arsenic levels in the Best Road Mutual Water Company (BRMWC) wells and other wells in the surrounding area. Arsenic is naturally occurring in the minerals within the native soil and bedrock, and it commonly dissolves in the groundwater.

Potential impacts from arsenic around the landfill are described in the Draft EIR starting on the bottom of page 4.8-10 as shown for convenience here (Appendix A):

"*Along the southern edge (downgradient) of the existing landfill area, the average arsenic concentration in groundwater is 10.8 µg/L (in wells G-26, G-28, G-29, G-30, G-32 and G-33). Along the northern edge of the landfill (cross-gradient), the average arsenic concentration is 8.8 µg/L (in wells G-27, W-4, W-5, and CP-30). In the extraction wells EW-1 through EW-5, the average arsenic concentration between 2015 and 2020 was 10.5*

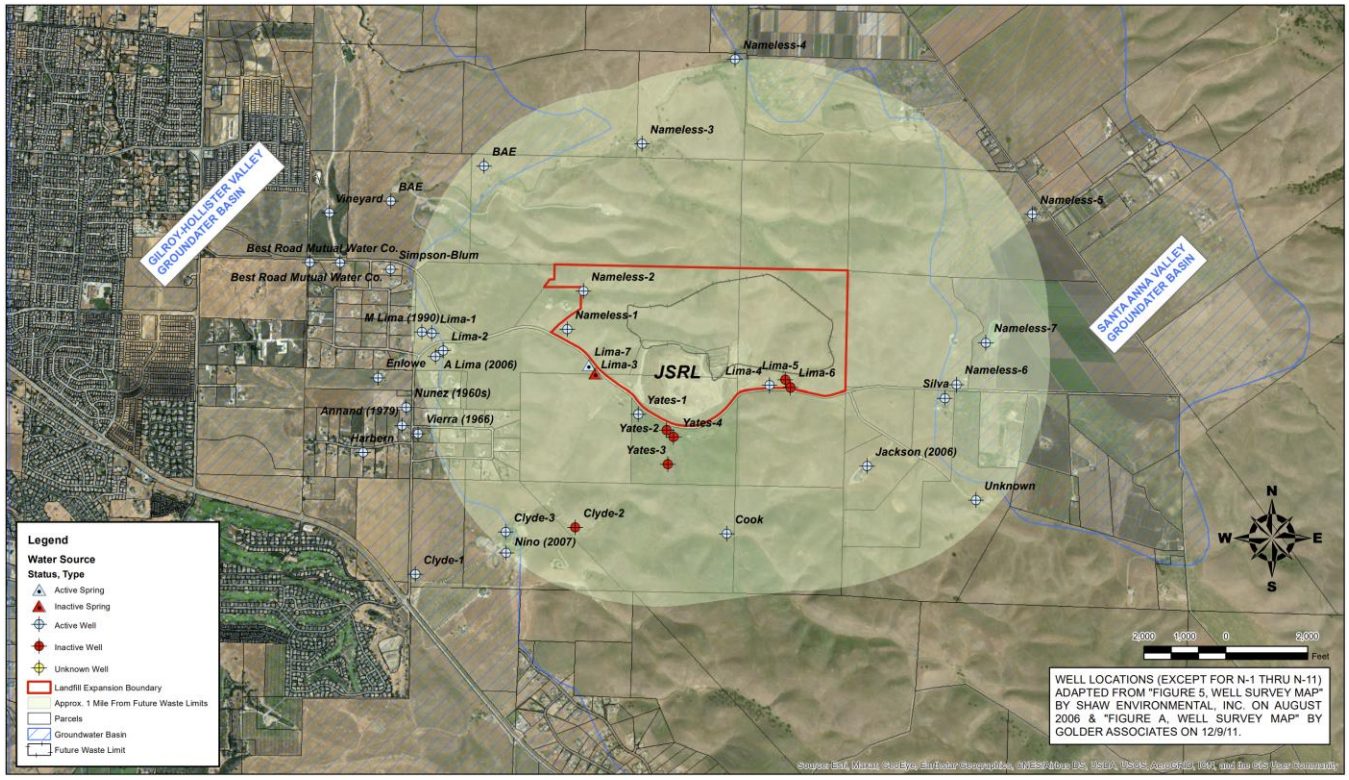

Figure 1 – Wells Within One Mile of Proposed Waste Boundary

µg/L and is generally similar between the wells. The extraction wells cover a range of sampling depths from approximately 10 to 100 feet below ground surface.

In wells downgradient of the unlined module and within the contaminant plume, arsenic values range from non-detected to 3.4 µg/L in wells CP-31 and WA-15 (alluvial aquifer). The farthest downgradient well in the bedrock aquifer, well CP-25, has shown arsenic concentrations up to 3.1 µg/L. Background arsenic levels range from 3.9 to 18 µg/L in well WA-11 (alluvial aquifer) and from non-detected to 11 µg/L in well E-15 (bedrock). The latter well is upgradient of the Class III landfill, but downgradient of the Class I unit.

These groundwater monitoring data from onsite and offsite landfill wells show that groundwater concentrations of arsenic are consistent and represent naturally-occurring background ranges. The data does not indicate that leachate from the unlined portion of landfill or the Class I area has caused elevated arsenic concentrations downgradient of the landfill, even in the area of the leachate-contamination plume."

The BRMWC is located west of the landfill and south of John Smith Road in the vicinity of Best Road, Marantha Lane and surrounding areas. As shown on Figure 4.9-7 in the Draft EIR, this area is located within and at the edge of the Gilroy-Hollister Valley Groundwater Basin. Figure 1 is an updated version of Figure 4.9-7 that shows the locations of the BRMWC wells and the Simpson Blum well. As described in the Draft EIR, most of the domestic wells draw water from the Gilroy-Hollister Valley Groundwater Basin. From a regional standpoint, and as described on page 4.8-10 of the Draft EIR:

"*Trace and minor elements are naturally present in the minerals in rocks and soils and in the water that contact those materials. In the south coast interior groundwater study unit, trace and minor elements were detected at high concentrations in about 20 percent of the primary aquifer system and at moderate concentrations in about 23 percent. Arsenic, boron, and molybdenum were the trace elements that were most frequently detected at high concentrations (USGS 2014)*."

Reportedly, high arsenic concentrations are a common problem around the periphery of the Gilroy-Hollister groundwater basin where bedrock is shallow. The arsenic problem does not occur with the deeper portions of the aquifer.

The California primary Drinking Water Standard (Maximum Contaminant Level [MCL]) for arsenic was reduced from 50 ug/L [parts per billion] (0.05 mg/L; [parts per million]) to 10 ug/L (0.01 mg/L; [parts per million]) in 2007, and required previously compliant water systems throughout the state to install costly water treatment systems for their water-well sources. The MCLs described above apply only to public drinking water systems. In its 2019 Central Coast Basin Plan, the CCRWQCB, established Water Quality Objectives (Table 3-2) for arsenic in agricultural use of 0.1 mg/L (100 ug/L) for irrigation supply and 0.2 mg/L (200 ug/L) for livestock watering.

According to the March 2022 minutes from the BRMWC board meeting, at least one of the two BRMWC wells has had a persistent problem with arsenic over the 10 ug/L MCL. According to the California Drinking Water Watch website, the BRMWC had 15 violations of the arsenic MCL between 2016 and 2021 (ranging from slightly above the limit to as high as 26.9 ug/L in 2017). The data from the California Department of Drinking Water website indicate that for the period of 1/6/11 through 7/8/22, arsenic concentrations in Well 1 ranged from nondetect to 29 ug/L with an average of 6.2 ug/L and 9% of monthly sampling results exceeding 10 ug/L. For the period of 4/27/12 through 6/15/22, arsenic in Well 2 ranged from 2 to 59 ug/L with an average of 12.2 ug/L and 48% of monthly sampling results exceeding 10 ug/L. The arsenic concentrations appear to be highly variable – more so in Well 2.

Based on BRMWC board meetings minutes, it appears that the BRMWC is working towards merging with the Sunnyslope Water District and discontinuing use of the wells.

Based on the above information, naturally occurring arsenic above the drinking water MCL is common within the bedrock aquifer and edge of the Gilroy-Hollister Valley Groundwater Basin. The groundwater monitoring data from onsite and offsite landfill wells show that groundwater concentrations of arsenic are consistent and represent naturally-occurring background ranges. Based on these data, there is no indication of a release from the landfill and no indication that the JSRL has contributed to arsenic concentrations, or that the expanded lined landfill would contribute to off-site arsenic concentrations. Therefore, the proposed project would not be a source of arsenic contamination within existing domestic wells and would not contribute to cancer risks associated with the use of domestic well water within residential areas in the project vicinity. On this basis, as described in Impact 4.8-3, the potential for long-term degradation of water quality remains less than significant. As described in Draft EIR Appendix C, Section 8.6.3, the assumption that groundwater is not a pathway for health risk remains unchanged.

Potential for PFAS Contamination of Groundwater (Responses to Comments 16 through 18)

Several commenters raised concerns regarding the potential for the presence of PFAS to contaminate groundwater and to have other adverse effects (Appendix A). The following discussion addresses these comments.

Background

As described in Draft EIR Section 4.8, "*Per- and polyfluoroalkyl substances (PFAS) are a family of more than 5,000 man-made and mostly unregulated chemicals that have been produced since the mid-1900s. They are mobile and persistent in the environment and are bioaccumulative. They are resistant to degradation in the environment and when degradation occurs, it often results in the formation of other PFAS compounds. PFAS are manufactured globally and have been used in the production of a wide range of industrial and household products such as dental floss, non-stick cookware, food packaging materials, non-stick products (e.g., TeflonTM), waterproof and water-repellent textiles, water repellent furniture, carpet, polishes, waxes, paints, cleaning products, medical garments, and fire-fighting foams*."

Based on literature from the Interstate Technology and Regulatory Council (ITRC), understanding of the scope and health effects of PFAS has begun to mature in recent years. Only in October 2021 did the US EPA develop a strategic road map for managing PFAS. In August 2019, California's Office of Environmental Health Hazard Assessment (OEHHA) issued notification-level drinking-water concentration recommendations for PFAS constituents PFOA (Perfluorooctanoic Acid) and PFOS (Perfluorooctane Sulfonic Acid) and recommended that the State Water Resources Control Board (SWRCB) issue notification limits as non-regulatory advisory level. In 2020, the SWRCB issued Order DW 2020-0003-DDW, effective October 1, 2020, that required some public water systems to test for PFAS. In August 2021 the SWRCB issued Notification Levels for PFOA and PFOS in drinking water. In 2021, the SWRCB issued order DW 2021-0001-DDW that required additional public water systems to test for PFAS. On May 3, 2021, OEHHA identified PFOA as a carcinogen, added it to the Proposition 65 list, and did the same for PFOS on December 24, 2021. To date, the SWRCB has not issued drinking water MCLs for these constituents.

As described the Draft EIR page 4.8-9, in 2019, the SWRCB issued Order WQ 2019-0006-DWQ that required landfills to sample selected wells and leachate for PFAS constituents. PFAS constituents were detected in the leachate (similar to other landfill in the region) and the CCRWQCB requested submittal of a work plan for additional sampling, which was submitted by Golder Associates on October 7, 2021. After requested revisions by the CCRWQCB were incorporated, the revised work plan was submitted June 6, 2022 (Golder Associates 2022). The work plan included sampling the furthest downgradient landfill monitoring wells to determine the extent of PFAS detection. The work plan is currently being implemented. Sampling conducted in October 2022 from well CP-25, the furthest downgradient well, had three trace concentrations of PFAS. Well CP-25 is approximately 1,000 feet downstream of the existing landfill site's western boundary. Because only trace concentrations of PFAS were detected in this well, it can be concluded that downgradient groundwater is not being affected by PFAS from the existing landfill. Therefore, sampling a well that is over one mile distant from the site would not be warranted.

Use of Leachate Potentially Containing PFAS for Dust Control

As described in the letter dated July 14, 2021 (see footnote 1 above) regarding the PFAS Detection Follow-up Work Plan for JSRL, per California Water Code section 13267, the landfill operator is required to submit the following: "Leachate management - Waste Connections must develop a leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts." The CCRWQCB requires that the strategy include a back-up disposal method to the use for dust control.

Currently, leachate is disposed in the City of Hollister sewer system and submittal of a back-up strategy for leachate management has not been required. However, as a project component, the landfill operator intends to reduce sewer disposal by storing leachate and condensate in tanks and use those liquids for dust control, or reinject them into the landfill to promote early decay of the waste. During permitting for the expansion, the CCRWQCB will require the operator to submit the required strategy for approval. Dust control would likely be the primary management method followed by alternatives of injection and sewer disposal. Dust control management methods would typically include:

- No surface application within 72 hours after measurable precipitation.
- No surface application 72 hours prior to a rainfall event with a 50% chance or greater of precipitation as determined by NOAA.
- No ponding caused by the application.
- Application in lined areas only.
- Application away from the public.
- Application no closer than 50 feet from the landfill boundary.
- Application at a rate that does not create mud that can be tracked off site.

There is a clear existing regulatory framework for controlling leachate sprinkling and ceasing leachate sprinkling, if needed.[11] Because the operator would be required to comply with the current regulations regarding PFAS used in dust control and because PFAS can readily be controlled by an HDPE liner, as described in Impact 4.8-3, the impact remains less than significant. As described in Draft EIR Appendix C, Section 8.6.3, the proposed project would not be a source of PFAS contamination for the downgradient domestic wells.

Potential for Stormwater Contamination (Responses to Comments 19 through 21)

Commenter raised concerns regarding the project's potential to cause surface water contamination associated with the exposure of stormwater runoff to leachate and other contaminants on the project site. In addition to the stormwater regulatory discussion provided above, specific responses have been provided to the individual comment letters following this Master Response, including specifically Responses to Comments 80-71, 80-72 and 80-77.

[11] The Draft EIR's water supply analysis conservatively assumed that leachate would not be used for dust control at the site when calculating the site's expected water demand.

Individual Comment Letters and Responses

Letter
1

From: Robert Hillebrecht <rob@sunnyslopewater.org>
Sent: Friday, July 15, 2022 5:09 PM
Subject: RE: Notice of Availability - John Smith Road Landfill Expansion Draft Environmental Impact Report

County Planning Department,
Please find Sunnyslope's comments on the Draft EIR for the John Smith Road Landfill Expansion.
Section 4.12.1

1. Sunnyslope will not be able to provide water for the expanded landfill under the current arrangement. Even with the anticipated reduction in water use from Sunnyslope (due to capturing and reusing stormwater) even the current amount of water used would likely need to end. 1-1

Currently the landfill obtains POTABLE water from Sunnyslope by a fire hydrant and trucks it to the site. However, this arrangement is NOT allowed to continue long-terms for several reasons…
a. The John Smith Landfill lies outside Sunnyslope's District Boundary, so providing water service (even by them trucking it from within the District) would require a special contract with Board approval. Such approval would not likely be given unless there is a health and safety issue.
b. The John Smith Landfill lies outside of San Benito County Water District's Zone 6 which is the area of benefit for CVP water. Thus, the landfill may not legally receive any CVP water. A significant portion of Sunnyslope's water supply is from imported CVP water, and thus the landfill has been receiving a portion of that water through Sunnyslope's fire hydrant. The landfill will not be allowed to pull water from Sunnyslope's normal domestic system for this reason.

3. Sunnyslope is in the process of developing a separate water system that runs parallel to the domestic system but is solely sourced by well water. The landfill might be allowed to obtain water from that system, though they may still need to negotiate with SBCWD for the use of that groundwater as they are also outside Zone 3 (a groundwater zone of benefit). Sunnyslope is working toward a consolidation of Best Road Mutual Water Company and is trying to address many of these same issues.

4. One other potential possibility that could be explored for importing water would be to purchase groundwater from Best Road Mutual which has wells along John Smith Road. They would likely need to install a tank that could fill the water trucks faster, and a price would need to be negotiated. 1-2

5. Consideration should be made on the feasibility of running a water pipeline from the intersection of Maranatha Dr. and Best Road to the landfill. This is about 1 mile distance. Best Road Mutual has a 6" water pipeline in Best Road at Maranatha Dr. which could be tied onto. A pipeline from there to the landfill would end the need to be trucking water daily, thereby reducing the emissions of the landfill, reducing wear on the street and traffic, reducing staffing needs, and several other benefits. 1-3

6. If trucking water in for the landfill is needed, a dedicated fill location should be designed and built where water trucks can safely pull off the road to fill. Currently water trucks fill from a fire hydrant on Hillcrest Road by 1-4

just parking on the shoulder, but that is not a safe long term solution as the intersection of Hillcrest and Fairview gets improved and busier.

1-4 (Cont.)

It appears that there are other options for water sources for this project and there may be opportunities to still negotiate something with Sunnyslope, but it could be somewhat complicated.

If you have any questions, please feel free to reach out to me.

Thanks.

Rob Hillebrecht, P.E.
Associate Engineer
3570 Airline Hwy, Hollister, CA
Office Phone (831) 637-4670
Cell Phone (760) 484-6866

1-1 The comment states that the Sunnyslope County Water District (Sunnyslope) will not be able to provide water for the expanded landfill under the current arrangement. Even with the anticipated reduction in water use from Sunnyslope (due to capturing and reusing stormwater) even the current amount of water used would likely need to end. The comment further explains why this is the case.

The commenter further states that Sunnyslope is in the process of developing a separate water system that runs parallel to the domestic system but is solely sourced by well water. The commenter states that the landfill might be allowed to obtain water from that system, though they may still need to negotiate with SBCWD for the use of that groundwater as they are also outside Zone 3 (a groundwater zone of benefit). Sunnyslope is working toward a consolidation of Best Road Mutual Water Company and is trying to address many of these same issues. Therefore, the availability of Sunnyslope water for project use cannot be relied upon as part of the project's water supply.

The project applicant has indicated that they would work with Sunnyslope to implement the water supply options identified in this comment letter, if those options become available, and to comply with required review and approval processes. The selection of the water supply option during drought years would be expected to be based on operational and financial considerations. For a further discussion of the available water supply sources, the commenter is referred to Section 3.5-11 of Chapter 3, Project Description, and Section 4.12, Public Services, Utilities and Energy, of the Draft EIR.

As stated in the Draft EIR, the project proposes to use stormwater and leachate captured in the project's stormwater and leachate detention ponds to meet the landfill's operational and liner construction needs. This would minimize off-site truck trips and use of off-site water supplies. If captured stormwater and leachate water are insufficient and water is required to be imported, the applicant has identified additional sources of water (*i.e.*, Shore Road well and installation of covers on the stormwater basins to minimize evaporation). The Shore Road groundwater well could meet all of the project's demand for water. As an alternative to, or in addition to, providing water from the Shore Road well water, the applicant may choose to cover one or more of the stormwater ponds, which would minimize evaporation and increase water available for operational use.

With respect to the Shore Road well, during the past 45 years, the North San Benito Sub-basin has experienced periods of drought and will likely experience those conditions in the future. During the period between 1976 and 2012, 13 of the 36 years experienced dry to critically dry conditions (less than 9 inches of precipitation annually) and 18 years were classified as above normal to wet (greater than 17 inches annually) with high and low rainfall years occurring at no regular set intervals.[12] During the period between 2013 and 2020, however, the region experienced a relatively drier period with critically dry conditions occurring in 3 out of the 8 years—2 of which were the consecutive critically dry years of 2013 and 2014—and 2 years that were dry or below normal. It should be noted that 2013 and 2014 had the lowest recorded precipitation amounts (less than 4 inches annually) between the period of 1976 to 2000. The sub-basin had been recovering from the 2013-2016 drought period although that recovery was interrupted as groundwater elevations declined throughout 2020.[13] Groundwater in the basin declines in a drought but recovers in normal and wet years, and, based on the Lawrence and Associates groundwater

[12] Todd Groundwater, 2020. Annual Groundwater Report 2020. Prepared for the San Benito County Water District. Pages 9-11. December

[13] Ibid.

memo, the extraction of 30 acre feet from that area of the basin and at the pump rate and frequency proposed, would have less-than-significant impacts to both water supply and neighboring wells, even in and following drought years.

During consecutive "average' or above rainfall years, the use of captured stormwater and leachate are estimated to be adequate to meet the site's operational and liner construction water demands. The use of imported water, including Sunnyslope water would be eliminated, unless, in the future Sunnyslope water is available to the project. During drought years (i.e., dry to critically dry), nearly all of the site's water needs would be sourced from the private Shore Road groundwater well, through the installation of covers on the stormwater basins, or through a combination of these sources.

1-2 The commenter states that one other potential possibility that could be explored for importing water would be to purchase groundwater from Best Road Mutual Water Company, which has wells along John Smith Road. The commenter further states that Best Road Mutual Water Company would likely need to install a tank that could fill the water trucks faster.

As stated in Response to Comment 1-1, the project applicant has indicated that they would work with Sunnyslope to implement the water supply options identified in this comment letter if they become available, and to comply with required review and approval processes. For a discussion of the proposed project's other water supply sources, the commenter is referred to Response to Comment 1-1 and Section 3.5-11 of Chapter 3, Project Description, and Section 4.12, Public Services, Utilities and Energy, of the Draft EIR.

1-3 The comment states that consideration should be made on the feasibility of running a water pipeline approximately one mile from the intersection of Maranatha Drive and Best Road to the landfill. Best Road Mutual Water Company has a 6-inch water pipeline in Best Road at Maranatha Drive. Water supply sources other than from Sunnyslope and Best Road Mutual Water Company that would not require pipeline construction have been identified in the Draft EIR, primary of which is the capture of stormwater at the project site.

As stated in Response to Comment 1-1, the project applicant has indicated that they would be willing to work with Sunnyslope to implement the water supply options identified in this comment letter if those options become available and to comply with required review and approval processes, but a new water pipeline is not proposed by the project.

Depending on location, size, and design, the installation of a pipeline could require construction equipment to conduct the roadway or shoulder trenching, some soil stockpiling, possible soil export from the pipeline alignment, and repaving the road. These activities would generate emissions of criteria air pollutants and greenhouse gases, which would need to be balanced against the impacts associated with trucking water to the site during drought years and/or the installation of covers on the stormwater basins. For a discussion of the proposed project's other water supply sources, the commenter is referred to Response to Comment 1-1 and Section 3.5-11 of Chapter 3, Project Description, and Section 4.12, Public Services, Utilities and Energy, of the Draft EIR.

1-4 The comment states that if trucking water in for the landfill is needed, a dedicated fill location should be designed and built where water trucks can safely pull off the road to fill. Currently water trucks fill from a fire hydrant on Hillcrest Road by just parking on the shoulder, but that is not a safe long-term solution as the intersection of Hillcrest and Fairview gets improved and busier. The water trucks and fill locations for supplying the project with the Shore Road well water would be from the Shore Road well site and are discussed in Section 4.12, Public Services, Utilities and Energy, of the Draft EIR. Water trucks would be able to safely access the Shore Road well site without having to stop on a public street.

The project would not use the Hillcrest Road fire hydrant water but would instead use captured stormwater and leachate, as available, supplemented by the Shore Road well. As such, a dedicated fill location for Sunnyslope water would not be needed. However, the applicant has indicated they would work with Sunnyslope to implement the water supply options identified in this comment letter, if those options become available, and would comply with required review and approval processes. Because the project would predominately be served by water infrastructure to be constructed at the project site that has adequate capacity to meet the project's demand during consecutive average rainfall years, and because the project has additional potential sources of water supply to meet demand during consecutive drought years, the project would not require relocation or construction of significant new off-site water infrastructure.

From: Megan Emslander, DRRR/CalRecycle
SCH,
In an effort to assist in your transition to a paperless process, attached is CalRecycle staff's comment letter for **SCH No. 2021020371** – Draft Environmental Impact Report for the John Smith Road Landfill Expansion – San Benito County (SWIS No. 35-AA-0001).
Take care,
Megan Emslander
Environmental Scientist
Permits and Assistance South Section
Waste Permitting, Compliance and Mitigation Division (WPCMD)
Department of Resources, Recycling & Recovery (DRRR/CalRecycle)
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California Environmental Protection Agency
Department of Resources Recycling and Recovery
Gavin Newsom California Governor
Jared Blumenfeld Secretary for Environmental Protection
Rachel Machi Wagoner CalRecycle Director

August 25, 2022

Stan Ketchum, Principal Planner
San Benito County Resource Management Agency
Planning and Land Use Division
2301 Technology Parkway
Hollister, CA 95023

Email: sketchum@cosb.us
Subject: SCH No. 2021020371 – Draft Environmental Impact Report for the John Smith Road Landfill Expansion – San Benito County (SWIS No. 35-AA-0001)

Dear Mr. Ketchum:

Thank you for allowing the Department of Resources Recycling and Recovery (CalRecycle) staff to provide comments on the proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

PROJECT DESCRIPTION
San Benito County Resource Management Agency, Planning and Land Use Division, acting as Lead Agency, has prepared and circulated a Draft Environmental Impact Report (EIR) in order to comply with CEQA and to provide information to, and solicit consultation with, Responsible Agencies in the approval of the proposed project.

The proposed project site is located at the John Smith Road Landfill (JSRL) and on lands directly east, north, and west of the JSRL. The JSRL is located at 2650 John Smith Road, approximately 2 miles directly east of the eastern boundary of the City of Hollister. The site is located in a hilly rural area east of the Hollister Valley and west of the rural Santa Ana Valley in unincorporated San Benito County. Access to the site is provided from John Smith Road. The existing 95.16-acre JSRL includes two parcels owned by San Benito County that total 90.05 acres (Assessor Parcel Numbers [APN] 025-190-073 and 025-190-074) and one 5.11-acre parcel owned by the City of Hollister (APN 025-190-072). The two county-owned parcels contain an operating Class III landfill. Class III landfills only accept non-hazardous waste for disposal. The City of Hollister parcel includes a closed Class I waste disposal area covering less than an acre. Class I landfills may accept both hazardous and nonhazardous wastes for disposal. The County also owns 101.3 acres directly south of the JSRL and John Smith Road (APN 025-190-075).

The proposed project includes expanding the existing 95.16-acre landfill onto a 388.05-acre parcel surrounding the landfill on the east, north and west. The proposed project would increase the landfill's permitted daily tonnage limit from 1,000 tons per day (tpd) to 2,300 tpd for waste to be buried. The proposed expansion would increase the landfill's disposal capacity from approximately 9,354,000 cubic yards to 58,024,000 cubic yards. This expansion would increase the waste footprint from 58 acres to 252.74 acres, with the remaining acreage used for roads, soil stockpiles, storm water detention basins, and open space. In addition to expanding the landfill footprint, the maximum permitted elevation of the landfill would increase to 949 feet above mean sea level (MSL), a 29-foot increase above the currently permitted elevation of 920 feet MSL. The anticipated site life of the project would vary depending on final waste acceptance, waste type, waste density, and final volume, but is estimated to reach final capacity in 2087.

To accommodate these changes, several operational changes are also being proposed. These include expanding the landfill entrance area to accommodate additional daily vehicle arrivals and reduce vehicle queuing on John Smith Road, expanding the site's environmental control and monitoring systems, constructing a renewable gas facility, and clean closing the current Class I area owned by the City of Hollister and converting it to a disposal area for Class III waste. Additionally, the proposed project would potentially include the use of a portion of the San Benito County property located south of John Smith Road for habitat mitigation purposes. COMMENTS CalRecycle staff would like to reiterate and add to the comments provided on the March 22, 2021 comment letter for the Notice of Preparation to ensure that the Lead Agency will consider and respond to the following comments before the Final EIR is certified. The proposed project description and analysis provided in the EIR should be clear and concise on the required Solid Waste Facility Permit (SWFP) parameters of: permitted operations, permitted hours of operation, permitted maximum tonnage, permitted traffic volume, permitted area (including the disposal area), design capacity, maximum elevation, maximum depth, and estimated closure year.

1. The EIR stated that the permitted hours will not be changing.
2. The EIR stated the proposed estimated closure year is increasing to 2087.
3. The EIR stated the proposed waste footprint would increase from 58 acres to a total of 252.74 acres.
4. The EIR stated that the maximum elevation is proposed to increase from 920 feet mean seal level to 949 feet above mean sea level.
5. Is the proposed total permitted area 478.41 acres? Specifically, is the 388.05-acre expansion the proposed total permitted acreage, or is the proposed 388.05 acres in addition to the currently permitted 90.36 acres, for a total permitted area of 478.41 acres? 2-1
6. The EIR states the landfill will be expanding from the existing 95.16 acres, yet the landfill is currently permitted for an area of 90.36 acres total. Please address this discrepancy. 2-2

7. The EIR states that the proposed expansion would increase the landfill's disposal capacity from approximately 9,354,000 cubic yards to 58,024,000 cubic yards. However the landfill is currently permitted with a design capacity of 9,797,000 cubic yards. Please address this discrepancy. 2-3

8. JSRL is currently permitted with a maximum depth of 665 feet MSL. Will there be any change in maximum depth? 2-4

9. The landfill is currently permitted for 600 vehicles per day. Confirm that the proposed project's maximum permitted traffic volume will remain at 600 vehicles per day. 2-5

10. If there will be any proposed changes in materials to be accepted at the landfill, include those materials in the Final EIR description and analysis.

SB 1383 Regulation Implementation Requirements Title 27 California Code of Regulations (CCR), Section 20750.1 – Organic Waste Handling - requires new and expanding landfills to implement organic waste recovery activities defined in 14 CCR 18983.1 either on-site or transported to another site where those activities occur, as approved by the Enforcement Agency (EA; CalRecycle). The proposed expansion of the John Smith Road Landfill will need to meet this requirement in order to revise the SWFP, unless the operator will only be accepting solid wastes that have already been processed through a high diversion organic waste processing facility or a designated source separated organic waste facility. The EIR should include a description and analysis of any proposed new activities that will be implemented to meet this requirement. 2-6

Solid Waste Facility Permit The proposed project will require a revision to the full SWFP and amendments to the Joint Technical Document (JTD) for John Smith Road Landfill (35-AA-0001). Prior to commencement of the proposed project, the operator shall submit an application package for a SWFP revision and JTD Amendments, which shall be processed by the EA pursuant to Title 27 CCR 21650. The permitting and regulatory requirements for solid waste operations/facilities are contained in 14 CCR and 27 CCR. 2-7

Solid Waste Regulatory Oversight CalRecycle is the EA for San Benito County and is responsible for providing regulatory oversight of solid waste handling activities, including permitting requirements and inspections.

CONCLUSION CalRecycle staff thanks the Lead Agency for the opportunity to review and comment on the Draft EIR and hopes that this comment letter will be useful to the Lead Agency in carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of any subsequent environmental documents, copies of public notices, and any Notice of Completion and Notice of Determination for this proposed project. Draft EIR for John Smith Road Landfill Expansion (35-AA-0001)

If the environmental document is certified during a public hearing, CalRecycle staff requests 10 days advance notice of this hearing. If the document is certified without a public hearing, CalRecycle staff requests 10 days advance notification of the date of the approval and proposed project approval by the decision-making body.

If you have any questions regarding these comments, please contact me at 916.341.6363 or by e-mail at Megan.Emslander@calrecycle.ca.gov.

Sincerely, Megan Emslander, Environmental Scientist Permitting & Assistance Branch – South Unit Waste Permitting, Compliance & Mitigation Division CalRecycle

cc: Ben Escotto, Supervisor Permitting & Assistance Branch – South Unit
Jon Whitehill, Supervisor Waste Evaluation & Enforcement Branch – Unit B
Eric Tanner, San Benito County EA Inspector Waste Evaluation & Enforcement Branch – Unit B

2-1 The commenter asks if the proposed total permitted area is 478.41 acres. Specifically, the commenter asks if the 388.05-acre expansion is the proposed total permitted acreage or is the proposed 388.05 acres in addition to the currently permitted 90.36 acres, for a total permitted area of 478.41 acres. The 388.05 acres are in addition to the currently permitted disposal area, which include the existing 90.05-acre Class III landfill area and the 5.11-acre Class I Area. Therefore, the total permitted disposal area would be 483.52 acres. The difference between 478.41 and 483.52 is the 5.11-acre Class I Area.

2-2 The commenter states that the landfill is currently permitted for an area of 90.36 acres but that the Draft EIR states the landfill will be expanding from the existing 95.16 acres. The commenter requests that this discrepancy be addressed. The existing Class III landfill area is 90.05 acres and the existing Class I Area is 5.11 acres. These areas combined equal the existing 95.16-acre disposal area.

2-3 The commenter identifies a discrepancy between the landfill's currently permitted design capacity identified in the Draft EIR and the commenter's understanding of the currently permitted design capacity. The commenter requests clarification regarding this discrepancy. The reference in the Draft EIR identifies 9,354,000 cubic yards as of the date of the Notice or Preparation (February 2021). In August of 2021, the volume was subsequently increased to 9,797,000 cubic yards through a Solid Waste Facilities Permit Modification.

2-4 The commenter asks if there will be any change in the currently permitted maximum depth of 665 feet MSL. No change to the permitted maximum depth is proposed.

2-5 The commenter asks if the proposed project's maximum permitted traffic volume will remain at 600 vehicles per day. No change is proposed to the maximum permitted traffic volume of 600 vehicles per day.

2-6 The commenter states that the proposed expansion will need to meet the requirements of SB 1383 in order to revise the solid waste facility permit, unless the operator will only be accepting solid wastes that have already been processed through a high diversion organic waste processing facility or a designated source separated organic waste facility.

The requirement for the revised Solid Waste Facility Permit to comply with SB 1383 is noted. The project applicant anticipates applying for a revised solid waste facility permit from CalRecycle following a project decision by the County Board of Supervisors. The comment states that the EIR should include a description and analysis of any proposed new activities that will be implemented to meet this requirement. Consistent with SB 1383, the Draft EIR states on page 3-13 that the current landfill operations include accepting, stockpiling, and processing green waste and wood waste but do not include a long-term method of reuse other than for beneficial reuse on site. The maximum allowable thickness for the application of green waste and wood waste for erosion control on facility surfaces is 12 inches. Any excess green waste or wood waste that is received at the site and is unable to be used for erosion control, would be exported from the site to either a permitted green waste/wood waste composting/processing facility or to another location with a demand for this type of waste." Additionally, Chapter 6, Alternatives, of the Draft EIR evaluates the inclusion of a new compost facility with the proposed expansion, as well as with the 1,700 Ton Per Day Alternative and the 1,000 Ton Per Day Alternative. If the new compost facility alternative is selected as a component of the proposed project or one of these reduced tonnage

alternatives, green waste would not be exported to an off-site processing facility and a reduced amount of green waste would continue to be used for landfill erosion control.

2-7 The commenter identifies the solid waste facility permitting process for the proposed project and requests copies of any subsequent environmental documents, copies of public notices, and any Notice of Completion and Notice of Determination for this proposed project. The commenter also requests that if the environmental document is certified during a public hearing, that 10 days advance notice be provided to CalRecycle staff of this hearing. The commenter also requests that if the document is certified without a public hearing, that 10 days advance notice be provided to CalRecycle staff of the date of the proposed project approval by the decision-making body. San Benito County will comply with these requests.

Letter
3

From: Derrick Speights

City of Hollister Public Works

Will the new HHW facility have electrical power? 3-1

Will the City staff and County HHW contractor staff who work the HHW event have access to the employee/fire lane? 3-2

How will business appointments for the HHW events have prior access than residents? Typically these appointments occur between 8:15am and 8:50am. 3-3

3-1 The commenter asks whether the new Household Hazardous Waste (HHW) facility will have electric power.

The new HHW facility proposed to be located within the project's new entrance facilities would be supplied with electric power.

3-2 The commenter asks if the City staff and County HHW contractor staff who work HHW events would have access to the employee/fire lane.

City staff and County HHW contractor staff would be able to access the project site using the separate entrance for employees and emergency vehicles.

3-3 The commenter asks how business appointments for the HHW events, which typically occur between 8:15 am and 8:50 am, would occur prior to residential access.

As identified on Figure 3-8 on page 3-20 of the Draft EIR, the relocated HHW facility is proposed to be relocated to the west of the scale house entrance. The new entrance roadway would include two incoming lanes, one of which would provide a separate stacking area and left turn area into the relocated HHW facility. Therefore, business appointments would be able to access the HHW facility without being limited by incoming haulers who would use the through lane to access the scale house.

Letter
4

From: Mark Dickson <mcdknabe@gmail.com>
Sent: Tuesday, July 19, 2022 7:44 AM
Subject: Re: Notice of Availability - John Smith Road Landfill Expansion Draft Environmental Impact Report

Hi Celina

Thanks for notification. Is the landfill connected to a project to get Sunnyslope water?

I would think that they would want to use sunnyslope water instead of well water because local well water is high in salts, total dissolved solids and they would not want to add well water to back to ground water.

The reason I ask is because there is recently a lot of state activity interest in consolidating smaller water companies such as one I am president of, venture estates mutual water.

4-1

For what it's worth, as a nearby resident, I support landfill expansion and see it as a way to hopefully add revenue to road maintenance and processing waste.

4-2

Thanks.
Mark Dickson
408-505-1622

4-1 The commenter asks if the landfill is connected to a project to get Sunnyslope water and suggests that the landfill operator would want to use Sunnyslope County Water District water instead of well water because local well water is high in salts, total dissolved solids and they would not want to add well water back to ground water.

For a detailed discussion of the project's proposed water supply sources and the environmental impacts associated with use of these sources, the commenter is referred to Section 3.5-11 of Chapter 3, Project Description (commencing on page 3-30), Section 4.12, Public Services, Utilities and Energy, of the Draft EIR, and the response to Comment 1-1. One of the potential water supply sources includes an agricultural well located along Shore Road. The water from this well would be trucked to the project site. Because this water would be used primarily for dust control at the landfill, most of the water would evaporate. Any remaining water within the soil would be expected to be captured by the landfill's leachate collection and recovery system. In addition, the groundwater proposed to be delivered to the project site has been used to grow crops. Therefore, it is not anticipated to be high in salts and its use for dust control at the project site would not be expected to cause any adverse environmental impacts.

4-2 The commenter states that they support landfill expansion and see it as a way to hopefully add revenue to road maintenance and processing waste.

The commenter's support for the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: jdaboc@sbcglobal.net

Use of the landfill, expanded or not, should be strictly limited to San Benito County Residents and Businesses. *out-of-town* waste of any kind should be allowed to dump in San Benito County. We need to explore other options to improve County revenue sources and never ever rely on *out-of-town* waste for that purpose or any other purpose. Not ever! 5-1

Jane Cruz
JANE DABO CRUZ
1295 San Benito Street
Hollister, CA 95023-4843
831.638.4829
Fax 831.636-5356

Letter 5
Response **Jane Cruz**

5-1 The commenter states that use of the landfill should be strictly limited to San Benito County residents and businesses, and that other options need to be explored to improve County revenue sources. The commenter's statements regarding landfill waste acceptance limitations and exploring other options are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The alternatives to the proposed project, Chapter 6, Alternatives, of the Draft EIR, includes an alternative that would be sized to handle mostly in-County wastes.

Letter
6

From: Jane Quigley <quigedjq@aol.com>
Sent: Tuesday, July 26, 2022 9:21 AM
To: Stan Ketchum <SKetchum@cosb.us>
Cc: Supervisors <supervisors@cosb.us>
Subject: Landfill Expansion John Smith Road

COMMENT
I am a voting resident homeowner of San Benito county. I live in Santana Ranch.
The proposed GIANT expansion of the Landfill is way over the top of any need we have.
Do Not agree to this Super charged proposal. Air quality, odors, traffic will all greatly diminish our lives.
Vote NO
Jane Quigley

6-1

6-1 The commenter states that the proposed giant expansion of the landfill is way over the top and does not agree with the proposal. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter further states that air quality, odors, and traffic will all greatly diminish County residents' lives. For a discussion of the proposed project's air quality, odor and traffic impacts, the commenter is referred to Section 4.2, Traffic and Transportation, and Section 4.3, Air Quality, of the Draft EIR, and responses to comments on those topics in this Final EIR Responses to Comment document.

From: R B Steger <steger04@pacbell.net>

Sent: July 26, 2022

To the San Benito County Supervisors and San Benito County Planning and Land Use Division,

From four registered voters who live in San Benito County, PLEASE VOTE NO ON THE PROPOSED JOHN SMITH LANDFILL EXPANSION! 7-1

This proposed expansion of 388 acres increasing the landfill's current 95 acres 5 times over to 483 acres is outrageous.

To have almost 80% of the John Smith Landfill waste be brought in from outside of San Benito County is also outrageous!

This proposed unnecessary expansion will result in "…more truck traffic, noise, diesel pollution and pothole damage to our roads." We believe this significant deterioration of San Benito County's environment as well as adding to the County's already strained and deteriorating infrastructure would be huge mistakes. 7-2

The proposed expansion will also create significantly "more air pollution from landfill emissions." Additionally there will be an increased "risk of groundwater contamination", based on the fact that historically "many dumps leak toxic chemicals." 7-3

Certainly this unnecessary proposed expansion causing "loss of natural landscapes, habitat and wildlife" is not in the best interest of the residents of San Benito County. 7-4

We understand that the County is looking for ways to increase revenues, however this is not the way to do it – at the expense of the County residents! 7-5

Again, PLEASE VOTE NO ON THE PROPOSED JOHN SMITH LANDFILL EXPANSION!

Regards,
Ronald Steger
Donna Steger
Vanessa Steger
Vincent Steger
410 Tierra Del Sol
Hollister, CA 95023
steger04@pacbell.net

7-1 The commenter requests a no vote on the proposed expansion and states that the proposed project is outrageous. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

7-2 The commenter states that the proposed expansion will result in more truck traffic, noise, diesel pollution and pothole damage to roads. The proposed project's impacts on these resources and mitigation measures are discussed in Section 4.2, Traffic and Transportation; Section 4.3, Air Quality; and Section 4.5, Noise, of the Draft EIR, as well as in responses to comments in this FEIR.

7-3 The commenter states that the proposed expansion will also create significantly more air pollution from landfill emissions. The proposed project's air quality impacts are discussed in Section 4.3, Air Quality, of the Draft EIR and responses to comments on that section in this FEIR document. The proposed project's greenhouse gas emissions and mitigations thereto are discussed in Section 4.4, Greenhouse Gas Emissions and Climate Change, of the Draft EIR.

Additionally, the commenter states that there will be an increased risk of groundwater contamination, based on the fact that historically many dumps leak toxic chemicals. These issues are addressed in Section 4.8, Hydrology and Water Quality, and Section 4.9, Geology, Soils and Paleontology, of the Draft EIR, and responses to technical comments on those topics in this Final EIR document. This issue is discussed further in the Master Response on Groundwater Contamination included at the beginning of the comments and responses.

7-4 The commenter states that loss of natural landscapes, habitat and wildlife is not in the best interest of the residents of San Benito County. For a discussion of the proposed project's biological resource impacts and associated mitigation measures, the commenter is referred to Section 4.6, Biological Resources, of the Draft EIR, as modified in this Comments and Responses chapter.

7-5 The commenter states that the proposed project is not the way to increase County revenues. Under the California Environmental Quality Act (CEQA), an EIR must address only those project impacts that would cause "significant effects on the environment." The CEQA Guidelines define "significant effect on the environment" as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project[.]" (CEQA Guidelines, Section 15382.) The CEQA Guidelines also provide that "economic and social changes resulting from a project shall not be treated as significant effects on the environment." (CEQA Guidelines, Section 15064, subd.(e)) Because potential increases in County revenue associated with project implementation would not be expected to result in significant effects on the physical environment, the discussion of this topic is outside of the scope of this EIR. The Board of Supervisors would consider any economic benefits of the project in deciding whether to approve the project. A presentation was made to the Board of Supervisors about economic considerations related to the project on September 27, 2022 and additional information will be provided to the Board of Supervisors to consider in deciding whether to approve the project.

Letter
8

From: Shawn Shevlin <sshevlin@rocketmail.com>

Sent: Saturday, July 23, 2022 1:42 PM

To: Supervisors <supervisors@cosb.us>

Subject: Landfill expansion

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I have been a resident of Hollister for over 18 years and own a home in the Santana Ranch development. I am completely opposed to the expansion. 8-1

There is no reason we should be expanding the landfill so other counties can dump their trash in our home town and impact property values.

If this is passed I will be running against the supervisor in my district.

I have been an executive in the ag industry for many years and believe less is more and that others should not dump in our back yard. I also believe ag land should be preserved.

Sincerely,
Shawn Shevlin
831-809-0213

8-1 The commenter states their opposition to the proposed expansion. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter also supports preserving agricultural land. For a discussion of the proposed project's agricultural resource impacts, the commenter is referred to Section 4.1, Land Use, Planning and Agricultural Resources, of the Draft EIR.

Letter
9

From: schweenj@aol.com

Dear Board of Supervisors,

I am writing to you to express my hopes that you will vote AGAINST the proposed landfill expansion. For my sake, my children's sake and my grandchildren's sake we need to preserve our county from excess traffic, pollution, noise and road damage that the increased usage will cause. I urge you to please vote NO. 9-1

Thank you,

Jonni Schween
1181 Richard Rd
Hollister, CA 95023

9-1 The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Please also see Responses to Comments 7-1 and 7-2.

From: irlundsten@aol.com

August 5, 2022

Dear Board of Supervisors:

I am writing to you to urge you to vote NO on the proposed expansion of the John Smith Road Landfill. The amount of truck traffic causing diesel fuel pollution, noise and damage to our roads would increase significantly. There would be more air pollution from landfill emissions, and risk of groundwater contamination. 10-1

Hollister is a beautiful little city surrounded by agriculture, farms and ranches. Please consider the detrimental impact this would have on our community and the wonderful people that live here.

Please, vote NO.

Thank you,

Ruth Lundsten

1140 Richard Road

Hollister, CA 95023-6244

irlundsten@aol.com

916.718.8826

10-1 The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Please also see Responses to Comments 7-1 and 7-2 as well as the Master Response on Groundwater Contamination included at the beginning of the responses.

From: Maureen Nelson <mnelson903@aol.com, >Neal Anderson <neal95129@gmail.com>

To All Parties,

We are requesting an extension for review of the JSRL EIR from 45 days to 90 days due to the extensive amount of information. The EIR has 438 pages and has an additional 1076 pages within the four Appendices. 11-1

The requested extension of time is required to allow residents of San Benito County an opportunity to read each section and review the supplemental 1000+ pages of test methodology and reports referenced within the EIR.

Extending the review period to 90 days allows parents of school age children within SBC time to help with the adjustment of returning to school and creating a schedule to address additional family requirements of homework, daycare, and parent outside employment.

We understand the County will be holding an informational meeting on August 22 hosted by Waste Connections, the operator of the John Smith Landfill. It is also our understanding based upon published information that there will be no opportunity for a Question and Answer period at this Town Hall. With such narrow parameters and no ability for local citizens to ask questions and hear the response to their questions and questions of other citizens, the County is denying the citizens the opportunity to hear information they may not have thought to question themselves, or had not had the opportunity to read within the EIR to know what questions they may want addressed. 11-2

With all that is at stake with the JSL Expansion request, we believe it is only right to offer the citizens of SBC a reasonable time frame to review the 1500+ page document, follow-up with research, and have an opportunity to voice their concerns and get a reply prior to a vote by their County Board of Supervisors. 11-3

We hope that this extension request will be addressed at the BOS meeting August 9, 2022 and notification will be provided to all parties on this email upon BOS decision regarding the EIR review extension. We expect notification no later than August 12 since the current review and comment deadline is August 29.

Regards,
Maureen Nelson
303.641.0295
Co-Chair
Don't Dump on San Benito.Org

11-1 The commenter requests an extension of the 45-day Draft EIR public review period. The public review period was initially proposed to end on August 29. However, at an August 23, 2022 public meeting, the San Benito County Board of Supervisors extended the public review period by eight days to September 6.

11-2 The commenter states their understanding the County was to hold an informational meeting on August 22 hosted by Waste Connections, the operator of the John Smith Landfill. The town hall meeting that was held on August 22, 2022 was organized and hosted by the County to provide an opportunity for members of the public to learn more about the proposed project and to ask questions and provide comments on the Draft EIR. The commenter further states their concern that there would be no opportunity to ask questions and receive answers during the town hall. The initial half hour of the 2.5-hour town hall included a presentation on the proposed project by County staff. The remaining portion of the town hall was dedicated to the public with the ability to visit tables of various topic areas with the opportunity to ask questions about the project and the Draft EIR to County staff, the project applicant, and consultants for both the County and project applicant. Written comment cards were also available at each table for the public to submit written comments.

11-3 Please see Response to Comment 11-1.

From: Elvia Skow <elvia@garlic.com>

Dear Members of the Board,

I would like to thank you in advance for all your hard work. This Landfill issue is very complex and will take lots of your consideration. 12-1

Please see link below, this is one example of why other counties don't want the liability that comes with these sorts of projects. The million dollar question is, who is watching what is being dumped into the landfill? Alameda is one of the 5 counties that is allowed to dump into our landfill.
https://patch.com/california/alameda/alameda-trucking-company-pay-1-36m-illegally-dumping-waste

My best to you always,
Elvia G. Skow
Lic #01801555
Cell (831) 212-0646
Fax (831) 319-0354
Elvia@garlic.com
Pierce Real Estate
551 East Street, Suite A
Hollister, Ca. 95023
Con gusto le atiendo en Espanol
The finest compliment I can ever receive is a referral from my friends and customers.

Alameda Trucking Company To Pay $1.36M For Illegally Dumping Waste

According to officials, the waste included commercial chemical products, paint materials, electronic devices, batteries and more.

ALAMEDA, CA —Old Dominion Freight Line has agreed to pay a civil penalty of a total of $1.36 million to Alameda County and other jurisdictions to settle allegations of illegally dumping hazardous waste.

Alameda County District Attorney Nancy O'Malley announced in a July 27 news release that the trucking company will also implement better hazardous waste compliance procedures as part of the settlement.

Old Dominion was investigated for allegedly illegally disposing of hazardous waste in company trash receptacles, unlawful transportation of hazardous waste out of state without proper documentation and without a transporter's registration, and failure to train employees how to properly manage hazardous waste.

According to O'Malley's office, the waste included commercial chemical products, paint materials, electronic devices, batteries, ignitable liquids, aerosols, cleaning agents, and other flammable, reactive, toxic and corrosive materials.

"The protection of our community and the environment are top priorities of our office. Illegal disposal, transportation, and mismanagement of hazardous waste by untrained employees pose serious risks to the environment, public health, and worker safety," O'Malley said.

The investigation and settlement involved 16 district attorneys and one city attorney from around the state.

O'Malley's office said Old Dominion cooperated throughout investigation and developed new policies and training procedures when prosecutors made the company aware of alleged violations.

12-1 The commenter asks who is watching what is being dumped into the landfill. As described in Chapter 3, Project Description, of the Draft EIR, the waste received at the landfill consists of non-hazardous residential, commercial, and industrial solid waste classified in Title 27 CCR §20220(a) as Class III wastes. Class III wastes are all putrescible and non-putrescible solids, including garbage, trash, waste, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances separated for recycling, manure, vegetable or animal solid or semi-solid wastes, treated wood waste, and other discard waste (whether solid or semi-solid consistency); provided that such wastes do not contain wastes that must be managed as hazardous wastes, or wastes that contain soluble pollutants in concentrations that exceed applicable water quality objectives or could cause degradation of waters of the state. CalRecycle issues Solid Waste Facility Permits for landfills, consistent with Title 27 CCR regulations, and enforces the restrictions on waste acceptance types included in the permit.

In addition, as described in Appendix B to the Draft EIR, a load-checking program is conducted by the site operator at the landfill. The load-checking program is intended to identify and remove hazardous and otherwise prohibited wastes from the waste stream prior to disposal. The staff at the scale house routinely question customers regarding the presence of household hazardous materials or unacceptable material in their loads. Vehicles carrying wastes are stopped at the scale house and weighed or measured. The questioning of customers by scale house personnel may simultaneously involve physical assessment of the waste, inspection for warning labels such as "flammable" or "poison," and for unidentified containers that may contain unacceptable wastes. After screening the loads, customers are directed to the working face. Spotters and equipment operators will generally conduct load content surveillance near the active working face. In addition, waste inspections consisting of a detailed examination of randomly selected loads are regularly performed. If hazardous materials are found at the working face, it is returned to the customer or, if the customer is unknown, it is transported to and temporarily stored prior to being placed in the HHW facility. Hazardous wastes are stored for no longer than the time period allowed by State regulations (per Title 22, CCR, §66262.34(c)(1)). Licensed haulers remove the waste. This load-checking process would continue with implementation of the proposed project.

The link provided by the commenter referenced charges brought against a company in Alameda County for illegal disposal and is not related to the proposed project. The article provided in the link is included above following the commenter's comments.

From: Cathy <cmarmarsilva@yahoo.com>

Please take the time to open **and read** the attached letter.
Our community's future is at stake!
You can make the difference.
Thank You.

Sincerely,
Dennis and Cathy Silva
August 10, 2022

Dear Mr. Ketchum and All County Supervisors,

This letter is intended to once again voice our opinion about the proposed expansion of the John Smith Landfill-which is our backyard-and encourage all of you who are making this decision to vote NO on the current proposed landfill expansion. 13-1

First of all, we want to give you a bit of personal history, which may or may not make a difference, but feel it important to share. We are not longtime residents of Hollister/San Benito County. We are, however, California natives. We moved here about 6 years ago. The catalyst to moving was that we were seeing and experiencing a myriad of changes in San Jose that began to affect our day to day lives negatively. Our children and grandchildren were being affected and we had to do something. Hollister had long been a respite from the hustle bustle of our community-from walking the quaint downtown to visiting the local vineyards it just seemed the logical place to relocate. We had to spend very little time finding a home that worked perfectly for our 2 family units. The perfect home was just off John Smith in the Heatherwood Estates development. A perfect place for our grandkids to grow up and spread their wings. They were going to be able to experience the childhood we had! Running around open land, exploring the world in a way that simply cannot be done in the concrete jungle we were living in. This place is heaven to us.

Aesthetics are not, we assume, a priority in determining your decisions. Likely it is number 114 or 115 of your list of considerations. However, this land is precious. Not only to us but the greater community. As an example, for your information, from the early days of the pandemic to just last weekend, we experienced a huge uptick in folks parking along our roadway and just walking...it is a place to breathe deep and appreciate open space. It is a good thing! It's a beautiful place to re-group and re-energize.

The open land, the sound of coyotes at night, the wildlife sightings of eagle, osprey, hawks, the sounds and smells of the neighbor tilling his soil, prepping for his annual garden, the squawks of chickens laying eggs and roosters early morning crows, the horses, the cattle, the kids squealing as they play hide and seek. These are the little things that are precious to us. These are the things that make memories. These are what make living in Hollister an amazing experience. All of that will be completely shattered with the noise that will be generated from more trucks, making more traffic, earth movers running and beeping, and possibly 24 hours? And what about the potential change in air quality? The water quality? These are game changers for everyone! It's bad enough that we have so many new-home communities being built here in Hollister, without the infrastructure to support it. Can't we keep a little piece of heaven here open and available to enjoy for everyone?

In addition, we have had to deal with awful road conditions- heavy trucks moving back and forth, locals with pickup trucks and trailers piled high with debris, often times both are scattering big and little bits of that debris 13-2

on the road. We've had several flat tires from nails, run over metal beams, been literally run off the road by truck drivers going too fast and not paying attention. All the while we've justified those things because it was such a beautiful place to live.

13-2 (Cont.)

Now, with the proposed expansion of the landfill, we will once again, find ourselves in a jungle of another sort. Our view will be tainted with more traffic and the growth of landfill hills which are currently obscured by natural landscape. The green hills and vineyards across the street will be pushed aside to make way for debris hills and earth movers constantly running. The newly resurfaced John Smith Road will soon be damaged from all the extra use and how long will it take to resurface it again? Or will it be resurfaced? Where have the cleanup crews gone? Will there be more debris fall out with increased usage of the landfill?

13-3

Another issue that is frightening is the inevitable seeping of sewage/garbage into the ground water system. Our small community is currently on a well and we have worked diligently for at least the last 3 years to correct the high levels of arsenic that exist because of the agriculture and farmland that surround us. What will the expansion do to our future water quality? There are no guarantees that there will not be some affect. Groundwater contamination is highly likely, almost a guarantee that our water systems will indeed be affected by the expansion to some degree.

13-4

Expanding the landfill by 388 acres and permitting tonnage from 1,000 to 2300 tons per day is a huge change in the landscape and life style of our neighborhood and speaks to what I can only assume is filling a funding issue/budget shortfall for the county. Why else would we allow other (5) other counties to participate in dumping their waste here? As they say “follow the money”. We homeowners already pay a higher premium in property taxes to live in Hollister/San Benito County and are without much needed infrastructure already. Is this the only way that the county can see to make money? Isn't there a way to expand in a smaller way, in a different place, or at least gradually?

13-5

John Smith Road, as it is currently configured, cannot endure or handle the increased amount of proposed tonnage. The traffic study in 2017 showed that there were approximately 500 vehicles per day to the landfill on the highest peak traffic days. The daily limit for the landfill currently is 600 vehicles. It is a quaint 2 lane country road. Cyclists, love this route and sightseers as well as locals love the views that this part of the county affords on a ‘Sunday drive’. This proposal will change things dramatically.

13-6

Moving forward with this expansion proposal seems unreasonable since there have been no complete results posted for both air and water quality impacts.

13-7

Hollister is the heartbeat of what is often referred to as "The Salad Bowl", boasting farms that supply not only the local community but the nation. We are concerned that not only will that title be taken away, but will be tainted due to the changes that are proposed, because they will impact not only traffic (which is a HUGE dilemma already), public services, but our biological resources, air quality, greenhouse gases and as stated before, water quality.

13-8

In moving to Hollister, we made a financial investment in this community and hoped that our home and property would be a legacy for our family. We are afraid that these huge changes in the John Smith Landfill will have adverse effects to the value of our property and if we must escape and sell, that legacy is going to be worth far less to my family than we had dreamed. All that we have worked for will be but a drop in the bucket for our retirement and then for the inheritance we had hoped to leave our family. Why would you rob us of that?

13-9

We invite you to take a drive out here. Come see what we see. Feel what we feel and hear what we hear. You are welcome to visit our neighborhood and our home any time.

In the end, we know that we will not live forever, and may not even be here in Hollister/San Benito County for the rest of our lives. We may never see the final impact these proposed changes can/will make to our community. We know that we are a small blip on your screen, but while we have investment in our community, while we have breath and lucidity, it's important for us to work to keep what we hoped and dreamed for and dreamed about healthy and whole and reasonably intact.

13-9 (Cont.)

Thank you for your truthful, thoughtful and careful consideration of this John Smith Landfill proposal and how it will impact this city, county and its current neighbors, as well as what it will generally mean to this community. In doing so, I believe you will agree that you must vote NO on this expansion.

Very Sincerely,
Dennis and Cathy Silva
Heatherwood Estates Drive

13-1 The commenter describes their neighborhood and states that the proposed project would result in more truck traffic, earth movers making noise, changes in air quality, and water quality. For a discussion of the proposed project's impacts related to these resource issues, the commenter is referred to Section 4.1, Aesthetics; Section 4.2, Traffic and Transportation; Section 4.3, Air Quality; Section 4.5, Noise, and Section 4.8, Hydrology and Water Quality of the Draft EIR.

13-2 The commenter raises concerns regarding awful road conditions, heavy and dangerous truck traffic, and roadway litter and debris. For a discussion of the proposed project's impacts related to these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation, and Section 4.10, Hazards, Hazardous Materials and Wildfire, of the Draft EIR. Section 4.2 specifically addresses potential roadway and pavement hazards associated with increased project traffic on local roadways commencing on page 4.2-11 in the discussion of Impacts 4.2-2 and 4.2-3. Mitigation measures have been identified in this Section to reduce these significant impacts to less-than-significant levels.

For roadway litter and debris, the commenter is referred to the impact discussion commencing on page 4.10-15, where it is acknowledged under Impact 4.10-3 that the proposed project would result in a significant increase in litter generation. Mitigation Measure 4.10-3 has been included in the Draft EIR to reduce this impact to a less-than-significant level by requiring the operator to implement and fund a litter pick-up program on the adopted haul route to the landfill entrance that provides for inspection and removal of any litter at least three times per week. All complaints received from the public about litter or calls to the litter hotline would be required to be reported to San Benito County Integrated Waste Management monthly. Complaints about litter would be required to be responded to within 48 hours.

13-3 The commenter raises concerns regarding changes in visual resources, roadway degradation, and increased litter. For a discussion of the proposed project's impacts and mitigation related to these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation, which includes mitigation for impacts to roads over the life of the project; Section 4.10, Hazards, Hazardous Materials and Wildfire; and Section 4.11, Aesthetics, of the Draft EIR. The commenter is also referred to Response to Comment 13-2.

13-4 Please see the Master Response on Groundwater Contamination included at the beginning of the responses.

13-5 The commenter raises concerns regarding funding issues. For a discussion of this topic, please see Response to Comment 7-5. The commenter also asks if there are other ways the project could expand or places it could be located. For a discussion of project alternatives, the commenter is referred to Chapter 6, Alternatives, of the Draft EIR.

13-6 The commenter states that the project's proposed increase in tonnage would change traffic conditions on John Smith Road dramatically. For a detailed discussion of the traffic impacts of the proposed project on John Smith Road, the commenter is referred to Section 4.2, Traffic and Transportation, of the Draft EIR. The commenter is specifically referred to the discussion of the proposed project's effects on bicycle activity on John Smith Road commencing on page 4.2-10 under Impact 4.2-1. Aesthetics impacts, including views from John Smith Road, are addressed in Chapter 4.11 of the DEIR, which acknowledges that the project would have significant unavoidable impacts on the visual character of the area.

13-7 The commenter states that there are no complete results posted for both air and water quality impacts, but does not identify analysis that is lacking. For a detailed discussion of the air quality and water quality impacts of the proposed project, the commenter is referred to Sections 4.3, Air Quality, and Section 4.8, Hydrology and Water Quality, of the EIR, as supplemented in responses to comments in this document.

13-8 The commenter raises concerns regarding the project's effects on traffic, public services, biological resources, air quality, greenhouse gases and water quality. For a discussion of these issues, the commenter is referred to Section 4.2, Traffic and Transportation; Sections 4.3, Air Quality; Section 4.4, Greenhouse Gas Emissions and Climate Change; Section 4.6, Biological Resources; Section 4.8, Hydrology and Water Quality; and Section 4.12, Public Services, Utilities and Energy, of the EIR. The project's potential effects on agricultural resources are addressed in Chapter 4.1, Land Use and Agricultural Resources – the proposed expansion area is grazing land and not used for row crops.

13-9 The commenter summarizes their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The Board's decision is outside of the scope of the EIR.

From: mnelson903@aol.com

Hello Stan,

Thank you for your reply. I was unaware that the Town Hall on August 22 was presenting in a workshop format. With individual tables for information gathering and questions to be addressed, it does give the appearance of a limited audience available to hear the issue being questioned and the answers being provided. A small group of attendees that "just happen" to be at the "right table at the right time" creates limited information and knowledge sharing for the benefit of all in the audience. 14-1

I will restate my prior comment....

With such narrow parameters and no ability for local citizens to ask questions and hear the response to their questions and questions of other citizens, the County is denying the citizens the opportunity to hear information they may not have thought to question themselves, or had not had the opportunity to read within the EIR to know what questions they may want addressed.

Per your information below, representatives from Waste Solutions will be in attendance at the Community Workshop and will be able to engage with residents and answer their questions. Can Don't Dump on San Benito also be present and included as a participant in the Community Workshop with a table and have the ability to comment and disseminate information to any resident asking questions?

This current County Workshop format appears to be weighted in favor of Waste Solutions and the County Board of Supervisors while limiting the engagement of the SBC residents.

Having the BOS meeting on August 23 to address the possibility of extending the public review and comment period beyond August 29 is really very late in the process. By the end of business August 23, there is only 6 days remaining for the citizens to complete reading, understanding, verifying, researching, and otherwise dissecting and comprehending this large and technically laden document of 1500 + pages.

The release of the JSRL Expansion dEIR required over 15 months (approximately 450 days) to draft and present for public review and comment. The Citizens of San Benito County are being offered the minimal required review days by CEQA law of 45 calendar days from date of publish, July15, 2022. We are again asking for additional days for public review and to be notified of such extension sooner rather than the scheduled decision date of August 22 again just 6 days prior to current requirement of comments by EOD August 29, 2022.

Residents of San Benito generally do not have the luxury of a paid technical staff that can pull the documentation apart and synthesize it for the ultimate consumers requirements as provided to our BOS and County staff, Limiting the EIR review period to the minimum 45 days is really disadvantageous for all county residents.

Sincerely,
Maureen Nelson
Don't Dump on San Benito.org
Dontdumponsanbenito@gmail.com

14-1 Please see Responses to Comments 11-1 and 11-2.

From: baler61 <gaelmoran@gmail.com>

Mr. Stan Ketchum, Supervisors Dirks, Kosmicki, Hernandez, Tiffany, Gonzales

Please find attached my comments regarding the proposed expansion of the John Smith Landfill site.
I would appreciate a reply indicating that you have received my comments.

Thank you
Gary Moran

To: Stan Ketchum, San Benito County Supervisors
From: Gary Moran
Re: Proposed John Smith Landfill expansion
August 11, 2022

Mr. Stan Ketchum, supervisors Dirks, Kosmicki, Hernandez, Tiffany, Gonzales
I need to express my serious concern about the proposed expansion of the john Smith Landfill. I am not affiliated with any action group. This is strictly from my personal perspective. 15-1
When the landfill reached its out-of-county limit on March 1, 2022 it was amazing. All the trucks disappeared. Obviously, I was overjoyed. But here comes the proposal again.
I do not believe that the average person in Hollister who lives far from the Fairview John Smith area can truly understand the scope of what is being proposed. I have property on Fairview road and for years I have watched out-of- county trucks trucks go by. When the supervisors increased the limit from 400 to 800 tons a day the truck traffic became a steady stream. To really grasp how much waste we are talking about one would have to sit in my driveway and watch these huge loaded semi-trucks pass by all day long. Only then do you get an idea of the magnitude of what 800 tons a day being unloaded at the landfill every day looks like. I can't believe that any of the supervisors who approved the 1000 ton limit actually spent a day at the landfill to watch 800 tons being unloaded. It's hard to even imagine 2300 tons. And then add to that more loads for 575 tons of recyclables? Table 4.2-2 of the EIR predicts 95 truck loads for the 2300 tons (190 trips including going home empty). Imagine 95 semi-trucks lined up in a row. That helps picture the quantity of waste we would get every day. From my place 2 miles away I can see a hill where there was no hill before. And with tractors on top. All this until 2072? A mega landfill project like this should be far removed from housing areas. This project is probably less than a mile from Santana Ranch and certainly closer to established residences in Heatherwood Estates.
I do believe that to maintain a vibrant, healthy economy we need to encourage commercial business growth. But expanding our landfill to accept more out-of-county garbage is not positive growth. It is current income in exchange for negative effects in our community in the future. A community needs to do all possible to minimize waste, not ask for more. I am old enough to remember when, for a few thousand dollars, we let someone dump pesticide rinse water in the landfill. That cost us dearly. Are we headed for the same grief?
And, obviously, ground water contamination is always a danger with any landfill. Even without a drought we depend on clean water from our aquifer. It's all we have right now. A larger expansive landfill just increases the risk of contamination. I saw a perfect example when I worked at Teledyne on Union Road where we manufactured explosives. Over the years we managed to contaminate the ground water. And, although Teledyne sold the property, they remained responsible. I saw that for 4 or 5 years they were digging test wells and pumping and filtering water. It must have cost millions. Could that 15-2

happen at John Smith?
As for the detailed EIR that cost hundreds of thousands of dollars, it meticulously lists and mitigates dozens of issues in the 26 page summary. All but 3 items are “no impact” or “less than significant” after mitigation. 15-3
Unavoidable issues included:
a) Impact on scenic vistas
b) Damage to views from scenic highway 25 and
c) Generation of GFG emissions
So is that a green light? The problem is that its purpose is to justify the project. It does not assess how the community would feel about such a large landfill operation right next to town or the constant inflow of huge amounts of out-of-county waste. It is an environmental impact report, not a community impact report. The EIR might increase the chance of winning approval, but at the same time it can just obscure the fact that the project was just a bad idea from the start.
I really believe that, in spite of the potential income, in the long run we would find that a vastly expanded landfill with up to 2300 tons daily will be a serious detriment for our community. It would be a mega industrial garbage center for central California. I read that in-county garbage currently accounts for about 20% of the daily inflow. At 2300 tons we would only be about 8% of the flow. We would be the go-to dump for central California. We will need a sign at the entrance to Hollister: “Welcome to Hollister, Garbage Capital of Central California”
To summarize my points:
!. The expansion will dramatically increase semi-truck traffic over an awkward route on roads not designed for heavy vehicles. Any industrial facility that requires a constant flow of heavy truck traffic should have more direct connection to a major highway or freeway and not require routing through residential areas. 15-4
2. The increased truck traffic will have negative health effects on McClosky and Fairview road residents some of whom live as close as 75 feet from the road.
3. Increasing the size of the landfill will increase the risks associated with aquifer contamination or health problems associated with a large hazardous waste area.
4. The proposed super size landfill is too close to established residential areas. And I believe the county’s general plan would allow more housing development in nearby areas. A landfill of this size needs to be located in a more remote, undeveloped area.
5. There may be negative perceptions of Hollister if it becomes a major center for garbage
6. Even though the proposal does not include a major hazardous waste operation like Kettleman city, things can go wrong. If, in years to come, a cancer or birth defect cluster appears in a nearby residential area San Benito County’s landfill will be the first target. We don’t need extra risk from a much larger facility.
7. The negative impacts listed above are not so much related to the physical size of the landfill proposal, but rather that the proposal includes approval of 2300 tons per day of out-of-county waste.
8. We need to accommodate our own waste. I would support moderate future expansion or possibly one of the alternative plans for John Smith.
I urge the Supervisors to deny the proposed John Smith Landfill expansion proposal.
Thank you for considering my perspective on this issue.

Respectfully,
Gary Moran
831-801-6449

15-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

15-2 Please see the Master Response on Groundwater Contamination at the beginning of this chapter.

15-3 The commenter summarizes a portion of the Draft EIR and asks if the project has been given a green light. The EIR is an informational document used in the planning and decision-making process. The purpose of the EIR is not to recommend either approval or denial of a project; its purpose is to disclose objective information so that informed decisions can be made. The EIR is part of the administrative record that will be used by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The commenter further describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted.

15-4 Please see Response to Comment 15-1. Items 1-6 are addressed in the respective chapters of the Draft EIR for Traffic, Hydrology and Water Quality, Aesthetics, Air Quality, Public Health and Safety, and Alternatives. The commenter's opinions identified in items 7-8 are noted. Regarding health concerns along McCloskey Road, see Response to Comment 73-1, which concludes that no roadways in the County would experience health hazards in excess of the established thresholds associated with diesel particulate matter emissions generated by the project's additional truck trips.

From: Kozue Yamamoto <kozuemac@gmail.com>

Dear Ketchum

I am a resident of Ridgemark and am aware of the expansion of waste landfill by the letter, JSRLexpansion.
I worry that the site is too close to the residents and agriculture wells for a larger expansion.
There are so many plans for developing this area from Hollister to Gilroy and carry waste from Santa Clara also.
So I hope moving waste area more far from residential area without the level high like now's site since it is prospective of water pollution.
This waste expansion plan is huge so pollution might damage enough future of Hollister.
Please reconsider this part of plan for future of Hollister and residences.
Thank you for your working.
Sincerely, Kozue
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fbenitolink.com%2flead-contamination-found-in-soil-at-hollister-high-school%2f&c=E,1,akE4VrdKKKX9AuPcirz3ni1ioq0FTtfiRC-4y2B3IxPd-EA0izRg-JaPFenD-fuIfYz2gnvvQs09nwTtteyHVr3JvfB4vCquUC1P2JRnrIk,&typo=1

16-1

Lead contamination found in soil at Hollister High School

The amount detected exceeds legal toxicity level, posing a threat to public health or the environment.

- **Published 07/05/2022**
- ***BenitoLink Reporter,* Carmel de Bertaut**

Hollister residents within a quarter mile of Hollister High School, formerly San Benito High School, received a letter and survey in June from the Department of Toxic Substances Control of California Environmental Protection Agency regarding lead contamination in a 1.5-acre section of the school.

The location of the affected site was not identified by the letter, which said the affected area was previously used for farm structures and orchards from at least 1939 until the early 1960s when it became part of the high school campus.

The original development included a two story building which is still present on the site. It went on to state two elongated classroom buildings were conducted between 1981 and 1998 along the northern and western boundaries of the site. Both buildings have been completely removed.

The amount of lead detected exceeds the office of environmental health hazard assessment blood toxicity level. The preliminary environmental assessment determined there could be a threat to public health or the environment. The department concurs with the conclusion of the survey and says further action for the site is required.

The department said residents will receive an update summarizing the proposed cleanup activities. It will provide an opportunity to review and comment on the draft removal action plan.

High school Superintendent Shawn Tennenbaum issued the following statement to BenitoLink.

“Prior to its development as a school site in the early 1960s, portions of the existing 54.11-acre San Benito High School campus were previously used for agricultural purposes. As a result, it was recently discovered that lead-contaminated soils remain present under a 1.48-acre portion of the campus. Although these contaminated soils are largely contained under pavement, San Benito High School District has been working cooperatively with the Department of Toxic Substances Control and recently prepared a Removal Action Workplan (RAW) to address the safe removal of approximately 645 cubic yards of soil from the site if and when a new Student Union/Cafeteria is built. The RAW is a work plan that sets forth the protocols for the cleanup while protecting public health and the environment. This includes a health and safety plan, and measures for air quality control, waste management, and stormwater runoff.”

As part of the process, the California Health and Safety Code sets forth public notice and participation requirements for all Removal Action Workplans across the state. Specifically, the toxic substance control department is required to issue a community service survey, which is a standard informational flier provided to neighbors within a quarter-mile of a project site. Based on community input received, the department will compile a mailing list of those interested in receiving further information on the RAW, and will solicit public comment. More information on the RAW process is available here.

16-1 The commenter raises concerns regarding the project's proximity to residents and agriculture wells. The commenter also suggests moving the waste area further away from residential areas and raises a concern about water pollution. For a discussion of these issues, the commenter is referred to Section 4.8, Hydrology and Water Quality, and Chapter 6, Alternatives, of the Draft EIR. Please also see the Master Response on Groundwater Contamination included at the beginning of the responses.

The link provided by the commenter references lead contamination at the Hollister High School, which is approximately 5 miles from the landfill, and is not related to the proposed project or existing landfill. The article provided in the link is included above.

From: monique paciente <monicapaciente@gmail.com>

Hi Mr. Ketchum,

Good afternoon. I hope this email finds you well. I am writing to voice out my opposition for the expansion of San Benito Land fill at John Smith Road Landfill. I am a resident as Santana Ranch and I have 3 boys going to Rancho Santana School and at the high school respectively. We moved here because we love the small town feel and the smell of unpolluted air where we can enjoy staying at our backyard. Hope we can keep it like that for a long year. I am also concerned that the trucks that will continuously pass thru Fairview road which is our main street will give harm to the kids in the new school. Hope you will hear our plea. 17-1

Thank you and may you have blessed day.

Respectfully yours,
Monica Paciente

17-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter also raises a concern regarding project traffic along Fairview Road, which would pass a new school within the Santana Ranch subdivision. The commenter is referred to Section 4.5, Noise, of the EIR for a discussion of the noise impacts associated with project traffic on Fairview Road. As represented in Table 4.5-7 on page 4.5-15 of the EIR, the proposed project would not increase existing traffic noise levels along Fairview Avenue by more than 0.8 decibels dBA. A noise level increase of less than 1 decibel dBA is not perceptible to humans. Therefore, the EIR concluded that the land uses along Fairview Road, including the Rancho Santana School in the Santana Ranch subdivision, would not experience significant traffic noise impacts.

For a discussion of the project's air quality impacts, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR. The air quality modeling summarized in Section 4.3 included a long-term health-risk assessment to determine if the project would expose sensitive receptors, including the Rancho Santana School, to substantial concentrations of toxic air contaminants. Based on the impact analysis commencing on page 4.3-51 under Impact 4.3-4 of the EIR, the proposed project would not expose students at the Rancho Santana School to substantial concentrations of toxic air contaminants and this impact was concluded to be less than significant. For the project's modeled emission levels at the Rancho Santana School and at a potential new high school along Best Road, the commenter is referred to Table 4.3-16 on page 4.3-46 of the EIR. Please also see Response to Comment 20-1.

From: Shannon Allen <atosallen@gmail.com>

Good afternoon Mr. Ketchum,

I am writing in response to the John Smith Road Landfill expansion and my family's concerns regarding the project. We currently reside in Heatherwood Estates and foresee this project having a huge impact on our daily lives in many ways. As it stands, living next to a landfill is no one's dream location, however when we moved here 6 years ago, we believed the landfill would not present any major issues in our day-to-day well being. Unfortunately this may all change. 18-1

In general, we do not see the benefits outweighing the costs of expansion when it has been reported that 78% of incoming dumps per day are from outside counties. As directly affected citizens of this proposal, we do not believe we should have to shoulder the responsibility of other counties trash nor the mis-management of city funds.

As for traffic and transportation, John Smith is our main artery in and out of our neighborhood . That being said, we already experience flat tires every few months from dump 'droppings' on the road. I did not see or hear of a proposed plan to minimize the waste produced by overloaded trucks and road wear and tear. Recently we drove over a huge piece of metal laying in the middle of the road that was undoubtedly a 'fall off' from a dump run. This scrap ended up puncturing our car's undercarriage and now is in need of repair. It would be helpful to understand what measures will be taken to ensure trash droppings will be managed and picked up on a regular basis as well as road fixes on a as-needed basis. 18-2

Noise is yet another concern. As I explore and play with my 3 young kids outdoors on a daily basis, we already hear too many big rigs recklessly driving down John Smith as it is. Furthermore drivers like to frequently park in front of our community sign and tarp down their belongings, leaving trash and rubble behind. When we moved to Hollister from the big city of San Jose, we were seeking peace, space and fresh air. All of that is being threatened with the impending plans of the dump expansion. 18-3

From our understanding of things, the water run-off from the dump will increase with the expansion. As we run 100% on well-water in the Heatherwood and Fox Hill neighborhoods, it is rather concerning knowing that this run-off may contaminate our wells. After 5 years of volunteered work to get our wells working properly and without exacerbated levels of toxins, it would be so disheartening to have the dump's mis-management of run-off be the downfall of our community's hard work. It is my understanding as per the Benito Link article dated 8/4/22 that "in the 1960s when the landfill first began operating there was no protective liner and waste of all categories has been mixed. That layer of waste is still there leaching toxins. Groundwater contamination from toxic waste is increasing and spreading to nearby communities, such as Heatherwood Estates and eventually Santana Ranch." 18-4

Aesthetically, we trust that the landscape of our beautiful town will be preserved. Who in their right mind would approve such a monstrosity that collects other counties unwanted mess to destroy our town? While I have faith in our leaders to not impact our gorgeous views and vistas, it is a concern. 18-5

Thank you for taking the time to read my concerns.

Sincerely,
Shannon Allen

18-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

18-2 Please see Response to Comment 13-2.

18-3 The commenter raises concerns regarding noise and litter. For a discussion of these resource issues, the commenter is referred to Section 4-5, Noise, and Section 4.10, Hazards, Hazardous Materials and Wildfires, of the EIR.

18-4 Please see the Master Response on Groundwater Contamination included at the beginning of the responses.

18-5 The commenter raises concerns regarding the proposed project's aesthetic impacts. For a discussion of aesthetic impacts, the commenter is referred to Section 4-11, Aesthetics, of the EIR.

From: Patricia Rodriguez <patsnathan@yahoo.com>

Stan,

The proposed expansion of the John Smith Road Landfill is a definite future disaster. If you live here in Hollister, surely you can see the impending disaster and depletion of a quality of life for yourself, your family and your grandchildren who will see and have to live with the ill effects of this money-making project. 19-1

How can you allow other counties to dump their trash in our town? Would you let others come to your home and throw their trash in your property? Of course not!!! That would only destroy your property "slowly but surely." So why allow someone else's trash to travel to our town? Just because they refuse to limit and discard their own trash responsibly? Instead, they want to destroy someone else's property. This is the perfect recipe for a low-quality, stench smelling community. Which will definitely lower our property values in the long run. Please!!!!

This must be simply for monetary purposes. Why else would this be allowed? I urge you to come to your senses and maintain the beauty, cleanliness and safety for our children and grandchildren of the future.

19-1 The commenter states their opposition to the proposed project and raises concerns regarding importing waste into the County. Although not considered an impact to the environment and beyond the scope of this EIR, disposal of municipal solid waste in California is regional and not all of San Benito County's waste remains in the County. In 2021, 24 percent of the waste generated in San Benito County was exported to out-of-County landfills for disposal. These out-of-County landfills include Billy Wright Landfill in Merced County (17 percent), Marina Landfill in Monterey County (7 percent), Kirby Canyon Landfill in Santa Clara County (0.04 percent), Highway 59 Landfill in Merced County (0.02 percent), Buena Vista Landfill in Santa Cruz County (0.03 percent), and Potrero Hills Landfill in Solano County (0.01 percent). The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: T D <teresa.davis627@hotmail.com>

We already have road congestion, why make it more dangerous with more out of county garbage trucks? NO on the John Smith Landfill expansion! 20-1

We do not want to risk the health of our county residents and future generations by allowing additional out of county trash. NO on John Smith Landfill expansion!

Rancho Santana School is within 1.5 miles of the landfill. We don't want to continue to expose our youth to noise pollution and air pollution. Let's keep our kids safe. No on John Smith Landfill expansion!

Keep our kids safe when walking/ biking to school. We don't want to allow 190 trips of garbage trucks crossing their path every single day. No on John Smith Landfill expansion!

Thank you!!

Cheers,
Teresa Davis

20-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter also raises general concerns regarding traffic, health, and the exposure of kids to noise, pollution and truck traffic. For a discussion of these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation; Section 4.3, Air Quality; Section 4-5, Noise; and Section 4.10, Hazards, Hazardous Materials and Wildfires, of the Draft EIR. For a detail discussion of the proposed project's anticipated traffic hazards, the commenter is referred to Impact 4.2-3 on page 4.2-11 of the Draft EIR. Please also see Response to Comment 17-1. For children living west of Fairview Road and walking or riding bicycles to the Rancho Santana School, the assumption is they would cross Fairview Road at the Fairview Road/Sunnyslope Road intersection. Because this intersection has a crosswalk and traffic signal, any trucks traveling on Fairview Road would be required to stop to allow pedestrian crossing. Also, only a small percentage of the out-of-County commercial vehicles would be traveling on Fairview Road during the periods when children are arriving or departing school, as the truck trips are expected to be spread throughout the day. The out-of-County trips would also typically avoid traveling during morning peak-hour traffic periods in order to avoid congestion delays that would correspond with children arriving at school.

The commenter states that they do not want to allow 190 garbage-truck trips crossing their path every single day. To clarify the number of out-of-County commercial truck trips, the project is expected to add a peak of 59 out-of-County commercial vehicles arriving at the site each weekday, or a total of 118 weekday one-way trips. These trips would combine with the existing 36 out-of-County weekday truck trips, or 72 one-way trips, that accessed the site when the Notice of Preparation was released on February 22, 2021 for the Draft EIR. The combined preexisting and projected out-of-County commercial vehicles would represent a peak of 95 vehicles per weekday, or 190 one-way trips. Because this number represents a peak of out-of-County commercial vehicles, during most weekdays the number of out-of-County commercial vehicles would be less than this total.

Letter
21

From: Evelyn Torres <evelyntorres18@hotmail.com>

We already have road congestion, why make it more dangerous with more out of county garbage trucks? NO on the John Smith Landfill expansion! 21-1

We do not want to risk the health of our county residents and future generations by allowing additional out of county trash. NO on John Smith Landfill expansion!

Rancho Santana School is within 1.5 miles of the landfill. We don't want to continue to expose our youth to noise pollution and air pollution. Let's keep our kids safe. No on John Smith Landfill expansion!

Keep our kids safe when walking/ biking to school. We don't want to allow 190 trips of garbage trucks crossing their path every single day. No on John Smith Landfill expansion!

The Expansion does not benefit our city. Our city is growing and putting this landfill in such close proximity to schools, housing and animal habitat doesn't make sense. Let's look at other options.

Thank you!!

21-1 Please see Response to Comment 20-1.

Letter
22

From: Melanie <melaniewadefitness@gmail.com>

We do not want to risk the health of our county residents and future generations by allowing additional out of county trash. NO on John Smith Landfill expansion! 22-1

Thanh you.
Melanie Baum
San benito county resident.

22-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Karen Rogers <karenr1999@yahoo.com>

This is to oppose the expansion of the John Smith Landfill. While the need for additional landfill space is a valid concern, the size and scope on the expansion to benefit out of county trash is an unreasonable burden on the population of San Benito County. 23-1

Out of county trash is the problem for those areas. San Benito County should not be the solution to their poor planning. Why should the residents of San Benito shoulder the burden created by those outside areas when they failed to properly plan infrastructure when expanding their population?

If there is an urgent need for out of county trash disposal, then those areas should contribute to the establishment of a new landfill away from the immediate areas surrounding Hollister. There is an abundance of acreage in San Benito County that could be developed into a landfill. Those areas needing landfill space should contribute to the development of a new landfill rather than paying a pittance for the use of the existing area.

Karen Rogers
San Benito County resident

23-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

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From: Brad Landthorn <blandthorn@gmail.com>

To the attention of: Mr. Ketchum and the San Benito County Supervisors

Thank you for allowing me the opportunity to share my strong opposition to the proposed John Smith Road Landfill expansion. 24-1

Once a quiet road, Fairview Road has become a constant stream of traffic. Now, the proposal to allow up to 200 daily truckloads of garbage to be brought to JSRL would see this road turn into a never-ending train of congestion. The amount of unhealthy air, noise, and litter would be hard to imagine. 24-2

As a resident living on Fairview Road, I have concern for my family and the hundreds of kids attending the new Rancho Santana School breathing truck fumes of idling trucks.

Beyond the great impact to traffic, the landfill itself poses a threat to our communities health. Methane gas, smells, and waste will cause headaches, health issues, and lower the quality of life as large landfills have done to so many nice cities.

I recognize the many ways revenue from the proposal can help Hollister, but the cost of this proposal is too high to our community. I respectfully hope you will oppose the expansion.

Sincerely,
Brad Landthorn

24-1 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

24-2 The commenter also raises concerns regarding traffic, noise, health, odors, methane gas exposure and the exposure of kids to truck fumes. For a discussion of these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation; Section 4.3, Air Quality; Section 4-5, Noise; and Section 4.10, Hazards, Hazardous Materials and Wildfires, of the Draft EIR. Please also see Response to Comment 17-1.

The commenter states that the project would allow up to 200 daily truckloads of garbage to be brought to landfill daily. The proposed project is expected to add a peak of 59 out-of-County commercial vehicles arriving at the site on weekdays. Growth in the internal County waste stream was assumed to increase the number of in-County vehicles arriving at the site on weekdays by 34 over the life of the project. Therefore, the project is estimated to result in a peak of 93 additional garbage trucks arriving at the site per weekday, not 200. During Saturdays and special event days, the peak number of trucks arriving at the site is estimated to increase by 109 vehicles per day. Of these vehicles, 100 are estimated to be in-County residential self-haul vehicles.

Letter
25

From: Barbara Snyder <brbrasnyder1@gmail.com>

Dear Mr. Sketchum,

I am writing to urge you to extend the review of the Draft EIR to the maximum Target date. Extend the review to the 75 day Review Period. Please review pros and cons thoroughly before voting for or against the expansion. Present the information to the public. The landfill expansion is a very serious plan for our county and deserves the time to include public review and opinion. 25-1

Sincerely,
Barbara Snyder
2357 Fairview Road
Hollister CA 95023
831-902-0622

25-1 Please see Response to Comment 11-1.

From: Bella Vista Organic Olive Oil <bellavistaoil@gmail.com>

Dear County Leadership,

As a Santa Ana Valley Road resident and SBCO farmer, I am concerned that the John Smith Landfill proposed expansion will negatively impact our rural quality of life.

The increased traffic on Santa Ana Valley and Fairview roads will degrade the local roads even more, and faster. Santa Ana Valley Road was excluded from the Measure G funds and is not included in the John Smith Road upkeep from landfill revenue. It cannot handle any more traffic. The ag businesses out here also suffer from the poor condition of the roads - the high volume of trucks, tractors, cattle haulers, and other farm equipment degrades these roads daily. If the landfill leachate contaminates our local agricultural wells, many ag producers will suffer. There are MANY farmers out here in this valley. An enlarged landfill is a terrible idea adjacent to ag land. 26-1

There are many homes in this area - the landfill also backs up to the new housing development, Santana Ranch. The traffic, smell, flies, noise, air pollution, and possible groundwater contamination from an enlarged landfill would appreciably contribute to a reduced standard of living for the local residents. If the leachate contaminates the groundwater, residents with wells will no longer be able to live here and their real estate value will plummet. A landfill near residential and ag land is a poor choice in any case - an enlarged landfill is an inappropriate choice for this area. I realize this is a zone outside of the city limits, but people still live here. I am shocked that a project like this would even be under consideration. 26-2

Furthermore, as we live in the Diablo foothills overlooking Hollister, I am concerned that my beautiful valley view will now include a dump. This will significantly decrease my property values and will economically impact real estate values of all nearby residents. If the groundwater contaminates local wells, residents will no longer be able to live here and their real estate value will plummet.

While I realize that the landfill creates needed revenue due to out-of-county customers, revenue streams need to be explored that are less detrimental to local residents. A landfill is necessary infrastructure for any city. It should serve the local residents, not become a source of income. Please consider these negative impacts and reconsider the proposed enlargement of John Smith Landfill. 26-3

NO ON JOHN SMITH LANDFILL EXPANSION!

Regards,
Deborah A. Muscari
Bella Vista Ranch
Hollister, CA

831.313.2265

26-1 The commenter raises concerns regarding traffic and groundwater contamination. For a discussion of these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation, and Section 4.8, Hydrology and Water Quality. The commenter is also referred to the Master Response on Groundwater Contamination included at the beginning of the responses.

26-2 The commenter raises general concerns regarding traffic, smells, flies, noise, air pollution, leachate contamination of groundwater, and aesthetic impacts. For a discussion of these resource issues, the commenter is referred to Section 4.2, Traffic and Transportation; Section 4.3, Air Quality; Section 4.5, Noise; Section 4.8, Hydrology and Water Quality; Section 4.10, Hazards, Hazardous Materials and Wildfires; and Section 4.11, Aesthetics. The commenter is also referred to the Master Response on Groundwater Contamination included at the beginning of the responses.

26-3 The commenter states their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Letter
27

From: John and Maryellen Basanese <johnmarybas@gmail.com>
Sent: Thursday, August 11, 2022 4:36 PM
To: Supervisors <supervisors@cosb.us>
Subject: Possible cancer cluster

To the Supervisors,

My name is Maryellen Basanese. I have been a resident here in Hollister for over 20 years. I am very concerned about the expansion of the current dump. There are many reasons why, but one in particular stands out. We lived at Heatherwood Estates for 12 years. While we were there and since we moved, we have become aware of some of our neighbors having had or do have cancer. It was unsettling to me when the people up the road from us found out that the husband had cancer, he died a couple years later. A few years after that, his wife got cancer and also died.They were in their early 50's. Their house was very close to the well. Then this past year a friend of ours that used to live in Heatherwood at the same time we did, died of kidney cancer. He was in his mid 50's. We also found out that on the other side of the block, the woman there was diagnosed with breast cancer, she was in her early 40's. We don't know what happened with her as they moved out soon after her diagnosis. When we bought our house, we remember that we were told that the woman who lived in our house before us died of cancer and that is why the husband moved. I haven't been able to verify that, but will keep trying. Then, our 26 year old son was diagnosed with cancer 4 years ago. It was a very rare cancer and he did have to have chemo. He is better now but had quite a rough time. There is no cancer on either side of our family, so it was very unexpected. We have read articles about the dangers of living downslope from a dump. (We will send some if you'd like). We were made aware by a very reliable source that this dump has had a toxic plume in the past and that it was mediated by piping it down John Smith Road to the bottom into a storm drain. The problem is, toxins are real and cause people to get sick. Part of your job as supervisors, is to do your best at protecting the people in your city/county. We depend on you. Please don't fail us on this issue.

27-1

Sincerely,
Maryellen Basanese

27-1 Please see the Master Response on Groundwater Contamination included at the beginning of the responses.

From: b.moniey@gmail.com>

Dear San Benito County Supervisors,

It has come to my attention that the John Smith Landfill limits have been exceeded and a new proposal to not only extend the limits but expand them is being reviewed. I have grown up in Hollister and in particular along the Fairview road and neighborhoods near Sunny Slope Road and Airline Highway. I am very displeased when I see trucks from other counties bringing trash to Hollister via our pristine country roads and dumping hazardous materials into our soils and ground water. I understand the need for economic growth, but it should not be at the expense of the quality of life for the residents of Hollister. I can understand keeping the status quo and extending the limits to keep the already established landfill in operation, to serve the residents of Hollister. A further increase above current levels is unacceptable. The current ratio of 20/80 county/out of county is already ridiculous. Frankly the best scenario would be a contraction of the existing ratios which would be a gift to Hollister for generations to come, as 2072 may seem far off, but then what? 28-1

Kind Regards,

Brian Moran

28-1 The commenter states that the landfill limits have been exceeded is noted. It is unclear which limits the comment is referring to so no detailed response is possible. The commenter's opposition to the proposed project also is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Letter

29

From: Gary & Julie Turk <turks@sbcglobal.net>

Hello,

My name is Gary Turk I retired to Hollister 14 years ago with my wife Julie.

29-1

When we bought our house off of John Smith we knew about the dump and were told it would start to sunset in 15 years and eventually close.

I would never complain about something like a dump or airport that was there before I moved in so we were so disappointed when the landfill increase the amount of non Hollister trash it excepted and plans to expand became known.

The additional garbage trucks were everywhere ruining Fairview, John Smith, Best Road and all of the other roads into our beautiful community.

Months ago when all of the out of county garbage trucks disappeared I mistakenly presumed our county leaders had done the right thing and killed the expansion.

I'm sure you're being lobbied by the pro landfill folks but PLEASE do the right thing for Hollister, VOTE NO on all expansion of the landfill.

Thank you in advance,
Gary & Julie Turk
520 Maranatha dr.
Hollister

29-1 The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: julie arafeh <jmrarafeh@yahoo.com>

August 18, 2022

Dear Bob Tiffany and County of San Benito Board of Supervisors,
I am writing this letter about the proposed expansion of the John Smith Landfill. My husband and I have lived in Heatherwood Estates since 2012. We moved here from San Jose for the beautiful scenery and the opportunity to have more open space. We have immensely enjoyed living in San Benito County. The views from our house are outlined by mountain peaks and hills. We have seen jack rabbits, fox, badgers, coyotes and of course, ground squirrels on our property. I can attest to the draw of the beauty and diversity of San Benito County.

30-1

We were fully aware of the location of the landfill when we purchased our home. What we were not aware of:

- Twice while trying to turn right onto Fairview from John Smith Road, I was nearly sideswiped by a trash truck speeding through the turn and in at least half of my lane. The truck was less than a foot from my car. The experience was so frightening I rarely take that route into town even though truck traffic has recently been reduced significantly.
- We have replaced 11 tires in 10 years, and I cannot count how many times we have had nails pulled out of tires and repaired. This has improved since the road was repaved, but I am afraid if the truck traffic increases the road will deteriorate again. The County was not able to keep up with repairs and the potholes were so numerous and large it made driving hazardous.

After reviewing the EIR I have additional concerns

- At its fullest expansion the landfill will be visible and irreversibly mar the view not only from our home but from Highway 25 which SHOULD be a scenic road and is often used to by residents and visitors to reach The Pinnacles.

30-2

- The impact a full expansion will have on wildlife
- The amount of dust generated by a full expansion and the impact it may have on our health

I understand that waste is generated and must be disposed of. I also understand that the current size of the landfill may not meet the needs of our county if not expanded. I am in favor of expanding the landfill with the PRIMARY GOAL of meeting the waste needs of San Benito County utilizing Alternative plan 3 or 2B. HOWEVER, truck traffic must be controlled regardless of the route used to reach the dump. I feel very strongly that speed readers/sensors be installed at several locations on the road designated for truck traffic to collect data on truck speed. The County cannot use law enforcement consistently enough to control the hazards these trucks present to those living around the landfill. If data suggests the trucks are speeding, then the sensors need to be changed to speed cameras with tickets issued for speeding with the MAXIMUM FINE. Any waste company who will be bringing waste to the dump needs to be aware of the data collection and be aware of maximum fines imposed on all trucks that are driving over the speed limit.

30-3

Thank you for your time in reading my letter and your efforts in deciding the fate of the landfill. This is not an easy decision, but it is one that will greatly impact the county and our future.

Respectfully,
Julie Arafeh
525 Heatherwood Estates Drive

30-1 The commenter describes hazardous traffic conditions and roadway hazards in the project vicinity and raises concerns about future roadway deterioration with project implementation. These issues and mitigation for the conditions of the roads impacts by the expansion project are discussed in Section 4.2, Traffic and Transportation, of the Draft EIR.

30-2 The commenter raises concerns regarding the project's impacts on visual resources, wildlife and health related to increased dust generation. These issues are discussed in Section 4.3, Air Quality; Section 4.6, Biological Resources; and Section 4.11, Aesthetics, of the Draft EIR.

30-3 The commenter supports expanding the landfill with the primary goal of meeting the waste needs of San Benito County utilizing Alternative plan 3 or 2B. However, the commenter further states that truck traffic must be controlled regardless of the route used to reach the dump. The commenter suggests the use of speed readers/sensors to collect data on vehicle speeds and if the data suggest that trucks are speeding, then the use of speed cameras should be used to issue tickets. Speeding vehicles are known to be a problem throughout the County and state, and are not unique to trucks accessing the landfill. Depending upon where they are installed, the use of speed cameras may reduce speeding in localized areas within the County; however, they would not be expected to eliminate it. For a discussion of traffic and roadway deterioration issues, the commenter is referred to Section 4.2, Traffic and Transportation, of the Draft EIR.

From: Cyndi Franks <cyndi_franks@yahoo.com>
Dear Mr. Ketchum,

Expanding the John Smith Landfill will be bad for the residents of San Benito County for the following reasons:

Increased groundwater pollution
Increased air pollution
Increased traffic, which is not only inconvenient, it also increases air pollution, road damage, noise, and accidents
Some of the trash will likely have hazardous waste in it, as many people still throw chemicals into their trash that should go to a hazardous waste event.
The landfill will require several hundred thousand gallons of water each month to operate. Water is already in short supply, and no one can ensure that there will be adequate water for the expanded landfill. 31-1

The money that the county collects from the increased tonnage is not likely to cover the cost of road repair and pollution mitigation.

The people who clearly benefit from a landfill expansion are the owners and employees of the landfill, and the people who live in Santa Clara County who send their trash to San Benito County. Allowing this to happen sends the message that San Benito County is open to being a location for polluting businesses. This may mean more tax revenue for the county, but property values will decrease right along with the quality of life and the health of San Benito County residents.

Cyndi Franks
51 Freds Way
Hollister, CA 95023

31-1 The commenter identifies multiple reasons why they do not support the proposed project. These impact areas are addressed in those respective chapters of the EIR. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter further states that the money the County collects from the increased tonnage is not likely to cover the cost of road repair and pollution. As stated on page 4.2-14 of the Draft EIR, Public Facilities and Safety Element Policy PFS-1.12 requires new development to mitigate project impacts associated with public facilities and services, including roads, through the use of annexation fees, connection fees, facility construction/expansion requirements, or other appropriate methods. Fee programs are one of the various methods that the County uses for financing roadway improvements and maintenance equipment. The intent of the established mitigation fees is to provide an equitable means of ensuring that future development contributes their fair share of roadway pavement improvements over the life of a project, so that the County's 2035 General Plan Circulation Element policies and quality of life can be maintained. For roads, County Code provides for Traffic Impact and Road Maintenance Equipment Impact Fees that are charged by the building square foot for industrial and office uses. Unlike a traditional office or industrial use, the existing and proposed expanded landfill operates almost exclusively outside of buildings and thus the existing impact fees would not provide sufficient revenue to mitigate impacts from the Project. Draft EIR Mitigation Measure 4.2-4, Roadway Pavement Hazards, thus provides for mitigation that is correlated to the tonnage received at the site so that an increase in tonnage associated with project implementation would result in an associated increase in contributions toward road rehabilitation, repair, reconstruction. In the nexus study, Pavement Engineering Inc. determined the appropriate fair share responsibility of the applicant over the life of the project, which took into account the existing conditions of the road and the impacts to the roads over the life of the project from haul trucks.

Although the 2040 San Benito Regional Transportation Plan (Plan) acknowledges that a shortage of funding has impacted the ability of San Benito County and the City of Hollister to provide adequate rehabilitation and maintenance of the existing local roadway system, the Plan identifies improvements to local roadways including the widening of Fairview Road by 2040. Fairview Road is a primary access route for the proposed project. The Plan also identifies that Senate Bill 1, the Road Repair and Accountability Act approved in 2017, provides over $51 million to the San Benito County region over the next 22 years for local road rehabilitation and maintenance needs (Council of San Benito County Governments 2018). These additional funds are expected to supplement existing local funding sources and expand the capacity of local governments to rehabilitate and maintain local roadways.

Draft EIR Mitigation Measure 4.2-4 would be expected to address the applicant's fair share contribution toward road rehabilitation, repair, and reconstruction to mitigate impacts to the County roads from the expansion project and the County would remain responsible for its share of rehabilitation, repair, and reconstruction costs and for all costs of maintenance, which could be funded through the other road funding available in the region (e.g., Senate Bill 1) to ensure that rehabilitation, repair, reconstruction, and maintenance of the road surface along the haul and site access routes are conducted on a regular basis and that no traffic hazards are created.

For revisions to Mitigation Measure 4.2-4 on page 4.2-14 of the Draft EIR establishing a fair share road fee and rehabilitation, repair, and reconstruction program to ensure the work is completed for the life of the project and the fair share responsibility of the applicant based on the nexus study performed by Pavement Engineering Inc., please see Response to Comment 80-28.

Letter
32

From: Andy Rollins

1. $ Returned to County is far too little. The Operator will get 10's of millions. Yearly road maintenance will far exceed County $
2. Out of County trash pays less than SBC residents
3. San Jose does not require organics be separated

4. Proposed in bound route will destroy wright + McClosky Rds. Make current outbound go both ways.

32-1

32-1 The commenter appears to identify reasons not to support the proposed project. These comments are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Project impacts to the Wright-McCloskey intersection are addressed in Chapter 4.2, Traffic and Circulation, in the Draft EIR, and in Mitigation Measure 4.2-3.

The commenter further states that San Jose does not require the separation of organics. Similar to other public agencies in California, the City of San Jose is subject to the requirements of SB 1383, which requires the diversion of organic materials from landfill disposal. The City has their own program in place to ensure compliance with SB 1383, which would ensure that much of the organic material in the City's municipal solid waste would be removed before it is delivered to the project site.

Letter
33

From: Barb Taddeo

This project should not happen

33-1

Why are we becoming a garbage dump!

Here we have thousands of new houses some who have to see + small the dump. Bad air now when the wind blows, bad water etc.

33-1 The commenter identifies several reasons why they do not support the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The Board's decision is outside of the scope of the EIR.

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Letter
34

From: Mia Casey

Fine w/current + proposed route, but really don't want to see garbage trucks going through towns!

So no to alt. 6 + 7!

(Trash dropping for trucks, noise, traffic…)

34-1

34-1 The commenter states that they do not support Alternatives 6 and 7. These comments are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Phyllis Kate

How will a waste mountain affect the County's opportunity to become a tourist destination for Pinnacles Nat'l Park and as a vacation destination that will enable the County to build hotels (gaining hotel occupancy tax) and other benefits of being a destination of beauty + environmentalism. 35-1

1. There is a suggestion that if more water is needed for the dump, it can be purchased from Sunnyslope Water Dist. 35-2
    - How much will Sunnyslope WD change for each limit of water? [We don't know!]
    - Will Sunnyslope WD sell San Benito County water?
    - Can SBC rely on the purchase of water and how will that impact the project proposed revenue?

35-1 The commenter asks how the proposed project will affect the County's opportunity to become a tourist destination. This comment raises economic issues, which are outside of the scope of the EIR. For more information on this topic, the commenter is referred to Response to Comment 7-5.

35-2 The commenter asks how much Sunnyslope County Water District will charge for water, whether the District will sell San Benito County water, and whether the County can rely on the purchase of water, and how that will impact the project revenue. As stated in the Draft EIR, the project would shift to the use of captured stormwater and leachate, supplemented in drought years by water from the Shore Road well, and possible installation of covers on the stormwater basins to minimize evaporation. For a further discussion of the proposed project's water supply and associated impacts associated with its use, the commenter is referred to Section 4.12, Public Services, Utilities and Energy, of the Draft EIR. Please also see Responses to Comments 1-1 through 1-5 from the Sunnyslope Water District.

Questions specifically focused on economic issues are outside of the scope of the EIR. For more information on this topic, please see Response to Comment 7-5.

From: Zachary Headley

Wonderful presentation. Great hands involved. Arielle, Doug, Curt Fuji, and Clayton. All answered all my questions. Looking at all detail from static to dynamic levels all percentages Environmental Exposure, possibilities of swapping to emergency water truck hauls. This project is a great idea for this County, except one important thought. All the money, liabilities, inflation of things, environmental possible damage, one issue water. I think a great idea would be to just recycle the water not just from storm drains and ponds. Recycle using reclaimed water. And just use outside aquifies for onsite potable water. Money saved, environment saved, droute protection, and business success. I hope you consider strongly. this thought. Thank you so much. 36-1

Best Regards,

Zachary Headley

36-1 The commenter suggests using recycled water to meet the site's water demands. The use of recycled water was considered by the project applicant but a source of recycled water from the Sunnyslope County Water District was not available.

From: John Freeman

Increase tip fees to $55.00 per ton + build a new road that avoids all of the housing on John Smith Road. Use the increased money to find + build a new route. 37-1

Please cover the recycle and reuse area to protect the environment and the recycled items

37-1 The commenter suggests increasing the tip fees to $55.00 per ton and building a new road that avoids all the housing on John Smith Road. The commenter suggests using the increased money to find and build a new route. The commenter provides no details regarding where a new road would be constructed. However, if a new road to the project site were constructed that avoided the housing on John Smith Road, it could affect other houses in the area depending upon its location. Also, it would result in substantial land disturbance, which would result in multiple environmental impacts including the permanent loss of agricultural land and habitat, increased noise for adjacent uses, and changes in the visual environment. Because a specific road alignment was not identified by the commenter, it is not possible to determine how the impacts associated with the new road would compare to the impacts of the proposed project.

The commenter also asks that the recycle and reuse area be covered to protect the environment and the recycled items. For a discussion of the recyclables and reuse area, the commenter is referred to the description of the new entrance facilities, which are described in Section 3.5.5 of Chapter 3, Project Description, commencing on page 3-17 of the Draft EIR. The recycle and reuse area would be designed to ensure runoff from the area would be captured on the site and would not adversely affect surface waters in the project vicinity.

These suggestions and requests are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Letter
38

From: Angela Curro

Can we consider alternating truck routes on specific dates?

Are we able to limit the # of trucks per day + over a period of time slowly increase as the county grows?

38-1

38-1 The commenter asks if alternating truck routes on specific dates could be considered and asks if the number of trucks per day can be limited over a period of time and slowly increased as the County grows. Alternating truck routes on specific dates could be considered, but may also add complexity and route enforcement issues, as haulers typically are accustomed to using the same route each day. With alternating routes, there is a substantial possibility that haulers may be confused about which route to use on which day, resulting in the use of both alternate routes on any single day. The Solid Waste Facility Permit for the existing landfill operations currently includes a limit of 600 vehicles per day arriving at the site for waste disposal purposes. Implementing any additional vehicle limits would be at the discretion of the San Benito County Board of Supervisors. The proposed haul route would use different routes for travel to and from the landfill, which would disperse traffic from a single route.

From: Lingling Yan <lingling_exeros@yahoo.com>

1. The revenue model. I understand there is revenue potential to the county, which is much needed, I also know quite a few people would debate this proposition. In the worst case scenario, we do all the work, we sacrifice our communities quality of life and we end up with no real revenue, because our math was not expansive. Currently, the calculation is not clear in the following sense: (1) JDL has a long history, its legal underpinnings, how much do we charge in-county, how much for out of county, wrt property tax, garbage services, and so on. I have participated in discussions with several county/city leaders, my impression is that nobody know all the details to have a rationalized point of view. I would like to see the cost/revenue model presented to public; and (2) More critically, I would like to see this cost model account for the loss of quality of life (noise, visual, loss of quiet country character, loss of small-town spirit and landscape). I understand the cost model can be subjective, I understand this is an emotionally charged topic, people take extreme positions, but the least the county can do is to show the public what are the dimensions you have considered, to project that revenue. 39-1

2. There are a lot of "thresholds" of acceptable impact. Can you refer me to a reference where these threshold are defined, so I can understand where they come from, are they really proven to be truly safe. Each threshold referenced in the report should have a reference entry. For example, for Best road, I quote: 39-2
"With implementation of this alternative, the noise levels experienced by the seven residences located directly adjacent to Best Road would increase by approximately 7 dBA once the landfill reaches its peak permitted tonnage limit. However, this noise increases to 58 dBA, Ldn (existing 51 dBA, Ldn increasing by 7 dBA to 58 dBA, Ldn) would not exceed the County's transportation noise threshold of 60 dBA, Ldn for residential uses."

What does 60 dBA mean, who said this is "safe", safe to whom? Is there a reference we can read to educate ourselves?

3. "4.8-5: Potential for Leachate to Degrade Groundwater Quality. Leachate generated within the expanded landfill modules would be captured by a Leachate Collection and Removal System. As described in the Design Basis Report, the leakage of leachate through the liner system would be less than 0.1 gallons per acre per day, which is considered negligible. This level of leakage would not be expected to degrade groundwater quality. In addition, the landfill expansion would include the installation of a groundwater monitoring system that would detect and capture contaminated groundwater before migrating offsite. Therefore, this impact would be considered less than significant." If leachate is detected by the monitoring system, doesn't that mean the ground water is already contaminated, how can you contain ground water to be "on-site"? How can you eliminate the leachate from the ground water that has gone everywhere, how far has it traveled to where. Do you know? 39-3

4. Best Road is a small country road cutting through a quiet neighbourhood of small acreage. There are no trees, no side walk along the road, it is a road where people ride bikes, take family walks, walk the dogs. Turning this road into a haul route, is asking the homes along the road to sacrifice their quality of life: the reason we live here at the first place. Similar issues with Fairview: large number of new homes and existing schools on that road. Turning these roads into haul route hurt our community. With the funding for road improvement, have you thought about building a dedicated haul route from HW 25 to JSL, between Best Road exit and Tres Pinos? Perhaps by minimizing the number of families and schools impacted? Is there a reason why we must use residential roads for haul route? 39-4

39-1 The commenter raises specific economic issues that are outside of the scope of the EIR. For more information on this topic, the commenter is referred to Response to Comment 7-5.

39-2 The commenter asks if a reference can be provided where the impact thresholds are defined. The commenter is referred to the Impact discussion included in each of the resource sections of the EIR including Sections 4.1 through 4.12. In each Impact discussion, the thresholds of significance are identified for the resources being evaluated and the source for the thresholds is also identified.

The commenter also asks what 60 dBA means and who said it is safe. Because of the ability of the human ear to detect a wide range of sound-pressure fluctuations, sound-pressure levels are expressed in logarithmic units called decibels (dB). Because the human ear is not equally sensitive to all sound frequencies, a specific frequency-dependent rating scale was devised to relate noise to human sensitivity. An A-weighted dB (dBA) scale performs this compensation by discriminating against frequencies in a manner approximating the sensitivity of the human ear. This dBA scale has been chosen by most authorities for the purpose of regulating environmental noise. Typical indoor and outdoor noise levels are presented in Figure 4.5-1 on page 4.5-2 of the Draft EIR. As represented in this figure, 60 dBA is approximately the midrange of the noise level generated by typical human speech. The noise levels experienced by those involved in typical human speech is considered safe, in that it would not cause long-term hearing loss. In addition, the County has established through Goal HS-8 of the San Benito County 2035 General Plan Health and Safety Element that compliance with the County's noise standards would protect the health, safety, and welfare of county residents through the elimination of annoying or harmful noise levels.

39-3 Please see Master Response on Groundwater Contamination included at the beginning of the responses.

39-4 The commenter asks if a dedicated haul route from Highway 25 and John Smith Road Landfill has been considered that would connect to Highway 25 between the Best Road exit 25 and Tres Pinos. An alternative haul route that included the construction of a new road extending overland southwest from the landfill site to the southern segment of Best Road near where it connects to Highway 25 was considered by the County. The construction of this haul route would require substantial soil excavation and grading over undeveloped grasslands, which would disturb habitat, permanently remove agricultural land from production, increase short-term and long-term noise and air pollutant emissions for existing residents located east and west of the alignment, and degrade the visual environment. Due to the substantial land disturbance and associated environmental impacts that would occur with constructing such a roadway, this alternative was rejected by the County from further consideration.

The commenter points out that Best Road does not include sidewalks. The majority of the haul route does not include sidewalks, with the exception of a segment along the west side of Fairview Road between Sunnyslope Road and Hillcrest Road.

From: Melinda Casillas <melcasil@yahoo.com>

I attended the Landfill meeting last night, and thought it was well organized and a lot of really good information was presented. 40-1
As a resident of Santa Ana Valley Road, I pass by the landfill everyday, at least once a day, as does my family.
I have some concerns regarding the expansion I'd like to address.

The environmental aesthetics were well presented, however, I am doubtful they would be done in a timely manner, if at all.
I believe the intent is to get the out of county capacity raised as soon as possible, and much less concern regarding the safety and improvements presented is really a focus.

Some of the improvements were:

New John Smith Road intersection across from St. Benedicts Church. This has been in the planning for many years without any kind of movement. I heard 1-3 years if the expansion is approved! Not something I am counting on! 40-2

T***he new left turn lane into the new entrance.*** Both of these improvements would need a lot of time to accomplish. .John Smith is barely a two lane road, especially as bicyclists and runners like that road. A left turn lane can only be accomplished when the road is widen. The right side is a ditch and the left side is not flat. This seems like a lot of time and expense needed to accomplish. 40-3

The semi trucks drive at a high rate of speed and often drive outside of the curve lanes, making this very dangerous to the cars coming in the other direction. There isn't anywhere to move to to avoid them and increasing the capacity will only exasperate this situation. 40-4

Routing the trucks up Highway 25 to Best Road. Driving through the main parts of town seem dangerous, especially in the area from Nash/Hillcrest to Sunset. We have a lot of passenger traffic in this area and having an increase in semi-truck activity appears dangerous for our residents. Best Road is also barely a two lane road. Incoming semis at a high rate of speed in a rural residential area is also dangerous to the livestock and residents. 40-5

Finally, it was quite disappointing to speak with the consultants that had never been in that area, only viewed via areal aspects. Of course it is easy to work on a project abstractly. There are people that drive those roads everyday. While I realize we are just a small group compared to the amount of revenue this project generates for the county, and is a great asset and opportunity to the community, as stated at this morning's Board meeting, we are a big part of the community also. We contribute and generate revenue to this county with our businesses/ranches/farms, pay property taxes, send our children to school, and play a part in keeping it active. 40-6

It has been really nice not to worry about dealing with the semi trucks since the out of county garbage has stopped! The traffic on John Smith has been normal pick up trucks and cars on that road. Even Recology is fine to pass on the road.

The landfill expansion needs to be done in small steps, if at all. There is no assurance other than increasing the out of county capacity!

Melinda Casillas
6500 Santa Ana Valley Road
Hollister

40-1 The commenter states that the environmental aesthetics were well presented but they are doubtful they would be done in a timely manner. Timing of implementation of mitigation measures is addressed in the Mitigation Monitoring and Reporting Program (MMRP). These comments are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. If approved with conditions, all conditions, including those applicable to aesthetics, would be enforceable by the County.

40-2 The commenter states that they are not counting on the new John Smith Road intersection improvement across from St. Benedicts Church. The EIR presents several alternative access routes, so if this intersection is not improved, other access routes are available for project-generated refuse trucks. This comment is noted. Mitigation Measure 4.2-3 has been modified in this Final EIR to include timing of implementation for all proposed roadway improvements (see Chapter 3). As discussed in the revised mitigation, the entrance access improvements would be required to be implemented before the new entrance is opened for public use.

40-3 The commenter states that they think the new left-turn lane into the new entrance would require a lot of time and expense to accomplish. This comment is noted. As required by Mitigation Measure 4.2-3 on page 4.2-13 of the Draft EIR, any required roadway right-of-way necessary for the left turn pocket at the project entrance would be taken from the north side of the John Smith Road, generally within the boundaries of the project site. Mitigation Measure 4.2-3 has been modified in this Final EIR to include timing of implementation for all proposed roadway improvements (see Chapter 3). As discussed in the revised mitigation, the entrance access improvements would be required to be implemented before the new entrance is opened for public use.

40-4 The commenter states that the semi-trucks drive at a high rate of speed and often drive outside of the curve lanes. The commenter states that increasing capacity will only exasperate this situation. This comment is noted. For two-lane roadways, as traffic volumes increase, the average vehicle speeds tend to decrease because the slowest vehicles control the average speed along the roadway. Therefore, with increased vehicle traffic on local roads, as would be expected with project implementation and cumulative growth in the region, the potential for semi-trucks to drive at a high rate of speed and to drive outside of the curve lanes would be reduced rather than increased.

40-5 The commenter states that driving through the main parts of town seems dangerous and incoming semis on Best Road driving at a high rate of speed is dangerous to livestock and residents. These comments are noted. The use of Best Road as a haul route by out-of-County waste delivery vehicles would be expected to increase vehicle traffic on Best Road by approximately 50 percent. Existing average daily trips are estimated to be 381 on this roadway and this alternative would add an average of 95 daily commercial vehicles or 190 one-way truck trips. The John Smith Road Landfill Expansion Traffic Study prepared by PHA Transportation Consultants (June 20, 2022) identified 175 reported collisions between 2016 and 2020 along the State Route 25 and Best Road haul route, representing an average of 35 collisions annually. However, only one collision was reported on Best Road during the same five years because the remainder occurred on State Route 25.

While an increase in traffic can generally be assumed to increase the chance of collisions, the proposed and alternative routes have been analyzed and determined adequate to accommodate the project traffic with mitigation as proposed.

40-6 The commenter states that they were disappointed to speak to a consultant that had never been in the area and that the landfill expansion needs to be done in small steps, if at all. The County and applicant have utilized the expertise of numerous consultants in preparing the Draft EIR and consultants whose expertise requires field observations participated in tours, site visits, and field observations. These comments are noted.

Letter
41

From: Barry Katz
pbandjkatzhoo@yahoo.com

I would like to see the economic report. 41-1

41-1 The commenter states that they would like to see the economic report. It is unclear to which economic report the commenter may be referring. Economic issues are outside of the scope of the EIR but may be considered by the Board of Supervisors in their project approval deliberations. For more information on this topic, the commenter is referred to Response to Comment 7-5.

Letter
42

From: Karl Broussard
kbroussard@yahoo.com

Show us the complete financial profit and loss proposal. 42-1

42-1 The commenter states that they would like to see the complete financial profit and loss proposal. Please note that economic issues are outside of the scope of the EIR, but may be considered by the Board of Supervisors in their project approval deliberations and decision. For more information on this topic, the commenter is referred to Response to Comment 7-5.

Letter
43

From: Heather Simpson-Bluhm
heatherbluhm@yahoo.com>

Dear Hollister Board of Supervisors,

I am a resident who lives on John Smith Road approx. a mile from the JSL. I understand that you will be discussing the dEIR at your meeting scheduled for August 23 and I urge you to extend the review process. As I am sure you aware the EIR is 485 pages with appendices of around 1000 pages. Most of this is quite technical and difficult for the lay person to wade through. Many of us have been working on reading through it but it is cumbersome. 43-1

In my initial review I have found that there is information missing from scoping meetings and find the EIR to be rather vague in some areas. I am not a professional when it comes to knowing what is required of an EIR but the fact that it is quite vague when speaking about the financial aspect is concerning. I do not understand why the County/ tax payers should be paying for some portions of this private business. 43-2

My initial thoughts are that this large of an expansion will not serve the best interests of the population of San Benito County. The JSL has not proven itself to be a very good neighbor to those of us who live close-by. We are constantly having to pick up trash from our pastures and our water is contaminated and currently undrinkable, yet JSL has not recognized our wells (which lie ON John Smith Rd in the direct path of their waste water flow) in their maps or hydrology section. We believe we should be scheduled for them to conduct PFAS testing and our water board has heard nothing. 43-3

How, in 2022, in California, your constituents can be dealing with NON-POTABLE drinking water is beyond me. I hope you will consider extending the review time and truly listen to feedback from the community. The health of the community is potentially at risk and there should be NO price tag placed on that, especially one that is such a pittance as received annually by JSL.

Sincerely
Heather Simpson-Bluhm
795 Heatherwood Ln.

43-1 Please see Response to Comment 11-1.

43-2 The commenter states that the Draft EIR is vague when discussing the project's financial aspects. Economic issues are outside of the scope of the EIR, but may be considered by the Board of Supervisors in their project approval deliberations. For more information on this topic, the commenter is referred to Response to Comment 7-5.

43-3 The commenter states that the proposed expansion will not serve the best interests of the population of San Benito County and identifies existing environmental problems in the project area such as litter and contaminated water. The commenter believes they should be scheduled for PFAS testing. These comments are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please also see Response to Comment 72-2 and the Master Response of Groundwater Contamination, at the beginning of these responses.

Regarding the project's litter impacts, Mitigation Measure 4.10-3 has been included in the EIR to reduce this impact to a less-than-significant level by requiring the operator to implement and fund a litter pick-up program on the adopted haul route to the landfill entrance that provides for inspection and removal of any litter at least three times per week. All complaints received from the public about litter or calls to the litter hotline would be required to be reported to Integrated Waste Management monthly. Complaints about litter would be required to be responded to within 48 hours.

From: Caitlin Bynum
ctlnj.bynum@gmail.com>

Hello,

My name is Caitlin Bynum, I am a Hollister native currently living in Santana Ranch. I am writing this email on behalf of myself and to advocate for the future of my two young children. I have several concerns about the landfill expansion project that I would like to share with you before your meeting today. 44-1

1. Traffic and congestion.The expansion will increase truck traffic into San Benito county specifically on Fairview road.

- Fairview is already in poor condition particularly in between Hillcrest and McCloskey. The increased traffic from the expansion will have a negative impact and further the deterioration of our already abismal county roads.
- The increase in traffic creates a safety concern. We also have a new school off of Fairview, Rancho Santana. The increased traffic from the new school already creates safety concerns at the intersection of Sunnyslope and Fairview with kids walking to school (and crossing Fairview) and cars blocking the intersection trying to get to the school. The current safety concerns will be compound by increased the volume of trucks driving down Fairview daily. Fairview is already a deadly road with multiple fatal accidents every year. Adding more traffic will only compound the problem and lead to additional deaths.

2. Pollution

- Additional traffic on Fairview leads to increased noise and air pollution for those living along the route and for children attending Rancho Santana. 44-2

There are countless negative outcomes of landfills, expanding the landfill will only compound the problem. Here are a few from the University of Colorado Boulder: 44-3

- Destruction of natural habitat for wildlife
- Plastic or clay lining leakage creating leachate that contaminates nearby water resources and damaging ecosystems
- Increase gas emission (methane and carbon dioxide) that can lead to congenital malformations in children born within 1 mile of the landfill.
- decrease land value for those living in the vicinity.

I don't want to risk the health and safety of our county residents and future generations (including my children) by allowing additional out of county trash. Please vote NO on this expansion. The beauty and health of our county are at stake.

THE HIDDEN DAMAGE OF LANDFILLS

Published: April 15, 2021 • By **Kayla Vasarhelyi**

The United States has over 3,000 active landfills and 10,000 closed landfills. Landfills are necessary for the proper disposal of solid waste. They reduce the amount of waste that makes it into the environment, help to prevent disease transmission, and keep communities clean. However, landfills still have significant environmental and social impact. While landfills are a societal necessity, there are practices that can reduce the reliance on landfills and decrease their effects on the biosphere.

ENVIRONMENTAL IMPACT OF LANDFILLS

- The most pressing environmental concern regarding landfills is their release of methane gas. As the organic mass in landfills decompose methane gas is released. Methane is 84 times more effective at absorbing the sun's heat than carbon dioxide, making it one of the most potent greenhouse gases and a huge contributor to climate change.
- Along with methane, landfills also produce carbon dioxide and water vapor, and trace amounts of oxygen, nitrogen, hydrogen, and non methane organic compounds. These gases can also contribute to climate change and create smog if left uncontrolled.
- The creation of landfills typically means destroying natural habitats for wildlife. The average landfill size is 600 acres. With over 3,000 active landfills in the United States, as much as 1,800,000 acres of habitat have been lost.
- While landfills are required to have plastic or clay lining by federal regulation, these liners tend to have leaks. This can result in leachate, a liquid produced by landfill sites, contaminating nearby water sources, further damaging ecosystems.
- Leachate can contain high levels of ammonia. When ammonia makes its way into ecosystems it is nitrified to produce nitrate. This nitrate can then cause eutrophication, or a lack of oxygen due to increased growth of plant life, in nearby water sources. Eutrophication creates "dead zones" where animals cannot survive due to lack of oxygen. Along with ammonia, leachate contains toxins such as mercury due to the presence of hazardous materials in landfills.

SOCIAL IMPACT OF LANDFILLS

- Emissions from landfills pose a threat to the health of those who live and work around landfills. A study in New York found that there is a 12% increased risk of congenital malformations in children born to families that lived within a mile of a hazardous waste landfill site.
- Large landfills, on average, decrease the value of the land adjacent to it by 12.9%. Smaller landfills depress land values less, with around a 2.5% reduction, but still have an impact.
- Landfills bring hazards such as odor, smoke, noise, bugs, and water supply contamination.
- Minority and low-income areas are more likely to find themselves home to landfills and hazardous waste sites. These areas have fewer resources to oppose the placement of these facilities. This makes them an easier target for landfill placement than higher income areas.

HOW TO AVOID LANDFILLS

- Recycle! Every year the amount of waste that avoids the landfill increases due to recycling. Continuing to recycle will keep plastic and other materials out of the biosphere and put them to further use!

- Avoid single-use plastics. Check out this article on single-use plastics and how to avoid them from the CU Zero Waste team here.
- Compost! Landfills lack the oxygen that compostable items need to fully decompose. By putting biodegradable items into the compost instead of the trash, huge amounts of waste can avoid the landfill.

Landfills help to keep our communities clean, but they also pose serious threats to the health of our environment. Working towards living a zero waste lifestyle will help to reduce our reliance on landfills, their impact on the environment, and their impact on human health and well-being.

44-1 The commenter states that the increased traffic from the expansion will have a negative impact and further the deterioration of the already abysmal County roads. The commenter further states that the increase in traffic creates a safety concern, particularly as it relates to the Rancho Santana School. For a discussion of the project's roadway and traffic impacts, the commenter is referred to Section 4.2, Traffic and Transportation, of the Draft EIR, with mitigation measures as revised in this Final EIR. For a detail discussion of the proposed project's anticipated traffic hazards, the commenter is referred to Impact 4.2-3 on page 4.2-11 of the Draft EIR. Please also see Response to Comment 20-1.

Regarding traffic collisions, the John Smith Road Landfill Expansion Traffic Study prepared by PHA Transportation Consultants (June 20, 2022) identified that along the current haul route, which consists of Shore Road, Fairview Road, and John Smith Road, 97 reported collisions occurred along the entire route between 2016 and 2020, or 19.4 on average annually.

44-2 Please see Responses to Comments 17-1 and 20-1.

44-3 The commenter describes negative outcomes of landfills and states their opposition to the proposed project. The commenter references a website article that describes a range of environmental impacts associated with landfills in general. These include destruction of natural habitat for wildlife, plastic or clay lining leakage creating leachate that contaminates nearby water resources and damaging ecosystems, increased gas emission (methane and carbon dioxide) that can lead to congenital malformations in children born within 1 mile of the landfill, and decreased land value for those living in the vicinity. For a detailed discussion of the proposed project's biological resource impacts, the commenter is referred to Section 4.6, Biological Resources. For a discussion of leachate leakage, the commenter is referred to the Master Response on Groundwater Contamination included at the beginning of these responses. This issue is also addressed in Section 4.8, Hydrology and Water Quality, and Section 4.9, Geology, Soils and Paleontology. Regarding the assertion that increased gas emissions can lead to congenital malformation in children born within 1 mile of the landfill, this appears to be from the attached article, which states that a study in New York found that there is a 12% increased risk of congenital malformations in children born to families that lived within a mile of a hazardous waste landfill site. Because the proposed expansion would not be a hazardous waste landfill and the project includes clean closing the Class I Area on the project site, the conclusion of this New York study would not be applicable.

It is noted that the Class I Area would not be clean closed under Alternatives 1B, 2B, 3, 4 and 5 because the Class I Area would not be utilized under those alternatives. For more information regarding these alternatives, the commenter is referred to Chapter 6, Alternatives. It is not possible to quantify the public health risks associated with keeping the hazardous waste in place within the Class I Area over the long term.

Regarding a decrease in land value for those living in the project vicinity, this would represent an economic impact that is outside the scope of this EIR. For more information on this issue, the commenter is referred to Response to Comment 7-5.

From: Cristina Jurevich
Cristina Jurevich <jurevichcristina@gmail.com>

To Whom it may concern

I am a resident of Hollister CA for over 16 years. My husband's family have lived and farmed here for over 60 years I as well as our entire family oppose the expansion of John Smith Landfill. 45-1

Our will roads suffer. The additional traffic will add to the already stressed roadways. The air quality will be poor due to Methane gas... The runoff from the landfill will pollute the neighboring homes.

The fact the this landfill will be used by several other counties not just San Benito, is something that very few residents are aware of, and I am 100% certain will be opposed to.

I am for responsible growth, but this , increased Traffic, horrible road conditions, poor Air Quality, and OUT OF COUNTY TRASH is not the way to responsible growth.

Thank you

Cristina Jurevich

45-1 The commenter identifies multiple reasons why they do not support the proposed project, including air pollution, runoff issues, and road condition. Traffic, stormwater runoff, and air quality impacts of the project are addressed in those respective chapters of the EIR. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Maureen Nelson

Stan,

Following up on my "Biological Resource Background Reports" listed in Table 4.6-1 of the Draft EIR at p. 4.6-1. I understand that CEQA required the County to have made these Reports available for public review at the same time and place as the Draft EIR itself, so that the public had the same 45-day opportunity to review them. Because this has not occurred, and there has been no response to my email, the County must grant an extension of the public comment period starting from when the Reports are posted on line, emailed, or otherwise made available to the public. 46-1

Maureen Nelson
303.641.0295

46-1 The commenter states that CEQA requires the County to have made the biological reports referenced in the Draft EIR available for public review at the same time and place as the Draft EIR itself, so that the public had the same 45-day opportunity to review them. The commenter states that because this has not occurred, the County must grant an extension of the public comment period starting from when the reports are posted on line, emailed, or otherwise made available to the public.

San Benito County Planning staff sent the commenter a link to the requested reports on 8/23/22. The commenter responded that she was not able to open the link. On 8/24/22, County Planning staff resent the link and she replied that it worked.

It should be noted that the biological technical studies were cited in the Draft EIR, but were not incorporated by reference. CEQA Guideline Section 15148 governs the citation of documents in an EIR, and provides as follows:

> *Preparation of EIRs is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR. The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.*

The EIR complies with this Guideline by listing the cited documents, and it goes beyond the requirements of the Guideline by describing in substantial detail the contents of the documents, such as the listings of various species that were evaluated, as shown in the tables in the biology chapter. Incorporation by reference is a separate and distinct process from citation, and it is permissive; Guideline 15150 states that lead agencies "may" incorporate other documents by reference. The EIR does not use the term incorporation by reference, and instead simply cites the various listed technical studies.

CEQA Guideline Section 15087 governs the required content of the public notice that a draft EIR is available for review. Subsection (c)(5) states that the notice must indicate the address at which the EIR "*and all documents incorporated by reference in the EIR will be available for public review*." This Guideline does not require that all cited documents be made available at a specific address. When the biological technical studies were requested, they were made available; the County is not aware of any instance in which a requested document was not made available. Please see also responses to comments 11-1 and 79-2.

Text message from: 8318012268@vzwpix.com

Hello Mr. Ketchum, I am a Hollister citizen and voter concerned with the proposed expansion of our landfill. I do not want tons of garbage coming into our county from outside communities. There are far more risks that outweigh the money collected to dump garbage here. Our community is already conserving water because of the drought. Our roads will be worse than ever with the tons of garbage being brought here by many semi's . I am concerned our ground water will be contaminated. I can go on with risks, but there are too many. I want this county to be a safe and beautiful place for my grandchildren to enjoy in their adulthood. 47-1

47-1 The commenter identifies multiple reasons why they do not support the proposed project. The comment is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Karl Broussard
Karl Broussard <k_broussard@yahoo.com>

Hello Stan,

Today, year to date revenues for John Smith Landfill were sent to me. At this point in time, topic (A) remains unanswered. My apologies if the request was not clear. What is being sought is a Landfill Expansion Cost Benefit Analysis of the Projected Revenues and All Associated Expenses, if the Landfill Expansion were to be approved. Also know as a Risk Analysis. This is a guiding document that will provide the County and Public the opportunity to know the cost plus weigh the risk of that cost (risk being documented in the dEIR). 48-1

Typically, an analysis would include all proposed (2300, 1700, 300) waste tonnage per day. I believe there are three proposed. Also the analysis would include Comprehensive and Projected Expenses that the county would incur such as current to date road damages ($14.1 mil) as an outstanding debt, $2.3 mil agreement received to offset road damage, projected additional annual road damages, projected trash litter clean-up increasing with tonnage. Any other known County expenses. I don't immediately have a complete list, but Police, Fire, water testing, staffing, legal, regulatory etc.

It may appear similar to a Profit and Loss Statement. Potential Reward of the Expanded Landfill, Subtracting the Total Expenses and Costs - be it an one-time or ongoing.

Many or at least some developers, business investors have them completed as a guide to help formulate final decision making. With a decision of this magnitude, San Benito County would presumably want to complete this for public consumption.

Thank you

Karl B.

Hello Stan,

it was good to meet you yesterday evening at the open forum on the Landfill. Here are three topics we discussed. Can we get answers for these:

A. Here are two quick excerpts from the County website FAQ on the Landfill Expansion: 48-2

1)The study was completed by an expert team of pavement engineering, traffic engineering and economic analysis consultants (team: Pavement Engineering Inc., TJKM (for traffic analysis) and EPS (economic analysis)). Study results were to be used for landfill amendment negotiations. Study results showed the haul route was in 'poor or failing' condition and the out-of-county waste transport on roads necessitates significant costs for road repair in the amount of $14.1 million and required additional costs for annual road maintenance. The county and WSG reached an agreement providing an additional $2,300,000 that is to be used for road repairs on roadways to the landfill.

2) The county pays $40,000 per year for a contractor to keep John Smith Road clean through twice a week litter cleanups.

To date, there is no County Budget available **explaining how the Landfill will financially benefit San Benito County.** Seems the Supervisors and County Planning Dept should not make any decisions until real and solid numbers are made public. And given time to review and comment.

48-2 (Cont.)

For the math, i understand there is a $7 million agreement between WSG and the county for transferring the land back to San Benito. (This on the surface sounds good, but there is a side matter of legal liability being handed back to San Benito for a 'toxic' dump. Let's not get into this at this moment. But it is a very important matter to be reviewed and commented-on by the County) Next, I recall reading an estimated calculation of 900k per year of revenue.

As for the road clean-up, it's fair to expect that cost will at least double to $80k. At our counties expense.

Clearly the math does not pencil out. Revenue shortages from day 1 (considering 14.1mil in road damages), and SB will always run short when considering future road damage and trash pickup. And that does not begin to consider the issue of water shortages & contamination, and other pollution remediation.

It's only right for the public get full disclosure of Financial Statements clearly detailing the numbers before any other consideration is given on this proposal.

B. San Benito County has a rural exemption for County compost waste, however counties and cities that would have their garbage brought to San Benito (per the Landfill proposal) may not currently comply with state law (i.e. San Jose)

48-3

Would this put us in jeopardy of performing a fraudulent act creating a potential legal issues with the State of California? Who manages this risk on behalf of our county? Which entity or county is liable for the potential legal fallout?

Questions for Aethetics Segment of dEIR

48-4

- Please add and provide examples of 30,000 Lumens.
- What would be the expanse of the area with 30,000 lumens? Five football fields, or a single family home?
- Would the lighting be on tall poles similar to a football stadium? Pointing down does not necessarily mitigate light pollution. How will this be mitigagted? And until what time will the lights be turned-on? Or is it expected to be lighted all night for security purposes? The landfill visibility is deemed to have Significant impact: What will be the expected impact of lighting on the skyline, near by homes and surrounding areas? Please detail.
- More detail on surrounding visual barriers of Landfill. Trees, fences. Give examples or renderings.

48-1 The commenter requests that specific project financial information be provided. Economic issues are outside of the scope of the EIR. For more information on this topic, the commenter is referred to Response to Comment 7-5.

48-2 Please see Response to Comment 48-1. Please also see Responses to Comments 31-1 and 80-28 regarding the Mitigation Measure for impacts to County roads and nexus study to determine the applicant's fair-share responsibility toward improvement, rehabilitation, repair, and reconstruction of the haul route to accommodate and mitigate for degradation of the haul route from the expansion project.

48-3 The commenter states that San Benito County has a rural exemption for County compost waste, however counties and cities that would have their garbage brought to San Benito (per the landfill proposal) may not currently comply with state law, San Benito County does have a rural exemption for some of the Senate Bill 1383 requirements, including mandatory commercial and residential organics recycling. The commenter asks if the County is in jeopardy of performing a fraudulent act creating a potential legal issue with the State of California. San Benito County is not legally responsible for the acts of other governmental jurisdictions in the state. Please also see Response to Comment 32-1.

48-4 The commenter asks that an example of 30,000 lumens be provided. This level of lighting would be consistent with an average-sized warehouse building of approximately 15,000 square feet that included 30 downcast security lights placed approximately every 15 feet around the exterior of the building. The commenter asks about the expanse of the area containing the 30,000 lumens. The lighting at the site is expected to be limited to the new entrance area, which includes an area of approximately five acres.

The commenter asks when the security lighting will be on and asks about the impacts of the lighting. The light is for security purposes and would be on during nighttime hours. For a discussion of the impacts associated with site lighting, the commenter is referred to Impact 4.11-3, which is described commencing on page 4.11-19 of Section 4.11, Aesthetics. The commenter requests that examples of surrounding visual barriers be provided. The commenter is referred to the visual simulations included in Section 4.11, which include existing topographic and vegetation barriers that currently screen views of the site from multiple viewpoints.

Letter
49

From: Melanie Baum
Melanie <melaniewadefitness@gmail.com>

Please consider not expanding the landfill size. As a life long san benito county resident, i feel it is unsafe for the environment and the residents. The landfill is too close to the community and Rancho Santana school for that amount of waste. 49-1

Respectfully,

Melanie Baum

49-1 The commenter identifies reasons why they do not support the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Letter
50

James O'Donnell <od7373@gmail.com>
From: James F O'Donnell

Use of the landfill, expanded or not, should be strictly limited to San Benito County Residents and Businesses. No *out-of-town* waste of any kind should be allowed to dump in San Benito County. ***The counties around us do not accept waste from out of the area***). We need to explore other options to improve County revenue sources and never ever rely on *out-of-town* waste for that purpose.
We should not try to solve the problems for other counties. 50-1

James F O'Donnell
73 California Street
Hollister, CA 9502

50-1 The commenter states that waste disposal at the landfill should be strictly limited to San Benito County residents and businesses. This comment is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The commenter also states that most landfills in the area do not accept wastes from outside the area. Most of the landfills in the region surrounding San Benito County do accept some amount of waste from other jurisdictions, as discussed in detail in Response to Comment 19-1.

From: Kent Gordon
kagranch@gmail.com
To: Betsy Dirks, Supervisor, District One, San Benito Board Of Supervisors
From: Kent Gordon; 3760 Santa Ana Valley Road, Hollister
Subject: John Smith Landfill Expansion Project

The John Smith Landfill Expansion Project represents a significant shift in the usage and intention of the original landfill. The expansion as described in the EIR is roughly 80% for the benefit of Santa Clara County. This new version might rightly be called the "Santa Clara County Landfill of Hollister" (rather like the "Los Angeles Angels of Anaheim"). Accepting 2000 tons of trash per day from Santa Clara County is highly problematic. Although the revenue stream from this waste is significant, it has never been accurately balanced out by accounting for the costs of ongoing maintenance and repair of the roadways impacted by the trash trucks hauling their waste here. This 'treadmill effect' means that San Benito County receives money (and trash) from Santa Clara County but spends much of it repairing the damage done to the roadways as a result of the trash trucks. It seems that no one (certainly not the representatives of Waste Solutions) is willing to discuss the ongoing costs offsetting the revenue stream to determine the net benefit to San Benito County. It's hard to make headway when you're on a treadmill. 51-1

The acceptance of out-of-county trash was a decision reached by the County Board of Supervisors some years ago. No doubt it seemed like a good decision at the time. But this new expansion greatly distorts the original concept through its sheer size and volume. The costs of accepting out-of-county trash are accruing all along Shore Road, Fairview Road and John Smith Road. Repaving projects along the trash delivery route merely point out the diversion of resources from the other roads of the County in equally desperate need of repair. The air pollution associated with these trash trucks can be quantified and accounted for. The amounts of garbage escaping from these trucks can be observed by County residents and those who live along these disposal routes. Re-routing the trucks along State Route 25 and McCloskey Road merely moves the problem from one location to another. It solves nothing. We now have the benefit of some years of observation and evaluation. Accepting out-of-county trash has not been a winning strategy for addressing the needs of San Benito County.

We should also consider the sustainability of the project. The Project Alternatives point to a set of parameters that serve the trash disposal needs of San Benito County for the next 50 years without the enormous impact of the original proposed expansion. Portions of Alternative 3 seem to provide an acceptable level of trash capacity for San Benito County. The reduced footprint of the project keeps it in line with the needs of the County, as does the 300 tons per day limit on trash disposal. This proposal does not generate the income of the original proposal, neither for San Benito County, nor Waste Solutions. But it is a proposal that is in scale with the needs of the County and its residents, and does not create the ongoing costs (environmental, economic and aesthetic) that the original expansion proposal entails.

If the San Benito County Board of Supervisors looks at the entirety of the John Smith Landfill Expansion Project, they must consider the needs of the people of their county first and foremost. The needs and finances of Waste Solutions and the trash disposal needs of Santa Clara County should not be their primary concerns. The original expansion plan is not a good fit for San Benito County, and far better alternatives exist that will be much more in keeping with the needs of its residents.

Letter
51
Response **Kent Gordon**

51-1 The commenter identifies multiple reasons why they do not support the proposed project and identifies Alternatives 3 as a proposal that is in scale with the needs of the County and its residents. The commenter's opposition to the proposed project and support for Alternative 3 are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The commenter is also referred to the impact discussion included in the resource sections (Sections 4.1 through 4.12) as well as Chapter 5, Cumulative and Growth Inducing Impacts, and Chapter, Alternatives, of the Draft EIR.

Letter
52

From: Shannon Allen <atosallen@gmail.com>
Sent: Tuesday, August 16, 2022 11:38 AM
To: Bob Tiffany <supervisortiffany@cosb.us>
Subject: John Smith Landfill Expansion & Heatherwood Estates

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
Good afternoon Supervisor Tiffany,

52-1

I am writing in response to the John Smith Road Landfill expansion and my family's concerns regarding the project. We currently reside in Heatherwood Estates and foresee this project having a huge impact on our daily lives in many ways. As it stands, living next to a landfill is no one's dream location, however when we moved here 6 years ago, we believed the landfill would not present any major issues in our day-to-day well being. Unfortunately this may all change.

In general, we do not see the benefits outweighing the costs of expansion when it has been reported that 78% of incoming dumps per day are from outside counties. As directly affected citizens of this proposal, we do not believe we should have to shoulder the responsibility of other counties trash nor the mis-management of city funds.

As for traffic and transportation, John Smith is our main artery in and out of our neighborhood . That being said, we already experience flat tires every few months from dump 'droppings' on the road. I did not see or hear of a proposed plan to minimize the waste produced by overloaded trucks and road wear and tear. Recently we drove over a huge piece of metal laying in the middle of the road that was undoubtedly a 'fall off' from a dump run. This scrap ended up puncturing our car's undercarriage and now is in need of repair. It would be helpful to understand what measures will be taken to ensure trash droppings will be managed and picked up on a regular basis as well as road fixes on a as-needed basis.

Noise is yet another concern. As I explore and play with my 3 young kids outdoors on a daily basis, we already hear too many big rigs recklessly driving down John Smith as it is. Furthermore drivers like to frequently park in front of our community sign and tarp down their belongings, leaving trash and rubble behind. When we moved to Hollister from the big city of San Jose, we were seeking peace, space and fresh air. All of that is being threatened with the impending plans of the dump expansion.

From our understanding of things, the water run-off from the dump will increase with the expansion. As we run 100% on well-water in the Heatherwood and Fox Hill neighborhoods, it is rather concerning knowing that this run-off may contaminate our wells. After 5 years of volunteered work to get our wells working properly and without exacerbated levels of toxins, it would be so disheartening to have the dump's mis-management of run-off be the downfall of our community's hard work. It is my understanding as per the Benito Link article dated 8/4/22 that "in the 1960s when the landfill first began operating there was no protective liner and waste of all categories has been mixed. That layer of waste is still there leaching toxins. Groundwater contamination from toxic waste is increasing and spreading to nearby communities, such as Heatherwood Estates and eventually Santana Ranch."

Aesthetically, we trust that the landscape of our beautiful town will be preserved. Who in their right mind would approve such a monstrosity that collects other counties unwanted mess to destroy our town? While I have faith in our leaders to not impact our gorgeous views and vistas, it is a concern.

Thank you for taking the time to read my concerns.

Sincerely,
Shannon Allen

52-1 Please see Responses to Comments 13-2 and 18-1 through 18-5. Please also see the Master Response on Groundwater Contamination included at the beginning of the responses.

From: James Brown <jb99xr400@yahoo.com>

I am concerned about the proposed landfill expansion for many reasons. We do not need the extra very dangerous big rig traffic destroying our already very poor condition roads. These trucks emitting air pollution drive up & down Fairview Road past a school with students at play & exercising in PE. I am also concerned about the ground water being contaminated in our community, also the extra use of fresh potable water that is in short supply to water down the dump area. These Counties have their own dump to use instead of hauling it to SBC dump. This dump is in close proximity to our schools & residential homes, Remember who you actually work for being a taxpayer here i want all County supervisors to Vote No to this not needed for Our County expansion. Thank you, Jim Brown

53-1

53-1 The commenter identifies multiple concerns regarding the proposed project. The commenter's concerns are noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please also see the Master Response on Groundwater Contamination at the beginning of the responses to comments.

From: Tony Yadegari
Tony Y. <tyadegari@yahoo.com>
Good morning Sir,
I live off Fairview in Santana Ranch and the road is already extremely busy and dangerous. We can't have garbage trucks on these roads going by every two minutes,, all day bringing in 2300 tons of trash a day from the Bay Area. 54-1
With being only a mile away from Rancho Santana school it will bring health issues, bad smells, more traffic, ground water contamination, etc... It's too close to residential areas.

This type of project needs to be far removed from any residential areas. I can't even believe this project is being considered here.

Best regards,
Tony Yadegari

54-1 The commenter identifies multiple reasons why they do not support the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter states that they cannot have garbage trucks on the County roads going by every two minutes. For the new out-of-County commercial trucks, at their peak level, they would be expected to pass every 4.5 minutes during weekdays, on average in winter months, with half of the passing trucks being fully loaded and the other half being empty. Because this number represents a peak of out-of-County commercial vehicles, during most weekdays the average passing time between new out-of-County commercial vehicles would be greater than 4.5 minutes, particularly during summer months when the arrival of commercial vehicles may be spread over a longer acceptance period. Additionally, because the proposed haul route would use different routes for travel to and from the landfill, the average passing time from most locations would be greater than 4.5 minutes.

From: Brian Schmidt, Committee for Green Foothills
August 29, 2022
Stan Ketchum
San Benito County Planning and Land Use Division
Re: Comment on the John Smith Road Landfill Expansion Draft Environmental Impact Report
Dear Mr. Ketchum:

Thank you for the opportunity to comment on the John Smith Road Landfill Expansion Draft Environmental Impact Report (DEIR). Green Foothills submits these comments in support of its mission to protect the open spaces, farmlands, and natural resources for the benefit of all through advocacy, education, and grassroots action. 55-1

To summarize, absent substantial revision, the DEIR cannot be used as the basis of approval for the project. The County should reject expansion of the landfill and should end further environmental review. If the County chooses not to terminate the project, then substantial revision and recirculation of the DEIR will be necessary.

Comments on Land Use Section Inconsistency with Applicable Plans Adopted to Avoid Environmental Impacts.
The DEIR incorrectly states the proposed project would not conflict with an applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. It does conflict, creating a significant, unrecognized impact from plan inconsistency.

First, Policy LU-1.3 Future Development Timing, requires the County to "ensure that future development does not outpace the ability of either the County or other public/private service providers to provide adequate services and infrastructure." DEIR Table 4.1-2. This project routes leachate from a multi-county population many times larger than the population of San Benito to the wastewater treatment plant. This leachate is has the potential for significantly impairing the processing capability of the wastewater treatment plant as well as placing over-large demands on the plant's processing capabilty. The DEIR fails to specifically address this significant impact.

Furthermore, Table 4.1-2 mentions NCR-4.5 Groundwater Recharge encouraging preservation of groundwater recharge, but then incorrectly dismisses the loss of hundreds of acres of recharge as a negligible portion of the surrounding undeveloped area. Hundreds of acres of lost recharge is significant in comparison to the wells of homeowners in the vicinity of the project, something that was not analyzed in the DEIR. The DEIR further fails to consider the cumulative impacts of this project with other developments causing the loss of groundwater recharge. Individually and cumulatively, the project conflicts with NCR-4.5, a significant and unrecognized impact. For the reasons discussed in this paragraph, Impact 4.8-4 Potential for Decreased Groundwater Recharge, is also incorrectly described as Less Than Significant when it in fact has a Significant impact to local groundwater.) 55-2

Conversion of Farmland. The DEIR misstates a Threshold of Significance as being triggered if the project would "Involve other changes in the existing environment which, because of their location or 1 nature, could result in conversion of Important Farmland to nonagricultural use." DEIR 4.1-7. The actual CEQA Guideline language at Appendix G.II(e) instead says: 55-3

Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use

Cailfornia's Department of Conservation defines Farmland as follows:

For environmental review purposes under CEQA, the categories of Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, and Grazing Land constitute 'agricultural land' (Public Resources Code Section 21060.1). The remaining categories are used for reporting changes in land use as required for FMMP's biennial farmland conversion report. (See "Important Farmland Categories" at https://www.conservation.ca.gov/dlrp/fmmp/Pages/Important-Farmland-Categories.aspx)

The DEIR provides an incomplete analysis of the project due to inaccurate statements of the appropriate Thresholds of Significance. The DEIR acknowledges a large loss of Grazing Land from the project in the Land Use section, but fails to analyze this as a loss of Farmland. This project in fact involves substantial reduction of Farmland as defined above, and constitutes a significant impact neither identified, quantified or mitigated in the DEIR. Impact 4.1-3 is therefore described deficiently and cannot be a basis for a decision to approve this project. Similar deficiencies would be involved with all other alternatives except for the No Project Alternative. 55-3 (Cont.)

Other Comments Improper Choice of Baseline Throughout the DEIR. While EIRs "normally" use the existing conditions at the time of the NOP as the baseline to measure project impacts (CEQA Guidelines s. 15125(a)), the choice can appropriately be well-understood future conditions when "projected future conditions that are supported by reliable projections based on substantial evidence in the record." Here, it was well understood at the time of the NOP, and in fact occurred prior to issuance of the DEIR, that the landfill would have to stop accepting out-of-county waste. Accordingly, the appropriate choice of baseline is existing conditions today, with significant reductions of baseline levels of almost all aspects of landfill operations, including but not limited to traffic, air emissions, water usage, and energy usage. The baseline for all aspects should be current existing conditions. The failure to do so means the DEIR underestimates the actual impacts by measuring them against an artificially-high baseline. 55-4

Section 4.4 Greenhouse Gas Emissions. This section underestimates the significant impact of greenhouse gas emissions (GHG) for Impact 4.4-1 because it fails to include the embedded emissions - the production emissions - of the equipment used in whole or in part at the landfill, including the portion of the lifetime use of vehicles used to bring waste to the landfill. These production/embedded emissions are considerable and quantifiable. As a significant impact, the DEIR is required to accurately quantify this impact and it has failed to do so. For more information, see "Carbon Footprint of Construction Equipment" by Climate Neutral Group (attached). In addition to construction equipment, the various heavy and light vehicles used to haul trash should have a proportion of their production emissions allocated to the project in accordance with the percentage of their overall mileage that is spent traveling to and from the landfill, and the failure to do so results in an underestimation of this significant impact. 2 55-5

Furthermore, the expanded amount of leachate from the project will have to be treated at the wastewater plant, and GHG emissions involved this wastewater treatment were omitted, also underestimating this impact. As with embedded emissions in the production of construction equipment and vehicles used to haul waste and cover materials to the landfill, these emissions are understood and quantified, so their inclusion in the analysis would not be speculative, and their omission renders the analysis deficient. 55-6

Impact 4.10-1 Exposure to Known and Unknown Hazardous Materials. The DEIR correctly acknowledges that with increased waste brought to the landfill, it would be "expected that an increased amount of incidental hazardous waste, on a daily basis, could be illegally or accidentally delivered to the site and deposited into the landfill within loads of municipal solid waste." It goes on incorrectly, however, to assume that hazardous waste would be detected. 55-7

A multi-county settlement of a lawsuit last year against Ulta Beauty for its practice of putting hazardous waste in the municipal waste stream shows this is an ongoing problem. See the attached settlement document, Ulta Final Stipulation and Judgment. The waste includes Santa Clara County with that waste coming to the landfill. The landfill did not detect the waste and San Benito County did not even participate in the settlement despite being affected, achieving no direct benefit from the settlement. This indicates that detection systems are inadequate and with the vastly increased waste stream from the project, more hazardous waste should arrive, constituting a significant and unrecognized impact.

Conclusion. For all the reasons stated above, the County cannot legally proceed with the project on the basis of this inadequate DEIR, and we request that the County terminate the project and continue the use of the landfill for in-County waste only. 55-8

Please contact us with any questions.
Sincerely, Brian Schmidt Policy and Advocacy Director

55-9

Attachments to be provided:
Carbon Footprint of Construction Equipment
Ulta Final Stipulation and Judgment

55-1 The commenter states that the Draft EIR cannot be used as the basis of project approval and that substantial revision and recirculation of the Draft EIR will be necessary. This comment is noted for the record.

The commenter states that the proposed project would conflict with Policy LU-1.3 related to future development timing because the project routes leachate to the wastewater treatment plant. The proposed project would be expected to nearly double the amount of wastewater generated from the site, from 4.58 gallons per minute (gpm) to 9.09 gpm. This increase would be equivalent to the wastewater generated from approximately 26 residential homes (assuming three people per residence generating 83 gallons per day as identified in the San Benito County Code Section 23.31.081(A0(1)(b)) and would represent less than 0.65 percent of the City of Hollister wastewater treatment plant's available capacity. Leachate represents the largest component of this increase and it is proposed to be applied within lined areas of the landfill or to be reinjected into the waste. For the leachate use, three or more 10,300-gallon storage tanks would be installed within the site entrance area and leachate would be piped to these tanks from the landfill's leachate collection and recovery system. Only leachate not required for operational uses would be piped to the wastewater treatment plant. At the most, 50 percent of the leachate would be directed to the wastewater treatment plant. However, the actual percentage is expected to be much lower and the applicant's intent is to use all of the leachate on the project site. The Draft EIR concluded that the existing wastewater facilities would be adequate to serve the proposed project and that the project's impacts on wastewater treatment would be less than significant (See Impact 4.12-2 on page 4.2-14 of the Draft EIR). In addition, by minimizing the increase in leachate generation that would need to be treated offsite, the Draft EIR concluded that the proposed project would have a negligible effect on the City's wastewater collection and treatment system. For more information of the proposed project's wastewater generation and treatment, including specifically the capacity of the City of Hollister Wastewater Treatment Plant, the commenter is referred to page 4.12-2 of Section 4.12, Public Services, Utilities and Energy, of the Draft EIR.

55-2 The commenter states that the project conflicts with Policy NCR-4.5 Groundwater Recharge because it dismisses the loss of hundreds of acres of recharge area. As discussed under Impact 4.8-4 on page 4.8-27 of the EIR, at buildout, the impermeable area of the landfill (the lined portion) would be 195 acres more than the current landfill footprint (253 acres of future footprint less 58 acres currently). These 195 acres represent approximately 7.5 percent of the area of USGS Topographic Map T&R Sections 4, 5, 8, and 9 where the landfill is located. Although the proposed expansion would reduce the area available for recharge within the immediate project vicinity, due to the site's remote location, large areas are available surrounding the site that would continue to accommodate groundwater recharge. Further, a portion of the runoff from the site would recharge the groundwater surrounding the site. Because these surrounding lands are predominantly designated for agricultural uses (see EIR Figures 4.1.1 and 4.1.2), they are not expected to be developed in the future and would continue to provide areas for groundwater recharge. Cumulative development is not anticipated to occur on these agricultural lands. Therefore, the project would not contribute to a cumulative loss in area for groundwater recharge in the project area. For these reasons, the projected reduction (7.5 percent) in available recharge area that could occur as a result of the proposed project would not substantially decrease groundwater supplies or otherwise adversely affect groundwater recharge in the project vicinity.

55-3 The commenter states that the Draft EIR misstates the threshold of significance related to farmland conversion. The question related to agricultural resources included in Appendix G.II(a) of the State

CEQA Guidelines, which was used to establish the agricultural resource threshold in Section 4.1. Land Use, of the Draft EIR, asks whether the project would convert prime farmland, unique farmland, or farmland of statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. As stated in this question (Appendix G.II(a)), Farmland is defined as including solely prime farmland, unique farmland, or farmland of statewide importance. The Farmland term is later included in the question mentioned by the commenter (Appendix G.II(e)) and there is no indication in this question that the definition differs from its original reference in Appendix G.II(a). The commenter is further referred to Public Resources Code Section 21060.1, which the commenter inaccurately summarizes. As stated in Section 21060.1(a), "Agricultural land" means prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California. As noted by the commenter, the California Farmland Mapping and Monitoring Program lists grazing lands in its discussion of "Important Farmland" categories, but notes that this category is used for reporting changes in land use as required for FMMP's biennial farmland conversion report, and is not on the list of actual important farmlands. https://www.conservation.ca.gov/dlrp/fmmp/Pages/Important-Farmland-Categories.aspx

As stated under Impact 4.3-1 commencing on page 4.1-10 of the Draft EIR, the project would not convert prime farmland, unique farmland, or farmland of statewide importance to non-agricultural uses. Therefore, the Draft EIR appropriately concluded that the proposed project would have no significant impacts on agricultural resources.

55-4 The commenter states that the selected baseline is inappropriate. Under CEQA Guideline §15125(a)(1): The environmental setting as of the date of the Notice of Preparation will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. For this EIR, the date of the Notice of Preparation is February 22, 2021; in compliance with the CEQA Guidelines, that date is used as the date for determining the existing conditions baseline.

The existing conditions in effect as of the Notice of Preparation date (including out-of-County waste imports in addition to local disposal) had also been in effect for a number of years prior to the Notice of Preparation, so this baseline is more reflective of long-term conditions at the site than the current reduced-operations baseline (with out-of-County waste not accepted).

Having said this, if the baseline excludes trips from out-of-County waste, Tables 4.3-7 and 4.3-12 included in Section 4.3 Air Quality, of the Draft EIR would be modified as shown below. Within Section 4.3, the comparisons of criteria pollutants and health risk are based on the proposed project concentration without subtracting the baseline concentrations. This is a conservative approach in which the baseline is considered zero. Therefore, the comparisons to the thresholds of significance would not change regardless of the baseline. Modified Tables 4.3-7 and 4.3-12 provide a quantitative picture of the change from baseline assuming no out-of-County waste, but do not change the conclusions of the section.

Modified Table 4.3-7

Off-Site Waste Delivery Vehicle Emissions Within MBARD (Indirect) - Assuming Baseline with No Out of County Trips

Analyzed Condition	NOx[4] (lbs/day)	ROG[4] (lbs/day)	CO[3] (lbs/day)	PM_{10}[1] (lbs/day)	$PM_{2.5}$[1] (lbs/day)	SOx (SO_2)[4] (lbs/day)
Baseline Peak Traffic Day[5]	6.55	1.50	29.99	9.59	2.78	0.15
Baseline Peak Tonnage Day[5]	6.13	0.56	12.66	5.63	1.60	0.08

Project Peak Traffic Day, 2070[2]	6.51	0.15	3.75	18.98	4.99	0.15
Project Peak Tonnage Day, 2042	22.57	0.29	6.02	46.88	11.98	0.16
Change in Peak Traffic Day	-0.04	-1.35	-26.24	9.39	2.21	0.00
Change in Peak Tonnage Day	16.44	-0.27	-6.64	41.25	10.38	0.08

Notes:

1: Includes exhaust, brake wear, tire wear, and road dust and assumes dry day.

2: Assumes 2050 model year (highest year in EMFAC2010), does not include conversion to zero emissions.

3: Winter EFs were used to calculate emissions per MBARD CEQA Guidelines.

4: Summer EFs were used to calculate emissions per MBARD CEQA Guidelines.

5: Assumes no trips with out-of-County waste.

Modified Table 4.3-12

Estimated Emissions from John Smith Road - Assuming Baseline with No Out of County Trips

Emissions Source	Daily Total NOx Emissions (lbs/day)	Daily Total ROG Emissions (lbs/day)	Daily Total PM_{10} Emissions (lbs/day)[1]	Daily Total $PM_{2.5}$ Emissions (lbs/day)[1]	DPM Emissions (lbs/day)[2]	Daily Total CO Emissions (lbs/day)	Daily Total SO_2 Emissions (lbs/day)
Peak Traffic Day Baseline[3]	1.77	0.21	19.10	4.75	0.0001	5.68	0.04
Peak Traffic Day Proposed Project	2.30	0.30	31.99	7.93	0.0007	5.58	0.01
Difference	0.53	0.09	12.89	3.18	0.0006	-0.10	-0.03
Peak Tonnage Day Baseline[3]	1.58	0.11	12.13	3.00	0.0003	2.69	0.02
Peak Tonnage Day Proposed Project	4.26	0.13	51.72	12.76	0.0032	2.81	0.02
Difference	2.68	0.02	39.59	9.76	0.0029	0.13	0.00
Average Baseline[3]	1.96	0.13	14.58	3.61	0.0004	3.11	0.01
Average Proposed Project	1.72	0.03	34.82	8.59	0.0019	3.75	0.02
Difference	-0.24	-0.10	20.24	4.98	0.0015	0.64	0.01
MBARD Thresholds	137	137	82	82		550	150

Notes:

1: Includes exhaust, brake wear, tire wear, and road dust (road dust assumes dry pavement).

2: Assuming 8% of $PM_{2.5}$ from diesel exhaust is DPM.

3: Assumes no trips with out-of-County waste.

4: Average proposed project was used for DPM Health-Risk Modeling.

If out-of-County trips were removed from the baseline calculation for GHG emissions to estimate the change in emissions without including out-of-County traffic in the baseline, the change from background

would be approximately 2,825 MTCO2e/year more than stated in Tables 4.4-6 and 4.4-9. The baseline change would not change the conclusion (Impact 4.4-1) that the impacts from GHG emissions would be significant and unavoidable and would not change the mitigation measures described in Section 4.4.

For traffic, if out-of-County trips were removed from the baseline calculation and added to the proposed project, the project would be expected to increase the estimated vehicle miles traveled by trucks. The truck vehicle miles traveled for the proposed project would increase by 3,682 miles per day to a total of 10,002 miles per day, which reflects the truck miles traveled by out-of-County commercial vehicles as of the date of the Notice of Preparation release (see Table 4.12-2 on page 4.12-17 of the Draft EIR). Concurrently, the baseline vehicle miles traveled would decrease by 3,682 miles per day to a total of 3.658 miles per day. However, removing out-of-County truck trips from the baseline condition would not change the impact conclusion on page 4.2-11 of the Draft EIR, which states that the proposed project would have a less-than-significant impact related to vehicle miles traveled because the project would not alter the amount or distance of automobile travel attributable to a project. This change would also not have any effect on the roadway or pavement hazard impacts included in Section 4.2 of the Draft EIR because the impacts were evaluated based on the total vehicles traveling through intersections and traveling on local roads not just the project trips. For Impacts 4.2-3, 4.2-4, and 4.2-6, they would continue to be considered significant and the same mitigation as currently included in the Draft EIR would be required to reduce these impacts to less than significant. The nexus study discussed in Responses to Comments 31-1 and 80-28 also determines the applicant's fair-share contribution toward road rehabilitation, repair, and reconstruction based on all heavy-duty 5-axle trucks and does not exclude heavy-duty 5-axle trucks utilizing County roads at issuance of the Notice of Preparation.

For energy consumption, if out-of-County trips were removed from the baseline calculation and added to the proposed project, the project would be expected to increase the estimated vehicle miles traveled and correspondingly increase the consumption of vehicle fuel. However, because the proposed project would be required to comply with Title 24 energy efficiency standards and would include energy generation components (RNG facility and solar electric system or the purchase 100 percent non-carbon energy), the removal of the out-of-County trips from the baseline calculation would not cause the inefficient, wasteful or unnecessary consumption of energy and would not cause a conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, the energy impact conclusion on page 4.12-18 of the Draft EIR would not change with the removal of out-of-County trips from the baseline calculation and this impact would remain less than significant.

For water supply, if out-of-County trips were removed from the baseline calculation, the project's water demand would slightly increase when compared to baseline conditions due to the increase in water use during waste handling operations (i.e., dust control); however, the total water demand associated with project implementation at the site would not change. As stated on page 4.12-11 of the Draft EIR, the total annual operational water usage is projected to be approximately 5.26 million gallons. This includes existing plus project water demand. Detailed long-term water usage calculations are provided in Appendix D of the Draft EIR. The Draft EIR concluded that the project's proposed water sources were sufficient to meet the project's total water supply needs. Therefore, the water supply impact conclusion on page 4.12-14 of the Draft EIR would not change with the removal of out-of-County trips from the baseline calculation and this impact would remain less than significant.

For noise impacts, as noted in Impact 4.5-2 on page 4.5-14 of the Draft EIR, the proposed project would generate new vehicle trips that would only slightly increase noise levels along the roads used to access the site including John Smith Road. For transportation noise sources, the threshold of significance established in the Draft EIR states that noise impacts would be significant if the proposed project caused existing noise levels for residential uses adjacent to the affected roadway to exceed 60 dBA, L_{dn} or if the proposed project caused an increase of 3 dBA in a location with existing noise levels above 60 dBA, L_{dn}. The evaluation in Table 4.5-7 on page 4.5-15 of the Draft EIR shows that the project-related traffic noise

increase on the most affected roads, which have existing noise levels above 60 dB, would be less than 3 dB, L_{dn} (i.e., 2.2 decibels). When out-of-County commercial vehicles are eliminated from the existing conditions baseline, the difference is slightly higher (i.e., 2.7 decibels) but would still not exceed the 3 dB, L_{dn} threshold. The Draft EIR concluded that project-generated off-site vehicle noise level increases along affected roadways would not exceed the allowable decibel level threshold, this impact would be less than significant, and no mitigation measures would be required. This conclusion does not change if out-of-County commercial vehicles are eliminated from the existing conditions baseline.

Please also see Responses to Comments 66-3, 80-21, and 80-34.

55-5 The commenter raises concerns regarding the consideration of life-cycle greenhouse gas emissions in the Draft EIR. CEQA does not require a full lifecycle analysis of greenhouse gas emissions used in vehicles associated with a project. The California Natural Resources Agency, in its Final Statement of Reasons for Regulatory Action for the Amendments to the State CEQA Guidelines (November 2018) found that CEQA analysis of energy and related impacts, including greenhouse gas emissions, is subject to the rule of reason. This means that a lead agency is not required to speculate about the emissions related to the manufacturing of equipment used in the project, the lifespan of the equipment, or its ability to be recycled upon conclusion of its life. The 2018 Final Statement of Reasons references the California Natural Resources Agency's 2009 Statement of Reasons for amending the CEQA Guidelines to require analysis of greenhouse gases. That 2009 document notes that the 2009 amendments to the CEQA Guidelines removed the term "lifecycle" from Appendix F for a number of reasons. First, no existing regulatory definition of "lifecycle" exists. Second, requiring such an analysis may not be consistent with CEQA because lifecycle emissions could include emissions beyond those that could be considered "indirect effects" of a project as that term is defined in section 15358 of the State CEQA Guidelines. The Natural Resources Agency also specifically declined to require lifecycle analysis of greenhouse gas emissions as part of CEQA Guideline section 15064.4(b).

A lead agency can require mitigation only for emissions directly or indirectly controlled by the project applicant. The chain of economic production resulting in materials manufacture of, for example, vehicles used on the project site involves numerous parties outside the control of the lead agency and project proponent. For example, neither the lead agency nor the project proponent can require a truck manufacturer to use recycled metal in a truck body. These numerous parties are each in turn responsible for the greenhouse gas (GHG) emissions associated with their particular activity should that activity be evaluated under CEQA.

55-6 The commenter states that the GHG emissions involved in wastewater treatment were omitted. The GHG emissions from leachate disposal are included in GHG emissions for wastewater disposal. Indirect GHG emissions from water usage and wastewater disposal were calculated as described in Attachment J to Appendix C, Section 6, and are summarized per year in Attachment U to Appendix C of the Draft EIR. The emissions from electricity to operate the pumps is included in the GHG analysis for electrical use. Calculations of indirect GHG from energy usage, excluding the proposed RNG Facility, are included in Appendix C and summarized in Attachment U within the Appendix C of the Draft EIR. Therefore, there is no omission in this case.

55-7 The commenter states that the hazardous waste detection systems are inadequate and this represents a significant and unrecognized impact. The commenter is referred to Impact 4.10-1 on page 4.10-13 of the Draft EIR, which recognizes that an increase in the allowable peak daily tonnage at the site could result in an increase in the amount of incidental hazardous waste illegally or accidentally delivered to the site within loads of municipal solid waste. However, these hazardous wastes would not be expected to create a public health hazard because the landfill would continue to enforce a no-acceptance policy regarding hazardous waste, the continued implementation of the existing load-checking program would greatly reduce the chances that hazardous waste would be deposited into the landfill without detection, a portion

of the waste entering the landfill is first sorted and inspected within material recovery facilities prior to transport to the site, and a household hazardous waste storage facility is available at the site. In addition, the existing hazardous materials employee training program would continue to be utilized to educate and direct employees on the proper methods for handling hazardous waste and safely responding to emergencies, thereby further minimizing the risk of human exposure to hazardous waste in the landfill. For these reasons, the Draft EIR concluded that any potential impact to human health or potential risk of upset resulting from possible illegal or accidental disposal of hazardous wastes is expected to be less than significant.

The commenter raises concerns regarding a multi-county settlement of a lawsuit last year against Ulta Beauty for its practice of putting hazardous waste in the municipal waste stream. Ongoing enforcement actions such as the Ulta Beauty Final Stipulation and Judgment and the public awareness these actions generate would be expected to reduce the potential that other companies would follow Ulta Beauty's example and similarly dispose of hazardous wastes in violation of both federal and state laws. The continued enforcement of these laws, when combined with the continued enforce of the landfill's no-acceptance policy and load-checking program, would substantially reduce the risk that significant quantities of hazardous wastes would be disposed of in the landfill.

In addition, section 15.01.061 of the County Code provides:

> It is unlawful for any person to transport solid waste, soil, or fill material within the county without an origination of waste document. An origination of waste document is a document which identifies the nature of the waste, where the waste was located before it was loaded for transportation, the estimated weight of the solid waste, a statement identifying the person in possession of the solid waste before the transporter of solid waste took possession of the solid waste and a statement identifying all transporters of solid waste. The origination of solid waste document shall be signed by the person in possession of solid waste before transportation of solid waste commenced and all transporters of the solid waste certifying under penalty of perjury the accuracy of the information contained in the origination of solid waste document. The county shall prepare a standard origination of solid waste document. The use of a copy of the standard form or any form substantially similar shall comply with this section.

San Benito County Integrated Waste Management enforces compliance with section 15.01.061 in coordination with the applicant for existing operations and continued cooperation with enforcement is anticipated. A condition of approval will be added to the Project memorializing continued enforcement of Chapter 15.01.

55-8 The commenter states that the County cannot legally proceed with the project on the basis of this inadequate Draft EIR, and requests that the County terminate the project and continue the use of the landfill for in-County waste only. The commenter's opinion is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

55-9 The commenter references two attachments, which are included as Appendix B to this Final EIR.

Letter
56

B.A. Taddeo, M.A., 575 Heatherwood Estates Dr., Hollister, CA. 95023
Home phone: (831) 630-1984, Fax (831) 630-1964, taddeo3535@yahoo.com

August 28, 2022

To: Mr. Stan Ketchum, Supervisor Bob Tiffany and all other Board of Supervisors members
sketchum@cosb, supervisortiffany@cosb.us, supervisors@cosb.us
From: Barbara Taddeo
Subject: John Smith Landfill Expansion

I have now lived in San Benito County for the last 17 years. The reason I moved here was the clean environment including clean air. I have multiple chemical sensitivity which makes it difficult to breath on occasion when the air is polluted. This is my biggest concern with the dump expansion. . Especially when the wind blows from East to West. I live just west of the dump so I am well aware of the dust that blows from the dump. If the dump expansion goes through this will significantly increase. **You have got to think of the diesel truck delivering the trash to the dump and how it will pollute the air also I am allergic to diesel fuel as are many other people. At no time have air quality reports been completed along John Smith Rd. or even the new housing developments close to the dump. These tests NEED TO BE DONE AND POSTED before any decision be decided on the expansion.** 56-1

Heatherwood Estates is presently on a mutual well. For several months now our water has been contaminated with high levels of arsenic and other chemicals which make it necessary to use bottled water. 56-2

Our aquafir is downhill from the dump. When the RRP project was proposed years ago several photos were submitted showing water draining from the dump down John Smith Rd. It has been proposed that the dump expansion will have a drainage system that will protect this. I don't believe it. How many people are going to become sick from water runoff that will go into the aquafir? Water quality tests need to be done before an approval of this project. Even though you do not want to admit it you know toxic chemicals are going to go into the ground and eventually make their way into the aquafir. MORE TESTING NEEDS TO BE DONE.
I could go on and on but I did not move to this county nor did the majority of the other people who have now bought expensive homes near the dump expect to live in a toxic waste dump. **Our health is at stake**. You are looking at the old mighty dollar and the heck of what this expansion will do to our county. Why should we have to put up with other counties trash when we could live in a county that have other potential growth instead of being known as the dump county for Santa Clara.

56-1 The commenter states that at no time have air quality reports been completed along John Smith Road or even at the new housing developments close to the dump. For a discussion of the air quality analysis that was conducted along John Smith Road, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR. This includes a health risk assessment that evaluated the impacts of increased truck traffic on John Smith Road and the effects of local meteorological conditions including wind direction on the transmission of pollutants, as represented in Figure 4.3-9 on page 4.3-39, and as discussed under Impact 4.3-4 commencing on page 4.3-51 of the Draft EIR. The modeling results that support the conclusions in Section 4.3 are included in Appendix C to the Draft EIR.

56-2 Please see the Master Response on Groundwater Contamination included at the beginning of the responses. Heatherwood Estates is provided water service by the Best Road Mutual Water Company.

From: Gary Moran baler61 <gaelmoran@gmail.com>
Sent: Friday, August 26, 2022 12:15 PM
To: Stan Ketchum <SKetchum@cosb.us>
Cc: Supervisors <supervisors@cosb.us>
Subject: Comments: landfill expansion EIR
CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
Hello Stan
I Would like to follow up my comments from the 8/24 meeting with a written summary.
I'm not sure if verbal comments get captured in the meeting record.
I think truck traffic is a serious concern for everyone and it has not been properly evaluated in the EIR. 57-1
1. Fairview Rd is not a simple uninterrupted route
Noise and emissions:
There are 4 stop lights within the residential areas of the haul route.
At every stop light there are houses, subdivisions, or a school.
Trucks will be stopped often by these lights.
When trucks accelerate from a stop they produce maximum noise and emissions.
It seems that the EIR focused only on Leq noise.
Acceptable Leq is an average and does not reflect the actual effect on residents near the stoplights.
From Table 4.5-3 it appears that Lmax is about 10db higher if heavy trucks were present.
10 db is an increase of 10 times the acoustic power not 10% (twice as loud to the ear).
I believe the EIR is not adequate on this issue and needs more work.

Traffic conditions:
For unknown logic (p4.2-11), truck traffic in the EIR was limited to noise and emissions. 57-2
Only a minimal increase in auto and light truck traffic was predicted and rated insignificant.
This is misleading.
In future years there would be about 190 trucks passing by everyday (one truck every 2 minutes).

They will affect traffic flow and be a daily frustration for residents.
The trucks will often have to stop at several lights and will slow the traffic considerably.
Even today I have seen at rush hour cars backed up halfway to Santa Ana Valley rd from the Santa Ana Rd stoplight. This issue needs to be evaluated.

Aesthetics and perception 57-3
Trucks passing every 2 minutes for decades will totally change the character of the area.
Landfill truck traffic will define the community.

2. My overall opinion
The scope of the project is too large to be accepted by or be a benefit to the community. 57-4
There is no good route for the trucks to reach the landfill without serious detrimental effects on the residents.
San Benito County needs a safe, efficient landfill.
We need to consider one of the alternatives.

Regards
Gary Moran

57-1 The commenter states that it seems the Draft EIR focused only on L_{eq} noise, which is an average noise level, rather than maximum noise levels (L_{max}) experienced by residents for analysis of the impacts of roadway noise. The commenter states that the Draft EIR is not adequate on this issue and needs more work.

Trucks generate the highest noise levels (including L_{max}) when they are traveling at the fastest speeds, not when they stop and start at a traffic light. Traffic noise is created by vehicle exhaust systems, engines, and by contact of tires with the road during travel. Of these, tire contact with the road accounts for 75 to 90 percent of the overall traffic noise (SANDAG 2016). It is acknowledged that there is acceleration noise when trucks start after stopping at a red light, but the highest noise levels are from travel at the speed limit. (San Diego Association of Governments [SANDAG] 2016. Traffic Noise Basics Fact Sheet, December, 2016. Accessed October 2, 2022 at: https://www.keepsandiegomoving.com/Libraries/1805-Corridor-doc/SAN_I805S_FS_Traffic_Noise_Basics_Fact_Sheet_120814.sflb.ashx).

The San Benito County 2035 General Plan Health and Safety Element (Table 9-1) establishes noise thresholds for transportation noise sources. Because the L_{dn} thresholds used in the Health and Safety Element represent average noise levels, there will be periods when the noise levels are higher than the average as well as periods when the noise levels will be lower. However, all of the noise events over the time period quantified contribute to establishing the average. Therefore, maximum noise events are inherently integrated into the noise thresholds.

The approach used to evaluate traffic noise impacts in Section 4.5, Noise, focused on average noise levels, consistent with County policy and regulations. The noise modeling conducted for the Draft EIR was conducted consistent with industry standards and quantifies the noise contribution that would be generated by multiple individual truck trips to characterize how the noise environment would change with project implementation. As indicated on page 4.5-11 of the Draft EIR, the thresholds establish that the noise impact would be significant if the proposed project caused existing noise levels for residential uses adjacent to the affected roadway to exceed 60 dBA, L_{dn} or if the proposed project caused an increase of 3 dBA in a location with existing noise levels above 60 dBA, L_{dn}. The Draft EIR concluded that the proposed project would not cause an exceedance of the established thresholds.

For the analysis of air pollutant emissions, the commenter is referred to Section 4.3, Air Quality. The air quality analysis included in Section 4.3 fully evaluated the air quality impacts associated with truck traffic including quantifying criteria air pollutants, carbon monoxide, and diesel particulate matter and comparing these emissions to established thresholds. The modeling takes into consideration that vehicles will be stopping and starting as they travel over local roadways. The health risk assessment also specifically takes into consideration how local meteorological conditions can affect pollutant dispersal in calculating health risks for residents in the project vicinity.

57-2 The commenter states that traffic congestion needs to be evaluated. However, Senate Bill 743, passed in 2013, required the California Governor's Office of Planning and Research (OPR) to develop new CEQA guidelines that address traffic metrics under CEQA. As stated in the Legislation, upon adoption of the new guidelines, "automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any." OPR

updated its CEQA Guidelines to implement SB 743 in 2018 and identified Vehicle Miles Travelled (VMT) as the primary metric to be used in identifying transportation impacts for CEQA analyses.

The December 2018 "Technical Advisory on Evaluating Transportation Impacts in CEQA" issued by the Governor's Office of Planning and Research, suggests that certain types of projects may be screened out from VMT impacts or analysis as they may generally be assumed to cause less than significant VMT impacts. One of these screening criteria is small projects that generate less than 110 average daily trips (ADT).

The expansion would increase the current weekday automobile/light truck count from 188 to 222 average vehicles per day by 2050. This represents 34 automobiles/light trucks or 68 ADT (one-way). The expansion also would add 2 employees or 4 daily one-way trips. As a result, the expansion would add a total of 72 ADT, which would be under the 110 ADT screening threshold. While the expansion project itself is not a "small" project in acreage, the nature of the project is not VMT generating like a residential or commercial project of similar acreage. As such, for purposes of VMT, it would be considered a small project and is therefore less-than-significant.

The expansion also would add an average of 59 out-of-County commercial haul trucks daily on weekdays to the existing baseline of 31 out-of-County commercial haul trucks for a total of 95 existing plus project out-of-County haul trucks, or a total of 190 one-way trips. However, CEQA does not require that heavy-duty trucks be included in the VMT analysis. As noted in OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA, "For this section, 'vehicle miles traveled' refers to the amount and distance of automobile travel attributable to a project." As the Technical Advisory explains, the term "automobile" refers to on-road passenger vehicles, specifically cars and light trucks (SUVs and pick-up trucks). In changing from LOS to VMT as the metric by which transportation impacts are analyzed for CEQA, SB 743 focused on passenger vehicles with a goal to reduce VMT through the use of public transit, walkable communities, biking, mixed use development, and other development strategies that reduced passenger travel to and from residences, workplaces, and commercial opportunities.

With a project, such as a landfill, that would create conflicts if placed adjacent to heavily developed communities and thereby reduce VMT of haul trucks, analysis under the principles and goals of SB 743 does not provide meaningful information. Therefore, the County has determined that inclusion of heavy-duty trucks for VMT would not be consistent with SB 743. Instead, the environmental impacts from the heavy-duty trucks, including the mileage traveled by those heavy-duty trucks, is analyzed in the Air Quality, Greenhouse Gas and Climate Change, and Noise sections of the Draft EIR. In addition, potential accident and safety hazards of the additional truck trips as well as impacts to the haul route roads from the heavy-duty trucks are addressed in the Traffic and Transportation section. Therefore, all potential physical environmental effects of the additional truck trips have been addressed in the Draft EIR.

For a discussion of the increase in peak out-of-County commercial trips and the frequency of their passing, the commenter is referred to Responses to Comments 20-1 and 54-1.

57-3 The commenter states that trucks passing every two minutes for decades will totally change the character of the area and that landfill traffic will define the community. The primary local environmental effects of the additional trucks would be on traffic, noise, and air quality, which, combined may affect the overall subjective "feel" of the community. These impacts are addressed in those respective chapters of the Draft EIR. For a discussion of the increase in peak out-of-County commercial trips and the frequency of their passing, the commenter is referred to Responses to Comments 20-1 and 54-1. The commenter's statements are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

57-4 The commenter states that the proposed project is too large and has too many impacts, and concludes that one of the alternatives needs to be selected. The commenter's opinions regarding the proposed project are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Noel Provost <noel.provost@yahoo.com>

Hello Supervisors and Stan Ketchum. Nobody has contacted me so I don't know if anybody has read my suggestion.

I think it may be necessary to expand the landfill. But I want to suggest that it only be expanded to a waste footprint and tonnage per day size that would facilitate the essential research needed to locate and apply modern technology to generate a waste-to-energy method of waste management that keeps waste out of landfills and puts clean energy in our electrical grid. 58-1

Sounds too good to be true, huh?

Covanta (Stanislaus) fast facts:
-Processes more than 265,000 tons of waste that would otherwise have ended up in landfills.
-Less waste in landfills reduce greenhouse gas emissions by **237,000 tons** of CO_2. That's like taking **46,000 passenger vehicles** off the road for one year.
-Produce **22 megawatts** of electricity 24/7 - enough to power **14,000 homes** for a year.
-Recover **5,600 tons** of metal for recycling annually - enough to build **4,000 cars**.

It is unreasonable and irresponsible as well as unhealthy and primitive to continue disposing of waste by digging a hole and putting this waste tonnage into the ground. By using modern technology (like Covanta has to offer) we can minimize our environmental footprint, generate clean renewable energy and still serve the residents of San Benito Co and surrounding areas (e.g... there is plenty of money to be made here for San Benito County.)

So once again I ask...**Why can't this be an option?**

From: Noel Provost <noel.provost@yahoo.com>

In Stanislaus County (Crows Landing Landfill) there is a Zero Waste-To-Landfill called Covanta Energy Landfill.

- Covanta has always been a forward-looking company focused on finding better options for managing waste. As the company enters a new era under the ownership of EQT Infrastructure, they are redoubling their focus on sustainability to offer their customers and communities world-leading, end-to-end materials management solutions. At Covanta, their mission is to ensure that no waste is ever wasted. It's their business, their purpose and their value proposition to recover, recycle and reimagine waste, extracting the highest value from the byproducts of daily life.

They literally turn millions of tons of waste into usable energy.

Why can't this be an option???

58-1 The commenter suggests an alternative to the proposed project that includes combusting municipal solid waste to generate energy. As discussed in Chapter 6, Alternatives, of the Draft EIR, the incineration of waste associated with these types of facilities relies on the combustion of the organic fraction of the solid waste stream to reduce the volume and weight of waste. The heat generated during the combustion process is used to generate electricity from a turbine. Due to the potential concerns regarding the toxicity of the combustion emissions, the use of these facilities in the United States is very limited.

In September 2022, Governor Newsom signed AB 1857 (Garcia), which eliminates diversion credits for municipal solid waste incineration facilities, of which there are only two in the state, one in Long Beach and one in Stanislaus County. This legislation was intended to stop these facilities from operating because of the perceived harm the burning of waste can have on surrounding communities. The legislation eliminates the primary incentive for local agencies to refurbish existing facilities or build new facilities. The Draft EIR (Section 6.4, page 6-38) concluded that the implementation of a waste incineration alternative at the project site would not be considered feasible. The adoption of AB 1857 further substantiates this conclusion.

From: Christy Poole <tobyboots33@yahoo.com>

Good Evening,

Our family purchased a home in Santana Ranch about 4 years ago. The dump expansion what not disclosed and as I am sure you know, John Smith Landfill is practically in our backyard. We moved from the bay area like most of the city and we absolutely love it here. We have beyond blessed! 59-1

However our roads, traffic, the way people drive have been a huge concern and now the expansion. This expansion will pollute our soil and our water which is already questionable. I have done a little bit of research and the finding area alarming of what is up ahead of us if this expansion goes through. If the city of hollister wants to continue to grow, this is a sure way to get people to move!

Fairview is already a driving hazard with accidents and deaths! Plus with the new school having some many more garbage trucks will be unsafe for our children and will ruin our roads. It is also my understanding that this trash is from outside of our county at a lower rate that Hollister residents pay. How can that be fair.

I hope and pray, that our city takes everyone's concerns to heart and not their pocketbooks.

Sincerely,

Christy Poole.

59-1 The commenter identifies multiple reasons why they do not support the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. For a discussion of the school crossing condition on Fairview Road and the collision history on the current Fairview Road haul route, the commenter is referred to Responses to Comments 20-1 and 44-1.

From: Tim Poole <timpoole1973@yahoo.com>

To whom it may concern,

Please reconsider the dump expansion. This expansion will contaminate our soil and water. It's it almost in the backyard of Santana ranch and this expansion was not disclosed. 60-1

I assume the city wants to continue its growth not deter it. Plus the extra traffic will cause more accidents and possibly more deaths. Furthermore all these extra trucks will be Driving by the school and could be unsafe for our children.

Please reconsider.

Tim poole

60-1 The commenter identifies multiple reasons why the proposed project should be reconsidered. The commenter's reasons for requesting project reconsideration are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. For a discussion of the school crossing condition on Fairview Road and the collision history on the current Fairview Road haul route, the commenter is referred to Responses to Comments 20-1 and 44-1.

From: Rudain Arafeh <RArafeh@configureinc.com>

Mr. Ketchum

My family and I reside in the Heatherwood Estate sub division so the topic of the expansion of the landfill is an important topic. 61-1

I read the EIR, although I did not read any glaring dangers to ground water or serious environmental impact, I am very concerned about the impact the expansion will have on traffic, trash on roads, and on the quality of life for us and the rest of county.

I urge you to limit the size of the expansion and the tonnage to current day amounts. Limit the number of trucks traveling the already congested roads and allow the future residents of the county to have a say if they want to further expand the landfill. Don't allow the expansion of the landfill to be your legacy to this lovely place we call home

I am happy to discuss with you how we can attract more tech jobs to the county as I have with other supervisors

Thank you

Rudain Arafeh
President/CEO
Configure Inc.
www.configureinc.com
408-979-2288 office

61-1 The commenter urges limiting the size of the expansion and the tonnage to current day amounts based on several environmental concerns. These suggestions are evaluated in Alternatives 1-3 in Chapter 6 of the Draft EIR.

From: L and S Markham <louknsherrie74@hotmail.com>

Please attach these written comments to the county's EIR for the John Smith Landfill.

In Addition, we believe that the John Smith Landfill, owned by the residents of San Benito County, is for the benefit of the residents and not other counties. We were unable to make any sense of this monster of an environmental report. Will this project be of benefit to San Benito County residents in 25 years or 50 years after accepting trash from other counties? If the answer is no, then we need to go back to the drawing board and seek other solutions to our waste management or decline the waste from other counties. 62-1

Louk & Sherrie Markham
1851 Prune St.
Hollister, CA 95023

62-1 The commenter states that the landfill is for the benefit of the residents and not other counties, and asks if the project be of benefit to San Benito County residents in 25 years or 50 years after accepting trash from other counties. The commenter states that if the answer is no, then the County needs to seek other solutions to local waste management or decline the waste from other counties. The commenter's concerns regarding the project are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Judith and Milton Wolf judywolf@hotmail.com>

Sept. 1, 2022

Supervisors of San Benito County,

My husband and I have recently moved to Hollister from Los Angeles County.

63-1

I advise not to expand the John Smith Landfill and to be very cautious about developing new communities and commercial properties.
My husband and I have witnessed and have been exposed to the harm that such development can do to a community in terms of excessive pollution and health.

We lived in Granada Hills, California. The Sunshine Canyon Landfill expansion was approved by Los Angeles County Supervisors over the concern of the citizens who lived within its radius of approximately 5 miles , surrounding Granada Hills, San Fernando, Sylmar and Mission Hills.
Although the company said that they would provide an environmentally safe site and limit expansion, they permitted many violations, which fouled the air and exposed residents to elevated air pollution. There were days that the smell coming from the landfill was awful. Despite many violations, Sunshine Canyon Landfill continued to say that they would respect the provisions and limit the size of the landfill. However, they pushed for more expansion and the Supervisiors gave in.(The supervisors did not live within its radius).

There were more huge trucks coming and going from the landfill. The communities surrounding it are within a valley. The pollution grew worse with all the truck exhaust fumes, getting trapped in the valley. It made it difficult for people to remain outdoors with the bad air.
Shouldn’t we all be doing our part to reduce air pollution!

It's a known fact that exhaust fumes contribute to asthma, heart conditions and cancer. The city of Hollister is in a valley and when the air pressure condenses as it does often in the early mornings and later in the evenings the bad air from smoke and exhaust fumes concentrate and linger.

One other consideration is to think about the water that will be used for the landfill and commercial expansion. Look at Jackson Mississippi and Detroit, Michigan

.

Hollister is a lovely area, but I hasten to think what the Landfill will do to its desirability as a place to live.

63-1 (Cont.)

You can't put a price on health.

Please consider what I am saying, because there will be violations once the Landfill expands and then there is no going back.

Judith and Milton Wolf
1110 Richard Rd.
Hollister, CA 95023

63-1 The commenter identifies reasons why they do not support the proposed project including their experience with a landfill expansion in Los Angeles County. For more information regarding the health effects of the proposed project, the commenter is referred to the summary of the health risk assessment conducted for the proposed project commencing on page 4.3-38 of the Draft EIR and the discussion of Impact 4.3-4 commencing on page 4.3-51 of the Draft EIR. Please also see Responses to Comments 17-1 and 20-1. For more information regarding the local meteorological conditions, which were taken into consideration when conducting the air quality analysis included in Section 4.3, Air Quality, the commenter is referred to page 4.3-1 of the Draft EIR. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Nancy Matulich <NBMAT1@garlic.com>

Greetings Everyone:

My husband and I have lived on Fairview Road for the last 38 years when we built our home. We have witnessed the traffic increasing from very few vehicles every half hour to what it is now—what seems like a steady stream of vehicles during the job commute times plus an increase in truck traffic. 64-1

In addition, Fairview Road is in deplorable condition stretching from Fairview Road to Frazier Lake Road with only minor spot repairs done which makes for a very bumpy and noisy drive.

We are also of the belief, that if the landfill site is approved for expansion, it is REALLY a bad idea for this community given the potential harm it could do not only for the increased truck traffic on Fairview Road, but also to the underground water plus being close to agricultural land and other factors involved.

In short, we believe San Benito County does NOT need trash imported from another county. There are plenty of mountains north of here to accommodate other county trash. It should not be transported here to our community for disposal. Over the years, we have watched San Benito County go from a thriving farming community to commercial and urban development.

Please reconsider this project.

Thank you
Nancy and Mike Matulich
4801 Fairview Road

64-1 The commenter identifies reasons why they do not support the proposed project. Fairview Road roadway conditions are described in Section 4.2, Traffic and Transportation, of the Draft EIR, which also includes mitigation measures for roadway impacts. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: john.freeman258@gmail.com
Hello Mr. Ketchum,
The attached comments are made by John Freeman as a private citizen of San Juan Bautista and not as a member of the San Juan Bautista City Council or the Integrated Waste Management Commission. The comments do not represent any policy positions taken by either of those two organizations.

Comments by John freeman a resident of San Juan Bautista

Comments on the proposed John Smith Landfill Expansion

The John Smith landfill expansion should be the policy of San Benito County. A landfill is an asset and a critical Public Health Asset that protects the citizens of San Benito County from improper disposal methods. I strongly believe that the expansion will help San Benito County meet it obligations and follow state regulations on waste disposal and recycling. 65-1

I would like to divide my comments into three sections, one of the actual expansion itself, the second a discussion on the transportation issues involved with the landfill and third section on the issues surrounding tipping fees and money.

Expansion of Landfill
• The expansion is needed, we will run out of space for safe disposal within 15 years. The options at that time will be limited and more expensive than the array of options that we have today. It has said many times that the hardest thing for governmental agencies to do is “site” the following; airports, prisons, and landfills and/or sewer plants. Yet all are an important part of modern society, and they are essential public assets that need to be supported and function well for society and our economy to exist and prosper. To expand to a smaller footprint than proposed would only require that the county do this exercise all over again in 15 to 20 years, as another expansion would be needed again

• A significant part of the expansion is dedicated to stormwater runoff ponds and a buffer zone that will protect nearby residents from the noises and occasional smells that emanate from such an operation. The opponents of the landfill expansion have stated that Groundwater contamination is adversely affecting the environment The fact is that the contaminants have been removed or controlled and none are leaving the Landfill site at the present time. Before the landfill became professional managed, there was the possibility that leachate or contaminated runoff could possibly affect the surrounding areas. But tests conducted by the State Water Board has shown that there are no contaminants outside of the landfill area.

• The county should decide on the number of tons allowed per day at the landfill. Some of this waste is out of county waste, mostly from southern Santa Clara County. Waste is not a regional issue, but a statewide issue and in many cases an international one. Over 2/3rds of San Benito county’s waste stream goes to other counties (Recyclables to Marina in Monterey County and the Organics to South County Organics in Santa Clara County). The State of 65-2

California has a vested interest in insuring that there are enough safe and well-run disposal sites in our area to accommodate societies needs for the next several generations. 65-2 (Cont.)

• Opponents of the landfill expansion sometimes complain about a possible loss of natural habitat, landscape and wildlife. Construction activities are hard on the environment but hopefully the construction will only last for a limited period of time. Sometimes we must build new things to save the environment, and this is one of those times. With new housing developments going in at a rapid pace, the amount of local waste will only continue to grow. 65-3

Transportation Issues

• The biggest complaint of the public is transportation issues raised by the existence of landfill. Those issues mainly consist of noise and traffic by the larger truck going to the landfill. John Smith road traverses by several ranch-oriented housing developments. The trucks do emit significant amounts of engine noise, road noise and diesel smells as they go down the road. Part of a migration effort would require the large 18-wheel trucks to be EV or Hydrogen powered. They are much quieter and emit no flumes or smell from the exhaust pipe. This would go a long way to mitigating the noise and traffic issues that concern the citizens who live near the landfill 65-4

• Recology Garbage trucks that visit the landfill also need to be EV's. They also produce a lot of noise, and diesel pollution. The EV version of anything that moves is always much quieter and produces no tailpipe emissions. A Garage truck only gets three (3) miles per gallon (mpg) and the EV version of these truck which are available for sale today will go a long way to cleaning up our environment. Each gallon of diesel fuel produces 20 pounds of CO2, A garbage truck that travels 50 miles per day will use 50 gallons of fuel and produce slightly over 1,000 pounds of CO2 on that day. If the truck is used for 22 working days per month is over 22,000 pounds of CO2 is emitted into the atmosphere per month where it feeds the global warning process that is literally cooking our planet. The above figures are what goes into a counties (and cities) Carbon Footprint. To lower our carbon footprint requires a well run landfill that is not an extreme distance of the population centers.

• The citizens have only recently seen any road improvements in the John Smith Landfill area, after 30 years or more of total neglect of road maintenance. It to be needs to be pointed out that the recent road improvements made on John Smith and Fairview Road were done with the money that the county receives from the landfill tipping fees. Those tipping fees require a truck to deliver the trash to the landfill. Moving the landfill further away or developing a transfer station to ship trash far away will only exasperate our diesel and CO2 pollution problem 65-5

• Other possible mitigation measures involving traffic. If possible, perhaps a new road could transverse the terrain from Fairview Road the other side of the landfill. This would lessen or mitigate the traffic and noise levels on John Smith Road. The residents of Heatherwood Estates are impacted by this noise and traffic. Sending the trucks through Hollister on Hwy 25 to Fairview road seems like a bad idea. Traffic in that area is bad enough already, adding 50 trucks or more per day would severely impact that area. 65-6

Tipping Fees Issues

• The John Smith Landfill charges approximately $25.00 per ton for out of county tipping fees. The average landfill across the USA charges approximately $50 per ton. Landfills close by in 65-7

the Silicon Valley charge between $65.00 to $75.00 per ton. I fully understand that Waste Connections is in charge to the fees charged at the landfill, but the county should be able to encourage Waste Connections to raise their fees to a market level. The increased fees will accomplish two things, 1,) Increase fees to the county and 2.) possibly decrease the amounts of out of county trash being imported into the county. If our tipping rates are close or the same as other landfills, then the transportation costs would increase the total costs to waste customer. This could actually decrease the number of truck trips into the landfill on a daily basis

65-7 (Cont.)

Conclusion

I am strongly in favor of the landfill expansion. The alternatives would be very expensive, transfer stations and/or moving the landfill to a different location would cause a tripling of our resident's garbage and recycling fees. . That is not acceptable to our citizens If we do not expand the landfill or expand to a smaller footprint then the county will be in the same position in 20 years as it is today and looking to expand it again. It would be a much more expensive process that way. I am in favor of looking for additional or different ways of transporting the trash to the landfill. I strongly feel that the landfill operator (Waste Connections) does a good job of operating a safe and sanitary facility. This is public health asset that we should not move or do away with. I also feel that a better tipping fee schedule could be advantageous for all involved, Waste Connections, Recology, the county and the residents who reside near the landfill. The above comments are made by John Freeman as a private citizen and not as a member of the San Juan Bautista City Council or the Integrated Waste Management Commission

65-8

65-1 The commenter identifies why they think the proposed project is needed. The comment also describes groundwater quality conditions, as discussed in the Section 4.8, Hydrology and Water Quality, of the Draft EIR. The commenter's support for the proposed project is noted and as such, is part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

65-2 The commenter states that the County should decide on the number of tons allowed per day at the landfill. This comment is noted and as such, is part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter further states that over 2/3rds of San Benito County's waste stream goes to other counties including recyclables to Marina in Monterey County and the organics to South County Organics in Santa Clara County. In 2021, 24 percent of the waste generated in San Benito County was exported to out-of-County landfills for disposal. These out-of-County landfills include Billy Wright Landfill in Merced County (17 percent), Marina Landfill in Monterey County (7 percent), Kirby Canyon Landfill in Santa Clara County (0.04 percent), Highway 59 Landfill in Merced County (0.02 percent), Buena Vista Landfill in Santa Cruz County (0.03 percent), and Potrero Hills Landfill in Solano County (0.01 percent). As mentioned by the commenter, a portion of the County's recyclable and organic wastes were also exported out of the County.

65-3 The commenter states opinions about the need for the landfill expansion. These comments are noted.

65-4 The commenter notes that transitioning to electric vehicles would reduce truck noise and air emissions. These comments are noted. Mitigation Measure 4.4-1 on page 4.4-39 of the Draft EIR would support renewable energy power for light construction equipment, would fund electric vehicle charging stations at County buildings, and would fund replacement of two internal combustion engine vehicles in County Resource Management Agency fleet with electric vehicles of similar size and utility. The landfill does not operate waste haul trucks and does not control the types of waste haul trucks used by other third-party operators.

65-5 The commenter notes that tipping fees at the landfill have been used to improve roadways in the project vicinity. This comment is noted.

65-6 The commenter states that perhaps a new road could transverse the terrain from Fairview Road to the other side of the landfill. The commenter does not provide sufficient detail regarding the location of this alternative access roadway to understand where precisely it would be located or to consider whether it would be feasible. For a discussion of project alternatives, including alternative access routes, the commenter is referred to Chapter 6, Alternatives, to the Draft EIR. Please also see Responses to Comments 37-1 and 39-4.

65-7 The commenter suggests increasing the landfill tipping fee. The amount charged to dispose of waste at the landfill (i.e., the tipping fee) is considered an economic issue that is outside of the scope of this Draft EIR. For more information on this issue, the commenter is referred to Response to Comment 7-5. For a discussion of alternatives that would reduce the number of vehicle trips when compared to the proposed project, the commenter is referred to Chapter 6, Alternatives, of the Draft EIR.

65-8 The commenter identifies the multiple reasons they support the proposed project. The commenter's support for the proposed project is noted and as such, is part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Brigitte Thorp <brigittebthorp@gmail.com>

Page 4.3-37

Based on the 2020 LFG stack test concentration the SO2 emissions would remain below the MBARD threshold of 150 lb./day for up to 1,709 cfm through the flare.
As allowed by the MBARD CEQA guidelines, the peak projected SO2 concentration from the flare was evaluated using dispersion modeling.
What does that mean? What if the air basin receives no wind and the air will be stagnant.
The city of Hollister population of approx 44.000 within 2 miles, Heatherwood, Ridgemark and new developments within 1.5 mile radius.
The weather patterns are changing due to climate change.
SO2 emissions need to be reevaluated with weather patterns changing and climate change. 66-1

SB 1383 set target for a 50% percent reduction of organics landfilled by 2020 from 2014 levels and 75 percent reduction by 2025.
How can the landfill operator achieve this goal? Garbage trucks need to be spot checked and controlled for organic waste to reinforce SB 1383.
The landfill operator has contracts with 5 surrounding counties. There needs to be compliance to reduce methane gas reduction. No organic waste in household waste needs to be mandatory for all counties that use the JSRL landfill.
San Benito County has received a rural exemption for organic waste until 12/31/2026.
SBC should not get an exemption. Organic waste contributes to GHG emissions.
Please respond and advise to this comment Thank you Brigitte Baumann-Thorp 66-2

Traffic hazards
FairviewRoad/ John Smith Intersection:
This intersection is extremely dangerous from the southbound left turn pocket Fairview Road approach to John Smith Road.
To have to wait three years for a possible restriping and realignment is unacceptable.
No landfill expansion approval until this traffic issue is resolved.
The EIR language is very vague, nonspecific.
There are now more housing being built across from leal vineyard which creates even more traffic. We don't need large garbage trucks creating a dangerous hazardous intersection. 66-3
Sincerely,
Brigitte Baumann-Thorp

66-1 The commenter asks what dispersion modeling means and what happens if the air basin receives no wind. Dispersion modeling uses mathematical formulations to characterize the atmospheric processes that disperse a pollutant emitted by a source. Based on emissions and meteorological inputs, the dispersion model is used to predict concentrations at selected downwind receptor locations. Air dispersion models are used to determine compliance with National Ambient Air Quality Standards (NAAQS) and other regulatory requirements. Because the dispersion model takes into consideration local meteorological conditions, which may include little to no wind, it accounts for the condition mentioned by the commenter. Pollutant dispersion can be affected by several factors other than wind, including the moisture content of the air, temperature, and the pollutant characteristics.

The commenter states that the SO_2 emissions need to be reevaluated due to changing weather patterns and climate change. The SO_2 emissions were not projected to exceed the California Ambient Air Quality Standards or the NAAQS. Therefore, they would not be expected to have an adverse impact regardless of changes in weather patterns or the climate.

66-2 The commenter asks how the landfill operator can achieve the SB 1383 goals. While jurisdictions are responsible for implementing many of the requirements of SB 1383, the Landfill Operator is responsible for compliance with SB 1383 as it relates to day-to-day landfill operations. The commenter states the County was granted a rural exemption for organic waste recycling requirements until 12/31/2026 and further suggests the County should not accept its exemption. Regardless of the County's granted exemption, San Benito County Integrated Waste Management Regional Agency has implemented mandatory residential organics collection and incentivizes commercial organics collection through Franchised Hauler Recology since November of 2018. The County intends to continue working with the Landfill Operator, Recology, and other contractors to implement programs that reduce organic waste disposed at the landfill. Please also see Response to Comment 2-6.

66-3 The commenter raises concerns regarding the timing of intersection improvements at the John Smith Road/Fairview Road intersection. Mitigation Measure 4.2-3 on page 4.2-12 of the Draft EIR requires that the John Smith Road/Fairview Road intersection be improved prior to the landfill exceeding the NOP baseline tonnage limit of 1,000 tons per day, if that route is selected by the County. This requirement ensures that the additional vehicle trips generated by the proposed project would not occur until after the intersection is improved. However, in response to this and other comments, the County has changed the trigger for certain traffic mitigation measures to ensure that any necessary improvements are in place before the route is used by commercial haul trucks.

For improvements that must be in place to avoid a potential impact, the mitigation was changed to require the improvement before acceptance of out-of-County waste can commence. For improvements that are not necessary to be immediately constructed to avoid an impact, the County has retained the trigger of the earlier of three years or 1,000 tons to provide a reasonable amount of time to complete the improvement while ensuring that the NOP baseline is not exceeded until the improvement is in place. Until the improvements on the existing haul route are completed, the project will be required to use the existing NOP baseline haul route. Because the restriping of the northbound left-turn pocket to St. Benedict Lane to accommodate a southbound left turn pocket on the Fairview Road approach to John Smith Road was identified as a potential impact and that turning movement is used for the existing and proposed haul route, that improvement is required to be in place before acceptance of out-of-County waste may commence. The County has also added a timing trigger to ensure that the expanded entrance is

operational and open to the public within a relatively short time after project approval even though the expanded entrance is part of the project, not a mitigation measure. Mitigation Measure 4.2-3 commencing on page 4.2-12 of the Draft EIR is hereby revised as follows:

Mitigation Measure 4.2-3 Potential Roadway Hazards

In order to reduce roadway hazards to a less-than-significant level, the measures set forth below shall be implemented. Generally, and notwithstanding any specific timing provisions set forth below, the following measures shall be implemented on a schedule to be specified by the County, and agreed by the County and the applicant, such that the measures will be constructed or installed prior to the occurrence of the impact requiring the mitigation. Also, such measures shall be implemented to the extent that existing public right-of-way is available for such measures (based on preliminary analysis such right of way does appear available, this will be confirmed in connection with specific design of the measures, and comparable and equally effective or superior revised mitigation shall be developed if there is any insufficiency of public right of way).

- **John Smith Road/Project Entrance Intersection:** The applicant shall construct ~~(or ensure the construction of)~~ a left-turn lane at the proposed new project entrance on John Smith Road to provide for left-turn access to the site that is a minimum of 70 feet in length before the new entrance is open for public use. Any required roadway right-of-way would be taken from the north side of the John Smith Road, generally within the boundaries of the project site. Additionally, the applicant shall install a stop sign for the landfill exit lane onto John Smith Road before the new entrance is open for public use. The applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. The applicant shall provide and maintain a minimum sight distance of 550 feet in both directions at the new landfill entrance, including regular maintenance and vegetation trimming on property that is either owned by the applicant or the County or is located within a public right-of-way, to ensure minimum sight distance. The project applicant shall apply for all necessary County permits for the new landfill entrance expansion described in Section 3.5.5 within two years, and the new landfill entrance expansion shall be constructed and open to the public within one year of issuance of the last required County permit for construction.

- **Fairview Road/John Smith Road Intersection**: Prior to the acceptance of out-of-County waste~~Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first~~, the applicant shall ~~construct (or ensure the construction of), the~~ restrip**e**~~ing of~~ the northbound left-turn pocket to St. Benedict Lane to accommodate a southbound left turn pocket on the Fairview Road approach to John Smith Road that it is a minimum of 105 feet in length. Any roadway widening that may be necessary to accommodate this larger southbound turn lane will occur within the existing right-of-way on the east side of Fairview Road. The applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative.

- **Fairview Road/McCloskey Road Intersection**: Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the applicant shall ~~construct (or ensure the construction of), the~~ relocat**e**~~ion of~~ the existing traffic light pole at the southwest corner of Fairview Road and McCloskey Road, so that it does not impede right turns at this intersection, and for the installation of guard railing around the existing utility pole and box. Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the applicant shall ~~also construct (or ensure the construction of) the~~ install~~ation of~~ ten feet of widened pavement at the southwest corner of Fairview Road and McCloskey Road to accommodate right turns from McCloskey Road onto Fairview Road. The

applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. The reconstruction shall occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial haul vehicles**.** This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative.

- **Haul Route:** Prior to the acceptance of out-of-County waste, ~~Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first,~~ the applicant shall install ~~or ensure the installation of~~ truck route and speed limit signage along the commercial vehicle haul route consistent with the most current version of the Caltrans Manual on Uniform Traffic Control Devices.

In addition, Mitigation Measure 4.2-6 commencing on page 4.2-16 of the Draft EIR is hereby revised as follows to provide implementation timing requirements:

Mitigation Measure 4.2-6 Pavement Integrity

Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the ~~The~~ applicant shall ensure that its fair share of funding is provided for the reconstruction of portions of Wright Road and McCloskey Road used for the proposed haul route. The applicant's fair share shall be established in ~~applicant and County will enter into a reimbursement agreement that will reimburse the applicant for reconstruction costs in excess of the applicant's fair share~~ the San Benito County Landfill Expansion Road Impact Analysis (September 2023) adopted by the Board of Supervisors prior to or at the same time as approval of the expansion project. The Board of Supervisors may elect, in its sole discretion, to allocate revenue it receives under the Landfill Operating Agreement to cover all or a portion of the applicant's fair share of funding provided for herein. This measure shall be implemented on a schedule to be specified by the County, and agreed by the County and the applicant, such that the reconstruction shall occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial vehicles. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, however, the fair share fee in Mitigation Measure 4.2-4 and implemented through the San Benito County Landfill Expansion Road Impact Analysis (September 2023) includes rehabilitation and reconstruction of the pavement on the selected haul route to accommodate the expansion project and applies to the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, if selected.

Letter
67

From: Neal Anderson <neal95129@gmail.com>

Where are the provisions for the HazComs (Hazardous Communications) safety programs? Section 4.10 Hazards, Hazardous Materials, and Wildfires does not include any mention of HazComs. At the bare minimum HazComs exist for the safety of employees and they are separate from HAZWOP training. Furthermore, because the landfill will affect the lives of thousands of people that reside in its immediate vicinity (5km) a Hazcom safety program needs to be in place that is accessible by the general public. Due diligence is not being done to protect and inform the public as to the hazardous nature of a landfill. HazCom safety protocol needs to include but is not limited to information regarding hazardous materials, inhalation of particulate matter including methane gas, PPE (personal protective equipment), it should also include example studies, statistics, and data that explain the dangers of the landfill to the public. The public has the right to be protected and informed from the toxic spewing nature of the landfill. It is an obligation of the local government to be sure that information is provided to the general public. A one line boilerplate reply will not suffice. How will this be addressed?. At some time there will be OSHA audits and this subject will come up. At some time people will fall ill and the landfill will be suspect.

67-1

67-1 The commenter asks about the provisions for a HazComs or hazardous communications safety program. As discussed under Impact 4.10-2 commencing on page 4.10-14 of the Draft EIR, site workers and the general public could be exposed to hazards and hazardous materials as a result of improper handling or use during construction and operational activities (particularly by untrained personnel); transportation accidents; or fires, explosions, or other emergencies. Site workers could also be exposed to hazards associated with accidental releases of hazardous materials, which could result in adverse health effects. The proposed project would be required to comply with regulations on the transportation of hazardous materials codified in 49 CFR 173 and 49 CFR 177 and CCR Title 26, Division 6. These regulations, which are under the jurisdiction of Caltrans and the CHP, provide specific packaging requirements, define unacceptable hazardous materials shipments, and prescribe safe-transit practices by carriers of hazardous materials. Compliance with these regulations and applicable communication protocols in the event of an accidental release would reduce the risk of exposure to humans and the environment related to the transportation of hazardous materials.

Hazardous materials regulations, which are codified in CCR Titles 8 and 22, and their enabling legislation set forth in Chapter 6.5 (Section 25100 et seq.) of the California Health and Safety Code, were established at the State level to ensure compliance with federal regulations to reduce the risk to human health and the environment from the routine use of hazardous substances. Construction specifications would include the following requirements in compliance with applicable regulations and codes, including, but not limited to CCR Titles 8 and 22, Uniform Fire Code, and Division 20 of the California Health and Safety Code: all reserve fuel supplies and hazardous materials must be stored within the confines of a designated construction area; equipment refueling and maintenance must take place only within the staging area; and construction vehicles shall be inspected daily for leaks. These regulations and codes must be implemented, as appropriate, and are monitored by the State and/or local jurisdictions.

Contractors would be required to comply with Cal/EPA's Unified Program; regulated activities would be managed by San Benito County Department of Environmental Health, the designated Certified Unified Program Agency for San Benito County, in accordance with the regulations included in the Unified Program (e.g., hazardous materials release response plans and inventories, California UFC hazardous material management plans and inventories). Such compliance would reduce the potential for accidental release of hazardous materials during construction of the proposed project. This compliance would also include implementing appropriate communication protocols in the event of a hazardous material release. As a result, it would lessen the risk of exposure of construction workers and the public to accidental release of hazardous materials, as well as the demand for incident emergency response.

As with construction, operation of the proposed project is required to be consistent with federal, State, and local laws and regulations addressing hazardous materials management and environmental protection. Additionally, businesses are regulated as employers by Cal/OSHA and are therefore required to ensure employee safety. Specific requirements include identifying hazardous materials in the workplace, providing safety information to workers that handle hazardous materials, adequately training workers, and appropriately communicating with workers and emergency response personnel in the event of an accidental release.

The proposed project would be required to comply with all applicable federal, State, and local regulations pertaining to safe-transit practices, workplace safety, spill prevention, public communication, and other hazardous materials-related concerns. The San Benito County Department of Environmental Health and

other agencies would be required to enforce compliance, including issuing permits and tracking and inspecting hazardous materials transportation and storage. As a result, construction and operation of the proposed project would not create a significant hazard to the general public or the environment involving the release of hazardous materials into the environment or through the routine transport, use, or disposal of hazardous materials.

From: Debbie Landthorn <curlydebbie@gmail.com>

September 3, 2022
To: Stan Ketchum, San Benito County Supervisors
Re: Proposed John Smith Landfill Expansion
Dear Mr. Stan Ketchum,

I wanted to take a minute to express my strong opposition to the John Smith Landfill expansion. I have several reasons of concern. 68-1

I live with my husband and two children on Fairview Road. Our house is about 100 ft from the road. Our bedrooms and home office are on the roadside of the house. Semi-trucks are extremely noisy and when they hit the road bumps our house vibrates like an earthquake. We cannot keep the windows open now due to road noise day and night. If this project passes and the trucks go on Fairview Road, the noise, traffic, and vibrations will become much worse and unbearable. This concerns me not only for my family, but all Fairview Road residents.

This landfill expansion is too close to residential areas including Ranch Santana School. A landfill of this magnitude should be far removed from residential areas and schools.

After looking at the EIR, it is incomplete regarding not considering all the stop lights where the trucks will be stopping and accelerating every couple of minutes for noise and air pollution. 68-2

I appreciate the hard work and thought that has gone into this proposal. I understand how this project can bring in needed revenue for our county. However, I do feel it is not the right place for it being so close to residential areas and the traffic congestion/noise that it will bring into town. Please reconsider the project and please do not use the Fairview Road for the truck route if this proposal passes. Thank you for your time. 68-3

Regards,
Debbie Landthorn

68-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. For a discussion of traffic, noise, and vibration issues, the commenter is referred to Section 4.2, Traffic and Transportation, and Section 4.5, Noise, of the Draft EIR.

Regarding vibration, there would be no perceptible ground vibration at a distance of 100 feet from trucks. A peak particle velocity (PPV) of 0.08 is considered to result in a "readily perceptible" human response to vibration from traffic (Caltrans, Transportation and Construction Vibration Guidance Manual, September 2013, Table 5). The PPV for a loaded truck at is 0.076 at 25 feet. Because there are no structures within 25 feet of the truck haul routes there would be no perceptible haul truck vibration impacts.

For structural concerns, the peak particle velocity (PPV) for a loaded truck at 25 feet is only 0.076 PPV, which is well below the threshold for structural damage. A PPV of 0.1 is considered to have "virtually no risk of architectural damage to normal buildings" (Caltrans, Transportation and Construction Vibration Guidance Manual, September 2013, Table 12). A loaded truck generates less than 0.1 PPV at 25 feet.

68-2 Please see Responses to Comments 57-1 and 73-1.

68-3 Please see Response to Comment 68-1.

From: Carol Stalder <fafestival@aol.com>

Dear Ms. Betsy Dirks, supervisors Ketchum, Kosmicki, Hernandez, Tiffany, Gonzales It has come to my attention that the San Benito County Supervisors intend to enlarge the John Smith Landfill in order to accommodate more refuse from San Jose. Personally, I think this is a bad idea and I'll tell you why. 69-1

Enlarging the landfill to accommodate San Jose garbage means increased traffic on Fairview Road. Fairview has 4 traffic lights. Every time a diesel truck stops, it has to start again, spewing more diesel fumes and soot than if it were to run continuously. According to The San Jose Mercury News, Mr. Roadshow, September 30, 2022, Page A2, The California Air Resources Board has said that diesel trucks are "the largest single source of vehicle air pollution." It further said that trucks are "responsible for 70 percent of smog-causing pollution and 80 percent of carcinogenic diesel soot." If John Smith is enlarged, up to 200 diesel trucks per day will travel by my house, spewing their carcinogenic soot.

I love living in San Benito County because when we moved here, it was quiet country life. The air was much cleaner than the San Jose area. Please don't make it worse.

Carol Stalder
3051 Lemmon Ct.
408-390-3722

69-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please see Responses to Comments 57-1, 73-1, and 73-2. Please also see Section 4.2, Traffic and Transportation, and Section 4.3, Air Quality, of the Draft EIR for a discussion of the project's traffic and air quality impacts.

From: Gary Moran

Hello Stan
Couple more comments on Fairview rd

1.page 4.2.2 It seems to say that the only stop light is at fairview/156 and that all other intersections are stop signs. This is inaccurate. There are now 4 stop lights on fairview rd at the worst places for effect on residents. This paragraph needs re-evaluation and correction. 70-1

2. There is no mention of the bridge by the corner of Fairview and Santa Ana Valley.rd. It is too narrow for heavy truck traffic. When you meet a truck on this bridge it is a white knuckle experience, especially as you bounce around on the uneven pavement This bridge needs to be included and mitigated in the EIR. It should be completed before significant truck traffic arrives. It is a real hazard. 70-2

Regards
Gary Moran

70-1 The commenter states that the text on page 4.2-2 of the Draft EIR seems to say that the only stop light is at Fairview Road and State Route 156 and that all other intersections are stop signs. The text to which the commenter is referring is in reference to State Route 156. For a discussion of the traffic control along Fairview Road, the commenter is referred to the third paragraph on page 4.2-1, which states that a section of Fairview Road between Hillcrest Road and Sunnyslope Road has two southbound lanes. The discussion correctly states that traffic at intersections along Fairview Road at State Route 156, McCloskey Road, Santa Ana Road, and Sunnyslope Road are controlled by traffic signals, while other side streets along the route are controlled either by stop signs or no signs. Therefore, no correction to the discussion of the traffic signals on Fairview Road is necessary.

70-2 The commenter states that the bridge by the corner of Fairview Road and Santa Ana Valley Road is too narrow and is a real hazard that needs to be mitigated. The roadway crossing to which the commenter refers is a culvert crossing and it includes existing guard railings that encroach within the roadway shoulder. However, the width of the roadway as it passes over this culvert is consistent with the roadway's width to the north and south. Therefore, the culvert crossing does not represent a hazard for vehicle travel.

From: Tom Armbruster <eposophos@gmail.com>

To: Stan Ketchum

4.3.-38
Health Risk Assessment for LFG and DPM-methods

The following receptors were identified(figure 4.3.10
It states
No schools are within a mile radius. Schools beyond the 1-mile radius were modeled based on responses to the Notice of Preparation.

71-1

This is unacceptable. There is a brand new school Rancho Santana K-8 with approx 800 children. The school is within a 1.5 mile radius from the expansion.

Thank You.

Tom Armbruster

71-1 The commenter states that the health risk assessment modeling approach for landfill gas and diesel particulate matter is unacceptable. For a discussion of the project's air quality impacts, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR. The air quality modeling summarized in Section 4.3 included a long-term health-risk assessment to determine if the project would expose sensitive receptors, including the Rancho Santana School, to substantial concentrations of toxic air contaminants. Based on the impact analysis commencing on page 4.3-51 under Impact 4.3-4 of the Draft EIR, the proposed project would not expose students at the Rancho Santana School to substantial concentrations of toxic air contaminants and this impact was concluded to be less than significant. For the project's modeled emission levels at the Rancho Santana School and at a potential new high school along Best Road, the commenter is referred to Table 4.3-16 on page 4.3-46 of the Draft EIR. Please also see Responses to Comments 17-1 and 20-1.

From: Heather Simpson-Bluhm <heatherbluhm@yahoo.com>

San Benito County Planning and Land Use Division
2301 Technology Parkway
Hollister, CA 95023-9174
Stan Ketchum

5 September 2022

Dear Mr Ketchum,

I am writing in regards to the John Smith Landfill dEIR. As a resident of the Heatherwood Estates subdivision located on John Smith Road I have some reservations about portions of the EIR draft. 72-1

I attended one of the scoping meetings your department hosted last year. I was surprised that none of the information or records from that particular scoping meeting were included in this draft, which included calls from myself, Tom Nino, and Karson Klauer, in addition to other neighbors. It was my understanding that ALL correspondence/records needed to be included, not just a selection.

Following the scoping meeting, my husband and I sent a letter indicating our concerns about the water in our area and the admission in the Notice of Preparation about the "possibility of the expansion to affect the water quality discharged from the site." 72-2
Imagine our surprise when the dEIR map (fig. 4.8-5) identifying local wells DID NOT identify the two wells lying ON John Smith Road that serve 48 homes. Not only did the EIR not identify these wells, but the wells lie directly in the path of water discharge flow from the landfill. (fig. 4.8-4) In addition, it is alarming that the data provided for the limits of the leachate area are from 1993, nearly 30 years old!

Wells identified in the dEIR lie within a 1 mile radius as indicated on the map, (fig. 4.8-5) however there are a handful of wells identified that lie outside of the seemingly arbitrary 1 mile radius. (Harbern, Clyde, etc.) Why would the center point lie within the borders of the landfill rather than on the expansion boundary? Leachate will not be restricted to this one point. Our wells would surely lie within a 1 mile radius from the western boundary of the expanded landfill so why are they not identified?

Our water district (Best Road Mutual Water Co.) has experienced a tenuous situation over the past few years with water often testing high in arsenic and/or manganese, making our water non-potable. We are currently under a BOIL WATER order, similar to how we spent the majority of 2020, of which you were notified by mail in March 2021.

In addition, we understand that JSL has been mandated to perform PFAS testing and in 2020 found PFAS in the leachate. The dEIR indicated that a multi-phase workplan was completed in Oct. 2021 to deal with PFAS however there is no information on when the plan will be

executed. In addition, it is concerning that our two wells that may be affected the most, due to their proximity to the discharge area have NOT been identified to date, and the Best Road Mutual Water Co. that manages them has not heard anything regarding this plan. 72-2 (Cont.)

In mitigation measure 4.8-1 regarding runoff downstream, the dEIR states mitigation measures "shall be implemented", however there are no milestones identified for completion or completion date listed. When will this happen?? 72-3

Finally, as far as water is concerned, there seems to be a lot of impacts listed as "less than significant" based on current water conditions, i.e. drought. What happens if we receive an El Nino year and we have a large influx of rain? Why hasn't JSL identified plans for those instances? 72-4

Living along John Smith Road, we do oppose the importation of out of county trash in the large semi-trucks. Based in the noise portion of the dEIR, they lie in the unacceptable decibel level for residential neighborhoods. According to the policy on page 4.5-9 it states that the County should require an acoustical analysis prior to approval of land use. Our home was built in 1998, before JSL started bringing in these large trucks with out of county refuse. Shouldn't the reverse ring true? Why should we and our children be subjected to noise that exceeds the allowable decibel level without mitigation when this is something that was allowed after our homes were here? 72-5

Like many others in our community, I am sure I share the concerns about the increase in traffic on County roads that are not designed to withstand this heavy traffic. Unfortunately, the dEIR does not include financial information about how much revenue the County could expect to receive with this expansion and the various alternatives and how that would be offset by necessary road repairs. Having experienced the horrid condition of John Smith Road when we moved here, we know first-hand the destruction these large rigs cause to our roads and the impact on our cars when forced to travel them between repairs or repaving. Our County is sorely behind on road repairs, it seems crazy to encourage something that knowingly causes damage and increased pollution. 72-6

Thank you for hearing my concerns,

Heather Simpson-Bluhm
795 Heatherwood Lane
408-857-0392

72-1 The commenter states that it was their understanding that all correspondence/records needed to be included in the Draft EIR, not just a selection. The commenter is referred to Appendix A of the Draft EIR, which includes all of the comment letters received on the Notice of Preparation. The State CEQA Guidelines do not require that all correspondence received on a project be included in the EIR.

72-2 The commenter raises concerns about wells in the project vicinity not being identified on Figure 4.8-5 on page 4.8-12 of the Draft EIR. As described on page 4.8-11 of the Draft EIR, the locations of the groundwater wells identified on Figure 4.8-5 were based in a study that identified groundwater wells within a radius of approximately one mile from the existing landfill boundary, as required for the Report of Waste Discharge. The wells identified by the commenter are not shown on this figure because either the information regarding their presence was not available at the time the study was prepared or they were outside of the study area. Figure 1 included below identifies well locations within one-mile radius from the proposed waste boundary. The wells to which the commenter refers are identified as Simpson-Blum on Figure 1. Also included on Figure 1 are the Best Road Mutual Water Company wells. The identification of these wells on Figure 1 does not change the statement on page 4.9-6 of the Draft EIR that most of the active groundwater wells in the vicinity of the project site draw water from the Gilroy Basin. Please also see the Master Response on Groundwater Contamination at the beginning of the responses.

The commenter asks why the center point lies within the borders of the landfill rather than on the expansion boundary. See Figure 1 below for a one-mile boundary around the waste footprint.

The commenter states that it is alarming that the data provided for the limits of the leachate area are from 1993. The commenter further states that there is no information on when the multi-phase PFAS work plan will be executed. For more information regarding these topics, the commenter is referred to the Master Response on Groundwater Contamination included at the beginning of the responses.

72-3 The commenter asks when Mitigation Measure 4.8-1 will happen. This mitigation would happen prior to the construction of each landfill module. The development of the landfill expansion area for solid waste uses would alter the quantities and timing of discharges in stormwater runoff relative to existing conditions. The site-specific Waste Discharge Requirements and General Order require submittal of a design report for review and approval prior to construction of each Module. The drainage system design requirements included in Mitigation Measure 4.8-1 would be implemented as part of the design report submitted for the Waste Discharge Requirements and General Order. The design report would provide drainage design calculations based on the most recent National Oceanic and Atmospheric Administration (NOAA) rainfall intensity data. NOAA updates their rainfall data periodically and over the life of the landfill drainages for new modules would be constructed to reflect updated data, thereby accommodating climate change. As described in the Draft EIR, some drainages would have higher post-project flow than pre-project flow and would require temporary stormwater detention and release of the water gradually after the peak storm. Other drainages would have less post-project flow than pre-project peak flow and would not require stormwater detention. The design for these requirements would be incorporated into the design reports required by the Waste Discharge Requirements and General Order.

72-4 The commenter asks what happens if there is a large influx of rain. As described in Response to Comment 72-3, the project's drainage system would be required to be designed to accommodate large storm events. For more detailed information on this topic, the commenter is referred to Section 4.8, Hydrology and Water Quality, of the Draft EIR.

72-5 The commenter states that they oppose the importation of out-of-County trash in large semi-trucks. The commenter's opposition to the importation of out-of-County trash is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter also asks why they should be subjected to noise that exceeds the allowable decibel level without mitigation. The commenter is referred to Impact 4.5-2 on page 4.5-14 of the Draft EIR. As stated under this impact, the proposed project would generate new vehicle trips that would only slightly increase noise levels along the roads used to access the site including John Smith Road. For transportation noise sources, the threshold of significance established in the Draft EIR states that noise impacts would be significant if the proposed project caused existing noise levels for residential uses adjacent to the affected roadway to exceed 60 dBA, L_{dn} or if the proposed project caused an increase of 3 dBA in a location with existing noise levels above 60 dBA, L_{dn}. The evaluation in Table 4.5-7 on page 4.5-15 of the Draft EIR shows that the project-related traffic noise increases on the most affected roads, which have existing noise levels above 60 dB, would be less than 3 dB, L_{dn} (i.e., 2.2 decibels). When out-of-County commercial vehicles are eliminated from the existing conditions baseline, the difference is slightly higher (i.e., 2.7 decibels) but would still not exceed the 3 dB, L_{dn} threshold. The Draft EIR concluded that project-generated off-site vehicle noise level increases along affected roadways would not exceed the allowable decibel level threshold, this impact would be less than significant, and no mitigation measures would be required. This conclusion does not change if out-of-County commercial vehicles are eliminated from the existing conditions baseline. Please also see Response to Comment 55-4 for a discussion of baseline issues and noise.

72-6 The commenter raises concerns about the increase in traffic on County roads and states that it is unfortunate that the Draft EIR does not include financial information regarding the revenue the County would receive from the proposed expansion. For a discussion of the proposed project's traffic and roadway impacts, the commenter is referred to Section 4.2, Traffic and Transportation, of the Draft EIR and Response to Comment 80-28. Regarding the concern regarding the lack of financial information, the commenter is referred to Responses to Comments 7-5 and 31-1.

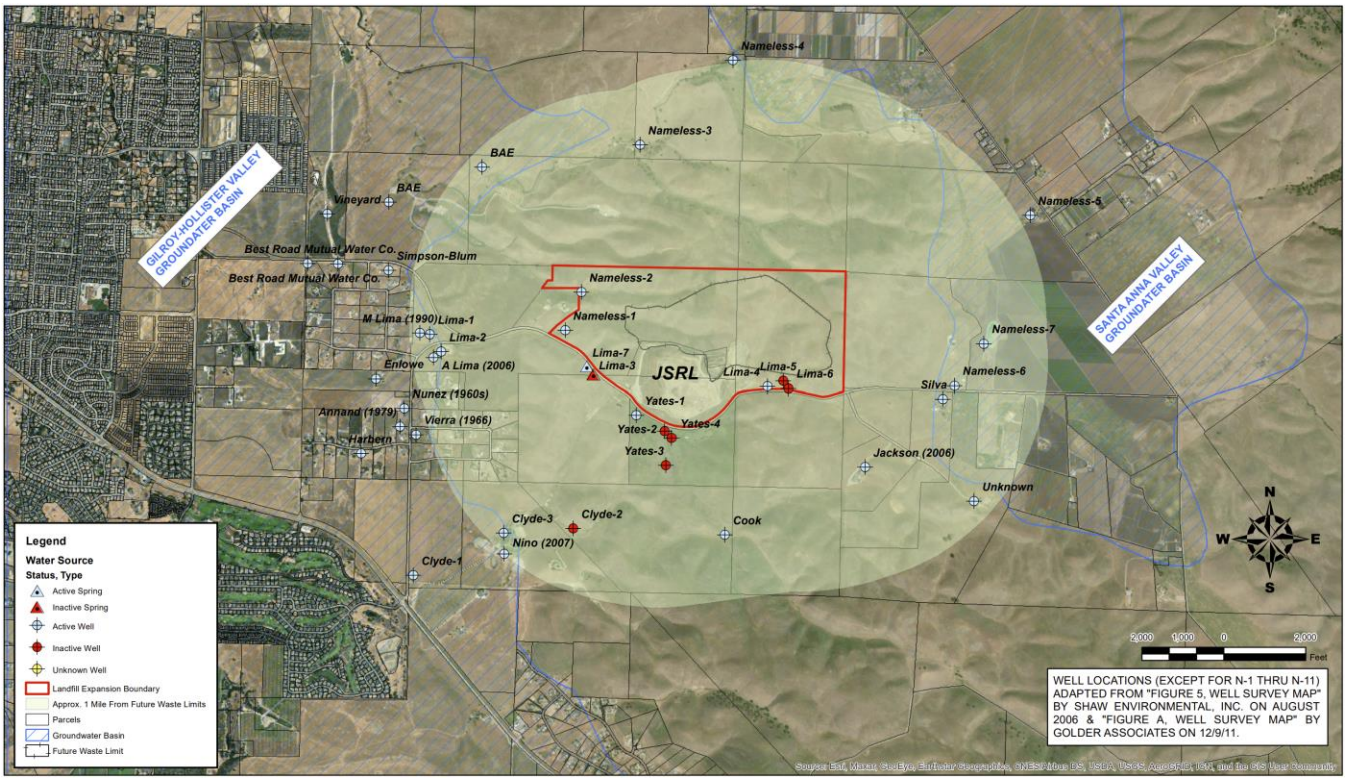

Figure 1 – Wells Within One Mile of Proposed Waste Boundary

From: Gary Moran

Re: Landfill expansion, EIR comments – Off-site diesel emissions
Landfill expansion comments, para 4.3, air quality

I can't find any discussion or analysis in the EIR regarding diesel emissions from truck traffic.
I only see it analyzed for the landfill area.

73-1

This is a serious concern for residents along the Fairview haul route.
As I mentioned in my traffic noise comments, the proposed haul route passes through several residential neighborhoods and by a school. There are 4 traffic signals in these areas. There is no consideration for the additional complication of traffic signals in sensitive areas.
Diesel trucks emit serious emissions when they accelerate from a stop.
When the landfill reaches maximum operation there would be an out-of-county truck passingby every 2 to 3 minutes.

This is an order of magnitude greater than the current truck traffic on Fairview Rd.

The toxic effects of diesel emissions concentrated in these sensitive areas is likely even more of a concern than the traffic noise. Sunnyslope Village, Rancho Santana, Rancho Santana School, and Fairview Mobile Manor would seem to where the emission would be most concentrated. But residents in rural areas with houses close to the road will also be affected.
This issue needs to be addressed. The effect on the health of residents from diesel smoke could be the most serious impact from the entire project. Trucks passing every 3 minutes for decades is something we have never had to consider in the past.

Stan
Please see my attached EIR comments regarding off-site traffic noise.
I think they took the wrong approach on this one
It doesn't relate to the real situation

73-2

5 September 2022

To: Stan Ketchum, San Benito County Supervisors

From: Gary Moran

Re: Landfill expansion, EIR comments – Off-site traffic noise
Landfill expansion comments, Para 4.5-2, Traffic Generated Permanent Increase in Ambient Noise

The methodology used in this analysis is totally misleading and needs rewrite.
It compares the current average traffic noise levels to the cumulative increase predicted for 2035 assuming general population growth. It also ignores the fact that there are 4 stoplights on the route and then concludes that the increase due to truck traffic will be insignificant.

This comparison essentially hides the impact of recurring momentary loud noise caused by this project when trucks pass by or accelerate from stoplights. It basically averages out truck noise into background ambient. But the number of exposures per day and their duration is important to residents along the haul route. At full operation of the landfill there would be an out-of-county truck passing about every 2 to 3 minutes in an 8 hr workday. Even far from the intersections the increase in truck traffic noise should not be buried in a cumulative average assessment. Every passing truck is a new event for people, not just average background noise.

73-2 (Cont.)

This paragraph requires more testing and needs to be rewritten. It must identify what the periodic noise maximums will be and how often residents will be exposed to them on a daily basis. Trucks accelerating from a stop at intersections in residential areas would seem to be the locations most affected. There are currently 4 stoplights in the Fairview residential areas.

I believe we need the following data from a random sample of semi-trucks:
1. Measure sound levels at the 4 intersections that have stoplights as semi-trucks start up from a stop.
2. Measure a random sample between intersections.
3. Record the peak db. Also record the approximate time duration from -6db before and after the peak.
4. Estimate how often a single truck would likely be stopped by a red light both coming and going.
5. Multiply the percentage of stops times the maximum number of truck passes possible in a day.
6. Analyze the number of exposures expected from this project at full operation compared to current typical truck passes. I think 1 to 2 semi's per hour is now typical.

I think only with targeted testing and re-evaluation can the actual project traffic noise impact be understood and presented to the public. “Every passing truck is an event, not just ambient background noise.”

Regards
Gary Moran

73-1 The commenter raises concerns regarding exposure to diesel particulate matter from truck traffic. For the analysis of air emissions, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR. The air quality analysis included in Section 4.3 fully evaluated the air quality impacts associated with truck traffic including quantifying criteria air pollutants, carbon monoxide, and diesel particulate matter and comparing these emissions to established thresholds.

For a detailed discussion of the impacts associated with residential exposure to offsite mobile sources (i.e., truck trips), the commenter is referred to Impact 4.3-4 commencing on page 4.3-51 of the Draft EIR. This discussion addresses the impacts associated with adding a mixture of heavy diesel tractor-trailers that generate diesel particulate matter emissions and gasoline powered light vehicles used by the public to deliver waste and employees to the site via John Smith Road. For the assessment of impacts associated with these vehicle trips, the residential estimated cancer risk levels are conservatively based on a hypothetical individual exposed to carcinogenic diesel particulate matter emissions continuously, 24 hours per day, 365 days per year for a 70-year lifetime (minus a time allocation for vacations). Based on this analysis, no existing residences located along John Smith Road would experience cancer or non-cancer (chronic) health hazards above the established thresholds. Because John Smith Road would experience the highest concentration of vehicle traffic associated with the proposed project, the health hazards on all other roadways in the County (e.g., Fairview Road) would be reduced when compared to the impacts quantified for John Smith Road. Therefore, no roadways in the County would experience health hazards in excess of the established thresholds associated with diesel particulate matter emissions generated by the project's additional truck trips. In effect, the diesel emissions would not be concentrated in the areas identified by the commenter and would not represent a significant health hazard for these residents. For a discussion of the increase in peak out-of-County commercial trips and the frequency of their passing, the commenter is referred to Responses to Comments 20-1 and 54-1.

Please also see Response to Comment 57-1 regarding vehicles stopping and starting. The modeling included in Section 4.3, Air Quality, of the Draft EIR takes into consideration that vehicles will be stopping and starting as they travel over local roadways. The health risk assessment also specifically takes into consideration how local meteorological conditions can affect pollutant dispersal in calculating health risks for residents in the project vicinity.

73-2 Please see Response to Comment 57-1. The noise modeling in the Draft EIR was conducted consistent with industry standards and quantifies the noise contribution that would be generated by multiple individual truck trips to characterize how the noise environment would change with project implementation. Trucks generate the highest noise levels (including L_{max}) when they are traveling at the fastest speeds, not when they stop and start at a traffic light. (San Diego Association of Governments [SANDAG] 2016. Traffic Noise Basics Fact Sheet, December, 2016. Accessed October 2, 2022 at: https://www.keepsandiegomoving.com/Libraries/I805-Corridor-doc/SAN_I805S_FS_Traffic_Noise_Basics_Fact_Sheet_120814.sflb.ashx

Traffic noise is created by vehicle exhaust systems, engines, and by contact of tires with the road during travel. Of these, tire contact with the road accounts for 75 to 90 percent of the overall traffic noise (SANDAG 2016). It is acknowledged that there is acceleration noise when trucks start after stopping at a red light, but the highest noise levels are from travel at the speed limit. As indicated in Response to Comment 57-1, because the L_{dn} thresholds used in the Health and Safety Element represent average noise levels, there would be periods when the noise levels are higher than the average as well as periods when

the noise levels would be lower. However, all of the noise events over the time period quantified contribute to establishing the average. Therefore, maximum noise events are inherently integrated into the noise thresholds and collecting the data suggested by the commenter on individual trucks is not warranted.

From: Brad Chatten <bradchatten@gmail.com>
Sent: Saturday, August 27, 2022 3:14 PM
To: Celina Stotler <CStotler@cosb.us>
Subject: Re: John Smith Road Landfill Draft Environmental Impact Report Presentation Recorded & Public Comment Period Extended

I really hope we get the expansion because they are forcing me to fib on certain documents. They are making it rough for me on this San Benito County Only. I'm out of commission for a minute. I was one of the 7 who was hit on 25. 50 mph into stopped traffic. 74-1

Four were taken to the hospital with injuries ranging from moderate to major. Three of the patients were life-flighted and one was taken to the hospital by ground, according to CHP.

American Medical Response is currently at the scene, and Caltrans has closed the road. There is no timetable for when that section of road will reopen.

Add comment

74-1 The commenter states that they hope to get the expansion and mentions being involved in a vehicle accident that does not appear to have any relation to landfill operations. The commenter's support for the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Brigitte Thorp <brigittebthorp@gmail.com>
Traffic hazards

FairviewRoad/ John Smith Intersection:

75-1

This intersection is extremely dangerous from the southbound left turn pocket Fairview Road approach to John Smith Road.
To have to wait three years for a possible restriping and realignment is unacceptable.

No landfill expansion approval until this traffic issue is resolved.
The EIR language is very vague, nonspecific.

There are now more housing being built across from leal vineyard which creates even more traffic.

We don't need large garbage trucks creating a dangerous hazardous intersection.

4.3-5 page 4.3-53

ODOR,

It states, the predominant wind directions is from the west-northwest during the spring, summer, and fall and transitions to from the southeast in the winter.
There are no evaluations about the changes in wind patterns regarding climate change.

75-2

The residents of Hollister would be exposed to the odors(like Milpitas) with the lack of or changes of wind patterns.

Table 4.3-8, page 4.3-35

75-3

Summary of Baseline and Proposed Project on-site emissions from operations:

Under project site operations,
Project LFG:
NOx (lb./day): increase from 19.46 to 49.89
SOx(SO2) (lb./day): increase from 39.2 to 214.91.
ROG (lb/day): increase from 9.73 to 13.923 PM 10(lb./day): increase from 66.58 to 67.03

Sulfur dioxide emissions exceeds the threshold of 150.

These toxic air pollutant are unacceptable.
The air quality will be hazardous to the health of SBC and specially for the residents of the city of Hollister and surrounding communities within a few miles from the landfill expansion.

Keep SBC air quality at healthy levels by not having a landfill expansion.

75-4

Table 4.3.-1. On page 4.3-4

Table 4.3-1
Maximum Background Concentrations for the the Project Area.

Pollutants: data source from fairview
Ozone, ppm
PM10 mcg/m3
PM 2.5 mcg/m3
Are all increasing between 2018-2020.
ADD MORE GARBAGE TRUCKS OVER THE NEXT 50 years What are the projections on this pollutant?
We don't know! We need data, research and projections about this pollutants.

Pollutants: data source from Salinas High School CO2, ppm NOx, ppm NO2, ppm Why is the data source from a school approx 29 miles away?
This is unacceptable and appalling.

These above pollutants CO2, NOx and NO2 concentrations Need to be from schools nearby Rancho Santana School.

Also SO2 concentrations shows no data.

Provide the necessary data and projections for the JSRL expansion.

Here is my comment about the projected wastewater generation.
Table 4.12-1

75-5

Currently, production of wastewater is 2,407,248 gallons per year.
The leachate production would increase from 289,080 to 2,323,152 gallons per year with the landfill expansion.
The total production of wastewater would almost double to 4,777,704 gallons per year with the JSRL expansion.

This puts a massive strain on the waste water treatment center.
A lot of the chemicals(pfas) could evaporate and become airborne and expose the residents of Hollister to these chemicals.
With the rising temperature (climate change) there would be even more evaporation.
This issue of toxic leachate in our waste water treatment center needs to be thoroughly studied and evaluated for the long term impact of 50+ years with the proposed landfill expansion.

It's unacceptable to expose the surrounding community, residents of Hollister to these toxins.

There could be the possibility and actual usage of treated wastewater water being used for agricultural irrigation, exposing the community even more to PFAS and contaminating our groundwater. 75-6

The city of Hollister will be affected from the air pollution of landfill gas, emissions from the landfill construction vehicles, diesel fuel emissions from the garbage trucks and the toxic leachate coming from the waste water treatment center. 75-7

The city of Hollister is relying on groundwater wells and San Justo reservoir To supply their residents with drinking water.
With the irreversible climate change and predicted decrease of rainfall this winter the county will have to rely on groundwater.

It's the responsibility of our city and county leaders to protect our groundwater from contamination from leachate and provide safe drinking water.

The proposed Landfill expansion would expose the residents of SBC to cancer causing pfas in the air and water.

Protect the health of the residents of SBC.
No to the Landfill expansion.

2.4.2 Aesthetic Resources page 2-3 75-8

State Route 25 is eligible for designation as a state scenic highway.
The proposed project is anticipated to substantially change the areas visual character.
This change would become visible over time from sections of SR 25. Because SR is eligible for listing as a scenic highway, this impact would represent a significant and unavoidable aesthetic resource impact.

SBC would loose a valuable resource forever with the landfill expansion.
Would we rather have a landfill than a scenic highway?

The elevation of the landfill is higher than the surrounding hills.
The aesthetic resource impact is avoidable by not having a landfill expansion.

Sincerely,
Brigitte Baumann-Thorp

75-1 Please see Response to Comment 66-3.

75-2 The commenter states that there are no evaluations about the changes in wind patterns regarding climate change. The commenter assumes that climate change would cause the local wind patterns to change such that the residents of Hollister would be exposed to odors from the proposed project. However, wind patterns are typically related to topography and time of year. As described on page 4.3-1 of the Draft EIR, the generally northwest-southeast orientation of mountainous ridges tends to restrict and channel the summer onshore air currents. Surface heating in the interior portion of the Salinas and San Benito Valleys creates a weak low pressure, which intensifies the onshore air flow during the afternoon and evening. In the fall, the surface winds become weak and the marine layer grows shallow, dissipating altogether on some days. The air flow is occasionally reversed in a weak offshore movement and the relatively stationary air mass is held in place by the Pacific High-pressure cell, which allows pollutants to build up over a period of a few days. It is most often during this season that the north or east winds develop to transport pollutants from either the San Francisco Bay area or the Central Valley into the North Central Coast Air Basin. During the winter, the Pacific High migrates southward and has less influence on the air basin. Air frequently flows in a southeasterly direction out of the Salinas and San Benito Valleys, especially during night and morning hours. Northwest winds are nevertheless still dominant in winter, but easterly flow is more frequent. Wind patterns could change as the climate changes; however, it is difficult to predict how localized microclimates could be affected and whether the change would result in more dominant wind patterns blowing toward the northwest. The commenter is also referred to the discussion of the project's odor impacts commencing on page 4.3-53 of the Draft EIR.

75-3 The commenter states that the proposed project's air quality impacts will be unacceptable. The commenter's statement regarding the project's air quality health risk impacts is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. For more information regarding the proposed project's air quality impacts, including potential health risks, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR.

75-4 The commenter asks for pollutant projections. For a detailed discussion of the criteria air pollutants that would be expected with project implementation, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR, specifically Table 4.3-10 on page 4.3-36, which describes the combined emissions from operations and construction over the development scenarios of the proposed project. The commenter also asks why the Salinas High School is used as an air quality data source. Background air quality data for criteria pollutants is available from the California Air Resources Board Air Quality Management Information System website. The data for the website are collected from existing air quality monitoring stations. The nearest monitoring station to the project site for carbon monoxide, oxides of nitrogen, and nitrogen dioxide is located at the Salinas High School. The Rancho Santana School does not include an air quality monitoring station. The commenter further states that SO_2 concentrations show no data. For SO_2 air quality emissions associated with project implementation, the commenter is referred to Table 4.3-10 on page 4.3-36 of the Draft EIR. Regarding SO_2 emissions exceeding the threshold, the commenter is referred to Impact 4.3-2 commencing on page 4.3-48 of the Draft EIR for a detailed discussion of this issue.

75-5 The commenter raises concerns regarding increasing the volume of wastewater being sent to the City of Hollister wastewater treatment plant. The commenter also raises concerns regarding chemicals

evaporating from the wastewater treatment plant and exposing residents to these chemicals. As described in Response to Comment 55-1, the proposed project would not be expected to substantially increase the volume of leachate being directed to the City's wastewater treatment plant. Also, wastewater treatment plants are designed to remove pollutants from the wastewater to protect downstream beneficial uses. Wastewater treatment plants are not known to be sources of toxic evaporated chemicals. For a detailed description of the proposed project's effects on the City of Hollister's wastewater treatment system, the commenter is referred to Table 4.12-1 and Impact 4.12-2 in Section 4.12, Public Services, Utilities and Energy, of the Draft EIR.

75-6 The commenter states that there could be the possibility and actual usage of treated wastewater water being used for agricultural irrigation, exposing the community even more to PFAS and contaminating local groundwater. The proposed project does not propose the use of treated wastewater for agricultural irrigation purposes. If the City of Hollister wastewater treatment plant operator decides to recycle wastewater and then decides to use that wastewater to irrigate agricultural lands, the city would be responsible for ensuring that the use complies with all applicable regulations, including any required water quality testing, and does not create a public health risk. Those activities would be outside of the scope of this EIR.

75-7 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please also see the Master Response on Groundwater Contamination included at the beginning of the responses for a discussion of PFAS issues.

75-8 The commenter summarizes the proposed project's aesthetic resource impacts, as described in Section 4.11, Aesthetics, of the Draft EIR. This summary is noted. No additional response is necessary.

From: Annette Perez <writetoannette@yahoo.com>

September 6, 2022:
San Benito County Planning and Land Use Division
Mr. Stan Ketchum
2301 Technology Parkway
Hollister, CA 95023-9174

Dear Mr Ketchum,
I am writing in regards to the John Smith Landfill dEIR as a resident of Hollister and I have some serious concerns about portions of the draft EIR. 76-1

The additional noise, traffic and greenhouse gases that will be created by the estimated 95 out of county truck trips per day (180 round trip) putting unnecessary additional greenhouse gases in our atmosphere and damage to our roads is deplorable. The revenue that the San Benito County will receive cannot make up for the irreparable damage the proposed landfill expansion will do to our environment, roads and our precious water.

The EIR states in 2.4.1 Generation of Greenhouse Gas Emissions will be the same whether the proposed project is implemented or not. The explanation goes on to state that the same generation of greenhouse gasses will be created due to San Benito County (SBC) after the 15 years is up, because we will have to ship SBC's trash to another landfill since it will run out of space. This is not correct, it does not consider SB 1383. As required by the new California State Senate Bill, SB1383, we will lower the amount of trash being buried in our landfill because it has a requirement that 20% of edible food that would otherwise be disposed of in the garbage be recovered for human consumption by 2025 through food recovery organizations. It also has a requirement for food scraps and compostable items be placed in compost bins and be composted. It also has a requirement for community education and outreach on organics recycling to all residents and businesses to hopefully reduce, reuse and keep more items out of the landfill. Yes, we may have to expand our landfill in the future to accommodate our trash but let's hope that with technology, we are able to come up with a better way than bury trash. 76-2

The noise that is generated by the semi trucks create unsuitable noise levels for our children who attend Rancho Santa school located on Fairview and within miles of the landfill. There is also an additional school planned on McCloskey that will subject those young children to the noise and toxic fumes coming from the 20 ton trucks driving alongside their schools. The trucks often drive over the 55 MPH speed limit and often use Jake Breaking methods to slow themselves down at the light at Sunnyslope and Fairview. Parents and their children cross at the light and are subject to this noise and dangerous fumes brought on by these trucks. They are also at higher risk of being hit by a 20 ton truck barreling down Fairview at 76-3

55+miles per hour and not being able to stop when a child jets across the street to catch up to their friends or is running late to school and tries to “beat the light” as this 20 ton truck is coming straight at them at 55+ miles per hour. The traffic and frequent noise level that will be created by the 180 trucks driving back and forth on Fairview and Sunnyslope is unacceptable. The negative effects of the additional noise and vibration that will be caused by the unnecessary expansion is not worth any revenue that can be gained by this expansion.

76-3 (Cont.)

In Section 4.5.4 Regulatory Settings, Noise The San Benito County (SBC) 2035 General Plan Health and Safety Element provides standards for noise levels. The noise levels identified in table 4.5.5 Guidelines for Community Noise Environment for Schools, state that the noise created by the trucks and traffic at 15-minute LEQ is 66 and LMAX is 89 on Fairview south of McCloskey Road. The current noise level of 66 created by the traffic in this area as identified in Table 4.5.5 is already “normally unacceptable levels” and at 89, the noise is “clearly unacceptable” levels. The noise levels that were taken are already high in this area and the noise level with the added traffic will be much higher with the increased proposed trucks that are planned on the haul route.

76-4

In addition, the noise level that was measured on Table 4.5-3 on 7/21/21 at the landfill entrance was done at 7:45AM-8:01AM. This is not an accurate measurement as the landfill does not open until 8:00AM. This recording should be redone as the measurements will be much higher and is already at unacceptable levels. There are many homes that are a short distance away and the proposed expansion will be unbearable and unhealthy noise levels for those homes.

76-5

According to the policy on page 4.5-9 it states that the County should require an acoustical analysis prior to approval of land use. I agree, this should be done but the issue is that we are no longer taking out of county trash because the landfill is at its 15 year useful life limit, any study done must take this into effect and try to develop an accurate analysis.

76-6

As you know San Benito County generates 300 tons of trash a day (average is much lower) and Waste Connections would like to bring in up to 2300 tons of trash a day. That is 2000 of out-of-county trash with 87% being out of county putting tons of unnecessary greenhouse gases in our environment and strains on our water, infrastructure and roads.

You have to ask yourself why is Santa Clara County driving by Kirby Landfill creating extra greenhouse gases along the way. Why is Monterey County passing their landfill up to bring us their trash. Alameda County pass several landfills to dump in our landfill. Why are all these out of county trucks bringing us their trash, because it’s inexpensive and not easily regulated since they are semi-trucks full of trash often from transfer stations and they can be easily dumped in our landfill. The county should consider the high cost of a lawsuit some day due to this fact and is the temporary revenue worth the risk to our county. I do not think So.

76-7

Concerned Citizen,
Annette Perez

76-1 The commenter summarizes the impacts that they expect from the proposed project. For a detailed discussion of the proposed project's environmental impacts, the commenter is referred to Sections 4.1 through 4.12 and Chapter 5 of the Draft EIR. Please also see Response to Comment 80-28.

76-2 The commenter states that it is not correct to assume that greenhouse gas emissions would be the same whether the proposed project is implemented or not because SB 1383 implementation is not considered. The analysis ultimately concludes that impacts related to greenhouse gas emissions from the project will be significant and unavoidable. It points out that waste will likely be landfilled at some location without the project, but this statement is not factored into the ultimate conclusion that the project's impacts on greenhouse gas emissions would be significant and unavoidable. Moreover, because SB 1383 is a state-wide law, the reduction in greenhouse gas emissions associated with its implementation would be expected to apply to all landfills, not just John Smith Road Landfill. Therefore, implementation of SB 1383 would be expected to generally reduce greenhouse gas emissions from landfills in California. Please also see Responses to Comment 2-6 and 66-2.

76-3 The commenter states that the traffic and frequent noise level that will be created by the project traffic is unacceptable. The commenter states that the negative effects of the additional noise and vibration are not worth any revenue gained by the project expansion. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. For a discussion of traffic, noise, and vibration issues, the commenter is referred to Section 4.2, Traffic and Transportation, and Section 4.5, Noise, of the Draft EIR. Please also see Responses to Comments 17-1 and 20-1 related to children crossing Fairview Road. See Response to Comment 68-1 regarding vibrations from trucks. See Response to Comment 73-1 regarding diesel emissions along roads from haul trucks.

The commenter states that truck drivers often drive over the 55 miles per hour speed limit and often use jake braking methods to slow themselves down at the light at Sunnyslope and Fairview. Jake brakes are typically only used to control the truck speed while descending a steep grade, rather than using the foot brakes, saving wear on the brake. Trucks would not be expected to use their jake brakes when stopping at an intersection on Fairview Road or another road along the haul route, which are relatively level.

76-4 The commenter describes the traffic noise levels that are identified in the Draft EIR and their relationship to the Guidelines for Community Noise Environment for Schools. The commenter states that the noise levels identified in the Draft EIR are already high on Fairview Road and the noise level with the added traffic will be much higher with the increase associated with the proposed project. As identified in Table 4.5-7 on page 4.5-15 of the Draft EIR, the time-averaged traffic noise level increase on Fairview Road associated with project implementation would be less than 1 decibel, which would be undetectable to the human ear. Therefore, this impact would be less than significant.

76-5 The commenter states that the noise measurement taken at the landfill entrance is not accurate because the landfill does not open until 8:00 am. The purpose of collecting the noise measurements identified in Table 4.5-3 on page 4.5-6 of the Draft EIR was to characterize the noise environment in the project vicinity. Also, with a lower existing condition noise measurement, the difference between the existing conditions and the proposed project would be greater than if higher noise levels were occurring when the noise measurement was collected, in effect making the project's noise impacts appear worse. For a more

representative noise measurement of the existing landfill activities, the commenter is referred to Noise Measurement location #2, which was collected from 8:16 to 8:31 a.m. near the landfill working face and represents the noise generation from the landfill waste acceptance operations.

The commenter further states that there are many homes a short distance away that will experience unbearable and unhealthy noise levels. For a discussion of the noise impacts for the nearest residences to the project site, the commenter is referred to Impact 4.5-3 on page 4.5-14 of the Draft EIR. As discussed in this impact, the increased noise associated with expanded entrance facility operations in combination with landfill activities would not increase noise levels for offsite residents above the established thresholds (55 dBA, L_{eq} daytime and 45 dBA, L_{eq} nighttime). For these reasons, the operational noise generated by the proposed project would not exceed the established residential noise threshold and the Draft EIR concluded this impact would be less than significant.

76-6 The commenter agrees with the County policy that an acoustical analysis be conducted prior to project approval. An acoustical analysis was conducted for the proposed project, the results of which are included in Section 4.5, Noise, of the Draft EIR. The commenter further states that any study must consider that the landfill is no longer accepting out-of-County waste. For a discussion of the baseline used to evaluate the proposed project's environmental impacts, the commenter is referred to Response to Comment 55-4.

76-7 The commenter states several reasons why they do not think the proposed project is worth the risks to the County. As indicated in Response to Comment 19-1, disposal of municipal solid waste in California is regional with movement into and out of counties based on many factors including economics. The commenter's statements regarding the project's risks are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Indigenous Solidarity <southbayindigenoussolidarity@gmail.com>
I just submitted a form via NextRequest with a query for any public information (ie., redacted versions) of appendixes or sections of the dEIR for the John Smith Road Landfill Expansion (SCH# 2021020371) that might deal with 'cultural resources'. It is listed as record request #22-404.
I am currently unsure if all publicly available information regarding cultural resources is contained in the online version of the dEIR (https://drive.google.com/file/d/1AbTKEC8JwKvnQED4oYRWZIQIQL2ZHHwj/view).
In the past, I have had to request this information specifically from a county planning department.
I am hoping that digital copies of any such information might be made available to me before the September 6 public-comment deadline.

77-1

77-1 The commenter requested specific information related to cultural resources. The information requested was forwarded to the commenter by County staff.

From: Victoria Moore <vixmoore8@gmail.com>:
Greetings!

My husband and I are firmly against expanding the John Smith Landfill to receive trash from other counties. 78-1
The increased truck traffic on our already horrific roads is the main objection.
Can you please confirm receipt of my input?

Thank you,
Victoria Moore
Don Sionne
1173 Canyon Drive

78-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

Letter
79

From: Maureen Nelson - letter in attachments

Stan,

Please find attached comments from Mark R. Wolfe in regards to the John Smith Road Landfill dEIR
M. R. Wolfe & Associates, P.C. | **Attorneys**
Land Use | **Environmental Law** | **Elections**
Please acknowledge receipt of this email and attachment. 79-1

Thank you,

Maureen Nelson
303-641-0295

m | r | wolfe
& associates, p.c.
attorneys-at-law

September 6, 2022

By E-Mail

Stan Ketchum, Project Planner
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
sketchum@cosb.us

Re: Draft Environmental Impact Report for the John Smith Road Landfill Expansion Project

Dear Mr. Ketchum:

Please accept and consider the following comments on the referenced Draft Environmental Impact Report ("DEIR") for the proposed John Smith Road Landfill Expansion Project ("Project"), submitted on behalf of Don't Dump on San Benito, an unincorporated association of San Benito County residents who will be adversely impacted by any unmitigated environmental effects caused by the Project. As explained in further detail below, the DEIR in its current form fails to meet the standards for information disclosure and analysis required by the California Environmental Quality Act ("CEQA"). The County should update and amend the DEIR to correct these informational deficiencies, and recirculate a revised draft for further public and agency review and comment. 79-2

Following are specific comments organized by topic area.

I. Impacts to Biological Resources

Preliminarily, we wish to object to the County's failure to post or otherwise make publicly available several technical reports that the DEIR explicitly relied upon in its analysis of impacts to biological resources. At the beginning of its discussion of these impacts, the DEIR states:

> "The biological resources information presented in this section is based on a review of available background reports, previous studies conducted on the project site, and biological resource databases; aerial photography interpretation; and observations made during site surveys. Specific biological

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resource background reports reviewed in preparing this section are identified in Table 4.6-1.

79-2 (Cont.)

Table 4.6-1
Biological Resource Background Reports

Title	Author	Date
California Red-Legged Frog (*Rana draytonii*) Habitat Assessment [for the] John Smith Road Landfill Expansion Project*	AECOM	August 2018 (AECOM 2018a)
California Tiger Salamander (*Ambystoma californiense*) Habitat Assessment [for the] John Smith Road Landfill Expansion Project*	AECOM	August 2018 (AECOM 2018b)
San Joaquin Kit Fox (*Vulpes macrotis*) Habitat Assessment (Early Evaluation) [for the] John Smith Road Landfill Expansion Project*	AECOM	August 2018 (AECOM 2018c)
Results of Special-Status Plant Survey and Wildlife Habitat Assessment for the John Smith Road Landfill Expansion Project in San Benito County, California	AECOM	August 28, 2018 (AECOM 2018d)
Preliminary Delineation of Waters of the United States, Including Wetlands [for the] John Smith Road Landfill Project	GEI Consultants	January 2020 (GEI 2020a)
Biological Survey Results for Selected Special-Status Species, John Smith Road Landfill Expansion Project, Hollister, California	GEI Consultants	January 8, 2020; Revised April 27, 2020 (GEI 2020b)
John Smith Road Landfill Expansion Project: California Tiger Salamander, California Red-legged Frog, and San Joaquin Kit Fox Habitat Assessment	H.T. Harvey & Associates	May 29, 2020 (H.T. Harvey 2020)

Notes: * = Survey and site assessment focused on an approximately 33-acre parcel located immediately south of the active landfill and immediately north of John Smith Road.

The following description of the site's biological conditions is based on the background reports identified in Table 4.6-1; a desktop review of the site has since been conducted to ensure that the site conditions are consistent with the environmental baseline, as described below."[1]

Thus, the DEIR's analysis of impacts to Biological Resources is predicated entirely on these listed studies, none of which was appended or otherwise attached to the DEIR, or posted on the Count's website for the DEIR, even though other appendices were. (*See* https://www.cosb.us/departments/resource-management-agency/integrated-waste-management/jsl-landfill-expansion).

CEQA provides that information contained in an EIR should include summarized technical data, maps, plot plans, diagrams, and similar information sufficient to permit the public and reviewing agencies to make a full assessment of significant environmental effects of the project. To achieve a balance between the technical accuracy of an EIR and its public information function, the CEQA Guidelines provide that placement of highly technical analysis and data may be placed

[1] DEIR, p. 4.6-1, 2.

in appendixes should be summarized in the body of the EIR. However, "Appendices to the EIR may be prepared in volumes separate from the basic EIR document, **but shall be readily available for public examination** and shall be submitted to all clearinghouses which assist in public review." (CEQA Guidelines, §15147, boldface added.) Because the data in an EIR must be presented in a manner calculated to inform the public and decision-makers, an EIR cannot lawfully rely on information that is neither incorporated nor described in the EIR. When an EIR incorporates information by reference, as the DEIR here did, it must give the reader an adequate road map to the information it intends to convey. (*Vineyard Area Citizens for Responsible Growth v City of Rancho Cordova* (2007) 40 Cal.4th 412, 442. *See also Emmington v Solano County Redev. Agency* (1987) 195 Cal.App.3d 491, 502.)

79-2
(Cont.)

Once a draft EIR has been completed, CEQA requires the lead agency to notify the public of its availability for review and comment. Pub Resources Code § 21092. This notice of availability must specify the address where copies of the draft EIR "and all documents referenced in the draft environmental impact report" are available for review. (*Id.*, subd. (b)(1).) The notice must be given in sufficient time so that the public is able to use the full review period. (*Gilroy Citizens for Responsible Planning v City of Gilroy* (2006) 140 Cal.App.4th 911, 922.)

Here, the County's Notice of Availability of the DEIR states:

> "Document Availability and Review: A copy of the Draft EIR **and documents referenced therein** are available for review on the County's website at: (1) www.cosb.us/jsrlexpansion; and (2) the Resource Management Agency offices, located at 2301 Technology Parkway in Hollister during regular business hours Monday – Friday, 8:00 a.m. to 5:00 p.m." (Notice at p. 1.)

This statement was erroneous. The biological studies referenced in the Draft EIR were **not** available for review on the County's website or at the Resource Management Agency offices. Only after repeated email requests from DDSB member did the County, after several days, provide the documents electronically. The public accordingly did not have "the full review period" to review documents incorporated by reference into the DEIR.

Please note that these are not merely general reference materials of the kind typically included in a bibliography -they are **actual studies of the Project site** that were integral to the DEIR's discussion of the environmental baseline, its analysis of impacts to biological resources, and ultimately its findings of significance. The failure to make these available on the County's website together with the DEIR itself and/or to include them in posted appendices is a material violation of CEQA's participation requirements. Public participation "is an essential part of the CEQA process."

(CEQA Guidelines, §§ 15002(j), 15201.) "Public review provides the dual purpose of bolstering the public's confidence in the agency's decision and providing the agency with information from a variety of experts and sources." (*Schoen v. Cal. Dept. of Forestry & Fire Prot.* (1997) 58 Cal.App.4th 556, 574.)

79-2 (Cont.)

The County accordingly violated its duty under CEQA to make these referenced studies available for public and agency review and comment for a minimum of 45 days. With this objection lodged, we turn to the DEIR's discussion of biological resource impacts.

Environmental Setting

The DEIR provides precipitation data in its discussion of the Project's environmental setting.[2] These data were obtained from a climate station at the Marysville Airport (Yuba County),[3] and thus do not accurately reflect precipitation at the Project site.

79-3

1. Please replace the precipitation data provided in the DEIR with data collected from a climate station near the Project site (e.g., Hollister).

Impacts and Mitigation

Indirect Effects

The DEIR provides the following analysis of indirect impacts to the California tiger salamander, California red-legged frog, western spadefoot, burrowing owl, raptors, and other migratory birds: "[these] species could be also indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional of [*sic*] movements, and the disruption of behaviors." This information is too vague for the public to have an accurate understanding of the Project's indirect impacts.

79-4

1. Please identify the specific predators (species) that could be attracted to the Project.
2. Please discuss the specific value(s) of adjacent habitats that would be diminished by the Project. In addition, please discuss and justify (with scientific literature) how far the Project's indirect impacts would extend into adjacent habitats and how much adjacent habitat could be functionally eliminated (e.g., due to behavioral avoidance) by the Project's indirect impacts.

[2] DEIR, pp. 4.6-3 and -9.

[3] *See* DEIR, p. 4.6-42 (NOAA 2022a, 2022b, and hyperlink provided in WRCC 2019).

3. Please identify the specific behaviors that could be disrupted and discuss the related consequences of those disruptions.
4. Please identify mitigation for the Project's indirect impacts on special-status wildlife (i.e., attraction of predators, degradation of adjacent habitat, impacts on movement, and disruption of behaviors).
5. Please provide analysis of the Project's indirect effects on the San Joaquin coachwhip, Coast Range newt, tricolored blackbird, vernal pool fairy shrimp, American badger, and San Joaquin kit fox.

79-4 (Cont.)

California Tiger Salamander

Mitigation Measure 4.6-1(c) states: "[a] qualified biologist shall conduct pre-construction biological surveys no more than four weeks prior to initial land clearing/vegetation removal activities. Potential habitat shall be surveyed by a qualified biologist to confirm no individual species are moving above-ground, or taking refuge in burrow openings or under materials that could provide cover such as boards, scrap metal, woody debris, or other materials." The efficacy of this mitigation measure cannot be evaluated because MM 4.6-1(c) fails to identify the pre-construction survey methods. In addition, it is unclear how data from the pre-construction surveys would be used to mitigate the Project's impacts on the California tiger salamander ("CTS").

79-5

1. Please clarify how data from the pre-construction surveys would be used to help mitigate the Project's impacts on the California tiger salamander. In addition, please explain the rationale for allowing the surveys to be conducted up to four weeks prior to initial land clearing/vegetation removal activities.
2. Please revise MM 4.6-1(c) to incorporate standards for the survey methods, including: (a) the minimum level of survey effort (i.e., survey hours per unit area); (b) the proportion of the Project site and surrounding buffer area that must be surveyed; and (c) the specific survey techniques that shall be implemented (e.g., visual encounter, drift fences, dip-netting, nocturnal surveys).
3. The mitigation measure states that the biologist would survey "burrow openings." Please explain why interior portions of the burrows would not be surveyed for California tiger salamanders.
4. Please discuss the actions the biologist would implement should California tiger salamanders be detected during the pre-construction surveys.
5. Please identify the reporting requirements associated with MM 4.6-1(c).

MM 4.6-1(c) further states:

> "The project shall also retain a qualified biologist to provide biological monitoring during initial land clearing and vegetation removal activities to monitor the removal of the top 12 inches of topsoil at all project locations. If any life stage of a special-status species is found in the land clearing/vegetation removal work area, construction activities shall cease within 100 feet of the animal and USFWS and/or CDFW shall be notified within 48 hours. Construction activities shall not be allowed within 100 feet of the animal."

79-5 (Cont.)

6. Please clarify the biological monitoring requirements imposed by MM 4.6-1(c). For example, how would the biologist conduct monitoring and would the biologist need to be present (and monitoring) anytime a piece of equipment is removing vegetation or topsoil?
7. California tiger salamanders, California red-legged frogs, and other special-status species that may occur at the Project site are capable of moving outside of the equipment exclusion zone before the regulatory agencies are notified. For example, adult tiger salamanders tracked by Loredo et al. (1996) moved an average of 167 feet per hour.[4]

   Please explain the rationale for the 100-foot equipment exclusion zone proposed in MM 4.6-1(c). In addition, please explain the purpose of notifying the USFWS and/or CDFW if a special-status species is found in the work area.

Mitigation Measure 4.6-1(d)

79-6

Focused (protocol-level) wildlife surveys were not conducted for the Project. As a result, the DEIR assumes the following species occur, or may occur, at the Project site: California tiger salamander, California red-legged frog, western spadefoot, Coast Range newt, San Joaquin coachwhip, American badger, San Joaquin kit fox, tricolored blackbird, burrowing owl, other raptors, and other migratory birds. MM 4.6-1(d) states:

> "The project sponsor shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. The County, in consultation with a qualified biologist, shall determine the total acreage of permanent loss of suitable habitat. Compensation may be in the form of either the purchase of habitat

[4] Loredo I, Van Vuren D, Morrison ML. 1996. Habitat Use and Migration Behavior of the California Tiger Salamander. Journal of Herpetology 30(2):282-285.

credits from a USFWS- and CDFW-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan reviewed and determined adequate to maintain suitable habitat by a qualified biologist) of suitable on- and/or off-site habitat. In addition to mitigating impacts to the CTS, Mitigation Measure 4.6-1a-d is applied to mitigate impacts to other species below."

79-6 (Cont.)

1. Please identify any requirements the County is imposing on the timing for implementation of MM 4.6-1(d) in relation to initiation of Project construction activities.
2. Please explain how the County, in consultation with a qualified biologist, would "determine the total acreage of permanent loss of suitable habitat."
3. There are no conservation banks that sell habitat credits for the suite of species that would (or could) be impacted by the Project.[5] Therefore, please provide the scientific basis for the DEIR's determination that purchase of habitat credits from a conservation bank would mitigate the Project's potentially significant on the California tiger salamander, California red-legged frog, western spadefoot, Coast Range newt, San Joaquin coachwhip, American badger, San Joaquin kit fox, tricolored blackbird, and burrowing owl.

   In addition, to demonstrate feasibility of the proposed mitigation, please identify the conservation banks that: (a) have a service area that incorporates the Project site, and (b) have sufficient credits to satisfy the Project's compensatory mitigation requirements.
4. Please identify the issues and potential threats that would be addressed in the long-term management plan (if habitat credits are not purchased).
5. MM 4.6-1(d) fails to provide assurances that mitigation sites selected by the Applicant would reduce the Project's impacts on special-status wildlife to less-than-significant levels.

   Please establish site selection criteria for potential mitigation sites. In addition, please identify: (a) an objective party (e.g., CDFW) that would be responsible for approving the proposed mitigation site and the Applicant's long-term management plan; (b) performance standards and monitoring requirements for the mitigation site; (c) the party responsible for managing the mitigation site; and (d) financial assurances that would guarantee both mitigation implementation and perpetual management of the mitigation site.

[5] *See* <https://wildlife.ca.gov/Conservation/Planning/Banking/Approved-Banks>.

The DEIR states that habitat adjacent to the Project site would be indirectly impacted by the Project. In addition, the 70-acre "on-site" habitat that is "likely to be used toward [the] required habitat mitigation"[6] lies immediately adjacent to a newly created combining/overlay zone called Resource Recovery Park ("RRP"). The intent of this 30-acre RRP combining/overlay zone is to provide increased private opportunities to facilitate temporary solid waste storage, transfer, treatment, processing, source separation and recovery, disposal, recycling, reusable item centers, recycled content manufacturing, construction and demolition materials sort lines, wood and green waste grinding facilities, and energy projects.[7] As a result, it is reasonably foreseeable that a project will be developed within the RRP. 79-7

6. Given the DEIR's conclusion that the Project would have indirect impacts on adjacent habitats, please provide the scientific basis for the DEIR's determination that the 70-acre on-site habitat is, and would remain, "suitable" for compensatory mitigation.
7. Please discuss how development of a resource recovery project within the RRP would impact special-status species and habitat within the 70-acre site that is proposed for compensatory mitigation.

Mitigation Measure 4.6-1(e)

MM 4.6-1(e) states that pre-construction surveys for CTS are required if initial land clearing/vegetation removal activities commence during the wet season and active dispersal period for CTS. However, MM 4.6-1(c) suggests that pre-construction surveys for CTS are required irrespective of when initial land clearing/vegetation removal activities commence. 79-8

1. Please rectify the discrepancy between MM 4.6-1(c) and MM 4.6-1(e) and clarify whether pre-construction surveys requirement for CTS are contingent on the timing of initial land clearing/vegetation removal activities.

California Red-legged Frog

The DEIR states: "…[t]he project would eliminate all habitat for this species on the project site, and ongoing landfill operations would substantially reduce the quality of habitat on the project site and adjacent areas up until site closure. Therefore, the project's potential impacts on this species would be considered **significant**."[8] 79-9

[6] DEIR, p. 3-31.
[7] DEIR, p. 3-9.
[8] DEIR, p. 4.6-30.

1. Please clarify whether the significance level of the Project's impacts to California red-legged frog habitat is contingent on detection of the species during pre-construction surveys or biological monitoring.

79-9 (Cont.)

San Joaquin Coachwhip and Coast Range Newt

79-10

The DEIR states: "[w]ith implementation of Mitigation Measures 4.6-1 and 4.6-3, the potentially significant impact associated with adverse impacts to San Joaquin coachwhip and Coast Range newt would be reduced to a **less-than-significant** level because the project would avoid and minimize disturbance to these species."[9] This statement does not comport with the DEIR's conclusions that the Project would have potentially significant impacts on the San Joaquin coachwhip and Coast Range newt because it: (a) would result in habitat loss, (b) could lower reproductive potential and diminish local populations, and (c) could restrict the range of these species.[10] Mitigation Measure 4.6-3 requires the Applicant to implement parts (a) through (c) of Mitigation Measure 4.6-1. Mitigation Measure 4.6-1(a) requires a qualified biologist, temporary fencing, and erosion control. Mitigation Measure 4.6-1(b) requires an environmental awareness training program. Mitigation Measure 4.6-1(c) requires pre-construction surveys and a 100-foot equipment exclusion zone around any special-status species that are incidentally detected during construction monitoring.

1. Please identify the mitigation that would reduce the Project's significant impacts on habitat for the San Joaquin coachwhip and Coast Range newt. If MM 4.6-1(d) is intended to mitigate the impacts, please identify the mechanism that would ensure the CTS habitat compensation required under MM 4.6-1(d) would also mitigate the Project's impacts on habitat for the San Joaquin coachwhip and Coast Range newt.
2. Please identify the measure(s) that would mitigate the Project's effects on reproductive potential and range contraction.

MM 4.6-3 and several other mitigation measures proposed in the DEIR indicate that the Project may entail trapping and moving animal(s) to a USFWS- and/or CDFW-approved relocation site.

79-11

3. Please identify the USFWS- and/or CDFW-approved relocation site(s). If relocation sites have not yet been identified, discuss the physical (e.g., geographic location) and ecological variables (e.g., status of the species' population at the receptor site) that the County and USFWS/CDFW would examine to identify appropriate relocation sites.

[9] DEIR, p. 4.6-32.
[10] DEIR, p. 4.6-31.

4. Please discuss and analyze the adverse effects that trapping, handling, and relocation have on the various species that might be relocated off the Project site. This analysis should include citations to scientific literature that addresses the vital rates (survival and reproductive parameters) of those species after they have been relocated or translocated. 79-12

Western Spadefoot

The DEIR concludes that the Project would have significant impacts on the western spadefoot due to habitat loss and indirect effects to habitat that remains intact.[11] The DEIR then concludes that: "[w]ith implementation of Mitigation Measures 4.6-1 and 4.6-4, the potentially significant impact associated with adverse impacts to western spadefoot would be reduced to a **less-than-significant** level because the project will avoid or minimize disturbance to western spadefoot and their habitat." 79-13

1. Mitigation Measure 4.6-1 requires the Applicant to provide compensatory habitat mitigation that would offset the permanent loss of suitable habitat for the California tiger salamander. Therefore, please identify the mechanism that would ensure the habitat compensation required under MM 4.6-1 would mitigate the Project's impacts on habitat for the western spadefoot.

Mitigation Measure 4.6-4 requires an evaluation of the work area and vicinity (within 1,200 feet of the work area, as feasible and accessible) to identify the presence of suitable western spadefoot habitat. The mitigation measure states: 79-14

> "The areas that are identified as suitable habitat for western spadefoot shall be surveyed during the wet season by a qualified biologist no more than four weeks prior to the disturbance. If this species is identified onsite, land clearing/vegetation removal within the suitable habitat will be avoided, if feasible. If land clearing/vegetation removal is required within the suitable habitat, activities will be monitored by a qualified biologist. The qualified biologist shall have the authority to halt construction activities if a western spadefoot is observed within the work area, and the biologist may relocate animals to suitable habitats outside the area in consultation with CDFW."

The DEIR defines the wet season as "generally between October 16 and May 14."[12] Therefore, if habitat disturbance is scheduled to occur on December 1 (for example), the survey required under MM 4.6-4 would occur in November. This would result in

[11] DEIR, p. 4.6-32.
[12] DEIR, pp. 4.6-30 and -36.

false absence data because western spadefoots only occur above ground (i.e., are detectable) during the spring when they enter ephemeral water bodies to breed.[13] Furthermore, it would be impossible for the biologist to conduct a wet season survey "no more than four weeks prior to the disturbance" if the disturbance is scheduled to occur during the middle or end of the dry season. 79-14 (Cont.)

2. Please revise to MM 4.6-4 to incorporate a reliable means of determining presence of western spadefoots at the Project site prior to habitat disturbance.
3. Please discuss the probability that any western spadefoots at the site would be killed or injured during land clearing/vegetation removal activities, despite presence of a biological monitor that has the authority to halt construction activities. In addition, please clarify and justify whether Project-related mortalities of spadefoots would constitute a significant impact.
4. Please provide scientific literature that addresses the vital rates (survival and reproductive parameters) of western spadefoots that have been relocated or translocated.

Tricolored Blackbird

The DEIR states: "[p]roject development is not likely to adversely affect breeding tricolored blackbird because the project site does not support suitable breeding habitat for this species… No mitigation measures are necessary."[14] Several tricolored blackbird breeding colonies have been detected along John Smith Road in the immediate vicinity of the proposed Project area.[15] The Project has the potential to cause significant indirect impacts to these colonies, especially during construction of the new entrance road and RNG pipeline. 79-15

1. Please provide analysis of, and mitigation for, the Project's indirect impacts on tricolored blackbird breeding colonies.

Burrowing Owl

"Essential Habitat" for burrowing owls includes nesting, foraging, wintering, and dispersal habitat.[16] Accordingly, CDFW's 2012 Staff Report on Burrowing Owl Mitigation states the following with regard to impact assessments: 79-16

[13] Thomson RC, Wright AN, Shaffer HB. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife. University of California Press, Oakland, California.
[14] DEIR, p. 4.6-33.
[15] eBird. 2022. eBird: An online database of bird distribution and abundance [web application]. eBird, Ithaca, New York. (Accessed August 22, 2022).
[16] California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation, p. 24.

> "The impact assessment evaluates the potential loss of nesting burrows, satellite burrows, foraging habitat, dispersal and migration habitat, wintering habitat, and habitat linkages, including habitat supporting prey and host burrowers and other essential habitat attributes. This assessment determines if impacts to the species will result in significant impacts to the species locally, regionally and range-wide per CEQA Guidelines §15382 and Appendix G. The significance of the impact to habitat depends on the extent of habitat disturbed and length of time the habitat is unavailable (for example: minor – several days, medium – several weeks to months, high - breeding season affecting juvenile survival, or over winter affecting adult survival)."[17]

79-16 (Cont.)

The DEIR's analysis is limited to the potential for the Project to destroy or disturb occupied burrows or nests; the DEIR fails to provide an assessment of the Project's impacts on satellite burrows, foraging habitat, dispersal and migration habitat, wintering habitat, and habitat linkages.

1. In accordance with CDFW guidelines, please provide analysis of the Project's impacts on satellite burrows, foraging habitat, dispersal and migration habitat, wintering habitat, and habitat linkages. The assessment should include the County's determination(s) on the significance of the Project's impacts on these habitat elements.

Mitigation Measure 4.6-6(b) states:

> "Occupied burrows shall not be disturbed during the nesting season unless a qualified biologist meeting the Biologist Qualifications set forth in the May 2012 CDFW Staff Report, verifies through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation; or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival."

79-17

This provision was derived from CDFW's 1995 Staff Report on Burrowing Owl Mitigation. However, the provision proved unreliable in mitigating impacts to owls, was removed from CDFW's 2012 Staff Report on Burrowing Owl Mitigation, and is no longer acceptable to CDFW.

2. Please revise MM 4.6-6(b) to reflect the mitigation guidelines provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation. If the County does not revise MM 4.6-6(b), it must: (a) establish the specific methods that would be implemented to verify that owls have not

[17] *Ibid*, pp. 7 and 8.

begun egg-laying and incubation, or that juveniles are foraging independently and are capable of independent survival; and (b) provide evidence that implementation of those methods does not cause significant impacts on burrowing owls.

79-17 (Cont.)

Mitigation Measure 4.6-6(b) states that the Project shall implement the following measure, which it attributes to Appendix D of CDFW's 2012 Staff Report: "[p]ermanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.

- Temporary exclusion is mitigated in accordance with the measures described below.
- Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.
- Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band re-sight)."[18]

Mitigation Measure 4.6-6(b) misrepresents (omits a portion of) CDFW's mitigation guidelines, which state: "burrowing owls should not be excluded from burrows unless or until…[p]ermanent loss of occupied burrow(s) and habitat is mitigated **in accordance with the Mitigating Impacts sections** below. Temporary exclusion is mitigated in accordance with the item #1 under Mitigating Impacts below."[19] The DEIR does not incorporate the mitigation described in the "Mitigating Impacts" sections of CDFW's Staff Report.

3. Please revise MM 4.6-6(b) to accurately reflect the mitigation guidelines provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation.
4. Please incorporate mitigation for the Project's permanent, temporary, and cumulative impacts to burrowing owl habitat.

Mitigation Measure 4.6-6(b) states: "[d]uring construction activities, monthly and final compliance reports shall be provided to CDFW, the County Planning Department, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project."

[18] DEIR, pp. 4.6-34 and -35.
[19] California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation, p. 11. [emphasis added].

5. Please incorporate success criteria that shall be used to demonstrate that the mitigation measures reduced impacts to burrowing owls to less-than-significant levels. In addition, identify: (a) the party that would be responsible for documenting the effectiveness of mitigation measures, and (b) the remedial actions that shall be required if one or more of the mitigation measures are ineffective.
6. Please clarify whether the Project has the potential to cause take of burrowing owls.

79-17 (Cont.)

Vernal Pool Fairy Shrimp

79-18

Mitigation Measure 4.6-7(a) states:

> "Following the USFWS-approved protocol (USFWS 2017), no more than one year prior to the initial land clearing/vegetation removal activities, the project shall conduct pre-construction surveys for vernal pool fairy shrimp in the onsite seasonal pond during the wet season (generally between October 16 and May 14, depending on the precipitation year) or when the seasonal pond is inundated and in any other natural areas on the project site that are demonstrated to pond water temporarily during a rainy period."

1. The USFWS (2017) survey protocol requires one wet season survey and one dry season survey. Please explain why Mitigation Measure 4.6-7(a) only requires the wet season survey.

79-19

Mitigation Measure 4.6-7(b) requires habitat compensation at a 2:1 ratio if vernal pool fairy shrimp are detected during pre-construction surveys. According to the mitigation measure, compensation may be achieved through either purchase of habitat credits from an approved conservation bank or "the permanent protection (through conservation easement) and management (including a long-term management plan with a funded endowment) of suitable on- and/or off-site habitat."

1. Please identify any requirements the County is imposing on the timing of MM 4.6-7(b) in relation to Project impacts on vernal pool fairy shrimp habitat.
2. Please explain what the County considers to be "suitable" compensation habitat, the criteria that would be evaluated to determine habitat suitability, and whether an aquatic feature would need to be occupied by vernal pool fairy shrimp to qualify as replacement habitat.
3. Please identify the on-site habitat that might be used to satisfy the habitat compensation required under Mitigation Measure 4.6-7(b).

4. Please identify the issues and potential threats that would be addressed in the long-term management plan (if habitat credits are not purchased).
5. Please identify: (a) an objective party (e.g., CDFW) that would be responsible for approving the proposed mitigation site and the Applicant's long-term management plan; (b) performance standards and monitoring requirements for the mitigation site; (c) the party responsible for managing the mitigation site; and (d) the minimum endowment amount that must be provided to guarantee both mitigation implementation and perpetual management of the mitigation site.

79-19 (Cont.)

American Badger

The DEIR appears to conclude that impacts to the American badger would only be significant if the Project destroys an active breeding den, or if it causes indirect effects that cause den abandonment.

79-20

1. Please clarify whether the Project would have potentially significant impacts on other aspects of badger habitat besides breeding dens, and provide the scientific basis for that determination.

Mitigation Measure 4.6-8 states:

> "To determine if active badger dens are present on the project site or along the RNG pipeline alignment, preconstruction surveys for badger dens shall be conducted. If active badger dens are present on or adjacent to the project site, an avoidance buffer shall be maintained between the den and construction activities during pupping season (February 15 through July 1, or as otherwise determined through surveys and monitoring of the den)."

79-21

2. Please identify the preconstruction survey methods, including the timing of the surveys in relation to ground disturbance and the techniques that would be implemented to determine the status (i.e., active vs inactive) of any dens that are detected.
3. Please identify the size of the avoidance buffer that would be maintained between the den and construction activities.
4. Please incorporate a monitoring and reporting program that would demonstrate compliance with, and success of, Mitigation Measure 4.6-8.

Loss of Wetland Habitat

Mitigation Measure 4.6-10 states:

79-22

> "If wetlands are filled or disturbed as part of a project, the project proponent shall compensate for the loss to ensure no net loss of habitat functions and values. Compensation ratios will be based on site-specific information and determined through coordination with the RWQCB but shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled). Compensation may be a combination of onsite restoration/creation, offsite restoration, and mitigation credits."

MM 4.6-10 is vague, and thus results in uncertain efficacy of the proposed mitigation.

1. Please discuss the functions and values of the wetland (seasonal pond) that would be impacted by the Project.
2. Please identify the "site-specific information" that will be evaluated to determine the compensation ratio.
3. Please identify any requirements the County is imposing on the timing of MM 4.6-10 in relation to Project impacts on jurisdictional wetlands.

Establishment of the appropriate hydrology is fundamental to wetland mitigation whether through restoration or creation.[20] Although MM 4.6-10 incorporates performance standards for wetland plant species, it fails to incorporate performance standards for hydrology.

4. Please incorporate performance standards for hydrology at the wetland mitigation site.
5. Please incorporate a mechanism (e.g., conservation easement and endowment) that would ensure permittee-responsible mitigation is properly managed and protected in perpetuity.

Cumulative Impacts

79-23

The DEIR's analysis of cumulative impacts to biological resources states:

> "The only nearby parcel that may be subject to loss of habitat is the County-owned parcel across John Smith Road from the landfill, previously proposed by the County for a Resource Recovery Park. Approximately 70 acres of that site may be used for habitat mitigation as part of this project. If that site is not used for habitat

[20] National Research Council. 2001. Compensating for wetland losses under the Clean Water Act. National Research Committee on Mitigating Wetland Losses. National Academy Press, Washington DC, USA. p. 104. Available at: <https://www.nap.edu/catalog/10134/compensating-for-wetland-losses-under-the-clean-water-act>.

> mitigation, the mitigation measure requires 1:1 mitigation for habitat loss at a different suitable site. Therefore, the proposed project would not contribute to significant cumulative biological resource impacts within the project vicinity and the proposed project would result in a **less-than-significant** cumulative biological resource impact."[21]

79-23 (Cont.)

The DEIR's analysis suggests that habitat compensation at a 1:1 ratio would only be required if the habitat is not located at the County-owned parcel across John Smith Road. This conflicts with the Biological Resources chapter of the DEIR, which suggests that habitat mitigation would occur at a *minimum* 1:1 ratio, irrespective of where the compensation land is located.

1. Please clarify the habitat compensation ratio that would be implemented if the County-owned parcel across John Smith Road is used for habitat mitigation.
2. Please quantify the Project "vicinity" (i.e., the geographic scope of the DEIR's analysis of cumulative impacts to biological resources). In addition, please identify the mechanism that would ensure habitat compensation occurs within that same geographic area.

79-24

The DEIR states: "all project impacts would be mitigated to less-than-significant levels."[22] Mitigating a project's impacts to less-than-significant levels is not equivalent to full mitigation (whereby all impacts are fully offset). Mitigation that is designed to reduce impacts to less-than-significant levels often results in residual effects. These residual effects, when combined with the residual effects of other projects, can be cumulatively significant.

1. Please discuss the Project's residual effects (to biological resources) and provide cumulative impacts analysis that considers the Project's residual effects.

II. Air Quality and Human Health Impacts

79-25

The DEIR states: "The proposed [truck] haul route is about 28 miles long (round trip) between the SR 25/Shore Road intersection and the landfill and consists of SR 25 to Wright Road to McCloskey Road to Fairview Road to John Smith Road inbound and John Smith Road to Fairview Road to Shore Road to SR 25 outbound."[23] The DEIR's traffic analysis reports there will be 65 more daily truck trips (in-County plus out-of-County commercial trucks) on average weekdays as a result of the Project compared to existing numbers, plus an additional 34 self-haul

[21] DEIR, p. 5-5.
[22] DEIR, p. 5-5.
[23] DEIR, p. 4.2-1, 2.

vehicles.[24] On weekends, there will be an additional 9 trucks and 100 self-haul vehicles.[25]

79-25 (Cont.)

The DEIR acknowledges that diesel particulate emissions (DPM) from commercial trucks are toxic air contaminants (TACs) known to cause cancer in receptors exposed to them for extended periods. The cancer risk is elevated for so-called "sensitive receptors" including children, the elderly, and those suffering from respiratory ailments.

The DEIR purports to evaluate air quality impacts from emissions of criteria air pollutants from traffic traveling to and from the landfill site, both from in-County and out-of-County points of origin.[26] The DEIR also provides estimates of combined emissions from operation and construction activities during the Project's periodic expansions. The DEIR also presents the results of a screening level health risk assessment for receptors of DPM emissions along John Smith Road between Fairview Road and the new landfill entrance, finding all risks to be below thresholds of significance established by the MBARD.[27]

Missing from the DEIR is an assessment of potential cumulative health risks resulting from exposure to DPM emissions from trucks traveling to and from the landfill on the entire 28 mile long (round trip) out-of-County haul route. Cumulative impact analysis is a two-step process that requires an agency to make the following determinations: (1) whether the impacts of the project in combination with those from other projects are cumulatively significant, and (2) if so, whether the project's own effect is a considerable contribution. (Guidelines, § 15130(a).) Thus, in step one of the two-step analysis, the agency must determine whether the combined effect of the project and other past, present and/or future projects "when considered together" is significant, because those impacts may be "individually minor but collectively significant." *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 119-120. In step two, if there is a significant combined effect, the agency must then separately consider whether the project's contribution to that effect is itself considerable, i.e., "whether 'any additional amount' of effect should be considered significant in the context of the existing cumulative effect." (*Id.* at 119.) Thus, "the lead agency shall consider whether the cumulative impact is significant and whether the proposed project's incremental effects are cumulatively considerable." (*Id.* at 120, emphasis added.) Importantly, the analysis must consider

[24] DEIR, p. 4.2-5.
[25] Truck trip data in the Air Quality section (Table 4.3-6) appears to differ from the data presented in the Traffic section (Table 4.2-2.).
[26] DEIR, p. 4.3-34 et seq.
[27] DEIR, Table 4.3-14.

all sources of "related impacts," including past, present, and potential future projects. (Guidelines, § 15130(a)(1), (b).) Therefore:

79-25 (Cont.)

1. Please provide daily truck traffic counts for SR 25 and other roadways on the Project's haul route.

2. Using appropriate emissions factors from an accepted model (e.g. EMFAC), please estimate DPM emission rates in grams per mile for existing truck traffic traveling on these roadway segment.

3. Using an appropriate dispersion model (e.g. AERMOD) with locally obtained meteorological data, please calculate the existing ambient cancer risk to receptors along the haul route.

4. Please calculate the cumulative health risk (number of excess cancers per million exposed individuals) resulting when the Project's new diesel truck trips are added to the haul route.

III. Hydrology and Water Resources Impacts

Geology and Hydrogeology

79-26

The discussion of the complex underlying geology includes mention of the San Andreas Fault Zone, formation characteristics, that groundwater flow in the Panoche Formation through fractures, and that the some of the younger overlying deposits dip to the northwest. The general northwest-southeast trending structural features and trends associated with the San Andreas and Coast Ranges are not mentioned and how this geology in general may affect ground water flow: geology controls the hydrogeology.

1. Please describe the northwest-southeast trending regional geologic structure (faults and folds) common to the Coast Ranges of California, as evidenced by the geologic contacts strike and dip symbols by the geologic mapping of Diblee (1969).

2. Please describe how the northwest-southeast trending geologic structure effects the hydrogeology including preferred groundwater flow paths and trends.

3. Please discuss the regional hydrogeology in the context of the northwest trending contaminant plume of leachate leaking from the existing facility entrance on the west.

4. Please describe the confidence and level of uncertainty that the existing and proposed monitoring and extraction systems can detect and contain a contaminant release to groundwater, considering the complexity of the hydrogeology.

79-26 (Cont.)

Groundwater Recharge Impacts

The DEIR acknowledges the importance of maintaining groundwater recharge and the County efforts to preserve areas that provide important groundwater recharge. However, the DEIR only generally discusses groundwater recharge, neglects any analysis to quantify how much natural groundwater recharge may be lost by the proposed project, and simply jumps to the conclusion that "the proposed project would not alter recharge," which appears to be in error.

79-27

1. Please identify the groundwater recharge rates in the area.

2. Please conduct the appropriate analysis to determine how much the current project has altered groundwater recharge by both the capture of rainfall and reuse, and the extraction of groundwater contaminated by landfill leachate seepage.

3. Please conduct the appropriate analysis to determine how much the proposed project will alter groundwater recharge by both the additional capture of rainfall and reuse, and the future proposed extraction of groundwater contaminated by landfill leachate seepage.

Increased Runoff and Potential for Localized or Downstream Flooding

79-28

The DEIR acknowledges that implementation of the proposed project would result in an increase in impervious surfaces on the project site and altered drainage patterns, which would lead to an increase in stormwater runoff compared to existing conditions, which could exceed the capacity of the downstream drainage system. The DEIR indicates that stormwater basins have been designed to accommodate flows resulting from 100-year, 24-hour storm flows, based on the 100-year 24-hour storm of 5.17 inches (NOAA Atlas 14, Volume 6, Version 2).Climate and hydrology have changed dramatically in the past 5-10 years, more so than even climate models have predicted, as underscored by the Governor's recent new Water Supply Strategy to address our current water supply shortages and more severe storms and associated flood conditions. The DEIR makes no mention of changing climate conditions and the potential increasing severity of storm events and floods.

1. Please identify the current and future estimated changing climate conditions anticipated at the proposed project, including more severe storm events and associated stormwater runoff and peak flows.

2. Please address how the potential for more severe storm events will be incorporated into the landfill design to mitigate these conditions at the proposed project site.

3. Please discuss how future potentially more severe storm events and higher peak flow conditions will be addressed so that conditions downgradient of the site are not impacted in the future.

79-28 (Cont.)

Potential for Leachate to Degrade Groundwater Quality

The DEIR indicates that the leachate generated within the expanded landfill modules would be captured by a Leachate Collection and Removal System, and that the leakage of leachate through the liner system would be less than 0.1 gallons per acre per day, which is considered negligible. This level of leakage would not be expected to degrade groundwater quality. In addition, the landfill expansion would include the installation of a groundwater monitoring system that would detect and capture contaminated groundwater before migrating offsite. The level of 0.1 gallons per day (gpd) is considered negligible by the project proponent, but the 0.1 gpd turns into 36.5 gallons per year, which in 10 years is 365 gallons and in 30 years is over 1,000 gallons.

79-29

1. Please describe the uncertainty of the engineering design estimate, and confidence level that the leachate is actually completely contained now and will be in the future.

Potential Adverse Impacts to Groundwater Supply and Local Wells

The DEIR indicates that JSRL will use a groundwater supply well located at 1370 Shore Road in Hollister as a supplemental water supply during drought years and other periods where the on-site stormwater pond water supply is unavailable. A groundwater study indicates that the intermittent and seasonal extraction of supplemental supply from the 1370 Shore Road well would not reduce aquifer supply or cause groundwater levels to decline to the degree that neighboring wells would be adversely impacted. Climate has changed significantly in the past decade including more frequent droughts and more extreme precipitation events, exceeding the norm for frequency of dry years and droughts.

79-30

1. Please describe actions and contingencies in the now possible event of an extended drought that persists for five, ten years, or longer.

2. Please describe what the more realistic climate scenarios are for the project, considering how climate has changed over the last decade and is projected to change more so in the future.

79-30 (Cont.)

Water Supply and Reliability

The DEIR indicates that with project implementation, the supply for domestic uses, dust control and liner construction activities is proposed to be obtained from on-site stormwater basins and supplemented with other sources when needed. The project relies on stormwater capture and acquisition of groundwater from an agricultural supply well located in the Hollister Management Area of the Gilroy – Hollister Valley - North San Benito Groundwater Basin, a Sustainable Groundwater Management Act (SGMA) medium priority basin, where groundwater storage has been stable for the long term, given availability of Central Valley Project (CVP) supply since 1987.

79-31

1. Please explain how water collected from on-site stormwater basins will be used for domestic purposes.

2. Please describe the contingencies for long-term drought conditions when significantly less precipitation is available for storage on-site, and also potentially when less or no imported CVP water is available to balance the water budget in the Hollister Management area of the North San Benito Groundwater Basin.

Cumulative Impacts

The amount of local groundwater recharge is currently and will be altered in the future by covering the ground water surface with the proposed project and by capturing the water that would have fallen to the ground surface. Additional groundwater is being extracted to treat contamination emanating from the landfill.

79-32

1. Please describe the quantitative loss in groundwater recharge by the current and proposed project and the quantitative cumulative impacts over time.

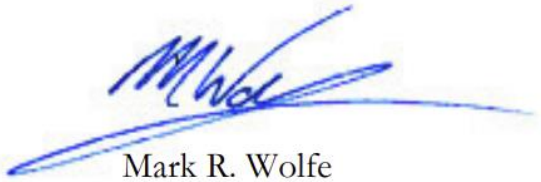
2. Considering the complexity of the local hydrogeology (fracture flow), please describe the potential cumulative impacts of the proposed project to groundwater quality, should the monitoring and capture system fail to contain contamination on the project property.

In conclusion, the County should update and amend the DEIR to correct the informational deficiencies identified above, and recirculate a revised draft for further public and agency review and comment before taking any action to approve the Project. 79-33

Thank you for the opportunity to submit these comments.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C



Mark R. Wolfe
On behalf of Don't Dump on San Benito

MRW:sa

79-1 The commenter requests acknowledgment of receipt of the comment. Receipt of the comment is acknowledged.

79-2 The commenter objects that technical reports on biology issues were not posted or otherwise publicly available. The commenter states that EIRs cannot rely on information that is not incorporated by reference or described in the EIR, and also states that these documents were incorporated by reference and that the County was required to provide an adequate road map of the information that was intended to be conveyed. The commenter states that the County violated its duty to make the studies available for public review and comment for the 45-day review period.

These technical studies were cited in the EIR, but not incorporated by reference. CEQA Guideline Section 15148 governs the citation of documents in an EIR, and provides as follows:

> *Preparation of EIRs is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR. The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.*

The EIR complies with this Guideline by listing the cited documents, and it goes beyond the requirements of the Guideline by describing in substantial detail the contents of the documents, such as the listings of various species that were evaluated, as shown in the tables in the biology chapter. Incorporation by reference is a separate and distinct process from citation, and it is permissive; Guideline 15150 states that lead agencies "may" incorporate other documents by reference. The EIR does not use the term incorporation by reference, and instead simply cites the various listed technical studies. The NOP did not state that "all" cited documents would be posted or immediately available in the Resource Management Agency offices. Doing so would have resulted in an incredible number of documents and pages that would have likely been unwieldly and confusing for the public to even have an idea of where to begin reviewing. If cited documents were not included in an Appendix and requested, they were provided.

CEQA Guideline Section 15087 governs the required content of the public notice that a draft EIR is available for review. Subsection (c)(5) states that the notice must indicate the address at which the EIR "*and all documents incorporated by reference in the EIR will be available for public review*." This Guideline does not require that cited documents be made available at a specific address. When the documents were requested, they were made available; the County is not aware of any instance in which a requested document was not made available. The only "repeated request" the County is aware of was an email request from M. Nelson on August 18 and a follow-up email from M. Nelson on August 22. The requested documents were provided August 24, only 6 days after her initial request. Notably, the commenter has presented detailed comments on analysis and mitigation measures in the biology chapter in the EIR (and responses to these comments are set forth below).

79-3 The commenter states that the precipitation data were obtained from a climate station at the Marysville Airport. As stated on page 4.6-3 of the Draft EIR, the precipitation data for the region was taken from the Western Regional Climate Center Climatological Summary for the Hollister 2 station. The two citations from the Marysville Airport included on p. 4.6-42 are erroneous and are hereby deleted.

79-4 The commenter identifies five specific comments with respect to off-site biological resource impacts, which are addressed individually below:

1. *Specific predatory species attracted to the landfill:* With respect to predators that may be attracted to the landfill, coyotes, ravens, and raptors can be considered predators to some special-status species.

2. *Habitat value of lands adjacent to the landfill that may be affected by the project:* With respect to value of adjacent habitats, those habitats are similar to the on-site habitats described in the Biological Resources analyses. The species descriptions on pages 4.6-16 through 4.6-21 of the Draft EIR summarize the value of these on-site and adjacent habitats to applicable special-status species.

3. *Specific disruption of special status species behavior and consequences.* Some species of wildlife will avoid areas adjacent or close to developed landfills due to the amount of noise and/or human activity associated with these uses. Avoiding areas surrounding the landfill can cause wildlife to be restricted in their ability to move around in their environment, limit the resources they can access, limit the amount of food they are able to forage, or cause them to abandon their dens. The nature of the indirect impact would depend upon the level of activity that is occurring on the site and the location of the activity. Because the landfill operation would not remain in a single location but would instead migrate across the site over time as modules are filled and new modules are constructed, the indirect impacts within the surrounding non-native grasslands would be expected to vary from year to year. As a result of the unique character of landfill operations when compared to more conventional land use developments, it is not possible to quantify the indirect effects that would occur over the life of the project.

4. *Mitigation for special status species on adjacent parcels*. The project's indirect impacts on wildlife were taken into consideration when determining impact significance and in developing mitigation measures, as described in Section 4.6, Biological Resources, and, with respect to vector nuisance control, Section 4.10, Hazards, Hazardous Materials, and Wildfires, of the Draft EIR. For a discussion of the species mentioned in the comment, please see pages 4.6-16 through 4.6-20 of the Draft EIR.

5. *Indirect impacts on specific special status species listed in the comment.* A discussion of indirect effects to American badger is included under Impact 4.6-8. Indirect effects to San Joaquin coachwhip, Coast Range newt, tricolored blackbird, vernal pool fairy shrimp, and San Joaquin kit fox would be expected to be similar to the indirect impacts described for California tiger salamander, California red-legged frog, western spadefoot, western burrowing owl and American badger on pages 4.6-28 through 4.6-37 of the Draft EIR. These effects could include the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional movements, and the disruption of behaviors. Also, as described on pages 4.10-1 to 4.10-2, and 4.10-17 of the Draft EIR, landfills can attract vector nuisance populations including insects, mice, rats and birds, particularly crows and gulls.

79-5 The commenter identifies seven specific comments, which are addressed individually below:

1. H*ow will data from the pre-construction surveys be used to mitigate the project's impacts on CTS and what the reporting requirements would entail*. As stated in Mitigation Measure 4.6-1(c), if any life stage of CTS is found in the land clearing/vegetation removal work area, construction activities shall cease within 100 feet of the animal and USFWS and CDFW shall be notified within 48 hours. Construction activities shall not be allowed within 100 feet of the animal. The biologist shall monitor the CTS to make sure the amphibian is not harmed and that it leaves the site on its own unless handling is approved in consultation with USFWS and CDFW and such handling is done by a USFWS- and CDFW-approved biologist with appropriate handling permits to move the animal out of the work area to a USFWS- and/or CDFW-approved relocation site.

The commenter asks that the rationale be explained for allowing surveys to be conducted up to four weeks prior to initial land clearing activities. A four-week timeframe allows for the pre-construction survey to occur close in time to possible to the ground-disturbing activity , thereby minimizing the potential for species to move into the area after the survey has been conducted while also providing sufficient time to ensure the surveys can be scheduled in advance of the disturbance activity. However, upon further consideration, the 4-week period identified in Mitigation Measure 4.6-1(c) has been changed, as indicated below, to 10 days prior to the start of construction. Ten days is the time in advance of ground-disturbing activity recommended by the California Department of Fish and Wildlife.

2. Please revise Mitigation Measure 4.6-1(c) to identify the pre-construction survey method for CTS. This measure was prepared to be generalized to all of the special-status species that have a potential to be impacted by project implementation, while Mitigation Measure 4.6-1(e) is specific to California tiger salamander (CTS). Nonetheless, the survey methods would be consistent with the written U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) survey methods, including having a qualified biologist survey for potential CTS habitat to confirm no salamanders are moving above-ground, or taking refuge in burrow openings or under materials that could provide cover such as boards, scrap metal, woody debris, or other materials. While required, the County acknowledges that compliance with USFWS survey methods was not expressly identified in the mitigation and therefore, the first sentence of Mitigation Measure 4.6-1(c) on page 4.6-29 is hereby revised as follows:

> A qualified biologist shall conduct pre-construction biological surveys no more than ~~four weeks~~ 10 days prior to initial land clearing/vegetation removal activities and such surveys shall comply with the most current USFWS and/or CDFW survey methods in effect at the time of the survey.

3. *Why wouldn't interiors of burrows be surveyed.* The survey of burrow openings would include surveying observable interior areas of the burrow for various species, including CTS, which is consistent with USFWS survey methods. Nonvisible interiors would not be surveyed to avoid disturbance to the burrows.

4. *Discuss actions that biologists would implement should CTS be found*. As discussed in Mitigation Measure 4.6-1(c), if the biologist discovers an animal on the site during pre-construction surveys, the biologist shall monitor the animal to make sure it is not harmed and that it leaves the site on its own unless handling is approved in consultation with USFWS and/or CDFW and such handling is done by a USFWS- and CDFW-approved biologist with appropriate handling permits to move the animal out of the work area to a USFWS- and/or CDFW-approved relocation site.

5. *Identify reporting requirements associated with MM 4.6-1(c).* As referenced in Mitigation Measure 4.6-1(c), USFWS and CDFW must be notified if a special-status species is detected. The project Mitigation Monitoring and Reporting Program details implementation of the reporting requirements.

6. *How would biologists conduct monitoring and would the biologists need to be present any time a piece of equipment is disturbing the site*. As referenced in Mitigation Measure 4.6-1(c), the biologist shall monitor during initial land clearing and vegetation removal activities to monitor the removal of the top 12 inches of topsoil at all project locations.

7. *The commenter asks that the 100-foot equipment exclusion zone rationale be explained and claims species are capable of moving outside the 100-foot zone before the resource agencies are notified. The commenter asks the purpose of notifying the resource agencies if a special-status species is found.* The use of a 100-foot exclusion zone is primarily intended to ensure that the animal being monitored and the human monitoring the animal are sufficiently separated from construction activities to be safe. This

exclusion zone also ensures that the hydrology characteristics immediately surrounding the species location are not altered in such a way that causes changes that would be harmful to the species. The exclusion zones are protected from construction activity by the installation of exclusion fencing, as identified in Mitigation Measure 4.6-1(a). Also, the biologist is required to monitor the animal to make sure it is not harmed and that it leaves the site on its own. This monitoring would ensure species safety. Notification of USFWS and CDFW is required to ensure that monitoring, buffering, and if necessary, handling, of the species is done in accordance with agency methods and permits.

79-6 The commenter identifies seven specific comments, which are addressed individually below:

1. Identify timing for implementation of MM 4.6-1(d). With respect to timing of the mitigation measure's compensatory requirements, the first paragraph of Mitigation Measure 4.6-1(d) on page 4.6-29 and 4.6-30 of the Draft EIR is hereby revised as follows:

> The project sponsor shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. The County, in consultation with a qualified biologist, shall determine the total acreage of permanent loss of suitable habitat. The County's determination shall be verified and approved by CDFW and/or USFWS, as applicable, and revised as necessary. Compensation may be in the form of either the purchase of habitat credits from a USFWS- and CDFW-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan reviewed and determined adequate to maintain suitable habitat by a qualified biologist) of suitable on- and/or off-site habitat. Evidence of compliance with these compensatory habitat mitigation requirements shall be required prior to land disturbance that would impact special-species habitat. If off-site habitat is preserved with a conservation easement, the long-term management plan shall include:
>
> - Identification of the responsibilities of the entities designated to hold and monitor the easement and to conduct long-term management activities;
> - Description of the type, frequency and duration of land management activities;
> - Requirements for the required diversity of plant species within the management plan area;
> - Requirements for the amount of invasive species allowed within the management plan area;
> - Identification of the number of required annual monitoring site visits by the qualified biologist;
> - Requirements for infrastructure to minimize trespassing (e.g., fencing, no trespassing signage);
> - Monitoring reporting and agency notification requirements; and
> - Funding mechanisms and assurances from the applicant to ensure continued management of plan area.

The comment also states that focused (protocol-level) wildlife surveys were not conducted for the project. This statement is accurate and is consistent with statements in the Draft EIR (see pages 4.6-28 and 4.6-36). Such surveys would be conducted as needed during the permitting process.

2. *Explain how the County, in consultation with qualified biologists, would determine total acreage of permanent loss of habitat*. With respect to the determination of the total acreage of permanent loss of suitable habitat, the Draft EIR provides a general description of the impacted acreage. See, for example, Draft EIR page 4.6-28 stating that the project would result in disturbance and loss of 0.6 acre of potentially suitable aquatic and upland habitat for CTS. The County would confirm the final, precise determination of habitat loss acreage based on final grading plans and in consultation with the resource agencies during the permitting process.

3. *There are no conservation banks that sell habitat credits for the suite of species that could be impacted by the project; please identify applicable conservation banks with sufficient credits for applicable species. Also please provide the scientific basis for purchase of mitigation credits as mitigation of project impacts.* The commenter's statement regarding a conservation bank with available habitat credits is incorrect. Mitigation Measures 4.6-1 and 4.6-2 identify the potential use of conservation banks to offset the impacts anticipated with project implementation for California red-legged frog and California tiger salamander. The Sparling Ranch Conservation Bank has agency-approved credits available for both California red-legged frog and California tiger salamander. Located outside of Hollister, the bank's service area includes the proposed project site. In addition, numerous other non-listed species have been documented to occur on this site, including burrowing owl and American badger.

The commenter requests that mitigation sites be identified now, but this is not required under CEQA. Although the 70-acre County property and the Spalding Ranch Conservation Bank have been identified in this Final EIR as potential mitigation sites for the proposed project, an agency may defer identifying a mitigation site pending the results of further studies. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260 (EIR need not identify exact location of off-site mitigation property); *California Native Plant Society v. City of Rancho Cordov*a (2009) 172 Cal.App.4th 603, 621 (mitigation measure requiring preservation and enhancement of replacement habitat did not have to identify specific mitigation site to be legally adequate).

The commenter asks that the scientific basis be provided for the Draft EIR's determination that the purchase of habitat credits from a conservation bank would mitigate the project's potentially significant biological impacts. The use of conservation banks is a commonly accepted practice for offsetting biological resource impacts and has been accepted by the regulatory agencies responsible for implementing and enforcing the federal and state Endangered Species Acts.

4. *Please identify issues and threats that would be addressed in the long-term management plan.* In general, the long-term management plan would: identify the responsibilities of the entities designated to hold and monitor the easement and to conduct long-term management activities; describe the type, frequency and duration of land management activities; and outline site monitoring and reporting responsibilities, agency notification requirements, and funding mechanisms and assurances. Specific performance measures in the long-term management plan would include, as applicable, establishing the required diversity of plant species within the management plan area, limiting the number of invasive species within the area, identifying the number of annual monitoring site visits, defining the required infrastructure that would minimize trespassing (e.g., fencing, no trespassing signage), and establishing the required reporting frequency. Accordingly, the first paragraph of Mitigation Measure 4.6-1(d) is revised as referenced above.

5. *MM 4.6-1(d) fails to assure that mitigation sites would reduce project impacts to special status species to less-than-significant levels. Please establish site selection criteria and identify responsible parties.* As identified in Mitigation Measure 4.6-1(d), the project sponsor shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. Mitigation Measure 4.6-1 also includes avoidance and minimization of impacts on this species. As stated on page 4.6-30, with

implementation of Mitigation Measure 4.6-1, the potentially significant impact associated with adverse impacts to California tiger salamander would be reduced to a less-than-significant level because the project would avoid and minimize disturbance to, and provide compensation for, California tiger salamander and their habitat.

In addition, the project requires a federal Endangered Species Act Section 10 Permit from the U.S. Fish and Wildlife Service and a State Endangered Species Act Section 2081 Incidental Take Permit from the California Department of Fish and Wildlife. These permits would specify the compensation requirements that would need to be met to authorize the potential take of any of the species listed in the permit. This would include identifying whether compensation would occur through a mitigation bank, through onsite habitat preservation, or through the establishment of an offsite habitat preserve. The permits would also establish long-term funding and management requirements of the applicant for the onsite or offsite habitat preservation through development of a long-term management plan, as described above.

79-7 1. *The commenter asks that a scientific basis be provided for use of the 70-acre County property based on the potential development of the adjacent 30 acres*. No development is currently proposed on the 30-acre parcel and the 70-acre property contains grassland habitat that is substantially similar to the habitat on the expansion site, and therefore provides suitable mitigation habitat for the project's impacts to biological resources. The 70-acre property is nearly directly proximate to the expansion property but across John Smith Road, has similar topographic features, and is publicly owned. The nonnative annual grassland habitat on this site includes wild oats and annual brome grasslands (*Avena* spp. – *Bromus* spp. Herbaceous Semi-Natural Alliance) (Sawyer et. al. 2009). This herbaceous plant community is characterized by a dense, tall cover of non-native annual grasses such as soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), slender oat (*Avena barbata*), wall barley (*Hordeum murinum*), Italian ryegrass (*Festuca perennis*), Bermudagrass (*Cynodon dactylon*), and rattail sixweeks grass (*Festuca myuros*). Forbs, including black mustard (*Brassica nigra*), Mediterranean linseed (*Bellardia trixago*), turkey mullein (*Croton setiger*), wild radish (*Raphanus sativus*), and prickly lettuce (*Lactuca serriola*), are common in the grassland habitat.

2. *Please discuss how development of a resource recovery park ("RRP") would impact species in the 70-acre mitigation area.* If the adjacent 30-acre property is ultimately developed, it could alter the local hydrologic conditions and could cause indirect habitat impacts. These impacts would be considered by the County and resource agencies in quantifying acreage credits for the 70-acre property during the permitting process. However, at a minimum, a mowed 30-foot-wide buffer area shall be established on the edges of the 70-acre property, consistent with CalFire wildland fire buffer recommendations and to create a physical separation between the 30-acre property and the remainder of the 70-acre mitigation property. This buffer may be increased as determined by CDFW and USFWS in their permitting of the use of the 70 acres as mitigation for the proposed expansion project. This buffer would serve both to reduce fire hazards from the developed area to the mitigation habitat and reduce the likelihood of species utilizing the mitigation habitat to come in conflict with potential future RRP uses of the 30-acre parcel. The establishment of this buffer or additional buffer imposed by CDFW or USFWS may reduce the acreage of the 70-acre property that could be considered preserved habitat in the endangered species permitting process. That determination would be made by the resource agencies as part of their site permitting process.

While there is no proposed or reasonably foreseeable development of the RRP at this time, if development of the RRP occurs before permitting by CDFW (under its regulatory authority granted by the California Fish and Game Code, Section 2050, et. seq.) and USFWS (under its FESA Section 10 consultation authority) to establish the use of the 70-acre parcel for mitigation, CDFW and USFWS would consider this RRP development at that time and could determine that all or part of the 70 acres is not suitable for mitigation because of the RRP development. The 2013 RRP EIR mitigation also requires

protocol-level surveys and, if any sensitive species found, CDFW/USFWS approval of mitigation. The mitigation establishing off-site replacement habitat for the RRP project's potential impacts is required (Measures 3.10-1, 3.10-3, 3.10-5, 3.10-7, 3.7-8 through 3.10-14, in the 2013 RRP FEIR) regardless of whether the 70 acres is used for mitigation. If all or part of the 70 acres is established as a mitigation area before development of the RRP, the mitigation measures adopted in the 2013 RRP EIR would require consideration of the impact of the proposed RRP development on the mitigation area and, if development of the RRP would impact the adjacent land's use as mitigation habitat, the mitigation adopted in the 2013 RRP EIR would require mitigation for that impact.

To clarify the inclusion of this buffer on the 70-acre potential habitat mitigation parcel, the following underlined text is hereby added to the paragraph in Section 3.5-13 on page 3-31 of the Draft EIR:

> "To offset biological impacts associated with the proposed landfill expansion, 1:1 mitigation of suitable habitat is required, and an approximately 70-acre area of the 101.3-acre County-owned property located south of John Smith Road is likely to be used toward this required habitat mitigation (Figure 3-3). The use of these lands for habitat mitigation would include establishing a conservation easement with a management plan that would ensure they are preserved in their current state and protected in perpetuity. No grading or construction activities would be anticipated with the use of this property for mitigation purposes. In addition, a minimum, mowed 30-foot-wide buffer area shall be established on the edges of the 70-acre property, consistent with CalFire wildland fire buffer recommendations and to create a physical separation between the 30-acre property and the remainder of the 70-acre mitigation property. This buffer may be increased as determined by CDFW and USFWS in their permitting of the use of the 70 acres as mitigation for the proposed expansion project.

79-8 The commenter requests that a discrepancy between Mitigation Measure 4.6-1(c) and 4.6-1(e) be resolved. There is no discrepancy. Both Mitigation Measure 4.6-1(c) and Mitigation Measure 4.6-1(e) require preconstruction surveys for CTS no more than four weeks prior to construction. Mitigation Measure 4.6-1(c) is not contingent on the timing of land clearing. Therefore, as a practical matter, Mitigation Measure 4.6-1(c) would require preconstruction surveys regardless of the timing of construction. However, to maintain consistency with the mitigation measures and to clarify that preconstruction surveys for CTS will be required in advance of land clearing/vegetation removal, regardless of season, the first sentence of Mitigation Measure 4.6-1(e) on page 4.6-30 of the Draft EIR is hereby revised as follows:

> ~~If~~ Prior to initial land clearing/vegetation removal activities associated with the construction of project components ~~commences during the wet season and active dispersal period for CTS (generally between October 16 and May 14, depending on the precipitation year)~~, a qualified biologist shall conduct pre-construction biological surveys no more than ~~four weeks~~ 10 days prior to the construction and such surveys shall comply with the most current USFWS and/or CDFW survey methods in effect at the time of the survey.

79-9 The commenter requests clarification regarding whether the significance determination for California red-legged frog habitat is contingent on detection of the species. The impact significance for this species would not be contingent on detection.

79-10 1 and 2: *Identify mitigation for the San Joaquin Coachwhip and Coast Range newt.* The commenter states that the conclusion that impacts to San Joaquin coachwhip and Coast Range newt would be reduced to a less-than-significant level after mitigation doesn't comport with the Draft EIR's conclusions that the

project will have potentially significant impacts on these species. The commenter is referred to Impact 4.6-3 on page 4.6-31 of the Draft EIR, which concludes that impacts on these species would be significant. Mitigation Measure 4.6-3 is provided to reduce the significance of this impact. This mitigation measure includes specific steps that would need to be taken to minimize the project effects on these species including if San Joaquin coachwhip and/or Coast Range newt are found in the preconstruction survey or in the biological monitoring during land clearing/vegetation removal. The biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own unless handling is approved in a letter from CDFW authorizing this activity and such handling is done by a qualified biologist who is CDFW-approved to trap and move the animal(s) to a CDFW-approved relocation area. Construction activities will not be allowed within 100 feet of the animal. With the implementation of these avoidance measures, the take of these species would not be expected to occur. As a result of these avoidance measures and the abundance of similar habitat surrounding the project site, the impact associated with the loss of habitat for these two species would be considered less than significant.

The commenter references Mitigation Measure 4.6.1(d). This mitigation measure includes the provision of compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. Mitigation Measure 4.6.1(d) notes that this mitigation measure applies to other species, including San Joaquin coachwhip and Coast Range newt. The provision of this compensatory habitat mitigation would further reduce the impacts on these species. Please also see response to comment 79-6.

79-11 The specific location of the animal relocation site(s) would be determined in consultation with USFWS and/or CDFW and would require agency approval (see Mitigation Measures 4.6-1(c), 4.6-1(e), 4.6-2, 4.6-3, and 4.6-4). In general, these sites would support the habitat features that the species requires and would be within the region of the project site. Please see also response to comment 79-6.

79-12 The commenter requests that the adverse effects of trapping, handling and relocation of various species be described. The handling of various species has the potential to decrease their long-term survival, particularly if they are not handled appropriately, which is why the listed species mitigation measures require that any handling be done by a qualified biologist who is approved by CDFW and/or USFWS to trap and move the animal(s) and pursuant to appropriate handling permits (see Mitigation Measures 4.6-1(c), 4.6-1(e), 4.6-2, and 4.6-3).). The survival of relocated species can be affected by a wide variety of factors including their initial health, trauma the may experience during the trapping and relocation process, their abundance in the relocation area, the availability of food sources and cover areas, the abundance of predators, and their proximity to developed areas.

The commenter states that the analysis should include citations to scientific literature that address the vital rates of relocated species. Relocating species onto similar suitable habitat is a common mitigation practice and is consistent with standard recommendations of resource agencies. For an example of the scientific literature on this issue, the commenter is referred to the IUCN Guidelines for Amphibian Reintroductions and Other Conservation Translocations, First Edition. Linhoff, L.J., Soorae, P.S., Harding, G., Donnelly, M.A., Germano, J.M., Hunter, D.A., McFadden, M., Mendelson III, J.R., Pessier, A.P., Sredl, M.J. and Eckstut, M.E. (eds.) (2021). Gland, Switzerland: IUCN. available at: https://portals.iucn.org/library/sites/library/files/documents/2021-017-En.pdf.

79-13 *Please identify compensatory mitigation for Western Spadefoot.* Mitigation Measure 4.6-4 is provided to reduce the significance of this impact. This mitigation measure includes specific steps that would need to be taken to minimize the project effects on these species including prior to initial land clearing/vegetation removal activities associated with the construction of project components, a qualified biologist shall evaluate the work area and vicinity (within 1,200 feet of the work area, as feasible and accessible) for the presence of suitable western spadefoot habitat (i.e., features that pond water for at least 3 weeks and lack predators, and terrestrial habitat within 1,200 feet of potentially suitable western spadefoot breeding

habitat). The areas that are identified as suitable habitat for western spadefoot shall be surveyed during the wet season by a qualified biologist no more than 10 days prior to the disturbance. If this species is identified onsite, land clearing/vegetation removal within the suitable habitat will be avoided, if feasible. If land clearing/vegetation removal is required within the suitable habitat, activities will be monitored by a qualified biologist. The qualified biologist shall have the authority to halt construction activities if a western spadefoot is observed within the work area, and the biologist may relocate animals to suitable habitats outside the area in consultation with CDFW.

Mitigation Measure 4.6-1 requires the provision of compensatory habitat mitigation to offset the project's impacts on CTS and California red-legged frog. Because western spadefoot and CTS occupy similar habitat, the provision of compensatory habitat mitigation for CTS would be expected to also provide some benefit for western spadefoot. Please also see response to comment 79-6.

79-14 The commenter requests that Mitigation Measure 4.6-4 be revised to provide a reliable means of determining western spadefoot presence prior to habitat disturbance. Module construction activities would occur during the dry season. Therefore, the species would be detectible within the wet season survey period prior to the disturbance activities. In addition, Mitigation Measure 4.6-4 on page 4.6-32 of the Draft EIR is hereby revised as follows:

> Prior to initial land clearing/vegetation removal activities associated with the construction of project components, a qualified biologist shall evaluate the work area and vicinity (within 1,200 feet of the work area, as feasible and accessible) for the presence of suitable western spadefoot habitat (i.e., features that pond water for at least 3 weeks and lack predators, and terrestrial habitat within 1,200 feet of potentially suitable western spadefoot breeding habitat). The areas that are identified as suitable habitat for western spadefoot shall be surveyed during the wet season <u>preceding ground disturbance</u> by a qualified biologist<u>. In addition, a survey shall be conducted of those same areas</u> no more than ~~four weeks~~ <u>10 days</u> prior to the disturbance. If this species is identified onsite, land clearing/vegetation removal within the suitable habitat will be avoided <u>through the establishment of a 50-foot non-disturbance buffer around the identified burrows</u>, if feasible. If land clearing/vegetation removal is required within the suitable habitat, activities will be monitored by a qualified biologist. The qualified biologist shall have the authority to halt construction activities if a western spadefoot is observed within the work area, and the biologist may relocate animals to suitable habitats outside the area in consultation with CDFW.

The commenter requests that the probability of western spadefoots being killed or injured at the site during land clearing activities, despite the presence of a biological monitor, be described, and requests clarification regarding whether mortalities of spadefoots would constitute a significant impact. Mitigation Measure 4.6-4 is intended to ensure no western spadefoots are located on the site during disturbance activities. Therefore, the probability of this species being killed or injured is low.

As stated on page 4.6-32 of the Draft EIR, the initial land clearing/vegetation removal activities associated with the construction of project components would disturb and remove habitat for this species and could reduce the number or restrict the range of this species or interfere with their movement. The Draft EIR concluded that these impacts, including reducing the number of these species, would be considered a significant impact.

The commenter requests that scientific literature be provided regarding the vital rates of western spadefoots that have been relocated or translocated. Relocating species onto similar suitable habitat is a common mitigation practice and is consistent with standard recommendations of resource agencies.

79-15 The commenter states that suitable tricolored blackbird breeding colonies exist near the project area and the construction of the project entrance and the RNG pipeline has the potential to cause significant indirect impacts to these tricolored blackbird colonies located along John Smith Road. As stated on page 4.6-20 of the Draft EIR, in 2010, a large nest colony was documented in a stand of milk thistle and blackberry approximately 0.3 mile south of the project site; nonbreeding (i.e., foraging) individuals were observed there as recently as 2020 (GEI 2020c). During a 2021 survey of a parcel south of this project site, it was observed that the location of the prior observation of tricolored blackbirds had been mechanically disced at the time and the area was devoid of nesting vegetation (GEI 2021). The project site does not support suitable breeding habitat for this species. Therefore, the Draft EIR concluded that the construction of the new entrance facilities would not be expected to reduce the number or restrict the range of this species or interfere substantially with their movement, and the loss of foraging habitat on the project site would not have a substantial adverse effect overall on the population of the species.

Additionally, Mitigation Measure 4.6-6 requires that pre-construction surveys be conducted for nesting birds and that protective buffers be established if they are discovered. This mitigation requirement would apply to tri-colored blackbird. The commenter states that in the event that a tri-colored blackbird nesting colony is detected during surveys, consultation with CDFW is warranted, or if avoidance is not feasible, the applicant should acquire an Incidental Take Permit. As stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from CDFW. Also, the project applicant would be required to consult with CDFW during the permitting process and is in the process of applying for an Incidental Take Permit, consistent with the commenter's suggestion. Please see response to comment 79-17, below, for refinements to Mitigation Measure 4.6-6 related to buffer distances.

For the RNG pipeline alignment, the vegetation along John Smith Road is predominately annual grassland. Patches of milkweed were observed along the road between the landfill and residential properties. The western portion of the alignment included residential land uses with ornamental vegetation and scattered eucalyptus trees. Along the southern boundary of the survey area a single drainage ditch follows John Smith Road and terminates west of the intersection at Best Road. The drainage feature lacked wetland or riparian vegetation, is composed entirely of upland vegetation with some barren substrate, appeared dry on aerial imagery throughout the year, and likely only conveys water during and immediately after heavy rainfall. No freshwater marshes are available along the alignment that would support colony nesting and no special-status wildlife species were observed along the alignments during the reconnaissance survey. Therefore, construction along the pipeline alignment within the roadway right-of-way would not be expected to result in significant indirect impacts to tricolored blackbird colonies and no mitigation would be required. Please also see Response to Comment 79-4 and Response to CDFW Comment A-4 for additional discussion of indirect impacts on tricolored blackbirds.

79-16 The commenter states that the Draft EIR fails to provide an assessment of the project's impacts on satellite burrows, foraging habitat, dispersal and migration habitat, wintering habitat and habitat linkages for burrowing owls. The comment is incorrect in stating that the Draft EIR analysis of impacts to burrowing owls is limited to potential to disturb occupied burrows or nests. The analysis of the project's impacts on burrowing owls concluded that the construction of project components could affect suitable habitat and could result in loss of occupied burrows and/or nests. This could cause injury or mortality of burrowing owls, if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, these species could be displaced from active burrows or nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. These species could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and

regional movements, and the disruption of behaviors. These indirect impacts could affect satellite burrows, wintering habitat, dispersal/migration habitat, and habitat linkages. For these reasons, the Draft EIR concluded the project's impacts on burrowing owls would be significant. Mitigation Measure 4.6-6 was included in the Draft EIR to reduce the project's burrowing owl impacts to a less-than-significant level.

79-17 The comment raises several issues associated with the analysis of burrowing owl impacts and mitigation measures. These are addressed individually below.

2, 3, and 4. *The commenter requests that Mitigation Measure 4.6-6 regarding burrowing owls be revised to comply with the California Department of Fish and Wildlife (CDFW) 2012 Staff Report of Burrowing Owl Mitigation and incorporate mitigation for project impacts to the owl.* As stated in Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from the California Department of Fish and Wildlife for the proposed project prior to implementation. This permit would utilize the Department's current standards at the time the permit is issued and the Department may impose conditions more restrictive than Mitigation Measure 4.6-6 based on its standards in effect at the time of issuance of the permit.

To improve the clarity of the discussion of the project's impacts on burrowing owls, raptors (including Swainson's hawks), and other migratory birds included under Impact 4.6-6 and the associated mitigation measure, the text follow the summary of Impact 4.6-6 commencing on page 4.6-33 and ending on page 4.6-35 of the Draft EIR is hereby revised as follows:

Burrowing Owls

Although no burrowing owls have been identified within the study area, grasslands within the project site provide potentially suitable habitat for burrowing owls. ~~Raptors and other migratory birds also may nest in grasslands or the trees in the study area.~~ The construction of project components could affect suitable habitat and could result in loss of occupied burrows and/or nests. This could cause injury or mortality of burrowing owls ~~and raptors or other migratory birds~~, if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, these species could be displaced from active burrows or nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. These species could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied burrows or nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on these species.

Raptors (Including Swainson's Hawks)

Raptors (including Swainson's hawks) may nest in grasslands or the trees in the study area. The construction of project components could affect suitable habitat and could result in loss of occupied nests. This could cause injury or mortality of raptors (including Swainson's hawks), if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, raptors could be displaced from active nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential

indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. Raptors could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on raptors (including Swainson's hawks).

Migratory Birds

Migratory birds may nest in grasslands or the trees in the study area. The construction of project components could affect suitable habitat and could result in loss of occupied nests. This could cause injury or mortality of migratory birds, if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, these migratory birds could be displaced from active nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. These migratory birds could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional of movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on these migratory birds.

Mitigation Measure 4.6-6: Potential Loss of Western Burrowing Owl Individuals, Raptors and Other Migratory Birds

Burrowing Owls

The project applicant shall implement the following measures conforming to the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012):

a. If feasible, the project shall avoid negative impacts and disturbance that could result in take of burrowing owls, nests, or eggs, including, but not limited to:

   - Avoid disturbance of occupied burrows during the nesting period, from February 1 through August 31.
   - Avoid impacting burrows during non-breeding season by migratory or non-migratory resident burrowing owls.
   - Avoid direct destruction of burrows.
   - Develop and implement a worker awareness training program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
   - Place visible markers near burrows to ensure machinery does not collapse burrows.
   - If burrowing owls and their habitat can be protected in place on or adjacent to a project site, use buffer zones, visual screens or other measures consistent with the

Staff Report on Burrowing Owl Mitigation (CDFG 2012) while project activities are occurring to minimize disturbance impacts.

b. A qualified biologist shall conduct take avoidance surveys for burrowing owl in accordance with Appendix D of the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) no less than 10 days prior to initiating ground disturbance activities.

c. If a burrow is confirmed occupied on the site and avoidance measures outlined in subsection (a) are not feasible, artificial burrow locations shall be appropriately located and their use shall be documented, consistent with Appendix E of the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). An exclusion plan shall be developed that includes conducting appropriate scoping to confirm burrows are vacant prior to conducting burrow excavation. Excavation shall be conducted using hand tools with refilling to prevent reoccupation. The excavation plan shall include monitoring of the site to evaluate success and, if needed, the implementation of remedial measures to prevent subsequent owl use.

d. Mitigate for permanent impacts to nesting, occupied and satellite burrows and burrowing owl habitat shall be developed in coordination with CDFW, consistent with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012), and may include the permanent conservation of habitat (with a corresponding conservation easement and long-term management plan) or purchase of credits from a CDFW-approved species conservation bank, at a minimum of a 1:1 ratio, as identified in Mitigation Measure 4.6-1(d).

Raptors (Including Swainson's Hawks) and Migratory Birds

- A qualified biologist shall conduct early-season surveys of suitable nesting habitat for common raptors (including Swainson's hawks) and other migratory birds that would be directly disturbed by initial land clearing/vegetation removal activities as well as suitable nesting habitat, if present, within 500 feet of these activities. In addition, pre-activity surveys shall be conducted within 10 days before project activities begin near suitable nesting habitat during the breeding season (March 1 – September 15). If any active bird nests are documented in the area that would be directly disturbed by these activities or active nests of common raptors and other migratory birds are documented within 500 feet, protective buffers shall be established and implemented until the nests are no longer active. A qualified biologist shall monitor the nests during these activities to confirm the effectiveness of the buffers. The size of the buffer shall be the size necessary to avoid disturbance to the nests and shall be determined by the qualified biologist after considering all relevant factors, including the type and intensity of project disturbance, presence of visual buffers, and other variables that could affect susceptibility of the nest to disturbance. For tricolored blackbirds, the buffer distance shall be a minimum of 300 feet. In addition, the compensatory mitigation provided in Impact 4.6-1(d) for California tiger salamander shall also provide suitable compensatory habitat for raptors including Swainson's hawks.

~~a. A qualified biologist shall conduct surveys of suitable nesting habitat for common raptors and other migratory birds that would be directly disturbed by initial land clearing/vegetation removal activities as well as suitable nesting habitat, if present, within 500 feet of these activities. Surveys shall be conducted within 14 days before project activities begin near suitable nesting habitat during the nesting season (February 1 – August 31). If any active bird nests are documented in the area that would be directly disturbed by these activities or active~~

nests of common raptors and other migratory birds are documented within 500 feet, protective buffers shall be established and implemented until the nests are no longer active. A qualified biologist shall monitor the nests during these activities to confirm effectiveness of the buffers. The size of the buffer shall be the size necessary to avoid disturbance to the nests and shall be determined by the qualified biologist after considering all relevant factors, including the type and intensity of project disturbance, presence of visual buffers, and other variables that could affect susceptibility of the nest to disturbance.

b. The project shall implement the following measuring conforming to Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012):

- A qualified biologist shall be on-site during all initial land clearing/vegetation removal activities associated with the construction of project components in potential burrowing owl habitat and nesting habitat for raptors and other migratory birds. A qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) shall conduct pre-construction surveys of the permanent and temporary impact areas, plus a 150-meter (approximately 492-foot) buffer, to locate active breeding or wintering burrowing owl burrows no less than 14 days prior to construction. If lawful access cannot be achieved to adjacent areas, surveys can be performed with a spotting scope or other methods. The survey methodology will be consistent with the methods outlined in the Staff Report and will consist of walking parallel transects 7 to 20 meters apart, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. Copies of the survey results shall be submitted to CDFW and the County Planning Department.

- If burrowing owls are detected, no ground-disturbing activities, such as road construction or ancillary facilities, shall be permitted within the distances listed below unless otherwise authorized by CDFW. Burrowing owls shall not be moved or excluded from burrows during the breeding season:

  Burrowing Owl Burrow Buffers — Level of Disturbance

  Location — Time of Year — Low — Medium — High

  Nesting sites — April 1–August 15 — 656 feet — 1,640 feet — 1,640 feet

  Nesting sites — August 16–October 15 — 656 feet — 656 feet — 1,640 feet

  Any occupied burrow — October 16–March 31 — 164 feet — 328 feet — 1,640 feet

- If avoidance of active burrows is infeasible outside of the breeding season, the owls can be passively displaced by a qualified biologist from their burrows according to recommendations made in the 2012 Staff Report on Burrowing Owl Mitigation. Burrowing owls should not be excluded from burrows unless or until:

  - Occupied burrows shall not be disturbed during the nesting season unless a qualified biologist meeting the Biologist Qualifications set forth in the May 2012 CDFW Staff Report, verifies through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation; or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.

- A Burrowing Owl Exclusion Plan is developed and approved by the applicable local CDFW office and submitted to the County Planning Department. The plan shall include, at a minimum:

  - Confirm by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping;

  - Type of scope and appropriate timing of scoping to avoid impacts;

  - Occupancy factors to look for and what will guide determination of vacancy and excavation timing (one-way doors should be left in place 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily and monitored for evidence that owls are inside and cannot escape i.e., look for sign immediately inside the door);

  - How the burrow(s) will be excavated. Excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that no owls reside inside the burrow);

  - Removal of other potential owl burrow surrogates or refugia on-site;

  - Photographing the excavation and closure of the burrow to demonstrate success and sufficiency;

  - Monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take;

  - How the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete.

- Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.

  - Temporary exclusion is mitigated in accordance with the measures described below.

  - Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.

  - Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band re-sight).

- In accordance with the Burrowing Owl Exclusion Plan, a qualified wildlife biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-

~~disturbing activities can proceed. Alternatively, burrows can be filled to prevent reoccupation.~~

- ~~During construction activities, monthly and final compliance reports shall be provided to CDFW, the County Planning Department, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project.~~

The Draft EIR concluded that impacts to burrowing owls would be significant because the initial land clearing/vegetation removal activities and ongoing landfill operations have the potential to cause the destruction and/or disturbance of occupied burrows or nests. Mitigation Measure 4.6-6 would ensure that no burrows or nests would be occupied during these construction activities consistent with the requirements of the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). Therefore, the potential impact of disturbing or destroying an occupied burrow or nest would be avoided and this impact would be reduced to a less-than-significant level. Please also see Response to Comment 79-6.

5. *The commenter asks that success criteria be identified that demonstrate that mitigation measures reduce impacts to this species to less-than significant levels*. As stated in Mitigation Measure 4.6-6, reporting shall be conducted monthly during construction activities and a final compliance report shall be prepared that documents the effectiveness of the mitigation measures and the level of burrowing owl impact associated with the proposed project. The reporting would detail the avoidance and minimization strategies implemented at the project site, including nest buffers, and describe their effectiveness in reducing impacts to breeding owls, nests, eggs, and young. The primary success criterion would be whether the construction activities would have a significant adverse impact to burrowing owl on a population basis.

6. *The commenter asks for clarification as to whether the project would result in take of burrowing owl.* The purpose of CEQA is not to analyze "take" of an endangered species. Instead, CEQA addresses whether a project will have a significant adverse impact to a species on a population basis and that all mitigation for those impacts are analyzed. See *Association of Irritated Residents*, 107 Cal.App.4th 1383, 1397 (CEQA neither requires a lead agency to reach a legal conclusion regarding "take" of an endangered species nor compels an agency to demand an applicant to obtain an incidental take permit from another agency). Here, the County properly analyzed whether the project would have a significant adverse impact to burrowing owl on a population basis and analyzed mitigation for those impacts.

79-18 In response to the commenter's request, Mitigation Measure 4.6-7(a) on page 4.6-36 of the Draft EIR is hereby revised as follows:

> Following the USFWS-approved protocol (USFWS 2017), no more than one year prior to the initial land clearing/vegetation removal activities, the project shall conduct pre-construction surveys for vernal pool fairy shrimp in the onsite seasonal pond during the wet season (generally between October 16 and May 14, depending on the precipitation year) or when the seasonal pond is inundated and in any other natural areas on the project site that are demonstrated to pond water temporarily during a rainy period. A pre-construction survey shall also be conducted during the dry season. If the surveys demonstrate negative findings, and the USFWS concurs with these results, no additional mitigation measures are necessary. If the surveys demonstrate positive findings, the following measure shall be implemented.

79-19 1. *The commenter asks if the County will be imposing any timing requirements on Mitigation Measure 4.6-7(b).* The implementation of this mitigation measure would be required prior to initiation of project construction activities.

2. *Please explain what the County considers to be "suitable" compensation habitat, including criteria to determine suitability and whether a mitigation site would need to be occupied by VPFS to qualify as replacement*. Suitable compensation habitat would be of like kind to the habitat being disturbed on the project site (i.e., similar soil, vegetation, and hydrology characteristics), would be within the County, would be within an area of limited to no urban encroachment, and would have a history of similar species presence.

3. *Please identify on-site mitigation habitat.* If on-site preservation is included in the endangered species permit, it would occur on the 70-acre property located directly south of the existing landfill and John Smith Road. This site would provide upland habitat for the species being affected. Mitigation Measure 4.6-7(b) requires a minimum mitigation at a 2:1 ratio for the determined loss of suitable habitat. The USFWS during the Endangered Species Act permitting process could impose greater compensation requirements than the minimum in Mitigation Measure 4.6-7(b).

4. Please identify issues and threats to be addressed in the long-term management plan. The requirements of management plans for any conservation easements will be determined in consultation with the resource agencies, if easements are deemed necessary. In general, the long-term management plan would: identify the responsibilities of the entities designated to hold and monitor the easement and to conduct long-term management activities; describe the type, frequency and duration of land management activities; and outline site monitoring and reporting responsibilities, agency notification requirements, and funding mechanisms and assurances. Specific performance measures in the long-term management plan would include, as applicable, establishing the required diversity of plant species within the management plan area, limiting the number of invasive species within the area, identifying the number of annual monitoring site visits, defining the required infrastructure that would minimize trespassing (e.g., fencing, no trespassing signage), and establishing the required reporting frequency. Please also see Response to Comment 79-6 for a list of the specific components required included in the long-term management plan as provided for in the revised mitigation measure.

5. *Identify management plan responsible parties and performance standards*. CDFW would be responsible for approving any mitigation sites, the associated long-term management plan, performance standards and monitoring requirements for the mitigation site. The applicant would be the party responsible for managing the mitigation site and any endowment to be provided to guarantee mitigation implementation and perpetual management of the mitigation site, if required by CDFW. Please also see Response to Comment 79-6, which is equally applicable to compensatory mitigation for loss of vernal pool fairy shrimp habitat.

79-20 The commenter asks for clarity regarding whether the project would have impacts on badger habitat other than breeding den and the scientific basis for that determination. As stated on page 4.6-36 of the Draft EIR, implementation of the proposed project would not reduce the number or restrict the range of this species or interfere with their movement. Due to their mobility, badgers can easily avoid humans and human activities, such as landfill construction. Therefore, the proposed project would not have significant impacts on badger habitat other than breeding dens. For changes to Mitigation Measure 4.6-8 regarding surveys for badger breeding dens, please see Response to Comment 79-21.

79-21 The commenter requests that the preconstruction survey methods and buffer distances be identified and that the mitigation monitoring program be identified. The surveys would be conducted consistent with California Department of Fish and Wildlife requirements. Survey methodology would include walking transects across the entirety of the potential disturbance area and recording any telltale signs of badgers on the site. The typical signs of badgers on a site include badger sett (den) entrances, large heaps of soil outside sett entrances, dung pits, badger paths, badger footprints and scratching posts. If a badger sett is found, this is usually monitored to find out whether the sett is being used by badgers. Badgers can be

observed around their setts during the night using infra-red video surveillance technology. This can provide evidence of badgers as well as give an estimate of population sizes. Sticky tape may also be placed at the entrance of a sett to catch the hairs of any badgers as they enter the sett.

To ensure appropriate survey methods are conducted and avoidance measures are implemented for American badger, Mitigation Measure 4.6-8 on page 4.6-37 of the Draft EIR is hereby revised as follows:

> To determine if active badger dens are present on the project site or along the RNG pipeline alignment, preconstruction surveys for badger dens shall be conducted no more than 10 days prior to construction in areas of suitable habitat. CDFW shall be consulted in advance of the preconstruction surveys to confirm the survey methodology and avoidance strategies to be implemented if dens are detected. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens with a shovel to prevent badger re-use during construction. Identified dens will be determined to be inactive by installing and operating a camera station for five consecutive days at the potential den entrance to determine den use and by what species. An alternative method may be used to determine inactivity if it is acceptable to the County in consultation with the CDFW.
>
> If a qualified biologist determines that active badger dens are present on or adjacent to the project site during the breeding season (February 1 through July 31), the biologist shall notify CDFW. No destruction of active dens is to occur during the breeding season. During the non-breeding season, entrances to the dens shall be blocked with soil, sticks, and debris for three to five days to discourage use of these dens prior to project disturbance. The den entrances shall be blocked to an incrementally greater degree over the three- to five-day period. After the qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction. A biologist shall remain on call throughout construction in the event a badger wanders onto the site.
>
> Construction activities shall not occur within 50 feet of active badger dens, consistent with CDFW recommendations. ~~, an avoidance buffer shall be maintained between the den and construction activities during pupping season (February 15 through July 1, or as otherwise determined through surveys and monitoring of the den).~~

If the project is approved, the County will be required to approve a Mitigation Monitoring and Reporting Program for implementation and determining compliance with all mitigation measures, including Mitigation Measure 4.6-8.

79-22 The comment identifies several concerns with the analysis of the seasonal ponds, which are addressed individually below:

1. *The commenter requests that the functions and values of the seasonal pond be discussed.* As described on page 4.6-6 of the Draft EIR, the pond lacks perennial wetland or woody riparian vegetation, and upland vegetation grows right up to the edge of the high-water mark, and as the pond water recedes in the spring, a mostly barren muddy shoreline is exposed. The pond had very little vegetative cover at the time of the December 2019 field survey. Evidence of the prior years' annual grasses, including wall barley, was prevalent; other vegetation was limited to rabbitsfoot grass (*Polypogon monspeliensis)* and alkali weed (*Malvella leprosa).*

The pond lacked development of hydric soils; an in-situ examination of soils confirmed that soils are clay in texture and that structure is blocky, allowing water to move into the subsurface, with no evidence of a restrictive layer (e.g., bedrock, hardpan, dense clay layer) to impede water movement into the soil profile.

The pond is situated at the toe of convergent slopes, in an area where surface runoff waters naturally collect. It is a topographic low without an outlet and no downstream connection to other waters of the United States (U.S.). Therefore, any water collected must infiltrate into the soil profile, evaporate, or be transpired by plants.

2. *Please discuss site-specific information relevant to determining the compensation ratio.* The compensation ratio is based on multiple factors including but not limited to whether or not sensitive species have been identified within the pond, the density of species occupancy if present, the quality of the vegetative habitat within the pond, the characteristics of the pond soils, its ability to hold water for extended periods, the relationship of the pond to the surrounding habitat, the presence or lack thereof of other wetland features in the project vicinity, and historic management. The final compensation ratios would be determined by CFDW and USFWS, as applicable

3. *Identify any requirements that the County is imposing on the timing of Mitigation Measure 4.6-10.* With respect to timing, the project applicant would be required to secure compensatory mitigation prior to any impacts to jurisdictional wetlands. This includes securing all necessary permits associated with the filling of wetlands (i.e., Endangered Species Act, Water Quality Certification).

This mitigation measure identifies the performance measures that would need to be achieved to ensure the wetland impact is reduced to a less-than-significant level, including preparing a restoration and monitoring plan. The plan would be required to identify the target species to be restored; planting design; irrigation needs; weed control; an implementation budget; and a 3-year maintenance and monitoring approach. The plan would include performance measures that ensure that 80 percent or greater cover by obligate and/or facultative wetland plant species is sustained after a three-year period and that less than 10 percent of the cover is inhabited by nuisance plant species. Contingency measures would be included in the plan, such as provisions for remedial planting to meet percentage requirements, if performance standards are not achieved after 3 years. Requirements for ongoing monitoring would be identified if performance standards are not met after 5 years.

4. *Please incorporate performance standards for hydrology at the wetland site.* If permittee-responsible wetland creation and monitoring is implemented consistent with Mitigation Measure 4.6-10, it would be required to be located within an area that includes hydrologic characteristics similar to the project site including total watershed area feeding the site, estimated water levels, and percolation rates. The water levels would need to be consistent over several seasons to ensure adequate supply is available to meet the identified wetland vegetation requirements.

In addition, the following sentence is hereby added to the last paragraph of Mitigation Measure 4.6-10 on page 4.6-38 of the Draft EIR:

> <u>The written Restoration and Monitoring Plan requirements shall be implemented throughout the applicable construction project with annual reports to the County on compliance with the plan. The reports also shall be made available for review and comment by the Central Coast Regional Water Quality Control Board. If any non-compliance is identified, the County and RWQCB shall prepare further compliance requirements and the applicant shall be required to implement these requirements as directed by the County and RWQCB.</u>

5. *Please incorporate a mechanism to ensure that permittee-responsible mitigation is properly managed and protected in perpetuity*. CDFW would be responsible for approving any mitigation sites, the associated long-term management plan, performance standards and monitoring requirements for the mitigation site. The applicant would be the party responsible for managing the mitigation site. CDFW

would typically require an endowment to guarantee mitigation implementation and perpetual management of the mitigation site.

79-23 The commenter asks for clarification regarding the habitat compensation ratio if the County-owned parcel is used for habitat mitigation. The mitigation ratio would be 1:1 regardless of the property used, including if the County-owned property is used.

The commenter requests clarification regarding the project vicinity related to the analysis of cumulative impacts. For cumulative biological resource impacts, the cumulative analysis evaluated the impacts within the boundaries of San Benito County. The project applicant would be responsible for implementing habitat compensation within the county. The mechanisms for ensuring that habitat compensation occurs within this geographic area include the County's enforcement of the project's Mitigation Monitoring and Reporting Program and the project applicant's required compliance with Endangered Species Act permit requirements.

79-24 The commenter requests that the project's residual effects be discussed and the cumulative impacts analysis be provided that considers the project's residual effects. As discussed on page 5-5 of the Draft EIR, the proposed project would result in significant biological resource impacts related to the special-status species and wetlands subject to state regulations. With cumulative development in the region, the biological resources in the region may be diminished. However, all project impacts would be mitigated to less-than-significant levels and the agricultural land use designations for the lands surrounding the project site and the lack of necessary infrastructure would minimize the potential for adjacent urban development that could further increase habitat loss in the project area. Most new development would be in and adjacent to the City of Hollister, distant from the landfill. The only nearby parcel that may be subject to loss of habitat is the County-owned parcel across John Smith Road from the landfill, previously proposed by the County for a Resource Recovery Park. If implemented, the loss of any sensitive biological resources would require mitigation. Because the biological resource impacts of these two projects would be mitigated, significant residual impacts would not be anticipated. Therefore, the proposed project would not contribute to significant cumulative biological resource impacts within the project vicinity and the proposed project would result in a less-than-significant cumulative biological resource impact.

79-25 The commenter states that an assessment of potential cumulative health risks resulting from exposure to diesel particulate matter emissions from trucks traveling to and from the landfill is missing from the Draft EIR. For a discussion of the proposed project's cumulative air quality and greenhouse gas emission impacts, the commenter is referred to page 5-4 of Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR. As stated in this chapter, the criteria air pollutant and greenhouse gas emissions generated by the proposed project would combine with emissions generated from implementation of the 2035 General Plan to cause significant and unavoidable air quality and greenhouse gas impacts.

The commenter further requests that the existing health risks for sensitive receptors located along the haul route be identified and that the cumulative health risk be calculated when the project's new diesel truck trips are added to existing conditions. For a discussion of the health risks associated with the project's truck trips, the commenter is referred to Section 4.3, Air Quality, including specifically Impact 4.3-4 commencing on page 4.3-51. As stated in this discussion, the average diesel particulate matter (DPM) generation rate for the life of the landfill, including emissions from construction vehicles, on site vehicles and project vehicles traveling on John Smith Road in the project vicinity, were modeled to estimate excess cancer and chronic health risks. Monterey Bay Air Resources District (MBARD) only has a threshold for lifetime cancer risk (Table 4.3-14 on page 4.3-44), so commonly used (Bay Area Air Quality Management District) thresholds for chronic and acute hazard indices were provided for reference. The residential estimated cancer risk levels were conservatively based on a hypothetical individual exposed to carcinogenic DPM emissions from the project site continuously, 24 hours per day,

365 days per year for a 70-year lifetime (minus a time allocation for vacations). These assumptions are very conservative because individuals are unlikely to remain in one location for that length of time.

Based on the analysis, the excess cancer risk for the receptors nearest to John Smith Road exposed to project-generated DPM emissions were all well below the threshold, the highest being 0.193 excess cancer risk per million. Because not all of the trucks that access the site would use the same roadways to access John Smith Road (e.g., either Fairview Road northbound or Fairview Road southbound), the other roadways along the haul route would have fewer daily project truck trips. Therefore, the estimated health risks associated with DPM emissions along John Smith Road would be lower along the other haul routes and would similarly be below the thresholds of significance. Due to the project site's remote location, the lack of other proposed developments in the project vicinity, and the agricultural land use and zoning designations for most of the land in the project vicinity, the proposed project's health risks associated with DPM would not be considered cumulatively considerable, as defined in State CEQA Guidelines Section 15065(a)(3).

The commenter requests that the existing truck trips on State Route 25 be identified. The 2020 annual average daily truck traffic (the most recent available data) on State Route 25 in the project vicinity was 1,661 trucks (as measures at the State Route 25 interchange with State Route 101, the nearest representative location for which data were available from Caltrans, https://dot.ca.gov/programs/traffic-operations/census). These truck trips represent the existing State Route 25 conditions within the project vicinity.

As stated in State CEQA Guidelines Section 15125(a), the environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The baseline environmental condition for the Draft EIR included the existing vehicle traffic that occurs along the proposed haul route including the existing truck trips using State Route 25. To determine whether the project would cause a significant impact, particularly related to health risks due to exposure to diesel particulate matter, the project's contribution above the baseline conditions was compared to the established thresholds, as described above.

The State CEQA Guidelines Section 15130(b)(1) provides two approaches to analyzing cumulative impacts. The first is the list approach, which requires a listing of past, present, and reasonably anticipated future projects producing related or cumulative impacts, as referenced by the commenter. The second is the "plan" approach wherein the relevant projections contained in an adopted general plan or related planning document that is designed to evaluate regional or areawide conditions are summarized. For this EIR, the plan approach was used to consider development consistent with the adopted San Benito County 2035 General Plan, which includes growth assumed in the City of Hollister General Plan (City of Hollister 2005). The General Plan identifies population and job projections, which correlate to growth in urban development and associated services, such as solid waste management.

The 2035 General Plan EIR concluded that implementation of the 2035 General Plan has the potential to expose County residents or other sensitive receptors to substantial pollutant concentrations via the addition of new roadways and subsequent traffic emissions, as well as construction and operation emissions from new development projects. However, because the 2035 General Plan proposes Policy HS-5.2 to ensure adequate distances between sensitive receptors and sources of toxic or hazardous air emissions, the 2035 General Plan EIR concluded that this would be a less-than-significant impact under both construction and operation. As indicated in the 2035 General Plan's Land Use Diagram, light industrial land uses would be designated to an area south of San Juan Road/4th Street and to the south of Union Road, near Hollister, as well as in areas surrounding the north part of Hollister. Heavy Industrial land uses are designated in the community of Aromas, northeast of the Highway 101/129 intersection, as well as north and south of 4th Street, outside of Hollister. Light and heavy industrial areas could be

designated near the new community study areas and residential uses near Hollister in unincorporated County, as well.

If residential land uses are developed adjacent to the locations cited above, potential land use conflicts could expose residents to toxic air contaminant (TAC) emissions. However, the 2035 General Plan Health and Safety Element, Goal HS-5 and Policies HS-5.2, HS-5.4, and HS-5.5, are designed to protect County residents from TACs generated by facilities or operations that may produce substantial emissions of TACs. The General Plan goals and policies would minimize TAC impacts associated with buildout of the 2035 General Plan by, for example, establishing appropriate buffer areas between sensitive receptors and substantial TAC sources, and by minimizing particulate matter emissions from construction and industrial facilities.

Additionally, the 2035 General Plan EIR states that no freeways in San Benito County have average annual daily traffic (AADT) above 100,000 vehicles per day, which is the value above which the California Air Resources Board (CARB) recommends a 500-foot buffer between the freeway and sensitive land uses. In rural areas, the CARB recommends a 500-foot buffer between sensitive land uses and a rural road with over 50,000 vehicles per day. The General Plan EIR states that there are no rural roads within the County with AADT above 50,000 vehicles per day and that the highway AADT of 100,000 vehicles per day and the rural road AADT of 50,000 AADT will not be exceeded by 2035.

As described above, the 2035 General Plan includes several policies that will result in substantially limiting the impact of pollutants on sensitive receptors through emissions reductions or strategic zoning during the Plan's buildout. As such, the 2035 General Plan EIR concluded that general plan buildout would not result in a significant cumulative health risk impact. Consequently, because the project would be located distant from any sensitive land uses and would not increase traffic volumes on local roads substantially above those anticipated with General Plan buildout, the project would not result in a significant cumulative health risk impact.

The commenter requests that emission factors be identified for existing truck traffic, that dispersion modeling be conducted to calculate the existing ambient cancer risk for receptors along the haul route, and that the cumulative health risk be calculated.

As stated in State CEQA Guidelines Section 15130, the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness. The commenter's request that dispersion modeling be used to calculate the existing ambient cancer risk for receptors along the haul route is an exceptionally complex endeavor. Toxic air emissions are generated from a variety of land uses, such as manufacturing facilities and gas stations, in addition to their generation from vehicles. The U.S. Environmental Protection Agency has classified 187 pollutants as hazardous. To calculate existing health risks, all of the existing toxic air pollutant emission sources would need to be quantified within a reasonable distance of the entire haul route, the specific hazardous emissions would need to be characterized and quantified for each source, and the dispersion distance from each source would need to be defined. These individual emission sources would need to be combined with the existing emissions generated by vehicles traveling throughout the region because all combustion-engine vehicles within a region contribute some level of hazardous emission. The level of effort necessary to quantify the existing health risks for residents located along the haul route is substantially more detailed than what is required by Section 15130 for cumulative analyses.

Also, because the 2035 General Plan EIR already concluded that significant cumulative health risks would not occur with buildout of the general plan and the proposed project would not represent a

cumulatively considerable contribution to health risks, the analysis requested by the commenter is unwarranted.

79-26 1,2 and 3. *The commenter requests that the regional geologic structure be described, that the structure's effects on hydrogeology be described, and that the regional hydrogeology be discussed in the context of the contaminant plume.* For a detailed discussion of the regional and project site hydrogeology and seismicity, the commenter is referred to pages 4.9-4 through 4.9-18 in Section 4.9, Geology, Soils and Paleontology, of the Draft EIR. For a detailed discussion of the groundwater contamination plume, the commenter is referred to pages 4.8-7 through 4.8-11 in Section 4.8, Hydrology and Water Quality, of the Draft EIR. Please also see the November 4, 2020 Lawrence & Associates expert response letter included in Appendix A of this Final EIR.

As discussed in this letter, the unlined landfill had been filled in a valley underlain by shallow alluvium on top of weathered Panoche Formation Bedrock. Groundwater contamination followed the shallow valley alluvium from beneath the unlined Class III Area, down slope towards the existing landfill entrance and beneath the field across John Smith Road southwest of the entrance to the Landfill. The shallow valley alluvium is identified on the geologic map in the Draft EIR as "Qal – Alluvium." In another version of the same map, the unit has been identified as "Qa - alluvial gravel, sand, and clay of valley areas." The VOC "plume" migrated through the 5- to 10-foot-thick shallow valley alluvium and uppermost (10 to 20 feet) of the underlying Panoche Formation approximately in the area shown on Figure 4.8-4 in the Draft EIR.

In the process of developing a conceptual model for the release, Wahler Associates found that the permeability of underling Panoche Formation varied widely and was one to three orders of magnitude lower than the shallow valley alluvium. In general, however, permeability was relatively low and groundwater moved slowly (average of 0.27 feet per day) downgradient.

In 1993, a groundwater-extraction system was installed downgradient of Module 1 using three extraction wells (E-1 through E-3) on the landfill property near the current landfill entrance and two extraction wells (E-4 and E-5) in the field southwest of existing landfill. The extraction wells are used to intercept water in the plume. As described in Section 4.8 (Page 4.8-9) of the Draft EIR:

> "The overall declining concentrations of VOCs indicate that the on-site groundwater extraction system has been effective at capturing affected groundwater. Improvements in landfill operations have also reduced leachate production, thus reducing the source for the historical impact identified as originating from unlined Module 1."

The direction of groundwater is down the valley to the northwest. The plume does not reach Monitoring Well WA-20 or the adjacent Lima 3 Well. As shown on the geologic map in the Draft EIR (Figure 4.9-2), the shallow alluvium ends west of the landfill entrance and does not provide a preferential path for groundwater movement downgradient past that point. The nearest known residential well (A Lima (2006)) is approximately 0.75 miles west of Monitoring Well Lima 3 and is well removed from the potential for VOC contamination from the Landfill.

Operation of the groundwater-extraction system and the limits of the VOC plume in the surrounding area are part of the ongoing corrective action program. While the existing release and successfully controlled plume are an existing baseline condition, it provides an example of successful application of the regulations, corrective action by the landfill owner and operator, and oversight by the CCRWQCB.

The existing plume was the result of groundwater located close to the bottom of an unlined portion of the landfill in a valley underlain by shallow valley alluvium and shallow groundwater. The local groundwater system is controlled by local lithology (layered rock strata) and topography (waste in a valley), and is not

related to regional geologic structural controls such as factures or bedding. A release similar to the existing one is not possible in the expansion area because (1) the shallow valley alluvium does not occur within the expansion area, (2) the expanded landfill would be lined, and (3) a minimum 5-foot separation between the bottom of the waste and highest anticipated groundwater elevation would be required to be maintained.

4. *The commenter also requests a description of the confidence and level of uncertainty that the existing and proposed monitoring and extraction system can detect and contain contaminants*. As described on page 4.8-27 of the Draft EIR, the existing, unlined portion of the landfill has affected groundwater quality locally through migration of leachate and landfill gas to groundwater. The effects of this leakage are being controlled through groundwater extraction, which would continue during the expansion phase. Migration of leachate and landfill gas from the expanded landfill would be prevented through construction of Title 27-compliant liners and control. Additionally, a preferential leachate pathway geomembrane would be installed between newer waste and the older Module 1 waste to reduce the potential for landfill gas to migrate from the newer waste into the older Module 1 waste.

The State of California has established the Title 27 regulations based on a long history of regulating solid waste operations in the state and the application of engineering principles such that the liner requirements and environmental monitoring and control systems included in the regulations are sufficiently conservative in their implementation to ensure contaminants are not released into groundwater over the life of the landfill operations and post closure. As such, the Title 27 regulations were adopted with the confidence that they would be appropriately effective. Regarding identifying a level of uncertainty, the regulations are intended to address the long-term operation and post closure of landfills throughout the state. Although there is always some level of uncertainty regarding how engineered systems will operate over the long-term, the level of uncertainty would be considered low regarding whether the landfill systems will operate consistent with the regulatory requirements.

Because the existing groundwater contamination source is being controlled through groundwater extraction and future landfill modules would include Title 27-compliant liners, the proposed project would not be expected to contribute to groundwater contamination and the Draft EIR concluded this impact would be considered less than significant. Please also see the Master Response on Groundwater Contamination included at the beginning of the responses.

79-27 The commenter requests additional analysis regarding groundwater recharge including identification of 1) recharge rates, 2) how the current project has altered recharge, and 3) how the proposed project will alter recharge rates. The majority of groundwater underlying the site is perched and not currently used fopr water supply. As stated on page 4.8-27 of the Draft EIR, the installation of a liner system and the eventual installation of a closure cap would reduce the potential for groundwater recharge over the area of the landfill footprint containing the liner system and closure cap, as quantified below. Stormwater that flows over the landfill cap would be directed to the site's detention basins and any stormwater not captured for future water supply use (i.e. dust control, most of which would be lost to evaporation) in the project would ultimately discharge from the site. For areas surrounding the landfill, the proposed project would not affect the rate at which water would percolate into the soil because the project does not include any land use changes outside of the project boundaries. The recharge rates for these areas vary depending upon multiple characteristics including the soil type, underlying geology, slope angle and slope aspect.

Regarding how the current project has altered recharge, the commenter is presumed to be referencing the current landfill operations. For these operations, the existing stormwater collection system directs stormwater into detention basins and offsite drainages. The stormwater from the site that does not flow into larger downstream tributaries or evaporate, would contribute to groundwater recharge.

At buildout, the impermeable area of the landfill (the lined portion) would be 195 acres more than the current landfill footprint (253 acres of future footprint less 58 acres currently), not including the lined sediment basins. These 195 acres represent approximately 7.5 percent of the area of USGS Topographic Map T&R Sections 4, 5, 8, and 9 where the landfill is located.

Although the proposed expansion would reduce the area available for recharge within the immediate project vicinity, due to the site's remote location, large areas are available surrounding the site that would continue to accommodate groundwater recharge. Because these surrounding lands are predominantly designated for agricultural uses, they are not expected to be developed in the future and would continue to provide areas for groundwater recharge. For this reason, the projected reduction (7.5 percent) in available recharge area that could occur as a result of the proposed project would not substantially decrease groundwater supplies or otherwise adversely affect groundwater recharge in the project vicinity. In addition, due to the sloping character of the expansion site and the relative lack of flat areas that could hold water for the extended periods necessary to accommodate percolation, much of the precipitation that occurs on the site sheet flows into lower lying areas and local drainages before it has a chance to percolate into the groundwater.

79-28 The commenter raises questions regarding the hydrology analysis with respect to climate change. The commenter requests that the current and future estimated changing climate conditions anticipated at the proposed project be identified. The current climate change conditions are represented by the meteorological conditions that have occurred at the project site over the last several years, including the dominance of an extended drought period. How future climate changes will affect individual sites is difficult to predict due to the complexity of the inputs that affect site-specific atmospheric conditions. However, based on more general predictions, California may be exposed to more climate extremes in the future, including longer droughts and more intense storm events.

The commenter asks how the potential for more severe storm events will be incorporated into the landfill design to mitigate these conditions at the project site. The project site's drainage system design requirements included in Mitigation Measure 4.8-1 would be implemented as part of the design report submitted for the Waste Discharge Requirements and General Order. The drainage system design would be subject to review and approval through this process prior to construction of each landfill module. The design report would provide drainage design calculations based on the most recent National Oceanic and Atmospheric Administration (NOAA) rainfall intensity data. NOAA updates their rainfall data periodically and, over the life of the landfill, drainage improvements and detention basins for new modules would be constructed to reflect updated data, thereby accommodating climate change.

The commenter asks how future potentially more severe storm events and higher peak flow conditions will be addressed so that conditions downgradient of the site are not impacted in the future. As described in the Draft EIR, some drainages would have higher post-project flow than pre-project flow and would require temporary stormwater detention and release of the water gradually after the peak storm. Other drainages would have less post-project flow than pre-project peak flow and would not require stormwater detention. The design for these requirements would be incorporated into the design reports required by the Waste Discharge Requirements and General Order.

79-29 The commenter asks that the uncertainty of the engineering design estimate and the confidence level that the leachate will be completely contained be described. Both the current and expanded landfill operations are subject to regulations applicable to the discharge of sediments and pollutants from the project site including the following:

a. The existing landfill is subject to the Industrial General Stormwater Permit (IGSP) for landfill construction and operation, including grading, filling, and ancillary construction. Prior to grading activity

within the expansion area, the site operator would be required to revise the landfill's Notice of Intent (NOI) under the IGSP to include the expansion area and to revise the SWPPP associated with the IGSP.

b. The landfill operator would be required to comply with the existing (and future) Waste Discharge Requirements and related State regulations regarding landfill operations, including construction of appropriate lining and leachate-control systems and water-quality monitoring systems. The owner or operator would be required to submit to the Regional Water Quality Control Board required plans and specifications for construction of new landfill modules. Such submittals would be required to include construction quality assurance (CQA) plans describing the oversight of construction and procedures for remedying defects in construction before waste placement begins.

Implementation of the proposed project consistent with the regulatory requirements described above would minimize or avoid the potential for the offsite discharge of pollutants associated with site operations. For a discussion of confidence level that the leachate will be completely contained, please see Response to Comment 79-26. Please also see the November 28, 2022 Lawrence & Associates expert response letter included in Appendix A of this Final EIR.

79-30 Please see Reponses to Comments 1-1 and 1-2.

79-31 The commenter asks how water from the stormwater basins will be used for domestic purposes. As discussed on page 4.12-13 of the Draft EIR, one truck load of potable water per week would be needed to provide sediment-free water for non-potable domestic uses. Alternatively, pond-water could be filtered to remove sediment. Bottled water would also be delivered to the site for human consumption, as currently occurs at the existing landfill facilities.

Please also see Reponses to Comments 1-1 and 1-2 with respect for contingencies for water supplies in long-term drought conditions.

79-32 The comment requests a description of the quantitative loss in groundwater recharge due to the current and proposed project, and the potential cumulative impacts on water quality if there is a liner failure. Please see responses to comments 79-26, 79-27, the Master Response on Groundwater Contamination at the beginning of these responses, and Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR. Although the proposed expansion would reduce the area available for recharge within the immediate project vicinity, due to the site's remote location, large areas are available surrounding the site that would continue to accommodate groundwater recharge. Because these surrounding lands are predominantly designated for agricultural uses, they are not expected to be developed in the future and would continue to provide areas for groundwater recharge. Therefore, cumulative development would not be expected to diminish groundwater recharge in the project vicinity and the project would not result in a significant cumulative groundwater recharge impact.

Regarding the cumulative impacts related to the complexity of the local hydrogeology, the Title 27 regulations have been established to ensure that new liner systems and environmental monitoring and control systems at landfills function effectively to ensure that contaminants do not leak into groundwater. Therefore, the installation of the Title 27 liner systems and environmental monitoring and control systems associated with the proposed landfill expansion would not be expected to contribute cumulatively to the contaminant release that has occurred within the existing pre-Subtitle D area of the landfill regardless of the underlying geology. This issue is further addressed in the Master Response on Groundwater Contamination.

79-33 The commenter states that the County should update and amend the Draft EIR to correct the deficiencies and recirculate a revised Draft EIR. The commenter's suggestion is noted and as such, is a part of the

administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: San Benito High School District - letter in attachments

Good afternoon Mr. Ketchum,

On behalf of Superintendent Shawn Tennenbaum and the San Benito High School District, please see a letter attached to this email providing comments on the Draft Environmental Impact Report.

An original copy of this letter was placed in the US mail to your attention on Friday, September 2, 2022.

Thank you for your attention to this message.

Respectfully,

Carol

Mrs. Carol Heiderich (she/her)
Administrative Assistant to the Superintendent
San Benito High School District

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DR. SHAWN TENNENBAUM
SUPERINTENDENT

September 2, 2022

San Benito County Planning and Land Use Division
ATTN: Stan Ketchum
2301 Technology Parkway
Hollister, CA 95023-9174
Email: SKetchum@cosb.us

Re: John Smith Road Landfill Expansion Project (SCH# 2021020371)
Comments on Draft Environmental Impact Report

Dear Mr. Ketchum:

This letter is submitted to the County of San Benito ("County") on behalf of the San Benito High School District ("District"), a California public school district, and its governing board with regard to our review and assessment of the County's Draft Environmental Impact Report ("DEIR") for the proposed John Smith Road Landfill ("JSRL") Expansion Project ("Project"). As a California public school district serving children who reside and attend school within the County, and as an owner of property within the Project vicinity, the proposed Project affects resources within the District's expertise. Accordingly, we submit these comments to the County to register the District's serious concerns that the County has failed to comply with the legal requirements of the California Environmental Quality Act (Pub. Res. Code, § 21000, *et seq.*, hereinafter "CEQA") and its interpreting regulations (Cal. Code Regs., tit. 14, § 15000, hereinafter "Guidelines.") 80-1

Under CEQA and its Guidelines, an environmental impact report ("EIR") must set forth all significant effects on the environment of the proposed project, as well as mitigation measures proposed to minimize significant effects on the environment, and alternatives to the proposed project. An EIR must "present information in such a manner that the foreseeable impacts of pursing the project can actually be understood and weighed." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Ranch Cordova* (2007) 40 Cal.4th 412, 449-450.)

It is the District's position that the DEIR contains conclusory statements unsupported by factual information or data, inconsistent and conflicting information, and analytical gaps in its analysis which render the DEIR insufficient with respect to identifying and analyzing the possible impacts on the environment, and precludes meaningful public review and comment. Likewise, the DEIR includes certain mitigation measures that are deferred or

undefined, rendering it impossible to gauge their effectiveness. Specifically, further analysis and/or mitigation is needed in the areas of Air Quality and Odors, Noise, Transportation and Circulation, Greenhouse Gas Emissions and Climate Change, Biological Resources, Hydrology and Water Quality, Hazards and Hazardous Materials, Land Use and Planning, Public Services, Utilities, and Energy, Cumulative Impacts, and Project Alternatives. Therefore, the DEIR must be revised and recirculated to address its deficiencies and disclose the significant new information to the public for review and comment before the proposed Project can be approved. Unless and until the County addresses all of the shortcomings of the DEIR and adequately mitigates the proposed Project's environmental impacts, the District will remain opposed to the Project. Furthermore, the District is unequivocally opposed to any Project Alternative using Best Road as a haul route.

80-1 (Cont.)

In addition to our concerns with respect to the overall environmental impacts of the proposed Project, the public has entrusted the District with providing its students with a high-quality education, which includes ensuring the health and safety of our students and staff and the integrity of their learning environment. The proposed Project will increase local air pollution, truck traffic, pedestrian safety risks, noise, and odors, among other environmental impacts, which will likely impact the health and safety of our students and staff. As discussed herein, the proposed Project's impacts must be adequately evaluated and mitigated to prevent an undue burden on our students, parents, faculty, staff, and community as a whole.

- **General Comments:**

  - The District owns certain property (Assessor's Parcel Numbers [APNs] 025-190-0019 and 025-190-052) located on Best Road approximately 1 mile to the southwest of the proposed JSRL Expansion Project area. The District is considering development of this District-owned property into a second high school site. The District also owns and operates the San Benito High School site, a 9-12 high school campus located approximately 3.9 miles to the west of the proposed Project. With a staff of approximately 383, the District currently serves approximately 3,498 students residing in the County.

80-2

  - Following circulation of the Notice of Preparation ("NOP") for the proposed Project in February 2021, the District submitted a comment letter to the County on March 22, 2021, documenting the presence of the District-owned property located on Best Road and expressing our concerns regarding potential health and environmental impacts associated with the Project on a future high school. The District concluded by stating that they intended to stay closely involved in the environmental review of the Project and invited the County to continue communications. The County failed to reach out to the District until July 6, 2022.

  - The DEIR does not include critical technical documents, such as the John Smith Road Landfill Expansion Traffic Study prepared by PHA Transportation Consultants (PHA),[1] the John Smith Road Landfill Expansion Project Noise and Vibration Study prepared by Rincon Consultants 2021,[2] and the Design Basis Report prepared by Lawrence & Associated in 2021,[3] all of which were relied upon as the basis for

80-3

[1] PHA Transportation Consultants (PHA), John Smith Road Landfill Expansion Traffic Study, Prepared for San Benito County Community Development Department (June 20, 2022).
[2] Rincon Consultants, Inc, John Smith Road Landfill Expansion Project Noise and Vibration Study, Prepared for Douglas Environmental (August 2021).
[3] Lawrence Associates, John Smith Road Landfill Design Basis Report (2021).

findings. Additionally, the Biological Resources background reports prepared between 2018 and 2020 were not made available for public review at the time of publication of the Draft EIR on the County's website. As required by Section 15147 of the CEQA Guidelines, technical details "...shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review."[4] The public cannot adequately assess the findings presented without these technical documents. The DEIR must be recirculated with relevant technical documents included as appendices.

80-3 (Cont.)

- Use of the proper baseline is critical to a meaningful assessment of a project's environmental impacts. (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal. 4th 310.) An impact analysis that compares impacts with something other than with the environmental conditions as they actually exist results in misleading comparisons rather than an analysis that informs decision-makers and the public. (Id. at 322.) Using the date of the NOP as the baseline for existing conditions is misleading and provides an incorrect basis for the evaluation. The baseline presented in the DEIR (and the remainder of this comment letter) includes JSRL acceptance of up to 1,000 tons of waste per day from both in-County and out-of-County sources. As noted in the Section 2.2, Project Description, the JSRL stopped accepting out-of-County waste after March 31, 2022, and has been receiving in-County wastes only (200-300 tons per day) thereafter. This is a result of the JSRL entering the final 15 years of service life, with sufficient capacity to accommodate in-County waste only. The JSRL cannot accept out-of-County waste without the implementation of the proposed expansion Project. As of the circulation of the DEIR, the current traffic, air, and noise impacts associated with the import of waste to the JSRL are approximately 30 percent of those considered "baseline" in the DEIR. Use of the higher baseline allows for a smaller impact being attributable to the Project (delta between baseline and project conditions), and therefore, provides a less conservative analysis for project impacts. Given the substantial change in JSRL operations between the date of the NOP and the publication of the DEIR, the use of the conditions at the time of the NOP as baseline is not appropriate.

80-4

- **Project Description:**

An accurate, stable, and finite project description is the indispensable prerequisite to an informative and legally sufficient EIR. (CEQA Guidelines, § 15124.) As identified below, without an accurate Project description on which to base the DEIR's analysis, the DEIR stymies CEQA's objective of furthering public disclosure and informed decision making.

80-5

- Section 3.2, Project Description, states that the expansion properties included in the Project are identified by APNs 025-190-011, 025-190-027, and 025-190-038. These APNs are not reflected in the County's WebGIS portal, which depict a 213.12-acre parcel identified as APN 025-190-078 and a 174.93-acre parcel identified as APN 025-190-079 consistent with the depiction of the expansion properties shown on Figure 3-3. Please clarify the APNs for the expansion.

- The percentages listed in Table 3-1, Quantities of Materials Received at JSRL (2016 through 2020), are not clear. For example, the percentages listed in the "Onsite

80-6

[4] https://www.califaep.org/statute_and_guidelines.php

Recycle, annual (Soil, Concrete, Asphalt)" row reflect the weight of on-site recycled waste divided by the weight of total inbound waste multiplied by 100. The percentages listed in the "Tons of out-of-County waste for burial" row reflect the weight of out-of-county waste for burial divided by the weight of total inbound waste for burial multiplied by 100. Similarly, the percentages listed in the row titled "Average out-of-County Tons per Day" are calculated based on buried waste only. Subheadings should be added to clarify the meaning of the percentages reflected.

80-6 (Cont.)

- The Daily Tonnages reflected in Table 3-1 are not clear. The footnote indicates that the "Quantity includes both waste and materials used for erosion control and on-site recycle." The table should be updated to include the values that are used to calculate this total.

- Section 3.4.6, Materials Accepted at the Landfill, states "Any excess green waste or wood waste that is received at the site and is unable to be used for erosion control, would be exported from the site to either a permitted green waste/wood waste composting/processing facility or to another location with a demand for this type of waste." What quantity of projected green waste is estimated to be sent for off-site processing? Are these trips included in the truck estimates for the Project?

80-7

- Table 3-3, Existing (2020) Average and Peak Vehicles Including Employees and Visitors, does not reflect any out-of-County self-haul vehicles; however, Section 3.4.7, Waste Material Sources, includes "Out-of-County self-haul commercial" as a waste material source. The description of "Out-of-County self-haul commercial" states that "this category is similar to in-County self-haul/residential but is from outside San Benito County." Therefore, is this intended to state "Out-of-County self-haul/residential"?

80-8

- Section 3.4.7 states that "there are very few loads in this [the Out-of-County self-haul commercial] category, and it is considered negligible." Please provide data to support this assertion.

80-9

- Section 3.5.2, Increase in Permitted Tonnage Limit, presents the methodology for projecting average daily tonnage for the Project. The calculation is based on an assumption that, consistent with the existing conditions, 92.3 percent of the permitted capacity would be used on a daily basis. This assumption is arbitrary and baseless. With an increased permitted daily limit of 3,317 tons (or 2,300 tons when excluding waste designated for beneficial reuse), what would prevent the applicant from accepting more than the 2,123 tons assumed in the analysis?

80-10

- Likewise, Section 3.5.2 states: "in-County tonnage would increase from 191 tons per day to 215 tons per day, and out of county waste would increase from 732 to 1,900 tons per day" for a "change from the current 923 tons per day to the projected 2,123 tons per day." Based on this statement, eight (8) tons per day are unaccounted for in the projected daily tonnage values. Please clarify.

80-11

- Section 3.5.3, Estimated Peak Waste Acceptance, states: The estimated project total waste peak (i.e., buried waste and waste for beneficial reuse) would be the proposed peak waste for burial of 2,300 tons plus the 2020 peak beneficial reuse tonnage of

80-12

1,017 tons equaling 3,317 tons per day. This assumes that the 2020 peak waste for beneficial use would not change significantly in the future." Please provide data to support the assumption that the "peak waste for beneficial use would not change significantly in the future." 80-12 (Cont.)

- Section 3.5.7, Renewable Natural Gas Facility, states: "To minimize the increase in methane generation (and to help offset other greenhouse gas emissions), the project proponent is proposing to install a renewable natural gas (RNG) facility before the project produces approximately 550 cubic feet per minute (cfm – [annual average]) of recovered landfill gas." It is inaccurate and misleading to state that the proposed RNG facility would "minimize the increase in methane generation." Methane generation, as a component of landfill gas (LFG), will be increased by the Project. 80-13

- Section 3.5.8, Expanded Litter and Dust Control, indicates that litter is regularly picked up along John Smith and Fairview roads. Based on community member observations, litter is regularly present along Best Road, which is not acknowledged in the existing conditions. What litter control measures would be implemented along Best Road? 80-14

  - Where will the 24-hour phone number be posted for reporting litter along roadways, and will the applicant commit to a maximum response time?

- Section 3.5.9, Class I Area Clean Closure, does not provide sufficient information regarding the chemicals of concern for the existing Class I hazardous waste area, nor the basis for the estimated quantity of Class I hazardous waste and Class III hazardous waste to be removed from the Class I. The assumption of 3,500 cubic yards of Class I soil for removal corresponds to an excavation of approximately 3.8 feet of soil over the 0.43-acre Impoundment 1 (assuming a 30-percent bulking factor). Is this a conservative assumption with an adequate factor of safety? If a substantially greater amount of soil is generated, this would increase the air, noise, and traffic impacts associated with the clean closure. 80-15

- Section 3.5.11, Water Supply, includes:

  - Estimates of water collection and storage with the Project based on a 12-year look-back analysis, and concludes that "some water import would be required roughly every six years." How has increased frequency of drought as a result of climate change been accounted for in this estimate? 80-16

  - The potential use of landfill leachate as dust suppression, but does not discuss the potential use of LFG condensate as dust suppression as discussed in Section 3.5.6, Expanded Environmental Control and Monitoring Systems. 80-17

  - The statement that "any leachate not consumed for operational uses would be piped to the wastewater treatment plant." This statement conflicts with the earlier statement that leachate may be reinjected into buried waste. 80-18

- **Land Use, Planning, and Agricultural Resources:** Table 4.1-2 states that the Project is consistent with the *2035 San Benito County General Plan,5* Element LU-1.3 (Future Development Timing), because "the proposed project would accommodate the solid waste disposal needs of existing and future development within the County by expanding the JSRL's waste disposal site life." While this is a true statement, it does not adequately communicate to the reader that the vast majority of the added capacity of the expansion would be used for out-of-County waste, and is therefore misleading. 80-19

- **Transportation and Circulation:**

  - Section 4.2 states that the traffic and transportation impacts evaluation is based on the *John Smith Road Landfill Expansion Traffic Study*. This document was not provided as an appendix to the DEIR; therefore, it could not be reviewed by readers of the DEIR. 80-20

    - Did the traffic study include a detailed safety assessment, including dangerous intersections and incompatible uses, of the haul routes (both primary and alternative)?

  - Figure 4.2-1, Existing Out-of-County Commercial Vehicle Haul Route, includes traffic counts which appear to include expansion truck traffic. As such, the description of the figure is misleading. 80-21

  - Section 4.2 does not address out-of-County self-haul trips or in-County self-haul trips originating from south of the JSRL. The DEIR appears to rely on a 15-minute observation period conducted during the background noise monitoring event in July 2021 as the basis for concluding that Best Road is not used for JSRL access. Residents and property owners along Best Road regularly observe vehicles loaded with debris travelling north on Best Road towards JSRL; therefore, the assumption that these trips do not exist as part of the baseline condition is incorrect. 80-22

  - In Section 4.2 under the Existing Landfill Queuing discussion, it states "The average incoming vehicle count for January to March 2022 was about 247 vehicles on average days and 297 on weekends (including special event days)." When did these vehicle counts occur? Furthermore, these vehicle counts took place prior to the date the JSRL stopped accepting out-of-County waste on March 31, 2022. However, field observations conducted on April 23, 2022, with respect to vehicle queuing occurred after this date. 80-23

  - The methodology for the trip distribution presented in Table 4.2-2, Current and Proposed Project Vehicle Generation, is not discussed. Please clarify how these values were established. Furthermore, Sunday data appears to be omitted from this table, even though the JSRL is open on Sundays. 80-24

  - Best Road provides the shortest trip distance for in- and out-of-County non-commercial vehicles (i.e., private residents) coming from the south to access JSRL. 80-25

[5] https://www.cosb.us/home/showpublisheddocument/5859/637347294134470000

How have these trips been accounted for in traffic, air quality, greenhouse gas, and noise analyses? 80-25 (Cont.)

- Impact 4.2-2, CEQA Guidelines Section 15064.3 Consistency, states: "the County has determined that inclusion of heavy-duty trucks for VMT would not be consistent with SB 743." Cherry-picking when to consider the environmental impacts of increased heavy-duty truck trips in the DEIR precludes meaningful public review and comment with respect to the environmental impacts of the additional 208 trips daily. Moreover, OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018) is clear that heavy-duty trucks may be included as part of the analysis and, further, "vehicle types considered should be consistent across project assessment, significance thresholds, and mitigation." 80-26

- Mitigation Measure 4.2-3, Potential Roadway Hazards, includes installation of signage for the haul route within 3 years of project approval or prior to the exceeding 1,000 tons per day for burial. Please provide a diagram documenting the type and location of signage; in particular, the signage on State Route (SR) 25 approaching Best Road. 80-27

- Mitigation Measure 4.2-4, Roadway Pavement Hazards, requires that "the applicant and County shall execute an agreement obligating the applicant to pay a fair share fee toward roadway maintenance and rehabilitation along the haul route for the life of the expansion project." There is no discussion of how the "fair share fee" will be calculated. In 2017, the County commissioned a report titled *Quantifying the Impact of Out-of-County Waste Transport on San Benito County* (the "2017 report"). The 2017 report estimates the maintenance costs after reconstruction (i.e., the estimates do not include reconstruction costs) as follows: 80-28

  > *The estimated cost of the recommended maintenance plan is $26.4 million over 30 years, in 2017 dollars. The fair share cost attributable to out-of-county waste transport activities is more than half of that total at approximately $14.1 million. Over the 30-year plan, the average annual cost attributable to out-of-county waste transport activities is about $470,000.*

  - This estimate does not incorporate the Project. The projected vehicle generation presented in Table 4.2-2 of the DEIR indicates that 69 percent of all truck traffic to the JSRL on a daily basis during the expansion project will be out-of-County trucks.

  - The 2017 report states that "A portion of the capital investment necessary to support out-of-county waste transport is past due, with significant out-of-county waste transport occurring between 2014 through 2016." The DEIR further documents the condition of the Haul Route, noting that Wright-McCloskey Road has a pavement condition index ranging from 9 to 19 on a scale of 0 (worst) to 100 (best). As documented by the 2017 report, the "fair share fee" previously paid to the County for roadway maintenance for out-of-county trips was insufficient to adequately maintain the condition of the haul route.

- The mitigation measure does not provide sufficient detail to allow the reader to assess the adequacy of the measure to reduce the impact by repairing the impacted roadway. In order to avoid deferred analysis, the EIR must include an update to the 2017 report documenting the current condition of the roadways, costs to reconstruct, costs to maintain, and an estimate of a fair allocation of cost recovery. Without such an analysis, it is speculative that this measure would actually provide mitigation for this significant impact.

80-28 (Cont.)

- Mitigation Measure 4.2-6, Pavement Integrity, similarly relies on a "fair share" agreement between the applicant and County. This mitigation measure does not provide sufficient detail to allow the reader to assess the adequacy of the measure to reduce the impact by reconstructing the impacted roadway.

- What penalty will the applicant levy against commercial or residential drivers who utilize a non-approved haul route, such as Best Road? Will the applicant establish a complaint line for residents and property owners along Best Road to inform the operator of drivers traversing Best Road to access the JSRL? In the event that observations of trips to the JSRL are observed on Best Road, what mitigation will be provided?

  - Peak traffic is associated with special event dates, which more than doubles the average self-haul traffic. Self-haul trips are considerably more likely to use a non-established haul route. A proposed mitigation measure is for the applicant to commit to the placement of signage and flaggers (i.e., contractors with the responsibility of directing traffic) on Best Road at the SR 25 intersection on "special event" dates to make clear that there is no landfill access via Best Road.

80-29

- **Air Quality and Odors:**

  - Section 4.3.1 states that the proposed expansion area is not located in an area of ultramafic rock. No citation is provided for this statement. Has on-site native and imported soil been tested for asbestos?

80-30

  - Section 4.3.3 states "The landfill currently accepts both in-County (San Benito) and out-of-County waste." This is an inaccurate and misleading statement as the JSRL stopped accepting out-of-county waste as of March 31, 2022.

80-31

  - Section 4.3.3 references the projected average daily tonnage with the JSRL Expansion Project of 1,700 tons per day. This is in conflict with the estimated 2,123 tons per day presented in Section 3.5.2, Increase in Permitted Tonnage Limit, and the peak of 2,300 tons per day presented in Section 3.5.3, Estimated Peak Waste Acceptance. Clarify the daily tonnage assumed in the air quality analysis.

  - Similarly, statements set forth in Section 4.3.3 are misleading. For example, the average waste acceptance rate of 923 tons per day in 2020 referenced in Section 4.3.3 is, per Section 3.5.3, comprised of 740 "waste for burial" tons per day, and 183 "waste for beneficial reuse" tons per day; however, the increased daily tonnage for the proposed project discussed in this section omits "waste for beneficial reuse". This discussion does not accurately represent the true projected increase and

80-32

environmental consequences resulting therefrom, and precludes meaningful public review and comment.

- Section 4.3.3 states: "For clean closure of the Class I Area, it is assumed that the excavation would be performed during module construction and the same peak emissions as the module construction project would be generated." This is a faulty assumption given that the closure of the Class I area includes the movement of approximately 22,900 cubic yards of soil, including the off-haul of soil to a Class I disposal facility (32 truck trips per day over a period of 9 days, with a trip distance of 280 miles). As such, if this activity were to overlap with module construction, the peak daily emissions would be greater than the emissions from module construction alone. 80-33

- Tables 4.3-7, Off-Site Waste Delivery Vehicle Emissions Within MBARD (Indirect), and 4.3-12, Estimated Emissions from Vehicles on John Smith Road, should be revised to include a "No Project Baseline." The current tables imply that the Project will result in a net **decrease** in emissions. The decrease is a result of greater emissions control efficiency in newer model vehicles (and the increase in electric vehicles) over the next 50 years; the No Project Baseline would have a greater decrease in emissions. 80-34

  - The emission calculations assume that 60 percent of the vehicles coming to the landfill would be zero emission. California Executive Order N-79-20 requirements for passenger cars and trucks sales begin in 2035. The DEIR has assumed that over a 10-year period, 60 percent of the passenger vehicles would have been replaced with an electric vehicle, and that the vehicles used by individuals and independent contractor haul companies to haul refuse to the dump will likely not be older models than the fleet average. Please provide evidence to support this assumption. 80-35

- Tables 4.3-8, Summary of Baseline and Proposed Project On-Site Emissions from Operations, and 4.3-10, Combined Emissions from Operations and Construction, list the threshold of significance for sulfur oxides as 150 pounds per day (lb/day). Table 5-3 of the MBARD *CEQA Guidelines*[6] includes a footnote indicating that the threshold of 82 lb/day applies for operational emissions from on-site sources and project-related exceedances along unpaved roads. Given that the vast majority of sulfur oxide emissions are related to LFG, the 82 lb/day threshold applies (as reflected in Table 4.3-9). 80-36

- Impact 4.12-1, Water Supply and Demand, states that water supply may be obtained from a private well located approximately 14 miles from the project site, and that during dry periods, up to 15 water trucks per day may be required. Confirm this worst-case assumption is incorporated into the daily water truck emissions. 80-37

- The subsection titled "Traffic Along John Smith Road" within Section 4.3.3 states: 80-38

  "Although some traffic may enter John Smith Road from Best Road to the south, or from Santa Ana Valley Road to the east. Both of these routes do not travel the

[6] https://www.mbard.org/files/0ce48fe68/CEQA+Guidelines.pdf

entire road length of John Smith Road." Please clarify this statement; in particular, what estimates have been made regarding access to the JSRL from Best Road? As previously noted, residents and property owners along Best Road regularly observe haulers taking waste to the JSRL and note concerns regarding the speed of some commercial dump trucks using Best Road to access the landfill. 80-38 (Cont.)

- "It was conservatively assumed that all project related traffic travels on the analyzed section of John Smith Road from Fairview Road to the facility entrance." This assumption does not provide a conservative estimate of impacts for sensitive receptors along Best Road.

- Section 4.3.3, Proposed Project Projected LFG Collection, states that the estimated current collection efficiency of the LFG collection system is approximately 80 percent, with the remaining 20 percent of LFG being emitted to the atmosphere as fugitive emissions. Table 4.3-13, Flare Emissions from John Smith Road Landfill, presents the baseline and project peak LFG collected by the system and flared, and LFG emitted as fugitive emissions. As presented in Table 4.3-13, in the 2021 baseline data, 20.3 percent of the total LFG is emitted as fugitive emissions; however, in the 2071 projected peak data, only 2.0 percent of the total LFG is emitted as fugitive emissions. Therefore, a net decrease in fugitive emissions is reflected in the table. This table provides readers with the false conclusion that fugitive emissions will drastically decrease with the implementation of the proposed project despite the increase in LFG generation. Additionally, the discussion on page 4.3-43 states that the toxic air contaminant risk calculations assumed "a 160-cfm area source for fugitive emissions (roughly a 93% collection efficiency)." The emissions calculations appear to include an assumption that collection efficiency will increase prior to the projected peak, which is not adequately described in the project description. 80-39

Impact 4.3-2: Long-Term Operational (Regional) Criteria Air Pollutant and Precursor Emissions 80-40

The analysis for Impact 4.3-2 concludes: "because there is a potential that emissions from the future RNG facility could be higher than predicted and could result in criteria air emissions that could exceed MBARD's significance thresholds, this impact is considered potentially significant." Mitigation Measure 4.3-2, Long-Term Operational (Regional) Criteria Air Pollutant and Precursor Emissions, is established to reduce potentially significant impacts from long-term operational criteria pollutant and precursor emissions to reduce the impact to less than significant. The mitigation measure requires the project applicant to retain a qualified air quality professional to prepare a renewable natural gas design report that "demonstrates operations of the RNG facility will not result in construction or operational criteria pollutant emissions greater than the [landfill gas] flare... when combined with emissions from on-site operations." Given that the installation of an RNG facility is a mitigation measure for greenhouse gas emissions (Mitigation Measure 4.4-1), and that the air quality analysis assumes the operation of the RNG facility, the applicant must demonstrate in the analysis the assumptions regarding equivalency of the emissions.

- The potential for the installation and operation of an LFG-to-energy facility is mentioned as a possibility in the impact analysis but is not discussed in the project 80-41

description. The DEIR does not provide sufficient level of detail to analyze impacts from an LFG-to-energy facility. 80-41 (Cont.)

- Did the study consider the presence of siloxanes in the LFG for the operational air quality assessment? Siloxanes are known to damage combustion equipment and cause poorer performance than expected. This issue is of particular concern when considering the impacts of a LFG-to-energy facility [7] 80-42

Impact 4.3-4: Exposure of Sensitive Receptors to Substantial Concentrations of Toxic Air Contaminant Emissions 80-43

- The statement that the setback established by the Waste Discharge Requirements (50 feet between the waste boundary and grazing cattle) results in an incomplete food chain pathway is without basis. This statement implies that a bioaccumulation study has evaluated all exposure pathways for grazing animals up to humans.

- Please clarify the assumptions made regarding LFG collection system efficiency in this analysis. 80-44

- The mitigation measure associated with Impact 4.3-3 states: "If a residence is constructed on the portion of property where G68 is located, the fugitive emissions shall be limited to 242 cfm." Yet there are no details provided to describe how this mitigation measure could be achieved. LFG emissions are a result of (1) LFG generation rates which are based on the volume of buried waste, and (2) LFG collection system efficiency. How does the applicant intend to control LFG emissions to this level, and if it is technically feasible to achieve such a control, why is that not incorporated into Mitigation Measure 4.4-1(c), which includes measures to "optimize LFG collection efficiency?" 80-45

Impact 4.3-5: Exposure of Sensitive Receptor to Odorous Emissions 80-46

- The DEIR states: "The overall footprint of the landfill is proposed to be laterally enlarged and the tonnage of waste permitted to be accepted at the site would increase; however, **the size of the working face would not be expected to substantially change**, and soil or alternative daily cover would continue to be applied daily" (emphasis added).

  - Section 3.4, Existing Setting, does not discuss the size of the working face under current permitted conditions nor does Section 3.5, Proposed Project, discuss the size of the working face during implementation of the Project.

  - The "Operational Emissions for Waste Burial and On-Site Mobile Emissions" discussion within Section 4.3.3 states: "JSRL actively receives waste at a roughly 200-foot by 50-foot working face within the site."

[7] Matthew Estabrooks and Stephen Zemba, "Siloxanes in the Waste Stream: Environmental and Financial Impacts," *EM: The Magazine for Environmental Managers* (March 2019).

- Section 4.10.1 states: "The size of the working face is limited to the minimum area required to handle that particular day's refuse volume."
- Impact 4.12-1, Water Supply and Demand, states: "With project implementation, the amount of water needed for dust control is projected to increase due to the increased length of haul roads on the site **and the larger working face**" (emphasis added).
- The DEIR is not clear on the size of the working face with the project; however, it is reasonable to assume that more than doubling the imported tonnage on a daily basis would result in a larger working face without significant changes in landfill operation (*i.e.*, increases in heavy equipment and trucks to manage the increased waste volume). The analysis does not adequately describe the basis for the assertion in the odor analysis that the size of the working face will remain consistent with the existing conditions when the proposed project would more than double the daily tonnage.

80-46 (Cont.)

- The odor evaluation is primarily based on the absence of odor complaints since 2017.
  - As discussed in Section 4.3.1, the 2017 odor complaint was the result of an LFG leak. Describe the nature of the leak, estimated time that the LFG leak occurred prior to discovery, method of evaluation and repair, and time taken to complete the repair following discovery.
    - Was the applicant aware of the LFG leak prior to the odor complaint?
    - What was the distance from the JSRL of the receptor who filed the odor complaint?

80-47

  - What mechanism will prevent a future release from the substantially expanded LFG collection system?

80-48

  - How has the air quality analysis accounted for system upsets which have historically resulted in the release of unmitigated LFG?

80-49

  - Describe the complaint history prior to 2017.

80-50

  - Have any odor complaints been issued since the date of the NOP?

80-51

- The impact assessment states: "Odors are also generated in the form of LFG by the decomposition of buried waste and can escape through the landfill cover sometimes even with a properly operating LFG extraction system" and "with continued operation of the landfill gas collection and control system, substantial increases in surface emissions generated from the decomposition of waste in closed modules would not be anticipated." The description and quantification of LFG fugitive emissions is not clear and does not allow the reader to adequately evaluate the analysis.

80-52

  - The "Current LFG Collection" subsection within Section 4.3 indicates that LFG generation of the JSRL will peak in approximately 2036 at a flow rate of approximately 700 cfm. The same subsection states:

80-53

> "Recent research on operating California landfills (Hansen and Yessiler 2020) suggests **LFG collection efficiency ranges from 88% to over 90% for most landfills** with LFG collection systems. The actual value may be higher or lower. The remainder of the LFG escapes the landfill surface as "fugitive" emissions and/or, for unlined landfills into the surrounding soil." (emphasis added)

80-53 (Cont.)

As such, the reader would likely assume that the JSRL currently has an LFG collection system efficiency of at least 88 percent (i.e., less than 12 percent fugitive emissions). However, the "Proposed Project Projected LFG Collection" subsection within Section 4.3 states: "Based on the estimated collection efficiency from Appendix C, the landfill currently appears to be collecting approximately 80% of the generated LFG and **the remaining 20% is escaping through the landfill surface as fugitive emissions.**" (emphasis added) The discussion in the "Current LFG Collection" subsection is misleading and implies a greater collection efficiency than is currently achieved.

- The "Proposed Project Projected LFG Collection" subsection within Section 4.3 indicates that LFG generation with the Project would peak in 2071 at a flow rate of approximately 2,447 cfm (approximately 3.5 times greater than the peak LFG generation in the "No Project" scenario). The odor analysis does not adequately evaluate odors associated with the increased volume of LFG beyond the baseline condition with respect to the potential for up to 20 percent of LFG to be emitted without abatement as fugitive emissions, nor adequately describes assumptions for an increased collection efficiency.

80-54

- Section 3.5.6, Expanded Environmental Control and Monitoring Systems, states that leachate and LFG condensate generated at the JSRL are currently discharged to the City of Hollister wastewater collection system. Section 3.5.6 also states that the Project includes the potential use of both leachate and LFG condensate for dust control on the lined portions of the landfill or reinjecting the leachate into the buried waste. LFG condensate, in particular, is extremely odorous. While the District understands the need to reduce the water demand of the Project by reusing these landfill-generated liquids, the odor impact analysis does not adequately address this change from baseline conditions, including how the potential aerosols formed during spraying of leachate and condensate may increase odors.

80-55

- Given the potential for hydrogen sulfide and ammonia emissions from the landfill and odor transports taking place during lighter wind scenarios, modeling assessment of odors should be performed. Contrary to dispersion modeling for other pollutants, a light wind direction toward the sensitive receptors to the southwest of the JSRL/ Project site could cause odors impacts. Even though the predominant wind directions are not towards these sensitive receptors, the instances where light winds are directed toward the sensitive receptors could result in odors reaching those areas.

80-56

- **Greenhouse Gas Emissions and Climate Change:**

  - Comments related to the "Existing Operational Setting" discussion in Section 4.3 also apply to Section 4.4.

- The 2021 baseline conditions for LFG generation and emissions outlined include:
  - An estimated collection efficiency of 80 percent;
  - Total LFG flow rate of 625 cfm measured at the landfill flare;
  - Methane content of the LFG of 38 percent as currently measured; and
  - Total landfill methane generation, collection, soil oxidation, and fugitive emission rates of approximately 297, 238, 6, and 53 cfm, respectively.

  The baseline conditions reflected in Table 4.4-2 are not consistent with these values (assumes 50 percent methane versus 38 percent methane in actual LFG). The values are also not consistent with the data presented in Table 4.3-13, Flare Emissions from John Smith Road Landfill, which reflects an overall decrease in fugitive emissions of 70 scfm between the baseline and 2071 peak conditions.

80-57

- The subsection titled "Emissions Summary: LFG" within Section 4.4.3 states: "The project includes an increase in collection efficiency from 80 percent initially to 85 percent by 2028 and then to 90 percent by 2032, and then to 95 percent by 2035." This is not established in the project description nor are the methods to achieve this reduction described.

80-58

- Mitigation Measure 4.4-1(e)(1) includes "design, purchase, and installation of four electric vehicle charging stations at County building(s) to be determined by County based on need and capacity of County park lots at the time of installation." The District requests that the applicant design, purchase, and install four electric vehicle charging stations at District-owned facilities as further mitigation.

80-59

- **Noise:**

Impact 4.5-2 (Traffic-Generated Permanent Increases in Ambient Noise Levels)

- The DEIR states: "The proposed project is estimated to increase traffic up to 99 vehicles per day." Although this is consistent with the projected increase in daily vehicle trips per *weekday* as set forth in Table 4.2-2, this analysis fails to consider the environmental impacts resulting from the additional 109 vehicle trips per day on Saturdays and Special Event days.

80-60

Impact 4.5-3 (Exposure of Sensitive Receptors to Excessive Operational Noise Levels)

- Is operation of the RNG facility included in Table 4.5-8, Operational Noise Levels at Off-site Land Uses? The RNG facility is not discussed in the preceding paragraph.

80-61

- The analysis of off-site impacts associated with the RNG facility's nighttime operations states "noise levels can be reduced to 45 dBA, Lmax or lower at 650 feet from the renewable natural gas plant, **with shrouding of equipment, and noise walls/barriers** as needed in the direction of sensitive receptors" (emphasis added).

80-62

As such, the analysis appears to rely on the use of shrouding or noise walls/barriers to reduce noise to the level of significance; however, the impact is identified as less than significant without mitigation. As these elements are not identified in the project description, they constitute mitigation measures. 80-62 (Cont.)

- The use of "bird bombs" as discussed in Section 4.10.1 was not addressed in the noise analysis. As stated in Section 4.10.1, the bird bombs "are fired from a hand-held launcher that travels between 75 and 100 feet before exploding with a very loud bang." What is the frequency with which bird bombs are currently deployed and how would that change with the Project? Given the proximity to residences on the west side of the expansion, how was this accounted for in the noise modeling? 80-63

- Mitigation Measure 4.5-1 requires the preparation of a written Noise Control Plan; however, there are no details provided regarding what entity will review, approve, and enforce the implementation of a Noise Control Plan. 80-64

- **Biological Resources:** As noted in the General Comments discussion, the biological resources background reports identified in Table 4.6-1 were not made available for public review at the time of publication of the Draft EIR on the County's website. We observe that the County uploaded these documents to their website in late August or early September. No public notification via the Project list serve was made to alert interested parties in the availability of these documents. We request that the County provide an extended 45-day review period to ensure informed and meaningful participation by the public in the environmental review process. 80-65

- **Hydrology and Water Quality:** Section 4.8, Hydrology and Water Quality, is deficient in that it does not acknowledge the full extent of potential Project-related water resource impacts associated with the proposed large-scale 388-acre landfill expansion. Also, in cases where impacts are identified, the proposed mitigation measures may not be sufficient to reduce impacts to an insignificant level or the DEIR has not provided sufficient information to evaluate whether the proposed mitigation would be adequate, as discussed in the comments below. 80-66

  - As noted in the General Comments discussion, the references identified in Section 4.8, including the *Joint Technical Document* for the landfill and the *Design Basis Report*, were not made available for public review. We request that the County make these documents available to the public by posting them to their website during an extended 45-day review period to ensure informed and meaningful participation by the public in the environmental review process.

  - For locations that have been modeled to have increased flow from storm events, the analysis must demonstrate that proposed stormwater detention and treatment infrastructure will: 80-67

    - Be sufficient to ensure that downstream increases in flow do not occur;
    - Adequately control the duration and frequency of discharges;
    - Effectively address potential water quality degradation impacts; and

› Release stormwater in a regulated manner to avoid downstream impacts and associated hydromodification effects on local receiving waters due to increased duration and frequency of flows. 80-67 (Cont.)

– The DEIR has not evaluated or demonstrated that post- Project site runoff will not result in exacerbated downstream flooding conditions during extreme "atmospheric river" rainfall events which are now occurring on a more frequent basis due to climate change. Future anticipated changes in Project site precipitation events and associated runoff due to established climate change projections require evaluation. 80-68

– The proposed 388-acre landfill expansion will not preserve existing natural drainage patterns because the topography will be significantly modified and new impervious surfaces will be created on the property. The DEIR has not adequately evaluated this issue or developed mitigation to offset this impact to existing natural drainage patterns within the 388-acre landfill expansion footprint. 80-69

– The DEIR concluded that Impact 4.8-3, Potential Long-Term Degradation of Water Quality, was less than significant, stating: "With implementation of the proposed project consistent with applicable water quality regulations, long-term erosion from site soils would be minimized, leakage from the bottom of the landfill would be negligible, and pollutants would be largely captured on the site." 80-70

› In 2019, the California Environmental Protection Agency Department of Toxic Substances Control issued a Consent Order to the City of Hollister, as the owners of the Class I area of the JSRL, based on failure to comply with post-closure monitoring activities required for the closed Class I area of the JSRL. What control mechanisms has the applicant put in place to avoid future failures to meet regulatory monitoring and reporting requirements?

› At landfill sites, runoff carrying suspended sediments and the commingling of runoff with uncontrolled leachate are two primary sources of pollutants in stormwater. In addition, sources of pollutants other than stormwater, such as illicit materials, spills, and other improperly dumped materials, may increase the pollutant loading discharged into receiving waters. Other potential sources of pollutants at landfills include those from ancillary areas and areas which are not directly associated with landfill activities (e.g., stockpile areas, vehicle maintenance, truck washing). These issues are not addressed in the analysis and lead to concern regarding the ability of the applicant to "largely capture" pollutants from the Project. 80-71

– The Impact 4.8-1, Increased Runoff and Potential for Localized or Downstream Flooding, analysis states that industrial stormwater is runoff that does not directly contact waste. Runoff that has contacted waste is referred to as *contact water* and is proposed to be routed to the leachate-collection system, not to drainages that flow off-site. However, it is unclear how industrial stormwater is proposed to be completely segregated from contact water if leachate water and LFG condensate are applied as dust control water throughout the lined portions of the Project. It is highly questionable whether the proposed leachate and condensate management strategy briefly described in the DEIR will effectively manage these materials when leachate and LFG condensate are proposed to be used for dust control within the lined 80-72

portions of the landfill. This practice may support co-mingling of applied leachate and LFG condensate with stormwater runoff and could cause water quality impacts associated with facility stormwater discharges as well as associated groundwater quality impacts. Leachate typically contain constituents such as inorganic salts (such as sodium chloride) and volatile organic compounds (VOCs) that can degrade surface water and groundwater quality. While the District understands the need to reduce the water demand of the Project by reusing landfill-generated liquids, this issue requires further evaluation and mitigation.

80-72 (Cont.)

- As reference, the most recent groundwater monitoring report for the facility documents that total VOCs (comprised of aromatic compounds [e.g., benzene, toluene, xylenes], ketones [e.g., acetone, 2-butanone], and alcohols [e.g., tert-butyl alcohol]) were detected at a concentration of 78,444 micrograms per liter in LFG condensate sampled; total VOCs were detected at a concentration of 7,467 micrograms per liter in leachate sampled.[8]

- The analysis for Impact 4.8-1, Increased Runoff and Potential for Localized or Downstream Flooding, indicates that the Project's proposed stormwater detention basins would be the primary method used to mitigate increases in site runoff and to support water quality objectives in stormwater discharges. This proposed approach requires further evaluation. While detention basins are highly effective at removing trash, they are only partially effective for sediments, metals, bacteria, oil and grease, and organics, and have low removal effectiveness for nutrients as noted in Fact Sheet TC-22 of the California Stormwater Quality Association *Stormwater Best Management Practice Handbook – Municipal*.[9] The existing detention ponds do not sufficiently remove iron from stormwater prior to discharge. Furthermore, because the site soils associated with the 388-acre landfill expansion area are very fine-grained San Benito clay loam, to provide for effective sediment removal, the proposed detention basin sizing and design would need to address this condition and the large extent of the respective contributing drainage areas. The basins would need to be managed with sufficient residence time to minimize sediment and associated contaminant discharges to downstream receiving waters. To have confidence in the water quality treatment effectiveness of the proposed detention basins, a more comprehensive monitoring/sampling program for a wide range of potential pollutants (see excerpt table below) would need to be implemented (beyond the minimum Industrial General Stormwater Permit [IGSP] requirements) and include both influent and effluent monitoring from the proposed basins during the operation of the Project. The DEIR does not currently evaluate this issue or require appropriate mitigation.

80-73

[8] Golder Associates USA Inc (Golder). 2022. 2022 First Semi-Annual Monitoring Report, Class I and Class III Areas, John Smith Road Landfill San Benito County. July 27. https://geotracker.waterboards.ca.gov/getfile?filename=/esi/uploads/geo_report/9805775344/L10008478954.PDF

[9] Extended Detention Basin, TC-22, https://www.casqa.org/sites/default/files/BMPHandbooks/tc-22_municipal_2003.pdf

Table 1A. Common Activities, Pollutant Sources, and Associated Pollutants at Landfills

Activity	Pollutant Source	Pollutant
Cover crop management	Applied chemicals	Fertilizers, pesticides, and herbicides
Outdoor chemical storage	Exposure of chemical material storage areas to precipitation	Various chemicals stored
Waste transportation	Waste tracking on-site and haul road, solids transport on wheels and exterior of trucks or other equipment	TSS, total dissolved solids (TDS), turbidity, floatable
Leachate collection	Uncontrolled leachate (commingling of leachate with runoff or run-on)	Iron, TSS, biochemical oxygen demand (BOD), ammonia, alpha terpineol, benzoic acid, p-Cresol, phenol, zinc, pH
Landfill operations	Exposure of waste at open face	BOD, TSS, TDS, turbidity
Exposed soil from excavating cells/trenches	Erosion	TSS, TDS, turbidity
Exposed stockpiles of cover material		
Inactive cells with final cover but not finally stabilized		
Daily or intermediate cover placed on cells or trenches		
Haul roads (including vehicle tracking of sedimentation)		
Vehicle/equipment maintenance	Fueling activities	Diesel fuel, gasoline, oil
	Parts cleaning	Solvents, oil, heavy metals, acid/alkaline wastes
	Waste disposal of oily rags, oil and gas filters, batteries, coolants, degreasers	Oil, heavy metals, solvents, acids
	Fluid replacement including hydraulic fluid, oil, transmission fluid, radiator fluids, and grease	Oil and grease, arsenic, lead, cadmium, chromium, chemical oxygen demand (COD), and benzene

Source: EPA-833-F-06-027 Industrial Stormwater Fact Sheet Series – Sector L Landfills[10]

80-73 (Cont.)

- Proposed Mitigation Measure 4.8-1, Increased Runoff and Potential for Localized or Downstream Flooding, is insufficient and does not state what mechanism will be used to ensure that the design reduces 100-year storm event peak flows to below the existing peak flow conditions. Mitigation Measure 4.8-1 needs to be revised and appropriately updated to include: (1) a mechanism that ensures the Project will implement appropriately designed and sized stormwater detention basins for adequately reducing future stormwater discharge rates, and (2) additional stormwater treatment control best management practices (BMPs) that would provide for effective stormwater treatment for a broad range of potential stormwater contaminants that could be expected in runoff from the significant landfill expansion.

80-74

- Total Maximum Daily Loads (TMDLs) have been established for the Pajaro River watershed (which the Project is located within) for chlorpyrifos and diazinon, fecal coliform, nutrients, and sediment. The DEIR states that sediment is the only TMDL that would apply to the Project because the solid waste operations would not be expected to generate the identified constituents regulated by the other TMDLs. Based on EPA guidance and JSRL well monitoring data, it is apparent that portions of the landfill exhibit elevated nutrient (nitrate) concentrations in groundwater monitoring well water; therefore, Project operations and stormwater runoff sources

[10] https://www.epa.gov/sites/default/files/2015-10/documents/sector_l_landfills.pdf

could be expected to generate both sediment and nutrient related constituents. The DEIR does not currently evaluate or address this issue. 80-74 (Cont.)

- Recognized stormwater and groundwater contaminants of concern, per- and polyfluoroalkyl substances (PFAS), have been previously detected in JSRL leachate and groundwater; leachate had the highest concentrations compared to groundwater samples.[11] Based on these results, the Central Coastal Regional Water Quality Control Board requested a work plan to further characterize the PFAS detections at the JSRL. It is likely that the proposed significant expansion of the JSRL will increase the potential for future PFAS detection in landfill leachate; the DEIR should include specific mitigation and monitoring requirements to address this concern both in groundwater and stormwater discharges. 80-75

  - The DEIR states that the PFAS characterization workplan includes "[a] leachate management strategy to properly manage leachate, including the use of leachate for dust control to prevent PFAS surface water and groundwater quality impacts." This is a misleading statement, as the PFAS Detection Follow-up Workplan actually states the following: "The sedimentation basin water will be sampled when water is present to determine if PFAS is present in stormwater runoff. Currently, **leachate is discharged to the sanitary sewer and is not used for dust control. If changes to the leachate management system are proposed, a leachate management strategy will be prepared to properly manage leachate to prevent PFAS surface and groundwater quality impacts**"[12] (emphasis added). Given that the proposed project includes the use of leachate (which is documented to contain PFAS) and LFG condensate (which has not yet been sampled for PFAS) for dust suppression, the DEIR should include analysis of PFAS impacts to water quality and air quality from the use of leachate and LFG condensate for dust suppression.

  - The DEIR states "The strategy to reduce the potential for PFAS contamination is outlined in the *PFAS Detection Follow-up Workplan* (Golder 2021)." This is an inaccurate statement as the *PFAS Detection Follow-up Workplan* is intended to evaluate the current JSRL site relative to PFAS impacts, not to "reduce the potential for PFAS contamination."

- The DEIR states that grading, earthmoving, excavation, and infrastructure development would disturb the existing vegetation cover, soil, and drainage systems on the Project site and along the RNG pipeline alignment. During these activities, the Project site would be exposed to wind and water erosion, which could adversely affect surface water quality. The DEIR states that operators of industrial facilities, including landfills, must obtain coverage under the statewide IGSP. Because the industrial activity for landfills includes construction of lined modules or cells, "Landfill 80-76

[11]/ Golder, *2019 Second Semi-Annual Monitoring and 2019 Annual Summary, Class I and Class III Areas, John Smith Road Landfill San Benito County, California* (January 31, 2020), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/9562612712/L10008478954.PDF.
[12]/ Golder, *PFAS Detection Follow-up Workplan, John Smith Road Landfill, San Benito County, CA (Revised June 2022)* (October 7, 2021, revised June 6, 2022), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/4210208296/L10008478954.PDF.

construction activity that is subject to the Industrial General Permit [IGSP]" is exempt from the requirements of obtaining coverage under the Construction General Stormwater Permit (CGSP). Compliance with only basic IGSP Stormwater Pollution Prevention Plan (SWPPP) requirements during the landfill expansion construction and long-term operation, as proposed in the DEIR, would be insufficient to address this impact. The existing JSRL IGSP program has already resulted in numeric action level exceedances in stormwater discharges;[13] therefore, it is likely that expanding the landfill operations by over 388 acres will continue to result in additional numeric action level exceedances unless additional project-specific mitigation measures are implemented.

80-76 (Cont.)

- The massive proposed re-grading of the project site will result in localized erosion and sedimentation impacts, even if standard construction BMPs are implemented. The entirety of the project site is underlain by San Benito clay loam which is problematic from an erosion and sediment control perspective when disturbed (very fine-grained sediments with a severe erosion hazard rating). Projects that are required to only comply with standard minimum IGSP or CGSP SWPPP requirements can still result in significant impacts associated with erosion, sedimentation and associated water quality degradation. The project site is highly susceptible to erosion-related impacts due to the extensive grading proposed, the characteristics of existing on-site soils, the existing topography, and the multi-year construction period. Additional project-specific mitigation measures are necessary, such as prescriptive requirements for effective structural and non-structural BMPs including site-specific erosion and sediment control elements, soil stabilization and revegetation requirements, perimeter control requirements, minimum BMP sizing/spacing requirements, and construction period monitoring requirements that go above and beyond minimum IGSP or CGSP SWPPP practices.

80-77

- The DEIR correctly indicates that the development of the Project area with solid waste uses would alter the quantities and timing of discharges in stormwater runoff relative to existing conditions and would add additional lined area that potentially could contribute to groundwater degradation. Landfill operations involve daily soil disturbance, including excavation of soil for daily cover, waste covering, and other landfill activities. The expansion of these activities would increase the area that would be exposed to erosive forces, which could increase the transport of sediments into local waterways. This additional stormwater runoff has the potential to degrade water quality in off-site drainage channels and downstream waterbodies. Also, the deposition of pollutants (gas, oil, etc.) onto the ground surface by vehicles associated with site operations could similarly result in the transport of pollutants to surface waters by stormwater runoff or in seepage of such pollutants into groundwater. Additional project-specific mitigation is required to adequately offset this impact.

[13] Golder, *2021 Second Semi-Annual Monitoring Report and 2021 Annual Summary, Class I and Class III Areas, John Smith Road Landfill San Benito County* (January 31, 2022), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/9502215802/L10008478954.PDF.

- The DEIR does not identify potential groundwater resource impacts or associated mitigation. The Project design and supporting documents do not sufficiently consider or address the following CEQA threshold of significance: "b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin." Installation of a liner system and the eventual installation of a closure cap would reduce the potential for groundwater recharge over the area of the large landfill expansion footprint containing the liner system and closure cap. The significant replacement of 388 acres of existing open-space area with lined landfill cells will reduce groundwater recharge rates on the project site. The construction of additional proposed impervious surface would also reduce existing groundwater recharge rates. Furthermore, the DEIR states that the proposed project does not include the use of groundwater for any aspect of project construction or operations. This statement is inconsistent with the proposed use of groundwater for operations as described under the DEIR's water supply discussion: "The landfill proposes to use a groundwater supply well located at 1370 Shore Road in Hollister (Shore Road well) for supplemental site-use water." 80-78

- **Hazards and Hazardous Materials:**

  - Impact 4.10-3, Increase in Litter Generation – As noted above, residents and property owners along Best Road regularly encounter litter along the road from haul vehicles using Best Road to access JSRL. A discussion of this impact is not included in the analysis. 80-79

  - Impact 4.10-6, Hazards from Increased Landfill Gas – The discussion does not address hazards associated with upset conditions, such as a leak in the LFG lines (as reportedly occurred in 2017) or electrical outage. 80-80

  - Impact 4.10-7, Exposure of People or Structures to Wildland Fires – The discussion does not address the increased fire risk associated with the RNG facility and physical or virtual pipeline. The storage of compressed RNG on-site prior to transfer to the physical or virtual pipeline creates a substantial explosive hazard. 80-81

  - As noted in the Hydrology and Water Quality comments above, the documented PFAS-impacts associated with leachate and groundwater are not adequately considered. As stated in the DEIR: "[PFAS] are mobile and persistent in the environment and are bioaccumulative. They are resistant to degradation in the environment and when degradation occurs, it often results in the formation of other PFAS compounds." Given the persistent and bioaccumulative nature of PFAS, and that they are known to be present at the JSRL, further analysis is necessary to evaluate the potential for additional impacts from the Project. 80-82

- **Public Services, Utilities and Energy:**

  - Section 4.12.1 includes a discussion of schools located in the vicinity of the project site. Please include a discussion of the District-owned property located approximately 1 mile to the southwest of the Project area, which is being considered for development into a high school site. 80-83

- Section 4.12.1 fails to identify the number of additional students that will be generated by the proposed Project, and how these impacts on the District's facilities will be mitigated. 80-84

- Impact 4.12-1, Water Supply and Demand:

  - This impact analysis states: "With project implementation, the amount of water needed for dust control is projected to increase due to the increased length of haul roads on the site **and the larger working face**" (emphasis added). This is in direct conflict with statements made in Impact 4.3-5 including: "The overall footprint of the landfill is proposed to be laterally enlarged and the tonnage of waste permitted to be accepted at the site would increase; however, **the size of the working face would not be expected to substantially change**, and soil or alternative daily cover would continue to be applied daily" (emphasis added). 80-85

  - This impact analysis also indicates that leachate may be used as dust control in lined areas of the landfill, but does not discuss the potential use of LFG condensate as dust suppression as discussed in Section 3.5.6. 80-86

- Impact 4.12-4, Increased Demand for Fire Protection, Law Enforcement, and Emergency Medical Services: The DEIR does not adequately analyze the impact on fire, police, or emergency medical services. No response times or other metrics, either observed or estimated, are provided. Furthermore, there is no statement from the fire department, police/sheriff, or other first responders confirming they could adequately provide fire protection, police, and other services to the proposed Project without additional facilities. Have these agencies been consulted? 80-87

- Impact 4.12-5, Increased Energy Demand, includes the statement: "Out-of-County transportation energy impacts would be minimized by removal of recyclable and compostable materials prior to transport of the residuals to JSRL, and consolidation of loads into fuel-efficient transfer trucks designed for transporting loads to landfills." This is not established in Section 3.5 of the Project Description. 80-88

- **Cumulative Impacts:**

  - Section 5.1 states: "The General Plan identifies population and job projections, which correlate to growth in urban development and associated services, such as solid waste management. However, as described below, this growth is expected to occur within and surrounding the City of Hollister. **Urban growth is not anticipated within the vicinity of the project site, however growth is anticipated along some of the potential haul routes**" (emphasis added). Despite this recognition, the DEIR fails to consider the impact of residential haulers using Best Road to deliver waste to the landfill or who would find it more convenient or efficient to use Best Road to travel to the landfill. 80-89

  - Section 5.1.1 states: "In considering the potential for localized cumulative impacts, potential developments within close proximity to the project site are typically considered specifically. However, no projects are currently proposed in the project vicinity that would contribute to localized cumulative impacts." As documented by 80-90

the March 2021 letter submitted by the District in response to the NOP, the District is considering developing the District-owned property on Best Road with a high school. As such, this project is considered to be a "reasonably foreseeable probable future project" (14 CCR § 15355)[14] and should be incorporated into the cumulative impacts discussion, particularly with respect to:

80-90 (Cont.)

- Traffic safety on Best Road, SR 25, and John Smith Road;
- Air quality; and
- Noise

Furthermore, this analysis fails to consider past, present, and probable future projects to the south (with access via Best Road), including, without limitation, the Ridgemark subdivision, and the Lima Property Specific Plan, which, together with the proposed Project, may result in impacts that are cumulatively significant.

- The air quality discussion does not address the cumulative health risks from the Project along with the existing landfill operations. 80-91

- The biological resources discussion addresses the proposed Resource Recovery Park, but the other discussions do not. Given the potential for air, traffic, noise, and hydrology/water quality impacts associated with that project, the Resource Recovery Park should be included in the cumulative analysis. 80-92

- **Alternatives:**

Alternative 7: Best Road Haul Route

- This alternative is wholly unacceptable to the District. If the County intends to select inclusion of Alternative 7 into the project, detailed analysis will be required to evaluate environmental impacts, including, without limitation, air quality, noise, and transportation impacts, to the existing residents, property owners, and proposed school site along Best Road. 80-93

- The use of Best Road as a haul route for out-of-County commercial vehicles would conflict with the Circulation Element of the *San Benito County 2035 General Plan* which states that the County "shall encourage inter- and intra-regional truck traffic to use State and federal highways, to maintain the primary role of County roads as serving local and agricultural traffic." As noted in Section 4.2.1, SR 25 is a "California Legal Advisory Truck Route," and Fairview and Shore roads are "Surface Transportation Assistance Act" truck routes. Best Road is a County road serving local and agricultural traffic and is not identified as a truck route.

- The analysis cites the 2022 PHA study (not provided for review) as the source of information regarding the condition of Best Road: "Best Road was recently repaved based on a TI = 8.0 with a pavement design life of 20 years, and the PCI for Best

[14] Discussion of Cumulative Impacts, 14 CCR § 15130, https://govt.westlaw.com/calregs/title14/Division6/Chapter3/Article9/Document/§15130.

Road is 100 (PHA 2022). Unlike the proposed route, the Best Road Haul Route would not require reconstruction of pavement that is deficient under existing conditions. This alternative would still have impacts to the pavement over the life of the project, which would be mitigated through payment of the fair share fee toward roadway maintenance and pavement improvements along the haul route."

- Contrary to the assertions made in the DEIR, no improvements to Best Road have been made between Airline Highway and John Smith Road sufficient to allow it to become a main haul route for commercial or residential haulers.

80-93 (Cont.)

- **Request for Notice**

Pursuant to Public Resources Code sections 21080.4, 21083.9, 21092, 21108, and/or 21152, as well as Government Code sections 65090 and/or 65091, please provide us with a copy of any future notices issued for the proposed Project.

80-94

CONCLUSION

The District requests that the proposed Project's potential significant and cumulative impacts to our students, parents, faculty, staff, and community be fully analyzed and mitigated. Given the widespread inconsistencies and lack of required analyses in the DEIR, and because informed decision making and public participation are fundamental purposes of the CEQA process, the District respectfully requests that the County revise the DEIR to include the required analyses and mitigation measures, and recirculate the revised DEIR for another 45-day review and public comment period per the requirements of CEQA. The District looks forward to the County's cooperation and collaboration in addressing these deficiencies to ensure the continued high quality of life in the County and education in its schools.

80-95

In accordance with CEQA Guidelines, section 15204(d), please be advised that I, Shawn Tennenbaum, am the contact person for the District who is available for consultation on the District's behalf. My contact information is provided below.

Very truly yours,

Shawn Tennenbaum, Ed.D.
Superintendent
San Benito High School District
(831) 637-5831 (x133)
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cc: Members, San Benito High School District Board of Trustees
John Frusetta, Chief Business Officer, San Benito High School District

80-1 The commenter states that the County has failed to comply with the legal requirements of the California Environmental Quality Act and lists general topic areas that he deems insufficiently addressed in the DEIR. The commenter states that the Draft EIR must be revise and recirculated to address its deficiencies. The comment identifies a number of impact topics that it claims are deficient. The commenter's concerns regarding the deficiencies are detailed later in the comment letter. The responses to those comments address the general concerns listed in the comment's introductory paragraphs. The Commenter also states the District's opposition to the alternative haul route utilizing Best Road.

80-2 The commenter describes the property the District owns on Best Road and noted that the County failed to reach out to the District until July 6, 2022. County staff has had ongoing communications with the District regarding this project. These comments are noted.

80-3 The commenter states that the Draft EIR does not include critical technical documents. The documents the commenter references have been provided to the District and were posted on the County's website in advance of completion of the Final EIR. Please also see Response to Comment 79-2 regarding documents included in the Draft EIR Appendix and the availability of the biological resource technical reports.

80-4 Please see Response to Comments 55-4, 80-21, and 80-34.

80-5 The commenter questions the accuracy of the project's APNs. Due to a lot line adjustment that occurred on February 18, 2020, the APNs for the project site changed. In response to this comment, the fourth paragraph on page 3-1 of the Draft EIR is hereby revised as follows:

> The 388.05-acre expansion property is located on ~~portions of three~~ <u>two</u> parcels (APNs ~~025-190-011, 025-190-027, and 025-190-038~~<u>025-190-078 and 025-190-079</u>). The County also owns 101.3 acres directly south of the JSRL and John Smith Road (APN 025-190-075) (Figure 3-3). A 30-acre portion of this 101.3-acre County-owned property was previously considered for use as a resource recovery facility. The County approved a Resource Recovery Park District zoning overlay, but has not approved a project.

80-6 The commenter states that Table 3-1 is not clear. However, the commenter correctly interprets how the percentages are calculated. Therefore, no changes are warranted.

80-7 The commenter asks what percentage of green waste is expected to be exported from the project site. The export of green waste from the site would vary depending upon the volume arriving and the need for the material for erosion control. Although a percentage cannot be determined in advance, the export of material from the site is expected to be negligible and would not be expected to contribute substantially to the project's vehicle trips. If the composting alternative is added, it is unlikely any green waste would be exported from the project site.

80-8 The commenter asks if the out-of-County self-haul commercial should be identified as out-of-County self-haul residential. The out-of-County self-haul commercial trips represent small commercial haulers who are driving to the site from out of the County. In 2020, a total of ten out-of-County self-haul trips were recorded at the JSRL scale house, representing less than one trip per month. This number of trips is negligible and these trips were not further addressed in the Draft EIR

80-9 The commenter requests that data be provided to support the statement that there are very few loads of out-of-County self-haul. Please see response to comment 80-8.

80-10 The commenter asks what would keep the project applicant from accepting more than the 2,123 tons assumed in the analysis. On any given day, the landfill would be permitted to receive up to 2,300 tons of waste for burial. However, landfills in California do not accept their permitted tonnage limit every day. The tonnage delivered varies substantially from day to day, which results in the average being below the peak permitted limit. The estimate of an average acceptance of 2,123 tons per day was determined to be reasonable because it was based on historic scale house records from the current operations.

80-11 The commenter asks for clarification regarding a number discrepancy in Section 3.5.2 of the Draft EIR. The discrepancy is due to a typo. The reference to 1,900 tons per day included in the seventh bullet on page 3-16 of the Draft EIR should have been 1,908. The average tonnage of waste estimated to be delivered to the site when it reaches its peak acceptance level is correctly stated as 2,123 tons.

In response to this comment, the seventh bullet on page 3-16 of the Draft EIR is hereby revised as follows:

> The change from the current 923 tons per day to the projected 2,123 tons per day was phased in over 15 years. Over that 15 years, in-County tonnage would increase from 191 tons per day to 215 tons per day, and out of county waste would increase from 732 to ~~1,900~~ 1,908 tons per day assuming that old waste disposal contracts expire an average every 3 years and the out-of-County waste would increase in roughly 234-ton steps every three years.

80-12 The commenter asks that data be provided to support the assumption that the peak waste for beneficial use would not change significantly in the future. This assumption is based on historical scale house records, which represent a relatively stable intake of materials for beneficial reuse. With the implementation of SB 1383, more organic materials are expected to be removed from the waste stream before they reach the landfill. Therefore, some reduction in the volume of waste for beneficial use delivered to the site in the future would not be unexpected. The commenter is also referred to the New Compost Facility Alternative discussed in Chapter 6 of the Draft EIR.

80-13 The commenter states that it is inaccurate and misleading to state that the proposed RNG facility would minimize the increase in methane generation. The RNG facility would destroy methane that is generated from the landfill. Therefore, the RNG would minimize the increase in methane generated from the project site that would escape into the atmosphere.

80-14 The commenter states that the EIR does not acknowledge that litter is regularly present along Best Road. Best Road is not currently used as a commercial haul route for waste deliveries to the project site other than for local waste collection vehicles, which travel through all residential neighborhoods in the County. Although litter may be present along local roadways, Best Road is not the proposed haul route for out-of-County commercial vehicles. Although the Draft EIR identified the potential increase in litter generation at the site and along the proposed haul route as a significant environmental impact, it did not identify litter along local county roads as a significant project impact. Therefore, no litter collection measures were proposed along Best Road in the Draft EIR. However, the County has decided to require the regular collection of litter along Best Road as a component of project operations and the applicant has agreed to implement this collection. Therefore, Mitigation Measure 4.10-3 on page 4.10-16 of the Draft EIR is hereby revised as follows:

> The operator shall implement and fund a litter pick-up program on the adopted haul route to the landfill entrance that provides for inspection and removal of any litter at least three times per week. All complaints received from the public about litter, or calls to the litter hotline shall be reported to Integrated Waste Management monthly. Complaints about litter shall be responded to

within 48 hours. In addition, although not required to reduce a significant environmental impact and, assuming Best Road is not the selected haul route, the applicant's litter pickup program shall occur once per month along Best Road.

The commenter also asks where the 24-hour phone number will be posted and whether the applicant will commit to a maximum response time. The 24-hour phone number would be posted at the landfill entrance and on the County's and applicant's JSRLF website pages. As stated in Mitigation Measure 4.10-3 on page 4.10-16 of the Draft EIR, complaints about litter shall be responded to within 48 hours.

80-15 The commenter states that sufficient information is not provided regarding the chemicals of concern in the Class I area. In 1977, the City of Hollister developed the Class I impoundments to dispose of agricultural rinsate. This rinsate has been characterized as a hazardous waste. In 1984, all liquids were removed from the Class I Area. The character of the contamination is based on the historical use of the Class I Area by the City of Hollister, as documented in the EMCON Associates 1987 Hydrogeological Assessment Report for the John Smith Road Class I Landfill. As identified in this report, the pesticides included dieldrin, endosulfan I, paraquat, methiocarb, and chloropropham. Several metals (e.g., barium, chromium, silver, and zinc) were detected at elevated concentrations but below hazardous waste levels. Also reported were traces of the pesticides Lindane (residue), delta-BHC (clay liner), and p,p'- DDT. Traces of the volatile organic compounds cis-1,3-Dichloropropene, Chlorobenzene, Ethylbenzene, and total Xylenes were detected near the detection limit in the residue and in addition toluene, and 1,2 Dichlorobenzene were detected in the clay. Compounds detected in the clay liner were, in general, the same compounds as those detected in the waste residue. Concentrations were typically lower in the liner than in the waste residue. Additional reports documenting the conditions within the Class I Area are identified in Section 3.7, References, of Chapter 3 of the Draft EIR.

The estimate of soil removal is a conservative assumption that is intended to ensure that all hazardous waste materials are removed from the site following the clean closure. As stated by the commenter, if a substantially greater amount of soil is required to be excavated, this would increase the associated impacts. However, because the amount of soil needing to be excavated is already assumed to be a conservative assumption, the potential need for additional soil excavation is speculative and does not represent the reasonably expected impacts of the proposed project.

80-16 The commenter asks how climate change has been accounted for in the water supply demand estimates. Please see Response to Comment 1-1.

80-17 The commenter states that the Water Supply discussion does not discuss the potential use of landfill gas condensate as dust suppression as discussed in Section 3.5.6. As discussed on page 3-22 of the Draft EIR, similar to the use of leachate, the proposed project includes using condensate for dust control on the lined portions of the landfill and/or reinjecting it into the buried waste to accelerate waste decomposition. The condensate would be pumped and commingled with leachate in three new leachate storage tanks. During winter months, the condensate would continue to be discharged into the City's wastewater collection system. The current and projected leachate and condensate volumes are identified in Table 4.12-2 in Section 4.12, Public Services, Utilities and Energy of the Draft EIR.

80-18 The commenter states that the statement that leachate not consumed for operational uses would be piped to the wastewater treatment plant conflicts with the statement that leachate may be reinjected into buried waste. If leachate is reinjected into buried waste, it would not be piped to the wastewater treatment plant. However, if it is not reinjected or a portion is not reinjected, the remaining portion would be piped to the wastewater treatment plant.

80-19 The commenter states that the project's consistency with General Plan Policy LU-1.3 is misleading because it does not communicate that the majority of the added landfill capacity would be used for out-of-County waste. Policy LU-1.3 states the following:

> LU-1.3 Future Development Timing
>
> The County shall ensure that future development does not outpace the ability of either the County or other public/private service providers to provide adequate services and infrastructure. The County shall review future development proposals for their potential to reduce the level of services provided to existing communities or place economic hardships on existing communities, and the County may deny proposals that are projected to have these effects. (RDR/MPSP)

The project description and analysis of impacts and mitigation measures contained in the Draft EIR documents that the proposed project will provide adequate solid waste services and infrastructure to serve the needs of existing and future development in San Benito County. Therefore, the project is consistent with General Plan Policy LU-1.3.

80-20 The commenter asks if the traffic study included a detailed safety assessment. The traffic study did include a safety assessment based on accident history and a review of roadway geometries. This study, titled John Smith Road Landfill Expansion Traffic Study, was prepared by PHA Transportation Consultants on June 20, 2022 and is available on the County's website.

80-21 The commenter states that Figure 4.2-1 appears to include project expansion truck traffic counts and states that the description is misleading. The title of Figure 4.2-1 is "Existing Out-of-County Commercial Vehicle Haul Route" and the figure identifies the haul route as the red line extending from Shore Road to Fairview Road to John Smith Road. The vehicle trip information identified on this figure is provided to inform the reader regarding the NOP baseline volumes of traffic on this haul route and to identify the expected new commercial vehicle trips associated with project implementation. As explained more in Comment 80-28, Mitigation Measure 4.2-4 will require rehabilitation, repair, and reconstruction obligations along the haul route based on all waste tonnage delivered and will not be reduced to account for the existing commercial truck trips at the time of the NOP release.

80-22 The commenter state that Section 4.2 does not address out-of-County or in-County self-haul trips originating from the south of JSRL. In 2020, a total of ten out-of-County self-haul trips were recorded at the JSRL scale house, representing less than one trip per month. This number of trips was determined to be negligible and these trips were not further addressed in the Draft EIR. For in-County self-haul trips originating from the south of JSRL, the number of trips using Best Road to access the project site was identified as being low due to the low development density within the southern unincorporated portion of San Benito County. However, it is acknowledged that some self-haul vehicles use Best Road currently. Because cumulative development within the County is expected to occur primarily within the City of Hollister or areas north and west of the project site, substantial additional vehicle trips would not be expected to use Best Road to access the project site in the future.

80-23 The commenter asks when the average incoming vehicle counts referenced in Section 4.2 were conducted. The existing vehicle counts referenced in Section 4.2 were taken from the scale house records from January to March 2022, as stated on page 4.2-4 of the Draft EIR. It is noted that the field observations of traffic operations at the landfill entrance occurred on April 22, 2022, after waste importation had ceased. Please also see Responses to Comments 55-4 and 66-3.

80-24 The commenter asks how the vehicle generation values identified in Table 4.2-2 were established. The trip generation included in Table 4.2-2 is based on projected growth in the permitted tonnage associated with project approval. For a detailed discussion of the assumptions used to determine the tonnage increase

associated with the proposed project, and associated vehicle trips, the commenter is referred to Section 3.5.2, Increase in Permitted Tonnage, commencing on page 3-16 of the Draft EIR.

The commenter states that Sunday data appear to be omitted from Table 4.2-2. Per the 2021 scalehouse records, the number of vehicles accessing the site on Sundays is substantially below the number of vehicles that arrive on other days of the week. Therefore, these data were not reported in Table 4.2-2.

80-25 The commenter asks how vehicles that access the site from Best Road are accounted for in the traffic, air quality, greenhouse gas, and noise analyses for that alternative access route. No out-of-County commercial vehicles currently use Best Road to access the site and very few local vehicles use Best Road to access the site due to the low development density south of Best Road. Waste-haul vehicles that use Best Road are primarily limited to those of the local franchiser collecting waste from residences along Best Road and self-haul vehicles from the residences located along Best Road. Therefore, the traffic analysis focused on the roadway hazards that would occur on the primary route to the site from Fairview Road to John Smith Road. Also, the increase in the automobile vehicle miles traveled was used to quantify traffic impacts. The VMT changes minimally regardless of their route to the site.

For air quality, the analysis focused on impacts associated with the projected increase in project-associated criteria air pollutants and diesel particulate matter emissions in the region. The health risk assessment focused specifically on the vehicle trips traveling on John Smith Road. For greenhouse gases, the analysis quantified the expected increase in these emissions associated with project implementation and the contribution of these emissions to global climate change. For noise, the analysis focused on how the increase in out-of-County and in-County vehicle trips would increase noise levels along the identified haul routes, which are expected to experience the greatest change in traffic volumes. The project haul route did not include the use of Best Road. For a discussion of the impacts along Best Road if it were to be used as a haul route for the proposed project, the commenter is referred to Chapter 6, Alternatives, of the Draft EIR.

80-26 The commenter raises concerns regarding the approach used to evaluate consistency with State CEQA Guidelines Section 15064.3. For the assessment of the proposed project's consistency with Section 15064.3, the commenter is referred to the impact discussion commencing on the top of page 4.2-11 of the Draft EIR. It is acknowledged that an EIR ***may*** calculate VMT for heavy duty trucks, but such calculations are not required. The evaluation of damage from heavy duty trucks on the roads is evaluated and mitigated.

80-27 The commenter requests that a diagram be provided documenting the type and location of signage required by Mitigation Measure 4.2-3. As stated in this mitigation measure, the signage would be required to be installed along the selected commercial vehicle haul route consistent with the current Caltrans Manual on Uniform Traffic Control Devices. Locations of signs would be determined by the San Benito County Public Works Department based on their experience with the roadways. No signage would be placed on State Route 25 approaching Best Road unless the Best Road Haul Route Alternative is selected. It is noted that signage along SR 25 may require Caltrans concurrence.

80-28 The commenter states that the pavement integrity mitigation measure does not provide sufficient detail to assess the adequacy of the measure to reduce the impact. The County had the San Benito County Landfill Expansion Road Impact Analysis ("Road Impact Analysis") (September 2023) prepared by Pavement Engineering Inc., which analyzes the required fair share obligation toward road rehabilitation, repair, and reconstruction that will be required for the life of the project to implement Mitigation Measure 4.2-4. The analysis is included as part of the administrative record for this project and will be adopted by the County as part of the MMRP, as well as the fair share fee to implement Mitigation Measure 4.2-4. The fair share, along with additional County funding available from sources unrelated to the landfill to cover the costs in

excess of the applicant's fair share, as explained in more detail in Response to Comment 31-1, will ensure that adequate funding is available to mitigate impacts to the haul route for the life of the project.

As discussed in the DEIR and explained in greater detail in the Road Impact Analysis, the heavy-duty trucks utilized as part of the expansion projects will require improvements to the existing roads so that they can handle the heavy-duty trucks and require repairs, rehabilitation, and reconstruction above and beyond general road maintenance and to a greater extent and traffic standards than would be required without the project. The Road Impact Analysis thus determines the necessary improvements to the haul route roads to accommodate the expansion project and the required rehabilitation, repairs, and reconstruction to the pavement over the life of the expansion project to mitigate the impacts from the expansion project. While Mitigation Measure 4.2-4 originally anticipated the applicant and County executing an agreement to provide for the applicant's fair share, an agreement has not been reached. To ensure that impacts from the expansion project do not remain unmitigated, Mitigation Measure 4.2-4 is thus revised to require the County to adopt the fair share road impact fee prior to or at the same time as approval of the expansion project. The County will adopt the fair share road impact fee pursuant to the Mitigation Fee Act and the adopted per ton fee will implement Mitigation Measure 4.2-4.

Because the Mitigation Fee Act has potential limitations on the imposition of mitigation fees for maintenance, the Road Impact Analysis excludes such costs of maintenance from the fair share fee. As detailed in the Road Impact Analysis, the costs of maintenance are substantially less significant than the actual costs to rehabilitate, repair, and reconstruct the haul route roads over the life of the Project. The use of "road maintenance" in the DEIR was also broadly used to refer to the work necessary to ensure the roads were adequate and did not result in traffic hazards. The exclusion of maintenance in the Road Impact Analysis to comply with potential limitations under the Mitigation Fee Act is limited to the use of "maintenance" as defined under the Public Contract Code as "[r]esurfacing of streets and highways at less than one inch."

In addition, to ensure that the rehabilitation, repair, reconstruction, and County-funded maintenance occurs for the life of the project, Mitigation Measure 4.2-4 on page 4.2-14 of the Draft EIR is hereby revised to provide:

> Prior to ~~waste being placed in~~ or at the ~~first~~ same time as approval of the expansion ~~cell~~ project, the ~~applicant and~~ County shall ~~execute an agreement obligating the applicant to pay~~ adopt a fair share fee toward roadway ~~maintenance and~~ rehabilitation, repair, and reconstruction along the haul route for the life of the expansion project that is consistent with the San Benito County Landfill Expansion Road Impact Analysis ("Road Impact Analysis") (September 2023) prepared by Pavement Engineering Inc. and the applicant shall pay such adopted fair share fee for all tonnage in the expansion area in accordance with the adopted fee program. The Board of Supervisors may elect, in its sole discretion, to allocate revenue it receives under the Landfill Operating Agreement to cover all or a portion of the applicant's fair share fee provided for herein. The tonnage accepted at the site shall be factored into the fair share fee so that an increase in waste tonnage deliveries to the site would result in a corresponding increase in ~~road maintenance funding for the County~~ rehabilitation, repair, and reconstruction funding for the County. In April of each year or at another time mutually agreed to by the County and applicant, provided that meetings occur at least once per year, the County and applicant shall meet to discuss the necessary rehabilitation, repairs, reconstruction, or maintenance for the haul route in that upcoming year. The County shall determine the necessary scope of work and prepare a written plan for the required work. However, for any "maintenance" work as defined under Public Contract Code section 22002, the County shall not use the fair share fees imposed and collected under this mitigation measure. The County shall timely obtain contracts for the work, including compliance with competitive bidding requirements under state law, if applicable to the work. If the County determines that road rehabilitation, repair, or reconstruction is not necessary in a

particular year, the funds will continue to be reserved in a segregated account consistent with the Mitigation Fee Act, including the findings and accounting requirements therein.

80-29 The commenter asks if penalties would be assessed against commercial or residential drivers who utilize a non-approved haul route such as Best Road. The haul route identified in Chapter 3, Project Description, would be applicable solely to out-of-County commercial haul trucks. The use of the selected haul route would be managed by the project applicant through contracts with the contract haulers. As is currently the case, no route restrictions would apply to in-County commercial or residential haulers.

80-30 The commenter states that no citation is provided regarding the reference to ultramafic rock. The source of asbestos is described on page 4.3-12 of the Draft EIR as metamorphic ultramafic rock. As described on Page 4.9-1 et seq., the bedrock (and soil derived from the bedrock) are sedimentary Panoche Formation and older terrace deposits, neither which are metamorphic ultramafic bedrock. Therefore, the need to test the soil for asbestos has not been established. Soil that is imported for beneficial reuse is used for daily cover, buried similar to waste, and is not exposed to long-term dust generation. The Waste Discharge Requirements issued by the Central Valley Regional Water Quality Control Board, require that waste (including soil for beneficial reuse) does not contain more than 1% friable asbestos and soils exceeding this limit are not accepted.

80-31 The commenter states that the statement regarding waste acceptance is inaccurate. The Draft EIR describes the baseline environmental conditions as of the date of the Notice of Preparation, which was released on February 22, 2021. On that date, the landfill was receiving waste from both in-County and out-of-County sources.

80-32 The commenter states that there are tonnage conflicts in the Draft EIR. The reference to average total tonnage in Section 3.5.2 is to total tonnage including waste to be buried and waste for beneficial reuse. The projected waste for burial is identified in this same section as 1,702 tons per day. This is consistent with the reference to 1,700 tons per day included in Section 4.3.3. For a detailed discussion of the tonnage calculations, the commenter is referred to Section 3.5.2 of Chapter 3, Project Description, of the Draft EIR.

80-33 The commenter states that the assumption regarding the Class I Area is faulty because clean closure activities could overlap with module construction. The clean closure of the Class I Area would be conducted in anticipation of using the Class I Area as a new module. Therefore, module construction would not be anticipated to occur concurrently with the Class I Area clean closure activities. Nonetheless, while unlikely to occur concurrently, the County will add the following condition of approval to ensure that no overlap occurs:

> "Clean closure of the Class 1 and any construction of a new module shall not occur concurrently unless it is established in advance in a written report submitted to the County that the clean closure of the Class 1 and any construction related to a new module will not exceed the estimated daily emissions in the Draft EIR."

80-34 The commenter requested a No-Project Baseline be included in the analysis. Under CEQA Guideline §15125(a)(1): The environmental setting as of the date of the Notice of Preparation will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. For this EIR, the date of the Notice of Preparation is February 22, 2021; in compliance with the CEQA Guidelines, that date is used as the date for determining the existing conditions baseline. According to Guideline §15126.6(e)(1), the no project alternative analysis is not the baseline for determining significance unless it is identical to the existing environmental setting. Given the existing conditions as of February 22, 2020, a no-project baseline is not appropriate in this case.

The existing conditions in effect as of the Notice of Preparation date (including out-of-County waste imports in addition to local disposal) had also been in effect for a number of years prior to the Notice of Preparation, so this existing-conditions baseline is more reflective of long-term conditions at the site; current conditions as of the date of this Final EIR (with out-of-County waste not accepted) are less representative of long-term conditions.

Please also see Response to Comment 55-4.

80-35 The commenter requests evidence be provided to support the emission calculation assumptions. As described on page 4.4-9 of the Draft EIR, Executive Order (EO) N-79-20 sets forth the following goals: (1) 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035 and (2) 100 percent of medium- and heavy-duty vehicles in the State will be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. Transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible. It is unclear if this goal will be met. It is clear, however, based on the rapid progress of electrical vehicle implementation that significant progress towards this goal will be made. To provide a conservatively high estimate of emissions, the modeling assumes that EO N-79-20 would only be partially implemented by 2045 and that approximately 60 percent of the vehicles would be zero emissions and 40 percent would have 2050 EMFAC calendar year emission factors. For the purpose of emissions calculations, the Draft EIR does not assume a transition to electric vehicles between 2035 and 2045. For that period, it assumes improvements to emissions standards for conventional vehicles.

Since the Draft EIR was written, the California Air Resources Board (CARB) has proposed the Advanced Clean Cars II (ACC II) Regulations for 2026 and subsequent model year passenger cars, light duty trucks, and medium duty vehicles. According to CARB, the regulation "establishes a year-by-year roadmap so that by 2035 100% of new cars and light trucks sold in California will be zero-emission vehicles, including plug-in hybrid electric vehicles. The regulation realizes and codifies the light-duty vehicle goals set out in Governor Newsom's Executive Order N-79-20." The Regulation would accelerate conversion to electric vehicles and reduce emissions below what is assumed in the Draft EIR.

80-36 The commenter states that the 82 lb/day threshold applies to sulfur oxide emissions. Monterey Bay Air Resources District (MBARD) Table 5-3 lists thresholds for operational impacts including 150 lb/day for sulfur oxides (SO_x) as SO_2. The footnote indicates that the 82 lb/day for the SO_x threshold applies only for emissions along unpaved roads and these emissions are generally less than significant. Table 4.3-8 indicates that vehicular SO_2 emissions are negligible and well below the threshold of 82 lb/day. The LFG flare is the primary source of operational SO_2 emissions and the 150 lb/day operational threshold applies in this case. Regardless, dispersion modeling indicated that the projected emissions would not have the potential to cause an exceedance of ambient air quality standards.

80-37 The assumed maximum water truck trips per day are 7 trips for operations and 8 trips for construction for a total of 15. For landfill operations the round-trip mileage for water would increase to 28 miles round trip versus the approximately 6-mile distance to the current source of water assumed in the emissions calculations. Criteria pollutant emissions for landfill operation were modeled assuming water would be obtained from the Sunnyslope source.

Revised Table 4.3-8
Summary of Baseline and Proposed Project On-Site Emissions from Operations

Analyzed Condition	NOx (lb/day)	ROG (lb/day)	CO (lb/day)	PM_{10}[1] (lb/day)	$PM_{2.5}$[1] (lb/day)	SOx (SO_2) (lb/day)
Baseline Site Operations	19.46	1.48	36.64	66.58	19.4	0.24
Baseline LFG	9.1	9.73	<0.54	0.08	0.08	39.2
Baseline Indirect (from Table 4.3-7)	23.22	0.95	NA	NA	NA	NA

Total	51.78	12.16	36.64	66.66	19.48	39.44
Project Site Operations	~~14.44~~ 15.53	~~1.58~~ 1.61	~~35.66~~ 32.29	~~67.03~~ 53.37	~~17.45~~ 15.70	0.13
Project LFG	49.89	13.923	<2.27	0.45	0.45	214.91
Project Indirect (from Table 4.3-7)	22.57	0.29	NA	NA	NA	NA
Total	~~86.90~~ 87.99	~~15.79~~ 15.82	~~35.66~~ 32.29	~~67.48~~ 53.82	~~17.9~~ 16.15	**215.04**
Difference, new (old)	~~35.12~~ 36.21	~~3.63~~ 3.69	~~-0.98~~ -4.35	~~0.82~~ -12.84	~~-1.58~~ -3.33	175.6
Threshold	137	137	550	82	NA	150

Source: Lawrence & Associates 2021.
Notes: 1. Includes exhaust emissions, brake wear, tire wear, and fugitive road dust.
2. This is for the LFG peak flow of 2,449 cfm and 98% collection efficiency.

Revised Table 4.3-8 above, identifies how the emissions would change if water is obtained from the private well. The difference in criteria pollutant emissions from the longer trips is negligible and remains well below the thresholds of significance. For construction, 8 trips with 28 miles round trip (plus 3 miles on onsite) equals 224 miles per day. The calculations summarized in Table 4.4-9 assumed a conservatively high 246 miles per day, therefore the difference in emissions for use of the private well is the same or less than that shown in Table 4.4-9.

80-38 The commenter asks what assumptions have been made regarding access to the project site from Best Road. The analysis assumed that all of the vehicle trips accessing the landfill would travel the entire length of John Smith Road from Fairview Road to the project site. This assumption was used because in addition to reflecting current travel patterns, it reflected a worst-case analysis in assessing traffic, noise and air quality impacts. Although a few commercial vehicles currently collect waste from the residents on Best Road and would use Best Road to access the site, these vehicle trips would be negligible. Also, very few other vehicles access the project site from Best Road because very few residents are located south of the State Route 25/Best Road intersection. By realistically assuming future vehicle trips would use John Smith Road to access the site, the traffic trips and associated roadway noise levels were maximized along the designated haul route. For the health risk assessment, this assumption results in a conservatively high evaluation of risk for residences along John Smith Road. Even with this assumption, the excess cancer and noncancerous risks were estimated to be well below the threshold of significance at all receptors, including those adjacent to John Smith Road. Very few vehicles currently use Best Road to access the landfill and this would not be expected to change with project implementation. Therefore, the traffic, noise and health risk impacts to residents along Best Road would be substantially less than estimated for residents along John Smith Road.

80-39 The commenter raises concerns regarding the flare emissions described in Table 4.3-13. The purpose of Table 4.3-13 is to describe the flow assumed when calculating health risk solely for flare emissions. In this case, the highest potential flow rate through the flare would be when the landfill is capped and the collection efficiency is very high (98%). Assuming a 98% collection efficiency provides the highest potential LFG flow through the flare and highest potential flare emissions. Thereby providing the upper end of potential health risk from flare emissions. The collection efficiency would increase from 80% to 95% prior to peak flow, but could be as high as 98% in some cases.

Health risk from fugitive emissions is described in detail on page 4.3-12 of the Draft EIR. The health risk was initially modeled at 160 cubic feet per minute (cfm) and 93% collection efficiency at peak flow at the PMI (Point of Maximum Impact). As described in the text, the PMI is not in a location where long-term occupancy could occur. At more distant locations, the excess cancer risk would remain below the threshold of significance at a higher fugitive emissions rate.

Because health risk from fugitive emissions is proportional to the fugitive landfill gas flow, Mitigation Measure 4.4-4 describes the mitigation in term of fugitive landfill gas flow. The required collection efficiency to meet the fugitive emission flow limits would start out very low initially and then increase to approximately 90% for the 242-cfm threshold described in the mitigation measure. Please note that the

implementation of control measures described in Section 4.4 to control greenhouse gas emissions would provide a collection efficiency well above this limit early in the project implementation.

80-40 The commenter states that the applicant must demonstrate in the analysis the assumptions regarding the equivalency of the emissions. With implementation of the renewable natural gas (RNG) facility, the heat energy of landfill gas would be removed from the landfill facility. It would not be combusted at the landfill and would not contribute to the emission profile produced by the landfill. The processing of landfill gas to RNG would not result in emissions greater than combusting LFG at the landfill as a waste gas. Approximately 92% of the energy content of landfill gas collected for processing would be distributed as renewable RNG with the balance combusted at the landfill as a result of processing operations.

Because the RNG would be distributed via public utility pipeline as a renewable natural gas commodity, the landfill operator cannot control the how it is used or processed. While it is expected that consumption of the RNG as a commodity would result in emissions (per British thermal unit) equal to or less than that associated with combustion in a typical landfill flare assembly, we cannot (numerically) verify that actual use would be at an emission rate less than a landfill flare assembly.

However, it is well understood that distribution in the public utility pipeline would effectively displace an equivalent amount of fossil natural gas. Accordingly, processing of landfill gas for RNG use would result in an overall "global" decrease in combustion and would therefore, decrease net emissions, including criteria pollutants and greenhouse gases. At a minimum, global criteria pollutant and greenhouse gas emissions would be reduced by the amount not emitted at the landfill.

80-41 The commenter states that the Draft EIR does not provide a sufficient level of detail to analyze impacts from a landfill gas (LFG)-to-energy facility. An LFG-to-energy facility, if implemented (considered unlikely), would be used to provide electricity for the RNG Facility. If implemented, an LFG-to-energy facility would be required to meet the same 98% LFG destruction efficiency at the flare and, because it was not analyzed in this EIR, may require additional CEQA analysis. For the purposes of GHG reduction, the use of an LFG-to-energy facility is considered unlikely and not assumed in any analysis of the project's impacts. The Project Description does not include an LFG-to-energy facility because it is not part of the project and is not anticipated.

80-42 The commenter asks if the study considered the presence of siloxanes in the landfill gas. Siloxanes are a common and recognized concern with landfill gas and internal combustion engines and turbines. LFG-to-energy facilities have chillers to reduce moisture in the LFG and associated siloxane. Regardless, internal combustion engines that burn LFG tend to require more frequent maintenance. An RNG developer could elect to use processed methane to run an internal combustion engine, which would be similar to using conventional natural gas. A gas developer would be required to meet the emissions requirements of Mitigation Measure 4.3-2 regardless of the siloxane content in the LFG.

80-43 The commenter raises concerns regarding the 50-foot setback in the Waste Discharge Requirements. The 50-foot setback in the Waste Discharge Requirements was established by the Regional Water Quality Control Board to provide separation from risks associated with municipal solid waste irrespective of the medium or method of transport. That is, it is intended to prevent a pathway between the waste and surrounding properties. By preventing a pathway to the adjacent property, or in this case, on-site cattle grazing with a 50-foot separation, the connection between the waste and cattle is eliminated and the potential for a food chain pathway via consumption of cattle products is rendered incomplete. The statement does not imply that a bio-accumulation study has been performed or is warranted.

80-44 The commenter requests clarification regarding the LFG collection efficiency assumptions. For a discussion of the LFG collection efficiency assumptions, the commenter is referred to the Method of Analysis discussion commencing on page 4.3-16 in Section 4.3, Air Quality, of the Draft EIR.

80-45 The commenter raises concerns regarding Mitigation Measure 4.4-1(c). As described on page 4.4-21 of the Draft EIR, the project includes gradually increasing collection efficiency to 95%. Mitigation Measure 4.4-1(c) requires early adoption of the 95% collection efficiency and describes methods to achieve that goal (as described in Attachment A to Appendix C of the Draft EIR). At the peak flow of approximately 2,499 cfm, fugitive emissions would be well below 242 cfm (approximately half) at the location in question. Mitigation Measure 4.4-1(c) provides the means to reduce fugitive emissions without the need to modify Mitigation Measure 4.3-4. The lower threshold is not included in Mitigation Measure 4.4-1(c) because the project would not significantly impact the identified location unless a residence were constructed on that site. Similarly, the project would not significantly affect any existing residences in the project vicinity with the implementation of Mitigation Measure 4.4-1(c) as written. As stated on page 4.3-53 of the Draft EIR, the implementation of Mitigation Measure 4.3-4 would ensure that project emissions would remain below levels that could expose residents to TAC emissions in excess of MBARD standards. Therefore, implementation of the proposed project would result in a less-than-significant health risk impact.

80-46 The commenter raises concerns regarding the description of the landfill's working face in the Draft EIR. As stated on page 4.10-2 of the Draft EIR, the size of the working face is limited to the minimum area required to handle that particular day's refuse volume. Generally, the size of the working face under existing conditions has ranged from approximately 50 feet by 200 feet, and the size of the working face is anticipated to be roughly comparable to this during future operations. With an increase in waste volumes, the depth of the working face can increase without increasing the aerial extent of the working face. For the purposes of calculating dust emissions (PM_{10}) and water demand, a conservatively large working face was assumed for the proposed project to provide a conservatively high projection of water needs.

80-47 The commenter asks questions regarding the odor complaint received in 2017. The complaint was recorded on May 23, 2017 at 8:00 pm and stated: "Neighbor off John Smith Road sent Chris [Nottenkamper, landfill manger] a text message reporting a smell." The manager that received the call no longer works at the site and there is no other information other than what is stated in the Draft EIR.

80-48 The commenter asks what mechanism will prevent a future release from the LFG collection system. The landfill is regulated by the California Air Resources Board (CARB) under California Assembly Bill 32 (AB-32) Global Warming Solutions Act of 2006, federally under Title V of the Clean Air Act, and locally by the Monterey Bay Air Resources District (MBARD) under a Permit to Operate. AB-32 requires (1) quarterly integrated and instantaneous surface emissions scans for methane, (2) quarterly gas-control system component leak testing, (3) monitor each LFG system well head to ensure negative pressure (vacuum), and (4) annual flare testing to ensure 99% methane destruction efficiency. The Permit to Operate requires that limits be identified for operation of the flare and requires annual stack testing to verify that the stack is meeting criteria pollutant limits and is providing a minimum 98% destruction efficiency for volatile organic compounds. A similar permit to operate would be issued for an RNG facility. The continued management of the LFG collection system consistent with these permit requirements would substantially minimize the possibility of a future LFG release that would generate odor complaints.

80-49 The commenter asks how the air quality analysis accounted for system upsets. The air quality analysis assumes a properly operating LFG collection system and flare. There are no records of system upsets that have resulted in a release of unmitigated LFG except the odor complaint described above.

80-50 The commenter asks for a description of the complaint history. A three-year period prior to the Notice of Preparation was selected as a time span representative of the current operation as it included the acceptance of waste tonnages. However, one complaint prior to 2017 was found in the record by landfill staff. The complaint was reported on May 21, 2015 and included the following: "A neighbor complained of odors coming from the landfill. It was unclear whether the odors were from trucks in transit to the landfill or from waste being landfilled. The odorous loads were identified and buried immediately upon arrival to the active face. The Site Manager drove down John Smith Road to check if there were any lingering odors and did not smell any odor. After the weekend, the neighbor was called to follow up with the odor complaint and he said he did not have any odor issues over the weekend and that whatever was done worked to alleviate the issue."

80-51 The commenter asks if any odor complaints were received since release of the Notice of Preparation. County staff reviewed the landfill's complaint log through June 2023, and a single odor complaint was identified during that period, logged in February 2023.

According to the log, the landfill received an odor complaint from a neighbor to the southeast of the landfill. The site manager responded via text indicating an inspection would be performed on February 19. On that date, the site manager drove and walked the landfill to identify potential sources/locations for the odor. One source was the recently processed green waste spread on the south slope for erosion control. The other locations were gas wells in the southeast of the landfill. The site manager contacted SCS Engineers, the landfill operator's landfill gas contractor, to adjust the gas system.

On 2/21/23, SCS Engineers adjusted the landfill gas system to help with odor complaints. They discovered one horizontal collector with a cracked well head. An in-field repair was made and four new well heads ordered. The four horizontal collectors to the south valves were opened more to allow for greater extraction. There were no subsequent odor complaints (*John Smith Road Landfill Customer Complaint Log Summary, January through June 2023).*

80-52 The commenter states that the description and quantification of LFG fugitive emissions is not clear. The commenter is referred to the analysis of current fugitive emissions described in detail in Section 3.2 of Appendix C of the Draft EIR for more clarity on the impact analysis.

80-53 The commenter states that the current LFG collection subsection is misleading and implies a greater collection efficiency than is currently achieved. The estimated current collection efficiency is 80%. This collection efficiency is based on modeling conducted by CEC Consultants and is described in Attachment A in Appendix C of the Draft EIR. As the quote states, "[t]he actual value may be lower or higher" for collection efficiency. Here, as disclosed, it is lower. While higher collection efficiencies are achievable, the Draft EIR accurately discloses the landfill's collection efficiency during the baseline year of 2021.

80-54 The commenter state that the odor analysis does not adequately evaluate odors associated with increased LFG generation. Fugitive LFG does not directly equate to a potential to cause odor as the cover soil reduces odors and the LFG escapes in a diffuse manner. As the LFG flow increases, the landfill surface area increases and the emissions per acre-foot of landfill surface is very low. For example, 20% of 700 cfm for a 58-acre landfill equals 2.41 cfm per acre. However, the generation of 2,447 cfm at the proposed 95% collection efficiency over a 252.74-acre landfill equals 0.48 cfm/acre. On this basis, the odor generating potential would be less for the proposed project. The improved collection efficiency would be achieved through implementation of Mitigation Measure 4.4-1 included in Section 4.4, Greenhouse Gas Emissions and Climate Change, of the Draft EIR. Please also see Response to Comment 80-45.

80-55 The commenter states that LFG condensate is extremely odorous and the odor impact analysis does not adequately address the application of condensate for dust control. While leachate and condensate sprayed for dust control on lined portions of the landfill may produce odors locally within the site, the distance

from the nearest lined area to the nearest receptors would range from approximately 1,500 feet to the west to over 2,500 feet to the east and southeast with a low potential of the receptors experiencing odors. However, as required by Title 27 CCR, §20760, "Each disposal site shall be operated so as not to create a public nuisance." Title 27 CCR requires that odors and leachate application be addressed in the Joint Technical Document for the landfill. Odors are addressed by current regulations and leachate and condensate must be managed so as not to create a nuisance. Should the application of condensate create a nuisance, the regulations would require the practice to cease, in which case condensate would be reinjected into the lined areas of the waste.

80-56 The commenter suggests that a modeling assessment of odors should be performed. To perform dispersion modeling for odor, the odorants must have a detectable concentration (odor units per cubic meter) at the source. According to the landfill staff, odors of hydrogen sulfide and ammonia have not historically been observed at the landfill. On this basis and considering the lack of odor complaints within the past 5 years, there is no basis to perform odor dispersion modeling.

80-57 The commenter states that the baseline conditions reflected in Table 4.4-2 are not consistent with the data presented in Table 4.3-13. In response to this comment, some minor errors were detected in the text and in response, the first full paragraph on page 4.4-22 of the Draft EIR is hereby revised as follows:

> The baseline condition, as of 2021, includes an estimated collection efficiency of 80% at a total LFG flow rate of 625 cubic feet per minute measured at the landfill flare. Methane content of the LFG is approximately 38 percent as currently measured. This results in a total landfill methane generation rate of approximately ~~297~~ 238 cfm (625 cfm x 0.38), collection of ~~238~~ 190 cfm methane (238 cfm x 0.8), soil oxidation of approximately ~~6~~ 5 cfm ((238 cfm -190 cfm) x 10%) and fugitive methane emission of approximately ~~53~~ 42 cfm.

Table 4.4-2 describes the LandGEM modeling used to predict landfill gas flow. The standard of practice for modeling landfill-gas emissions is at 50% methane, therefore, the baseline flow is normalized to 50% methane for use in modeling. For example, 100 cfm at 38% methane is equivalent to 76 cfm at 50% methane – the purpose being to express LFG flow in terms of methane flow. The U.S. EPA LandGEM Model utilizes historical annual waste tonnage and model parameters to model LFG generation over the life of the landfill. As such, it is only possible to approximate the baseline condition in the model. Therefore, Table 4.4-2 describes the model results and does not exactly match the observed baseline. The model results are slightly lower than the base line and predict a conservatively high net GHG emission increase for the proposed project.

It was noted that the first column in Table 4.4-2 did not match the model in Attachment A of Appendix C of the Draft EIR. To clarify this issue, Table 4.4-2 on page 4.4-22 of the Draft EIR is hereby revised as follows:

Table 4.4-2
Summary of LandGEM Model Results

Variable	Baseline	Proposed Project Peak[2, 3]	Difference
Year	2021	2071[2]	51
Assumed collection efficiency	80%	95%	15%
Total LFG generated, cfm at 50% methane	~~594~~ 446	2,447	~~1,853~~ 2,001
Total methane generated, cfm	~~297~~ 223	1,224	~~927~~, 1001
Methane flared, cfm	~~238~~ 180	1,162	~~924~~ 982
LFG flared, cfm @ 50% methane	~~475~~ 360	2,325	~~1,850~~ 1,965

Fugitive LFG, cfm @ 50% methane[1]	~~119~~ 86	122	~~3~~ 36
Methane oxidized, cfm	~~6~~ 5	6	~~0~~ 1
Fugitive methane, cfm	~~53~~ 41	56	~~3~~ 15

Notes:
1. Fugitive: Emitted through cap or into surrounding soil.
2. Filling will continue until 2086 but at a much lower rate with a resulting diminishing LFG generation rate.
3. Assumes 95% current collection efficiency and 10% fugitive methane oxidization in cap (unaffected by RNG facility implementation).

When normalized to 50% methane, the model indicates an increase in fugitive emissions of 36 cfm, which would be considered negligible. The GHG modeling is based on the tables in Attachment A of Appendix C of the Draft EIR and the revision to Table 4.4-2 does not change any of the other results or conclusions in the section.

80-58 The commenter states that the method to achieve LFG emission reductions is not described. The methods are described in detail in Section 4.4, Greenhouse Gas Emissions and Climate Change of the Draft EIR under Mitigation Measure 4.4-1, as included below:

c. To optimize LFG collection efficiency and reduce fugitive LFG emissions from the landfill surface, the following measures shall be performed:

1. Landfill sequencing plans will be evaluated annually to identify landfill locations that can be either partially closed (i.e., undergo partial final closure) or temporarily covered.

2. Locations that are to final grade and expected to settle appreciably and, therefore, likely to receive additional waste prior to closure will be covered with a flexible membrane liner (minimum thickness of 12 mils) until additional waste is placed.

3. Locations that are not to final grade and are not projected to accept waste within the next year will be covered with a flexible membrane liner (minimum thickness of 12 mils) until additional waste is placed.

4. At locations where flexible membrane liners are placed, the perimeter of the flexible membrane liners will be embedded in an anchor trench to trap LFG being emitted from the landfill surface; LFG collector pipes will be installed to collect the trapped LFG.

5. As an alternative to placing flexible membrane liner, a thickened compacted soil interim cover (possibly including processed green waste or compost) may be used if it can be demonstrated to be equal or better than flexible membrane liner in controlling LFG surface emissions. Prior to undertaking such a substitution, the project applicant shall apply to the County to allow a substitution and provide the County with a report prepared by a qualified air quality specialist confirming that the substituted technology is equally effective or superior to the flexible membrane for reducing project GHG emissions. No substitution shall be made unless approved by the County based on evidence that the substituted technology is equally effective.

These are all new measures that would be implemented with the proposed landfill expansion, which would increase landfill gas capture at the site.

80-59 The commenter requests the installation of four electric vehicle charging stations at District-owned facilities. Charging stations and vehicle replacement for San Benito County are considered project-related because the County uses their vehicles to travel to the landfill for official business and the mitigations are

project related. Although providing mitigation to the School District is not directly project related, such mitigation would help to further reduce impacts, and accordingly the following text is hereby added to the end of Mitigation Measure 4.4-1(e)(1) on page 4.4-40 of the Draft EIR:

> The project applicant shall coordinate with the District and, provided that existing infrastructure is sufficient to provide the needed power and is located at the site of any new charging stations, shall purchase and install (or provide funding for) four electric vehicle charging stations at District buildings, based on need and capacity of District parking lots at the time of mitigation. The charging stations required by this measure shall be Level II 220-volt charging stations.

80-60 The commenter states that Impact 4.5-2 failed to consider the environmental impacts resulting from 109 additional vehicle trips per day on Saturdays and Special Event days. Traffic impact analyses are prepared using weekday traffic counts to reflect the substantially higher weekday traffic volumes on local roadways when compared to weekend, particularly during peak hours when people are traveling to and from work. When unusual conditions exist, the traffic analysis evaluates impacts that are unique to weekends. For the proposed project, the potential was identified for having long lines of vehicles queuing at the landfill entrance on Saturdays, particularly during special event days. Therefore, the Draft EIR included a weekend queuing analysis to determine if the project would cause vehicles arriving at the site to back up onto John Smith Road near the project entrance, creating a potential roadway hazard or delays for emergency vehicles. The commenter is referred to this impact analysis, which is presented under Impacts 4.2-3 and 4.2-5 commencing on page 4.2-11 of the Draft EIR.

80-61 The commenter asks if operation of the RNG facility is included in Table 4.5-8. The RNG facility operations are not include in Table 4.5-8. The discussion of the RNG facility noise impacts are included in the first full paragraph on page 4.5-17 of the Draft EIR. As part of project approval, future implementation of the RNG facility will be required to demonstrate adherence to the assumptions in the Draft EIR, including as to noise. The proposed condition of approval states:

> The Project approval includes construction and operation of the Renewable Natural Gas ("RNG") facility analyzed in the environmental impact report ("EIR") and subject to the mitigation measures and project description therein. When the operator and final design of the RNG facility is determined and prior to issuance of any grading or building permit for the RNG facility, the RNG applicant shall submit a site plan for the RNG facility with a project summary demonstrating that the RNG facility is substantially consistent with the RNG facility analyzed in the EIR, including but not limited to the design and performance standards related to noise (45 dB at 650 feet), air quality, and biological resources. The Director of the Resource Management Agency ("RMA") shall review the site plan and that ministerial review shall be limited to determining whether the RNG facility proposed in the site plan is substantially consistent with the RNG facility analyzed in the EIR. If the RMA Director determines the RNG facility in the site plan is substantially consistent with the RNG facility analyzed in the EIR, the site plan shall be approved and the RNG applicant may submit applications for any necessary grading, building, or other County permits. The RNG applicant will be required to reimburse the County for review of the site plan, including the County's decision to hire a qualified expert with RNG experience to compare the RNG facility analyzed in the EIR with the RNG facility in the site plan. If the RMA Director determines that the RNG facility in the site plan proposes substantial changes from the RNG facility analyzed in the EIR and those substantial changes may require revisions to the EIR due to the involvement of potential new significant environmental effects or a potential substantial increase in the severity of previously identified significant effects, the RMA Director shall refer the site plan to the Planning Commission or other decision-making authority or body as provided for in County Code for discretionary review, including a potential revision to this Conditional Use Permit and compliance with sections 15162, 15163, and 15164 of the CEQA Guidelines.

80-62 The commenter states that the RNG acoustical attenuation design elements constitute mitigation. As discussed on page 4.5-17 of the Draft EIR, the inclusion of acoustical attenuation is a typical design component of RNG facilities. As such, the noise analysis assumed the inclusion of these typical design components when the RNG facility is constructed. Also, the conditional use permit for the project will require review of the RNG site plan when the operator and final design for the RNG facility is determined to confirm that the RNG facility is substantially consistent with the facility analyzed in the Draft EIR, including generating noise levels of 45 dB or less at 650 feet, as identified in Comment 80-63.

80-63 The commenter asks how the bird bombs are deployed and how that would change with the project. The commenter also asks how the bird bombs were accounted for in the noise modeling. The bird bombs are deployed relatively infrequently (i.e., every couple of months during summer months and weekly during winter months) to minimize the potential for the birds to become accustomed to them, rendering them less effective. A variety of other deterrent measures are used at the site in addition to the bird bombs. Their use is not expected to substantially change with project implementation because the project activities would not substantially differ from current operations. Because the bird bombs are not used every day, they represent infrequent noise events that would not contribute measurably to the project's average operational noise levels.

80-64 The commenter states that there are no details regarding what entity will review, approve, and enforce the Noise Control Plan. San Benito County would be responsible for reviewing, approving and enforcing the provisions of the Noise Control Plan in Mitigation Measure 4.5-1, as specified in the project's Mitigation Monitoring and Reporting Program.

80-65 Please see Response to Comment 79-2.

80-66 The commenter states that the Draft EIR is deficient because it does not acknowledge the full extent of potential project-related water resource impacts. As described in Impact 4.8-1 on page 4.8-20 of the Draft EIR, the project was designed so that either (1) the post-project peak stream flow is equal to or less than the pre-project peak flow without the need for stormwater detention, or (2) stormwater detention is used to keep the post-project peak flow at or below the pre-project peak flow. Stormwater detention is used to collect, temporarily store, and the release stormwater runoff at the pre-project flow rate. Peak flow is proportional to the storm duration. As described in the referenced Design Basis Report, the runoff was evaluated for designed peak flow matching the time of concentration (short duration-high intensity rainfall typically ranging from 5 to 30 minutes depending on the channel characteristics) and for longer duration 100-year 24-hour storm (as required by Title 27 CCR for Class III landfill). Short duration storms have a higher rainfall intensity (inches per hour) than longer duration storms.

As described on page 4.8-21 of the Draft EIR "The model evaluates several storm periods (24-hour storm data for 2, 5, 10, 25, 50, and 100-year precipitation depths) to cover a range of runoff scenarios. It also considers the type of land use for each given runoff area, such as vegetated land, paved roads, and graveled areas, because land use affects the volume and rate of stormwater runoff.

As described in Table 4.8-3 on page 4.8-24 of the Draft EIR, "Although the overall discharge from the site during a 100-year event would be reduced when compared to existing conditions, the increase in discharge from points 2 and 5 would represent localized increases that could increase flows in drainages downstream of these two discharge points. These contributions could contribute to an exceedance of the capacity of the downstream drainage system." As stated on page 5-30 of the Design Basis Report, the conceptual proposed stormwater detention basins at Discharge Points 2 and 5 would have sufficient capacity to reduce the peak discharge to below the pre-project peak flow (Lawrence & Associates 2021).

Regarding the availability of the Design Basis Report and the Joint Technical Document, both of these documents have been posted on the County's website.

80-67 Please see Response to Comment 80-66.

80-68 The commenter states that the Draft EIR has not demonstrated that the project will not exacerbate downstream flooding during extreme atmospheric river events. Title 27 CCR Section 20365 Table 4.1 requires that drainages for landfills be designed to accommodate a 100-year 24-hour storm. Additionally, as described in the Design Basis Report, the basins were designed to accommodate runoff from a 50-year peak runoff event so that the post-project peak flow does not exceed the pre-project peak flow. Based on these stringent design requirements, there is a suitable factor of safety to accommodate climate change. Additionally, the rainfall intensity for drainage design is based on data obtained from the National Oceanic Atmospheric Administration (NOAA) that is updated periodically. The Waste Discharge Requirements (WDR) for landfills in the region regulated by the Central Coast Regional Water Quality Control Board (CCRWQCB) require that a design report be submitted prior to construction of each landfill module for review by the CCRWQCB Staff. The module design report drainage calculations are based on updated NOAA data. Similarly, Title 27, CCR requires that, two years prior to landfill closure or partial final closure, a closure plan be submitted including drainage calculations. The regulations provide a mechanism for adjustments to the design over the life of the landfill based on changing climate.

80-69 The commenter states that the project will not preserve existing natural drainage patterns because the topography will be modified by the proposed project. Page 4.8-20 of the Draft EIR acknowledges that the existing drainage patterns on the project site would change with project implementation. Because some post-project drainage areas are smaller than the pre-project drainages and/or the drainage geometry reduces peak flow, those drainages would have lower flow than the pre-project peak flow and would not require detention basins to reduce peak flow. Some drainages would have larger drainage areas and would require stormwater detention basins to control peak flow as described in the Section 4.8, Hydrology and Water Quality, of the Draft EIR.

80-70 The commenter raises concerns regarding the Consent Order for the project site. As described in the Consent Order, in 2017 the Department of Toxic Substances Control (DTSC) conducted a record review and found that the City of Hollister followed the monitoring requirements of the Waste Discharge Requirements Monitoring and Reporting Plan rather than the DTSC postclosure permit monitoring requirements. The two differed slightly and after notification by the DTSC, the respondent corrected the monitoring plan. The discrepancy was corrected and is unlikely to occur again.

80-71 The commenter raises concerns regarding the ability to largely capture pollutants from the project site. As described in the analysis for Impact 4.8-3 on page 4.8-26 of the Draft EIR, the existing landfill is, and the future project would be, subject to the State of California Industrial General Stormwater Permit (IGSP). The IGSP requires preparation of a Stormwater Pollution Prevention Plan (SWPPP), monthly observation for unauthorized non-stormwater discharges such as water that comes in contact as spills or leaks, and sampling of stormwater runoff (twice in the first half of the year and twice in the second half of the year).

Inspection for leachate breakouts are required in the current Waste Discharge Requirement (WDR), referenced in Impact 4.8-3, and Associated Monitoring and Reporting Program (MRP R3-2012-0047, Part 1 Section A) for the landfill requires monthly monitoring during the wet season (October 1 through April 30) for "Standard Observations" including the following:

a. For the Landfill - this includes inspections at the waste management unit (WMU), along the perimeter of the WMU, and waste diversion or recycling areas.
    i. Whether stormwater drainage ditches and sediment/retention basins contain liquids.
    ii. Evidence of liquid leaving or entering the landfill, estimated size of affected area, and estimated flow rate (show affected area on map).
    iii. Presence of odors – characterization, source, and distance from source.

iv. Evidence of ponding over the WMU (show affected area on map).

v. Evidence of erosion or exposed waste.

vi. Evidence of waste in the drainage system (e.g., ditches and stormwater sediment/retention basins).

vii. Inspection of stormwater discharge locations for evidence of non-stormwater discharges.

viii. Integrity of drainage systems during wet season.

b. For Receiving Waters

i. Floating and suspended materials of waste origin; presence or absence, source, and size of affected area.

ii. Discoloration and turbidity – description of color, source, and size of affected area.

iii. Presence of odors – characterization, source, and distance from source.

iv. Evidence of beneficial use – presence of water-associated wildlife.

v. Estimated flow rate to the receiving water.

vi. Weather conditions – wind direction and estimated velocity, total precipitation during the previous five days and on the day of observation.

The MRP also requires sampling of runoff if stormwater comes in contact with leachate. The MRP (page 22) has detailed requirements for timely response to leachate seeps.

With regards to stockpiles and other exposed soil, the WDR (page 29) requires that a weather preparedness report be submitted by October 1 each year. The report is required to described wet weather preparations.

As described in the Draft EIR and above, there are overlapping regulations that protect surface water runoff and the issue is addressed in detail in Section 4.8, Hydrology and Water Quality, of the Draft EIR.

80-72 The commenter raises concerns regarding leachate degrading surface water and groundwater quality. The CCRWQCB regulates sprinkling of leachate and condensate through WDRs. General Order R3 2020-0001, Specification C14, allows application of leachate and gas condensate to lined portions of the landfill and states: "Condensate or leachate is not discharged to the surface of the WMU within 48 hours of any forecasted rain event (greater than 50% chance of rain as predicted by the National Weather Service for the most appropriate weather station nearest to the landfill), during any rain event, or 48-hours after any rain event." The purpose of the requirement being that the leachate and condensate and the associated volatiles either evaporate or infiltrate into the waste without contacting rainwater. The leachate would not be permitted to drain into surface water drainages or detention basins. This issue was addressed in the Draft EIR as it is currently allowed, regulated, and controlled by the CCRWQCB.

80-73 The commenter raises concerns regarding the water quality of discharges from the project site. As described in Response to Comment 80-72, there are overlapping observation and monitoring requirements with regard to stormwater quality. The IGSP requires that the basins and other best management practices be maintained to meet the discharge limitations in the IGSP. As described in the Draft EIR there was one water sample exceedance for iron in five years that was quickly corrected. The data described in the Draft EIR demonstrate that there is an existing mechanism for stormwater monitoring and correction when needed.

80-74 As described under Impact 4.8-1: "According to Page 5-30 of the Design Basis Report, the conceptual proposed stormwater detention basins at Discharge Points 2 and 5 would have sufficient capacity to reduce the peak discharge to below the pre-project peak flow (Lawrence & Associates 2021).

Accordingly, feasible final engineering solutions can ensure that drainages downstream of these two discharge points are not increased." As described on page 5-32 of the Design Basis Report, the stormwater basins would provide temporary storage to accommodate the post-project peak flow that exceeds the pre-project peak flow during peak storm events and an outlet that releases the water at the pre-project flow rate. The Draft EIR does evaluate and addresses this issue under Impact 4.8-1 commencing on page 4.8-20. Regarding the comment about additional stormwater BMPs, the CCRWQCB requires annual winterization plans from all landfills under their jurisdiction. The winterization plans present the stormwater BMPs and other controls the landfills would implement during wet weather to protect surface water quality and prevent impacts to surface and storm waters.

80-75 The commenter raises concerns regarding PFAS contamination. General Order R3-2020-0001 allows use of leachate and condensate for dust control. As described in correspondence from the CCRWQCB, "Leachate management - Waste Connections [parent company of Waste Solutions Group] must develop a leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts." The landfill does not currently use leachate or condensate for dust control and under the current regulatory framework, the landfill operator would be required to submit a leachate management strategy. The management strategy would, at minimum, include the following:

- Leachate and condensate shall only be applied to lined landfill areas.
- Leachate shall not be applied for dust control on exterior slopes that are at final (closure) grade.
- Care is taken during spraying to ensure that leachate does not pool in drainages or puddle on road surfaces.
- As required by General Order R3-2020-0001, condensate or leachate are not surface applied (1) within 48 hours of forecasted rainfall with 50% chance of rain, (2) during rainfall events, and (3) within 48 hours after a rainfall event.

If the CCRWQCB ceases allowing leachate sprinkling for dust control, the leachate would be reinjected into the lined portions of the landfill or disposed in the sewer. This would increase the demand for water importation for dust suppression, as discussed in detail in the water and wastewater discussion in Section 4.12 of the Draft EIR.

To clarify these requirements, the following text is hereby added after the last paragraph under Impact 4.8-3 on page 4.8-27 of the Draft EIR:

The current General Order R3-2020-0001(Specification 14.) allows surface application of condensate and leachate under the following conditions:

14. The Discharger may return landfill leachate or landfill gas condensate to waste management units (WMUs), if all the following criteria are met:

    a. The WMU is equipped with a containment system that meets or exceeds the performance standard of CCR, title 27, §20330 and §20340, and CFR, title 40, §258.40(a)(2).

    b. Condensate and leachate disposal volume is measured and recorded in accordance with MRP Order No. R3-2020-0001.

    c. Condensate and leachate storage include a secondary containment system sized to hold 100 percent of the primary containment system holding capacity.

    d. Condensate or leachate is not discharged to the surface of the WMU within 48 hours of any forecasted rain event (greater than 50% chance of rain as predicted by the National Weather Service for the most appropriate weather station nearest to the landfill), during any rain event, or 48-hours after any rain event.

e. Condensate or leachate discharge to the WMU is conducted in accordance with an Executive Officer approved JTD.

f. An alternate method of condensate and leachate disposal (e.g., leachate injection, wastewater treatment plant) or adequate emergency storage is maintained as a contingency as identified in the Executive Officer approved JTD.

The project applicant may elect to surface apply leachate and condensate under this provision. While leachate and condensate contain VOC's, the VOC's would evaporate or re-enter the landfill under these requirements. However, recent requirements for PFAS sampling have indicated the presence of PFAS constituents in the leachate and condensate. As a result, the Central Coast Regional Water Quality Control Board, requires submittal of a "leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts." As described in Specification 14.f, above, an alternate method of leachate and condensate disposal shall be provided should surface application become infeasible. Injection of leachate and condensate into lined portions of the landfill (proposed with this project) and current sewer disposal (existing) are two options. Because the project will comply with Regional Water Quality Control Board regulations of surface application of leachate and management of PFAS in applied leachate, the impact is considered less than significant.

Per adapted Order R3-2020-0020 regarding the application of leachate, the CCRWQCB has indicated that the use of leachate for dust control would require a leachate management plan.

80-76 The commenter states that expanding landfill operations will likely result in additional numeric action level exceedances unless additional mitigation measures are implemented. The commenter overstates the numeric action level (NAL) exceedance. The landfill exceeded the NAL for iron one time in the five-year period reported in the Draft EIR and there is no indication that that exceedance was associated with a construction project. Landfills are exempt from the CGSP (except for non-landfill related construction and final closure activities which require coverage) because landfills are regulated by the CCRWQCB under waste discharge requirements. A design report that includes drainage and erosion control features must be submitted for each module to the Regional Water Quality Control Board for review and approval. There is no basis for stating that NAL exceedences would occur without additional project specific mitigation measures. In addition, the CCRWQCB requires annual winterization plans from all landfills under their jurisdiction. The winterization plans present the stormwater BMPs and other controls the landfills will implement during wet weather to protect surface water quality and prevent impacts to surface and storm waters. The letter from the CCRWQCB to landfills under their jurisdiction (Central Coast Regional Water Quality Control Board September 8, 2022) presents further information regarding the CCRWQCB requirements and enforcement activities to protect storm and surface water quality.

80-77 The commenter raises concerns regarding sedimentation and erosion control. The sediment and erosion control requirements are regulated by the CCRWQCB based on module-specific design reports that describe project specific sediment and erosion control practices. The current regulatory process does go over and above the IGSP and CGSP practices and additional mitigation measures are not warranted for this purpose. In addition, as noted in Response to Comment 80-76, the CCRWQCB requires annual winterization plans from all landfills under their jurisdiction. The winterization plans present the stormwater BMPs and other controls the landfills would implement during wet weather to protect surface water quality and prevent impacts to surface and storm waters. The letter from the CCRWQCB to landfills under their jurisdiction (Central Coast Regional Water Quality Control Board September 8, 2022) presents further information regarding the CCRWQCB requirements and enforcement activities to protect storm and surface water quality. For more information regarding the hydrology and water quality regulatory requirements applicable to the proposed project, the commenter is referred to the regulatory discussion commencing on page 4.8-11 of the Draft EIR.

80-78 The commenter raises concerns regarding recharge and groundwater use impacts. Regarding recharge, of the 388-acre expansion area, 193 acres (49%) would be lined at buildout. The remaining area minus several acres of paved area and lined ponds would remain open for recharge. As described under Site Hydrology on Page 4.9-6, "the project lies outside of the Gilroy Basin where the bedrock is uplifted and the younger [more permeable] formations are thinner or absent" and except for the shallow alluvium southwest of the site across John Smith Road, the landfill is located on bedrock with relatively low permeability. The expansion area is not within an alluvial (high permeability) aquifer, and as such, the potential for surface water infiltration and recharge is limited with or without out the expansion. As described in Impact 4.8-4, large areas would remain around the site that would continue to accommodate groundwater discharge including a permanent pond and temporary unlined ponds and no additional mitigation measure are warranted.

Regarding water-use impacts, the comment incorrectly states that the Draft EIR indicates that groundwater will not be used for "any aspect of project construction for operations." Section 3.5.11 states that "With project implementation, the supply for domestic uses, dust control and liner construction activities is proposed to be obtained from on-site stormwater basins and supplemented with other sources when needed," and "During drought years additional supplemental water would need to be imported." As described in Response to Comment 1-1, in addition, to ensure redundant water supply sources are available for the proposed project, the project applicant has identified an additional source of water that could be imported to the site during drought years. This additional water source would be provided from a private owner of an agricultural groundwater well located in the vicinity of the intersection of Highway 25 and Shore Road. Similar to the Sunnyslope County Water District water supply, the water provided from this private agricultural well would be trucked to the site." The Draft EIR clearly states that Shore Road water would be imported and would be from a groundwater source.

80-79 Please see Response to Comment 80-14.

80-80 The commenter states that the impact analysis does not address hazards associated with upset conditions related to a leak in the landfill gas lines or electrical outage. As discussed under Impact 4.10-6 on page 4.10-17 of the Draft EIR, an increase in the peak daily tonnage would increase the volume of landfill gas generation on a daily basis. The increased daily generation of landfill gas could exacerbate the risk of explosion both on the site and on surrounding properties as a result of methane gas migration. The migration could occur for several reasons, including due to a leak. However, the potential for an explosion would be minimal as methane gas dilutes quickly in the atmosphere to non-explosive levels. Additionally, a landfill gas collection system is currently in place that extracts landfill gas from both infill and perimeter locations. Through the system, landfill gas levels are, and would continue to be, maintained below non-hazardous and non-explosive levels on the site and on surrounding properties. The system would be monitored regularly for efficiency and, if necessary, would be modified over time to ensure the maintenance of safe methane gas levels, thereby greatly reducing the chance of explosion hazards at the landfill surface and on surrounding properties. This system would control current landfill gas levels and would be expanded consistent with the landfill expansion to control any increases in landfill gas generation as a result of the proposed project. Any leaks in the system would be detected through regular monitoring of the system. In addition, gas monitoring systems would be required to be installed in any enclosed buildings on the project site to ensure the accumulation of landfill gas is detected, if it occurs, prior to reaching dangerous levels. If an electrical outage occurred at the site, generators would be used to maintain operations until the electrical outage is repaired.

80-81 The commenter states that the discussion of wildfires does not discuss the increased risk due to the storage of compressed RNG on the site prior to transfer. As stated on page 4.12-16, the project applicant would be required to incorporate Uniform Fire Code requirements into the project's design and meet the requirements of the applicable Fire Department. This includes the provision of multiple emergency vehicle access points, water supply, the inclusion of fire extinguishers and other fire suppression

equipment within individual buildings, and any other provisions required by the Uniform Fire Code. The RNG facility would be required to comply with the Uniform Fire Code regulations regarding the storage and transfer of RNG. Compliance with the Uniform Fire Code would ensure the risk of upset associated with the RNG facility is minimized.

80-82 Please see Response to Comment 80-75.

80-83 The commenter requests that the District-owned property located to the southwest of the project area be included in Section 4.12.1 of the Draft EIR. The health risk assessment included in Section 4.3, Air Quality, of the Draft EIR included an assessment of the health risks that would be experienced at the District-owned property on Best Road. The commenter is referred to Table 4.3-16 on page 4.3-46 of the Draft EIR for a summary of the health risk impacts associated with this property.

80-84 The commenter states that Section 4.12.1 fails to identify the number of additional students that will be generated by the proposed project and how these impacts on the District's facilities will be mitigated. The proposed project is projected to generate approximately ten new employment positions. As stated on page 4.12-11 of the Draft EIR, it is anticipated that the majority of employees would be hired from the local and regional population base. Therefore, the project is not expected to result in substantial population growth that would increase the use of schools.

80-85 Please see Response to Comment 80-46.

80-86 Please see Response to Comment 80-17.

80-87 The commenter states that the Draft EIR does not adequately analyze the impact on fire, police, or emergency medical services. As stated under Impact 4.12-4 commencing on page 4.12-15 of the Draft EIR, because the proposed project would increase the permitted tonnage of material that could be accepted at the site and would increase the landfill footprint, it would be expected to increase the number of people and vehicles typically at the site. In addition, the waste disposal operations at the scale house and working face would increase to accommodate the increased waste stream. These increases could increase the demand for fire protection, police protection and emergency medical services at the site. However, the site currently has a negligible demand for these services. As described in Section 4.10, Hazards, Hazardous Materials and Wildfires, the existing landfill operations have the equipment and supplies on the site to manage most fire situations without the assistance of CAL FIRE. Also, the waste disposal uses at the site do not typically generate demand for law enforcement or emergency medical services. Neither CAL FIRE nor the San Benito County Sheriff's Department have been called to the site for emergency response situations within the last five years (J. Pfister, pers. com. 2021).

The project applicant would be required to incorporate Uniform Fire Code requirements into the project's design and meet the requirements of the applicable Fire Department. This includes the provision of multiple emergency vehicle access points, water supply, the inclusion of fire extinguishers and other fire suppression equipment within individual buildings, and any other provisions required by the Uniform Fire Code. The project applicant would also be required to pay applicable Fire Department fees.

The project would not include any components that would impede CAL FIRE's or the Sheriff's Department's current response times and would not be expected to include any unique uses that would substantially increase the demand for fire protection, law enforcement or emergency medical facilities or equipment. The project's inclusion of an emergency access road would ensure the site could be quickly accessed by emergency vehicles if needed due to congestion on the main entrance roadway. The proposed project would not include any uses that would alter service ratios, response times or other performance objectives for fire protection, law enforcement or emergency medical services. Because the proposed project would not require the provision of new or physically altered fire, police or emergency medical facilities, the project would not result in substantial adverse physical impacts associated with the

provision of these facilities. For these reasons, the project's impacts on these services would be less than significant.

80-88 The commenter states that the statement regarding out-of-County transportation energy impacts is not established in Section 3.5 of the Chapter 3, Project Description. The statement regarding the removal of recyclable and compostable materials prior to transport of the residuals to the project site and the consolidation of loads into fuel-efficient transfer trucks is stating a fact about the characteristics of the out-of-County truck trips. As such, this statement is not intended to be a project description component.

80-89 Please see Responses to Comments 80-14 and 80-22.

80-90 The commenter raises concerns regarding the approach to evaluating cumulative impacts. The commenter is referred to Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR for a detailed discussion of the cumulative impact analysis approach. The State CEQA Guidelines Section 15130(b)(1) provides two approaches to analyzing cumulative impacts. The first is the list approach, which requires a listing of past, present, and reasonably anticipated future projects producing related or cumulative impacts. The second is the "plan" approach wherein the relevant projections contained in an adopted general plan or related planning document that is designed to evaluate regional or areawide conditions are summarized. For this EIR, the plan approach is used to consider development consistent with the adopted San Benito County 2035 General Plan, which includes growth assumed in the City of Hollister General Plan (City of Hollister 2005). The General Plan identifies population and job projections, which correlate to growth in urban development and associated services, such as solid waste management.

80-91 Please see Response to Comment 79-25

80-92 Please see Response to Comment 80-90.

80-93 The commenter states why the use of Best Road as a haul route is wholly unacceptable. The commenter states that the Best Road haul route would conflict with the Circulation Element. However, the policy the commenter references just encourages the use of state and federal highways. Use of other roads for truck traffic would not conflict with this policy. Local roads do not need to be identified as truck routes to allow trucks to travel on those roadways.

Regarding road impacts, revised Mitigation Measure 4.2-4 would apply to the proposed haul route or any alternative haul route the Board of Supervisors approves with the project. The fair share analysis the County performed considered the proposed haul route and that information will be included in the project's administrative record.

80-94 The commenter requests copies of future project notices. This request is acknowledged and future project notices will be forwarded to the commenter.

80-95 The commenter requests that the proposed project's potentially significant and cumulative impacts be analyzed and mitigated. The commenter also request that the County recirculate the Draft EIR for another 45-day review period. These requests are noted. Any decision regarding recirculation would be made by the Planning Commission and Board of Supervisors.

From: Maureen Nelson

Stan,

Per the dEIR, the landfill operation will use 408,000 gallons of water per month for such requirements as dust abatement. This amount of water is equivalent to approximately 34 local household of 4 people with an average monthly water consumption of 12,000 gallons. The dEIR states that water will be sourced from local ground water wells on site and from a private agricultural supply well located in the Hollister Management Area of the Gilroy – Hollister Valley - North San Benito Groundwater Basin, a Sustainable Groundwater Management Act (SGMA) medium priority basin, where groundwater storage has been stable for the long term, given availability of Central Valley Project (CVP) supply since 1987. The state of California is in a multi-year drought. The Central Valley Water Project has CUT OFF all water disbursements to our county.

81-1

The BOS need to consider the depletion of a groundwater well that supplies multiple "customers" being used for dust abatement for the JSRL. It is understood that the purchase of this private well water is a contract between the JSRL operator Waste Solutions Group and the owner(s) of the well, but what happens in future years as the ground water well is not replenished through the CVP and we remain in drought conditions and aggravated global warming. Does is make logical sense to approve the landfill expansion with the need for additional water resources to maintain daily dust abatement when over 87% of the landfill disposal will be coming from (5) outside counties. The leaders of our County need to prioritize the needs of our county residents and not the pocketbooks of outside corporations that operate within the county.

* 4.2-2 Vehicle Miles Traveled does not include Commercial Trucks per CEQA guidelines...yet the major issue with out of county haul is the large trucks traversing our county roads, depleting the lifespan of the roads, emitting caustic fumes. There will be 190 daily passes by commercial haul trucks along an elementary school and local communities. Even though the dEIR does not require the inclusion of large commercial truck trips in the assessment of Vehicle Miles Traveled, it is up to the HUMAN FACTOR of our Board of Supervisors to think of their constituents and the potential impacts of 190 daily passes of large 20 ton trucks at speeds of 55 MPH or greater. The exhaust fumes are also toxic to the environment and the residents within the county.

81-2

*4.2-3 Potential Roadway Hazards: mitigation measures shall be constructed or installed prior to the impact requiring the mitigation...once the expansion (no

81-3

matter to what level of tonnage) is agreed and implemented, the impact will be immediate with the change of incoming haul routes onto McCloskey Road to Fairview. The roadway has not been widened to create a right turn from McCloskey onto Fairview South Bound. Right Of Way is ASSUMED to be available...but if not adequate an "Equally Effective or Superior Revised Mitigation Shall Be Developed"??????? What does that mean, what is the cost, who will pay for the full cost, when would it be completed, this is an open ended contract with no financial limits for the County...Who enters into contracts like this in the business world??
As a concerned citizen of San Benito County I would expect that the County Board of Supervisors not be allowed to enter into a contract that has any financial impact / cost to the county that is not clearly defined in financial terminology prior to entering in such financial agreements. This cost factor must be defined and quantified to the citizens of San Benito County before any further consideration of the dEIR can proceed.

4.2-3 Within 3 years of expansion approval, or once 1,000 tons per day is reached, the intersection of McCloskey and Fairview, the applicant shall construct the relocation of the existing traffic light pole at the SW corner of McCloskey Road and Fairview Road so that it does not impede right turns at this intersection and for the installation of guard railing around the existing utility pole and box" "The applicant shall also construct the installation of 10 feet of widened pavement @ the SW corner of Fairview Rd and McCloskey Rd to accommodate right turns from McCloskey Rd onto Fairview Rd.....Why is this not done immediately so that the "NEW HAUL ROUTES" can be implemented as described within the dEIR? (pg 2-10)

81-4

4.2-4 Prior to waste being placed in the first expansion cell, the applicant and the county shall execute an agreement obligating the applicant to pay a "fair share" fee toward roadway maintenance and rehabilitation along the haul route for the life of the expansion (pg 2-10)... Prior Enterprise funds of $1.00 per ton were not enough to maintain the roadways that are depleted and damaged by 20 ton trucks traveling across the roadways prior to the closure of out of county waste acceptance enacted April 1, 2022. When the truck loads will be increased by an additional 118 DAILY TRIPS on the roadways, how can the residents feel comfortable in the fees paid by the applicant to maintain our roads when the current funding allows for 3 miles of a 2 lane roadway with a center turn lane at this time...not nearly enough funding to maintain and repair our local roads that are being damaged by the heavy haul trucks traversing through our county on their way to the landfill currently. Do an analysis of current and future funds in relation to cost of roadway repair and maintenance. The cost-benefit analysis

81-5 (Cont.)

should show the county will always be on the deficit end of the equation and our county resources will be depleted maintaining our infrastructure that is compromised by the trips delivering out of county waste into our county.

4.2-6 Pavement integrity ...resurfacing of Wright Road/ McCloskey.
In the County FAQ on website for Landfill Expansion, you will find the following the study was completed by an expert team of pavement engineering, traffic engineering and economic analysis consultants (team: Pavement Engineering Inc., TJKM (for traffic analysis) and EPS (economic analysis)). Study results were to be used for landfill amendment negotiations. Study results showed the haul route was in 'poor or failing' condition and the out-of-county waste transport on roads necessitates significant costs for road repair in the amount of $14.1 million and required additional costs for annual road maintenance. The county and WSG reached an agreement providing an additional $2,300,000 that is to be used for road repairs on roadways to the landfill. 81-6
Per the above comment on the FAQ's, the county is in the negative $11.8 MILLION for haul route road repairs.

Per the dEIR, the County will reimburse Waste Solutions Group reconstruction costs (for the resurfacing of Wright Road/ McCloskey) in excess of the applicant's fair share....What does that mean?? Why would the County enter into an agreement without a fixed budget of applicable costs? (pg 2-11)
As a concerned citizen of San Benito County I would expect that the County Board of Supervisors not be allowed to enter into a contract that has any financial impact / cost to the county that is not clearly defined in financial terminology prior to entering in such financial agreements. This cost factor must be defined and quantified to the citizens of San Benito County before any further consideration of the dEIR can proceed.

4-3.4 Exposure of sensitive receptors to substantial concentrations of toxic air contaminant emissions...there is discussion that the FUGITIVE LFG emissions could exceed limits if an adjoining land parcel is developed.....they state they can keep the Fugitive LFG emissions limited to an average of 588 CFM over the landfill but can be reduced to 242 cfm if there is a residence constructed on the adjoining property where sensor G68 is located. 81-7
Question is if the Fugitive LFG can be reduced to 242 cfm (if needed upon development) why not reduce the Fugitive LFG to 242 cfm from the beginning rather than expose county residents to the higher saturation levels.

4-4.1 **Greenhouse Gas Emissions and Climate Change.**...Generation of GHG Emissions from operations
This section is found to be a SIGNIFICANT AND UNAVOIDABLE IMPACT....EVEN AFTER THE BELOW MITIGATIONS 81-8

The primary source of GHG is LFG generation and MUST be MITIGATED
This section talks about needing mitigation measures before the landfill expansion project produces 550 CFM of recovered landfill gas, the RNG facility should be fully operational.
As a mitigation measure the landfill operator will implement the following measures

1) install a solar electrical system OR
2) purchase 100% carbon free energy

So the county and its residents have the potential additional Greenhouse Gas Emissions form the landfill impacting their lives but the landfill operator can PURCHASE CLEAN ENERGY that is produced in other counties to mitigate the GHG impacts being pushed onto the San Benito County Residents. How does this mitigation measure benefit the residents of San Benito County?
Additional mitigation measures to be implemented prior to the first expansion cell is operational: Convert all pickup trucks and light construction equipment to a renewable energy source
. Heavy equipment will be converted to renewable energy source before waste is placed in new cell or when or as soon as equipment is commercially available and viable...if equipment is not replaced due to unavailable or not reliable, the landfill operator must provide a written status report every year in DECEMBER....how long will we allow non-compliance with annual report in DECEMBER and continued GHG emissions due to vehicle and machinery operation at the expanded landfill site

ADDITIONAL MITIGATION MEASURES FOR GREENHOUSE GAS EMMISSIONS AT THE LANDFILL WILL BE.....
THE PURCHASE OF 4 ELECTRIC VEHICLE CHARGING STATIONS AT COUNTY BUILDINGS TO BE DEFINED....ALSO....
THE APPLICANT SHALL PROVIDE FUNDING FOR 2 ELECTRIC VEHICLES TO REPLACE COMBUSTION ENGINE VEHICLES FOR THE COUNTY RESOURCE MANAGEMENT AGENCY
Why do the residents of San Benito County need to be subjected to the GHG emissions from the operations of the expanded landfill and the County accept 2 electric vehicles and 4 charging stations as a mitigation for all of the large equipment being operated at the landfill 361 days a year from prior to 8AM to 4PM or later
Electric cars have an average half life of 10 years, so the life of the electric cars will be spent within 20 years yet the expanded landfill will be around for a minimum of 50 years per the dEIR

4.6-10

Loss of Wetland Habitat……mitigation measure includes “buying” mitigation credits. The species will not be saved but we have “paid” to offset the loss. Credits don’t save threatened or endangered species. Also, there are no conservation banks that sell habitat credits for the suite of species that would (or could) be impacted by the Project.5 Therefore, please provide the scientific basis for the DEIR’s determination that purchase of habitat credits from a conservation bank would mitigate the Project’s potentially significant on the California tiger salamander, California red-legged frog, western spadefoot, Coast Range newt, San Joaquin coachwhip, American badger, San Joaquin kit fox, tricolored blackbird, and burrowing owl.
This impact has no mitigation available.

81-9

4.7-1 and 4.7-2

Potential impacts to Undocumented Cultural Resources
There is no discussion of the Ohlone Indian population that once occupied areas within SBC including on or near the landfill. This needs to be addressed within the EIR with potential impacts and mitigation measures to be taken.

81-10

4.10-1

Exposure to known and unknown hazardous material
There was a recent lawsuit against ULTA Beauty for dumping toxic chemicals into the waste stream. This case awarded funds to CA Counties that filed onto the lawsuit. San Benito County did not join the lawsuit, but many of the outside counties that dump commercial waste at JSRL were awarded legal recourse and funds. In the dEIR, it is stated that there is oversight as to what is dumped into the landfill. Knowing there is a settled lawsuit involving toxic waste dumping by Ulta Beauty which is a Commercial Business that operates within the counties with contracts with Waste Solutions Group to haul trash to our local John Smith Road Landfill, there is a possibility that those same toxic chemicals ended up in our local landfill. The San Benito County did not participate in the class action lawsuit and hence did not receive any financial compensation for potential toxic waste within our local landfill.
Knowing that such a situation of disposing toxic chemicals from a commercial enterprise into the waste stream occurs, why should the residents of San Benito County be subjected to the potential of such toxic risks? Limiting our waste stream to in-county residents and businesses allows for a better controlled waste stream and knowledge of potential waste components.

81-11

As citizens of San Benito County, we rely on our representatives to make he best decision for the residents. When we are faced with potential knowledge of waste contamination being litigated within the counties that haul commercial waste into

81-11 (Cont.)

our county, we should demand that our representatives take into consideration the health of their own county residents when entering into such contracts that have potential life threatening repercussions.

The JSRL property was donated to the county in 1968 and opened to waste disposal in 1969. San Benito County has averaged less than 240 tons of disposed waste per day at the JSRL from 1969 until present (September 2022) During this timeframe, the landfill operator (Waste Solutions Group) has increased their daily tonnage limits from 500 tons to 1,000 tons in 2014 while increasing the acceptance of out of county waste and are currently requesting a massive increase to 2,300 daily tons. Again, San Benito County only disposes less than 240 tons per day with an estimated increase over the next decade plus to 300 tons per day. There is no need to expand our current landfill tonnage to meet the “growing” population and demands of future San Benito County residents. 81-12

The justification provided by the SBC Board of Supervisors for accepting out of county trash and for the proposed EXPANSION of the JSRL is due to the County’s NEED FOR REVENUE.

Is dirty, potentially toxic waste being transported in 20 TON HEAVY TRUCKS on our local roadways from (5) outside counties the financial panacea the BOS want the residents of San Benito County believe or is it a negative money flow once the environmental and structural costs (roadway repair) are factored into the County’s Cost-Benefit Analysis. /the current cost-benefit an

I expect the Board of Supervisors to take a full assessment of the costs to the county and its residents associated with an expansion of the JSRL and vote NO on any landfill expansion.

Please acknowledge receipt.

Maureen Nelson
303-641-0295

81-1 The commenter mentions use of a private agricultural well and states that this well supplies multiple customers. The project does not propose to use water supplied from groundwater wells on the project site. This private agricultural well proposes to supply water to the site when other supplies are not sufficient to meet the project's needs. It does not supply any other customers and would only be used infrequently by the landowner to fill a small pond on their property.

The commenter asks if it makes sense to approve the landfill expansion considering the project's water use. The commenter's question is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please also see Responses to Comments 1-1 and 1-2.

81-2 The commenter raises concerns regarding the impacts of increased truck traffic associated with project implementation. Air quality impacts of the proposed increased trucks are addressed in that chapter of the Draft EIR and impacts to roads from haul trucks are addressed in Mitigation Measure 4.2-4. The commenter's concerns regarding the proposed project are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

81-3 The commenter expresses concern about mitigation for potential roadway hazards with the change of incoming haul routes onto McCloskey Road to Fairview. The roadway has not been widened to create a right turn from McCloskey onto Fairview South Bound. Right of Way is assumed to be available...but if not adequate an "Equally Effective or Superior Revised Mitigation Shall Be Developed". What does that mean, what is the cost, who will pay for the full cost, when would it be completed? The commenter expects that the County Board of Supervisors not be allowed to enter into a contract that has any financial impact/cost to the County that is not clearly defined in financial terminology prior to entering in such financial agreements.

The San Benito County RMA has preliminarily determined that adequate right-of-way is available for the proposed turning pocket. If it is later determined that sufficient right-of-way is not available, the purchase of additional right-of-way may be necessary or the lane striping may be adjusted to ensure a safe turning pocket is installed.

The commenter raises cost issues, which are outside of the scope of the EIR. For more information on this topic, the commenter is referred to Response to Comment 7-5.

81-4 The commenter asks why the mitigation isn't implemented immediately so that the new haul routes can be implemented as described within the Draft EIR. Please see Response to Comment 66-3.

81-5 Please see Response to Comment 80-28 and 7-5.

81-6 Please see Response to Comment 66-3, 80-28 and 7-5. The County has determined the applicant's fair share to reconstruct Wright Road and McCloskey Road as required in Mitigation Measure 4.2-6 in the San Benito County Landfill Expansion Road Impact Analysis. The reimbursement agreement is hereby revised to state:

Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the ~~The~~ applicant shall ensure that its fair share of funding is provided for the reconstruction of portions of Wright Road and McCloskey Road used for the proposed haul route. The applicant's fair share shall be established in ~~applicant and County will enter into a reimbursement agreement that will reimburse the applicant for reconstruction costs in excess of the applicant's fair share~~ the San Benito County Landfill Expansion Road Impact Analysis (September 2023) adopted by the Board of Supervisors prior to or at the same time as approval of the expansion project. The Board of Supervisors may elect, in its sole discretion, to allocate revenue it receives under the Landfill Operating Agreement to cover all or a portion of the applicant's fair share of funding provided for herein. This measure shall be implemented on a schedule to be specified by the County, and agreed by the County and the applicant, such that the reconstruction shall occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial vehicles. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, however, the fair share fee in Mitigation Measure 4.2-4 and implemented through the San Benito County Landfill Expansion Road Impact Analysis (September 2023) includes rehabilitation and reconstruction of the pavement on the selected haul route to accommodate the expansion project and applies to the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, if selected.

81-7 Please see Response to Comment 80-45.

81-8 The commenter states that the county and its residents would have the potential additional greenhouse gas emissions impacting their lives but the operator can purchase clean energy that is produced in other counties. The commenter asks how the mitigation measures would benefit San Benito County residents. Greenhouse gases are considered global emissions that cause global climate change. These emissions do not have localized effects other than related to how global climate change could affect local residents. Therefore, any reduction in greenhouse gas emissions, as required by Mitigation Measure 4.4-1, would indirectly benefit local residents by reducing global greenhouse gas emissions.

The comment also questions how the purchase of EV charging stations and vehicles would mitigate impacts from greenhouse gases. The Draft EIR recognizes that impacts from greenhouse gases would remain significant and unavoidable, thus the mitigation measure requiring the purchase of EV charging stations and vehicles would not fully mitigate impacts from the expansion project. The addition of new EV charging stations and EV vehicles within the County fleet will reduce greenhouse cases within the project vicinity.

81-9 Please see Response to Comment 79-6.

81-10 The commenter states that the Ohlone Indian population that once occupied areas within the County needs to be addressed in the EIR. As described on page 4.7-3 of the Draft EIR, San Benito County sent tribal consultation letters to representatives of five bands identified by the Native American Heritage Commission and two of those bands (Kanyon Sayers-Roods, representative of Indian Canyon Mutsun Band of Costanoan and Valentin Lopez, Chairperson of the Amah Mutsun Tribal Band) requested consultation under Assembly Bill (AB) 52. The County conducted and completed AB 52 consultation with these tribes prior to release of the Draft EIR. Section 4.7, Cultural and Tribal Cultural Resources, also assesses potential impacts to undocumented cultural and tribal cultural resources and includes mitigation in the very low chance buried archaeological deposits are discovered during implementation of the project.

81-11 Please see Response to Comment 55-7. Also, the proposed project's liner system is designed to and thus would be expected to contain any hazardous wastes that remain within the waste stream, as discussed in the Master Response on Groundwater Contamination included at the beginning of the responses.

81-12 The commenter describes the reasons for their opposition to the proposed project. CEQA's Findings of Overriding Conditions, which will be required to be made by the Board of Supervisors to approve the project, would need to describe potential benefits to the county that would override its significant adverse environmental impacts. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Gary Moran

Comment paragraph 4.11, Aesthetics

The EIR speaks only to the visual character around the landfill site regarding scenic views. 82-1

This approach avoids consideration of the more important aesthetics issues.

For most residents in Hollister the landfill itself will be out-of-sight, out-of-mind.

But the perpetual presence and flow of out-of-county waste haulers for decades will change the character of the area. They will be a constant annoyance and subject of contention. Trucks entering and leaving Hollister every 2 to 3 minutes will change people's perception of our town. People will identify the area as where all the trucks go. Residents I feel will not be happy.

Therefore Paragraph 4.11, Aesthetics, is incomplete and must be re-evaluated and expanded considerably to include the above issues.

Thanks

Gary Moran

P.S I have seen so many comments that I believe another review period will be required after the draft update.

82-1 The commenter states that trucks entering and leaving Hollister every 2 to 3 minutes will change people's perception of the town. The commenter further states that Paragraph 4.11, Aesthetics, is incomplete and must be re-evaluated and expanded considerably to include this issue. Because it is common to see a wide variety of trucks traveling on County collector roads, including along the haul routes proposed to be used by the proposed project, the introduction of additional truck trips would not represent a significant change in the visual environment. Also, the observation of a passing truck is a transitory visual experience and would not represent a permanent visual change. None of the roads on which the trucks would be traveling are designated scenic highways or roads. Therefore, no changes to the impact analysis included in Section 4.11, Aesthetics, of the Draft EIR are merited.

From: Sierra Club - letter in attachments

September 6, 2022

Mr. Stan Ketchum
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023

Dear Mr. Ketchum,

The Sierra Club Loma Prieta Chapter is an environmental organization that works to protect natural resources and promote the enjoyment of nature. We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the landfill expansion. The Project proposes to dramatically increase the amount of waste received at the John Smith Road Landfill on a daily basis. The environmentally preferred alternative would be to maintain current waste intake, increase diversion and recycling, implement tiered rates and increased tipping fees, and install cameras to deter illegal dumping. Please find our DEIR comments attached. 83-1

Thank you for your sincere consideration of these comments. Please do not hesitate to contact us if you have questions.

Respectfully,

Gladwyn d'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter

SIERRA CLUB
LOMA PRIETA CHAPTER

San Mateo, Santa Clara & San Benito Counties

September 6, 2022

Mr. Stan Ketchum
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
sketchum@cosb.us

RE: DEIR for John Smith Road Landfill Expansion Project

Dear Mr. Ketchum,

The Sierra Club Loma Prieta Chapter is an environmental organization that works to protect natural resources and promote the enjoyment of nature. We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the landfill expansion. The Project proposes to dramatically increase the amount of waste received at the John Smith Road Landfill on a daily basis. The environmentally preferred alternative would be to maintain current waste intake, increase diversion and recycling, implement tiered rates and increased tipping fees,[1] and install cameras to deter illegal dumping. Please find our DEIR comments below.

83-1 (Cont.)

1. Alternatives

The alternatives analysis in the DEIR does not include an adequate range of alternatives. The DEIR indicates that local waste will increase about 13% while out-of-county waste will increase by 160%. We ask for a community alternative (Maintain 1,000 Tons-Per-Day Alternative) that reduces the impacts on the San Benito County community and on the County's natural resources to be analyzed.

Of the alternatives discussed in the DEIR that achieve most of the objectives of the Project, Alternative C is the environmentally superior alternative. However, to maximize reduction of significant impacts and to foster informed decision making and public participation, an alternative that does not increase the daily tonnage accepted should also be included, the Maintain 1,000 Tons-Per-Day Alternative.

83-2

[1] https://www.ebrdgreencities.com/policy-tool/category/waste/price-signals-and-funding/

a. The following restrictions should be included in the Maintain 1,000 Tons alternative.

1. No increase in the maximum permitted daily tonnage accepted or the maximum number of vehicles per day
2. Limit the service area from which waste will be accepted to San Benito and immediately adjacent counties. Honor existing contracts, but restrict new contracts to this region.
3. Decrease the size of the expansion, eliminating some later phases.
4. Continue to accept only municipal and industrial waste. Prohibit acceptance of construction waste from large construction projects such as dams, roads, and railroads or from resource extraction facilities such as quarries. With many such projects occurring in the vicinity in the near future, these wastes could quickly max out the daily tonnage limits and displace capacity to accept municipal/urban waste.

b. The following considerations support the inclusion and analysis of this Maintain 1,000 Tons alternative.

1. The DEIR does not demonstrate a need to expand the current tonnage limit to provide a minimum of 50 years of local waste disposal capacity for the benefit of County residents and provide regional solid waste disposal capacity. Tons-per-day accepted at the facility has not increased in recent years. In addition, State regulations continue to be enacted to divert waste from landfills, which will reduce waste stream volumes in the future.
2. There is no reason to eliminate all out-of-county waste in this alternative as such waste is accommodated at the current facility, as follows.
3. There appears to be capacity to continue accepting out-of-county waste. In-county waste is expected to increase to 300 tons per day, leaving capacity for 700 tons per day of out-of-county waste.
4. This alternative would not substantially reduce the existing daily level of activity at the site. The level of activity would remain the same or increase slightly.
5. Activity levels may also increase depending on the quantity of recyclables and materials for beneficial reuse delivered to the site.
6. The alternative could allow the landfill to continue expanding into the Phase 2B and other areas of the site as needed and provide public health benefits to San Benito County and the immediate region.
7. Increasing the landfill area by over 300% and the landfill capacity by about 520% will create unnecessary environmental impacts, especially on the surrounding open space. Open space provides habitat for flora and fauna, has scenic value, and can be used to enhance carbon sequestration in the future.

83-2 (Cont.)

8. This alternative appears to be environmentally superior to the No-Project Alternative since it could eliminate increased greenhouse gas (GHG) emission impacts, and other potentially significant impacts such as habitat and wetland impacts.

83-2 (Cont.)

c. Regarding GHG emission for Alternative C and Maintain 1,000 Tons alternative:

83-3

1. Unknown out-of-county GHG emissions should not be used to determine that there will be significant and unavoidable impacts.
2. The Maintain 1,000 Tons alternative likely will not increase GHG emissions and thus would eliminate significant and unavoidable impacts.

d. Regarding Project Objectives for Alternative C and Maintain 1,000 Tons alternative:

83-4

1. Although a renewable natural gas facility is listed as a project objective consistent with General Plan policy NCR-6.1 Local Renewable Energy, the reduced impacts of Alternative C or the Maintain 1,000 Tons should be considered. The community benefits of a reduced alternative are certain to out-weigh the benefits of a renewable natural gas facility.
2. A project objective to support General Plan policy NCR-6.1 makes more sense. These reduced alternatives should include installation of solar panels in the expanded entrance area to provide renewable energy and shade. Renewable natural gas is still a fossil fuel with ongoing GHG emissions. Operation of solar power eliminates most if not all GHG emissions.
3. There is no information in the DEIR indicating that the Class I Area could not be clean closed and re-used as landfill space under reduced alternatives. All alternatives should include this activity as an earlier phase of landfill expansion (perhaps after phase 2). This action would further reduce impacts on grazing land, habitat, and visual resources.

83-5

4. There is no analysis in the DEIR showing the projected waste volumes will be met, and therefore no guarantee the Class I Area will be clean closed under the proposed Project.

83-6

5. There is no analysis in the DEIR showing that reduced-scale alternatives cannot maintain a stable and relatively predictable cost structure for solid waste disposal and provide net positive revenue to the County and to the applicant.

83-7

e. The DEIR alternatives analysis is also inadequate as follows.

83-8

1. Although Alternatives 2A and 2B double the tons of waste accepted per day, the transportation impacts analysis says "[t]his alternative generally represents a continuation of the existing landfill's current trip generation

on local roads." It simply cannot be true that doubling the intake of waste will not increase the number of trips. The alternatives analysis for transportation impacts appears to be inadequate. Numeric estimated impacts need to be provided for each alternative so the alternatives can be objectively compared.

2. Similarly, the analysis of air quality impacts for Alternatives 2A and 2B says these alternatives "generally [represent] a continuation of the existing landfill's current operations." Again, numeric estimated impacts need to be provided.
3. Please provide a narrative table comparing the impacts of the proposed Project to the impacts of each alternative so this information can be easily referenced for discussion. Table 6-2, which summarizes only the level of impacts, is insufficient to allow true comparison of impacts.

83-8 (Cont.)

83-9

In summary, the alternatives presented in the DEIR seem designed not to meet project objectives and no alternative is provided that would eliminate significant and avoidable impacts. Alternative C should be changed as described in these comments and a new Maintain 1,000 Tons-Per-Day alternative should be added to provide options for decision makers that truly limit impacts on the community and meet the project objectives.

83-10

2. Transportation and Greenhouse Gas Emissions

a. Greenhouse gas emissions must be reduced to meet California's SB 32. Vehicle miles travelled (VMT) must decrease. It is clear from the latest Scoping Plan that the California Air Resources Board (CARB) is more convinced than ever that, in addition to achieving GHG reductions from cleaner fuels and vehicles, California must also reduce VMT.[2] CARB determined that VMT must be reduced by 7 percent below projected levels in 2030, which includes currently SB 375 Sustainable Communities Strategies (page 101). In 2050, VMT must be reduced by 15 percent below projected levels.

83-11

This Project on the other hand will increase VMT (Table 4.2-2) adding to climate destruction from increased greenhouse gases. Bay Area VMT is currently increasing 1% per year according to the Metropolitan Transportation Commission.[3] This adds to the ongoing problems of drought, fire, and floods which impact San Benito County disproportionally[4] because of lower per capita incomes in the region. San Benito County is 62% Latinx according to the Census. **The Project should not increase harm to low income and vulnerable populations especially when feasible alternatives exist to mitigate the impacts.**

[2] https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf

[3] https://www.vitalsigns.mtc.ca.gov/daily-miles-traveled

[4] https://www.un.org/sustainabledevelopment/blog/2016/10/report-inequalities-exacerbate-climate-impacts-on-poor/

b. Greenhouse gases will increase primarily from organics decomposing in the landfill.[5] However state law SB 1383 requires 75% diversion of organics plus 20% recovery of currently disposed edible food by 2025.[6] "Pay as you throw" pricing can be targeted to support organic waste reduction, paying for programs such as home and community composting to support gardens to reduce waste streams. 83-12

c. The Project, instead of reducing organics per SB 1383 and reducing greenhouse gases per SB32, is proposing to turn the landfill into a natural gas reclaimed power generator. This is an example of what the Intergovernmental Panel on Climate Change Sixth Plenary Working Group III calls maladaptation.[7] Maladaptation is "solutions" to climate change that just make things worse. There is no way to capture all of the gas and burn it cleanly, because much escapes before trash is securely capped and the gas collection systems are in operation. Some research shows that 40-80% of the methane generated in the landfill escapes before it can be captured by gas collection systems.[8] The escaped and leaked gas[9] will continue to endanger life on planet earth. Reducing the landfill expansion would reduce methane production at the source rather than introducing maladaptive "solutions." 83-13

d. The Project does not study the benefits of raising tipping fees. The John Smith Landfill has direct control over tipping fees. Higher tipping fees according to CalRecycle will improve diversion from the landfill perhaps eliminating the need for landfill expansion studied in this DEIR. CalRecycle's report says landfills disposal fees "are too low essentially to incentivize disposal."[10] The report starts by saying "For California to reach the statewide goal of 75 percent recycling (source reduction, recycling, and composting), more waste must go to its highest and best use while minimizing greenhouse gas emissions. California must maximize source reduction, recycling, and composting while reducing disposal. Solid waste landfills compete for the same resources and wastes, so the cost of landfill disposal affects the flow of these materials." The report concludes that "With some exceptions, the higher the tipping fee, the lower percentage of waste a region landfills… California's low landfill tipping fees do little to drive materials to higher and better uses and may make it more difficult to reach the 75 percent statewide recycling goal by 2020" (pages 4 and 5). The DEIR is extremely deficient in not studying higher tipping fees as an alternative to expansion and is criminal in creating the 83-14

[5] https://www.epa.gov/lmop/basic-information-about-landfill-gas
[6] https://calrecycle.ca.gov/climate/slcp/
[7] https://www.popsci.com/environment/climate-change-maladaptation/
[8] https://repository.tno.nl/islandora/object/uuid:732765f7-d16b-4675-b88f-66289029e89d
http://www.scsengineers.com/Papers/FINAL_SWICS_GHG_White_Paper_07-11-08.pdf
[9] https://www.colorado.edu/ecenter/2021/04/15/hidden-damage-landfills
[10] https://www2.calrecycle.ca.gov/Publications/Download/1145?opt=dln Page 3.

conditions to not meet state goals for diversion, recycling, and greenhouse gas reduction from organics.

83-14 (Cont.)

3. Air Quality

a. The EIR acknowledges that the landfill expansion will worsen air quality for sensitive receptors due to the landfill emissions and the dump truck traffic. However, air quality impacts should be considered in terms of cumulative emissions. Lower income workers in Santa Clara County are being displaced by rising rents into San Benito County resulting in long and costly commutes. As the EIR points out, the traffic impact on San Benito County residents is worsened by the prevailing wind pattern – a northwesterly air flow frequently transports pollutants into the San Benito Valley from the Santa Clara Valley. The DEIR is deficient by not accounting for Highway 101's increasing pollutants which should be cumulative with the landfill's operating pollutants.

83-15

b. The DEIR must consider cumulative impacts to air quality and sensitive receptors, especially accounting for increasing pesticide pollutants in addition to operating pollutants from the Project. Pesticide use adds to cumulative impacts in the air and water basin because the dominant economic activity in San Benito County is agriculture and agro-tourism according to Wikipedia and county reports.[11] UCLA reported[12] that California counties with a majority Latinx population use 906% more pesticides per square mile than counties with fewer than 24% Latinx residents. San Benito County is more than 60% Latinx according to the most recent census. In the eleven counties with a majority Latinx population, there were 22 pounds of pesticides used per person in 2018, or 2,373 pounds per square mile. By contrast, for the 25 counties with the lowest proportion of Latinx residents (fewer than 24% like Santa Clara County), pesticide use was just 2.4 pounds per person, or 262 pounds per square mile. Cancer, ADHD, autism, birth defects, and learning disabilities are impacts that result from pesticides in the air and water basin.[13]

83-16

4. Biological Resources

Burrowing owl population has declined in the region to a level that is close to extirpation.[14]

83-17

[11] https://www.cosb.us/Home/ShowDocument?id=6203

[12] https://www.thecalifornian.com/story/news/2019/03/20/ucla-pesticides-study-finds-california-counties-not-doing-enough/3223011002/

[13] https://www.pesticidereform.org/pesticide-use-in-california-remains-at-record-high-new-data-show/

[14] Santa Clara Valley Habitat Plan 2021 Burrowing Owl Breeding Season Survey Report, December 2021.

a. Areas of controversy specified in the DEIR include "The valley and hills proposed to accommodate the proposed landfill expansion include areas that are home to birds of prey that already have limited resources." (Pages 2-5 – 2-6)

83-17 (Cont.)

b. The Project will impact 387.7 acres of grassland and the DEIR states that the site provides suitable habitat for burrowing owls. (Pages 4.6-5 – 4.6-6)

c. The California Natural Diversity Database (CNDDB) identifies 10 occurrences of burrowing owls within a 9-quadrangle search, including 2 within 5 miles of the Project. (Page 4.6-14)

d. The DEIR states that Western burrowing owls have been observed one and two miles from the project site, and states burrowing owls have the potential to occur on the project site. (Page 4.6-20)

e. Overall, this Project constitutes a large removal of prime burrowing owl nesting and foraging habitat with California ground squirrels present and burrowing owls observed within 1-2 miles of the project footprint. Burrowing owls can forage up to 2 miles per night, and this site is located within range of those previous owl sightings. The number of burrows available on the site should be quantified to further establish habitat quality.

f. The DEIR specifies no mitigation for loss of nesting or more importantly foraging habitat for burrowing owls and other grassland species that will lose approximately 387 acres. The only mitigation for burrowing owls is eviction procedures, which only result in the ultimate decline of the species as a whole. **The impact to burrowing owls should be recognized as significant and unavoidable.**

5. Hazards – Vector Nuisances

a. The DEIR mentions nuisance vectors (page 4.10-1), but Impact (page 4.10-5) discusses only mosquitoes. On page 4.10-2 the EIR provides, “Based on a review of CalRecycle records for the past two years, the only vectors that have been identified at the site have been birds, including gulls that come inland during storm periods and crows at other times. However, due to limited sources of water in the area and lack of roosting sites, birds are generally not attracted to the site.”

83-18

b. This analysis is inadequate, because the expansion of the landfill has the potential to attract birds from a great distance, especially American crows and California gulls. In addition, the expansion includes new uncovered retention basins that will create a water feature attraction for birds and other wildlife. The expansion of the landfill is likely to be discovered, and the trash utilized, by the ever-increasing populations of these nuisance birds in the region.

c. Please provide a nuisance bird abatement plan that includes a monitoring program for crows and gulls. 83-18 (Cont.)

6. Public Services, Utilities and Energy Impacts – Water Supply

The water supply analysis for the Project is insufficient given climate change and cumulative impacts on water demand in San Benito County, as follows. 83-19

a. With climate change and aridification, the Project will depend on outside water sources more frequently than 2 out of 12 years due to the increased occurrence of drought. In fact, California and San Benito County have been in drought at least 6 of the past 12 years. A more conservative estimate assuming reduced local and imported water supplies is warranted. The analysis needs to be updated accordingly.

b. Relying on groundwater from an agricultural user is risky given new requirements for sustainable groundwater management. Precisely in extended droughts when the project needs more supplemental water, there may be restrictions on groundwater pumping. The local Groundwater Management Agency should be consulted and should provide a letter verifying long term availability of this supply, and Conditions of Approval are needed to limit pumping to 22 acre-feet/year. 83-20

c. The DEIR says the increase in demand from Sunnyslope County Water District could be up to 22.4 acre-feet/year during drought years when onsite sources are not sufficient. However, no information is provided to verify that the Water District will be able to provide this additional water. More information is needed to verify that this water supply will be available. The Water District should be consulted and should provide a letter verifying long term availability of this supply, and Conditions of Approval are needed to limit supply from the District to 22.4 acre-feet/year. 83-21

Thank you for your sincere consideration of these comments. Please do not hesitate to contact us if you have questions.

Respectfully,

Gladwyn d'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter

83-1 The commenter describes what they consider the environmentally preferred alternative, which, physically, is similar to Alternative 3 in the DEIR. The commenter's observations regarding the environmentally preferred alternative are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

83-2 The commenter states that the Draft EIR does not include an adequate range of alternatives and asks that a community alternative that maintains the acceptance of 1,000 tons per day of waste be included. The Draft EIR includes eleven alternatives to the proposed project, one of which is a 1,000 ton-per-day alternative with a reduced footprint (Alternative 2B) that is very similar to the alternative described by the commenter. The only difference between these alternatives is the limitation on the service area to immediately adjacent counties, the restriction on new contracts to local sources only, and limited to accepting only municipal and industrial wastes, and the prohibition of the acceptance of construction waste associated with the commenter's suggested alternative. Because both 1,000 tons-per-day alternatives would keep the same daily tonnage as of the NOP baseline and vehicle limits as are currently in place at the site, the expected impacts associated with these two alternatives would not be expected to measurably differ.

83-3 The commenter states that unknown out-of-County GHG emissions should not be used to determine impact significance and that the 1,000 tons-per-day alternative likely would not increase GHG emissions. The analysis of Alternative 2B, the 1,000 Tons-Per-Day Expansion Alternative, commencing on page 6-11 of the Draft EIR describes the GHG emissions associated with diverting waste from the project site to an out-of-County landfill. However, the analysis does not use this fact to make impact conclusions. The impact analysis concludes that this alternative would continue to generate a net increase in GHG emissions because the landfill would continue to accept waste at up to 1,000 tons per day for 50 years and then a lower quantity of in-County waste for another 15 years. As waste accumulates over time, the LFG generation rate increases, reaching peak flow near closure. At 1,000 tons per day, the landfill gas (and GHG) flow rate would peak at a lower flow rate than the proposed tonnage but would still increase. The modification to this alternative suggested by the commenter would not change this conclusion.

83-4 The commenter states that the reduced impacts of Alternative C (which we interpret to be in reference to Alternative 3) or the Maintain 1,000 Tons alternatives should be considered. The commenter further states that a project objective to support General Plan policy NCR-6-1 makes more sense and suggests installing solar panels to provide shade in the entrance area. The commenter's suggestions to consider these alternatives and to add a project objective are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

83-5 The commenter states that there is no information in the Draft EIR that the Class I Area could not be clean closed under the reduced-scale alternatives. While closure of the Class 1 Area would be possible, the Draft EIR assumed that because the reduced-scale alternatives would require less land for the disposal area than the proposed project, they would reasonably be designed to avoid use of the Class I Area, which would be more expensive per acre to develop as landfill area than the surrounding undeveloped land. The clean closure of the Class I Area would require permitting, hazardous material excavation, material export to a Class I disposal site, and testing of the remaining soil, which would not be required for the surrounding undeveloped land. The County understands the benefit to the community of a clean closure

of the Class I Area and the Board of Supervisors may consider these environmental and community benefits when determining whether to approve, conditionally approve, or deny the project, including consideration of project alternatives. The Board may also consider the benefits of a clean closure of the Class I Area in determining whether it can make a statement of overriding considerations to approve the Project. The Alternatives Chapter does not preclude the approval of a project at reduced tonnage that includes a clean closure of the Class I Area.

83-6 The commenter states that there is no guarantee the Class I Area will be clean closed under the proposed project. The clean closure of the Class I Area is a component of the proposed project similar to other components of the proposed project. The EIR assumes all of the project components would be eventually implemented and evaluates the anticipated environmental impacts accordingly.

83-7 The commenter states that there is no analysis showing that the reduce-scale alternative cannot maintain a stable and relatively predictable cost structure. The commenter is correct in that the applicant has not provided information showing that any of the reduced tonnage alternatives are economically infeasible.

83-8 The commenter states that Alternatives 2A and 2B would double the tons of waste accepted per day. As described on page 6-10 in Chapter 6 of the Draft EIR, the landfill is currently permitted to accept up to 1,000 tons of waste for burial per day, plus an unlimited quantity of recyclables and materials for beneficial reuse (such as soil, processed demolition debris for alternative daily cover and processed green waste for erosion control) and this limit is assumed to remain in place with Alternatives 2A and 2B. Therefore, these alternatives would not double the tons of waste accepted per day and would generally represent a continuation of the existing landfill's current trip generation on local roads as of the date of the NOP. The same conclusion applies for other impacts including air emissions. Please also see Responses to Comments 55-4 and 80-34.

83-9 The commenter requests that a narrative table be provided comparing the impacts of the proposed project to the alternatives and considers Table 6-2 to be insufficiently detailed. The commenter is referred to the detailed discussion of comparative environmental impacts on pages 6-4 through 6-39 of Chapter 6 for additional detail.

83-10 The commenter states that no alternative is provided that would eliminate significant and unavoidable impacts. The commenter is referred to the discussion of the Transfer Station Alternative commencing on page 6-22 of the Draft EIR. This alternative would eliminate many of the impacts anticipated to occur with implementation of the proposed project by avoiding the proposed landfill expansion on the project site. Specifically, the proposed project's significant and unavoidable visual impacts would be reduced to a less-than-significant level with the implementation of this alternative. Please also see Response to Comment 83-2.

83-11 The commenter states that the project will increase VMT and should not increase harm to low income populations especially when feasible alternatives exist to mitigate the impacts. The commenter is referred to Chapter 6, Alternatives, of the Draft EIR for descriptions of a range of alternatives that include varying levels of VMT generation. The commenter's statement that the project should not increase harm is noted and, as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

83-12 The commenter describes their understanding of the requirements of SB 1383 and mentions "pay as you throw" pricing as a means to support organic waste reduction. These comments are noted.

83-13 The commenter states that the implementation of an RNG facility at the project site is an example of maladaptation and states that some research suggests 40 to 80 percent of landfill methane escapes before being captured. As described on page 4.4-21 of the Draft EIR, landfill gas collection systems typically collect 60% to 90% of the generated gas, with efficiencies as high as 98% for landfills using synthetic

liner capping systems. Recent research on operating California landfills (Hansen & Yesiller 2020) suggests landfill gas collection efficiency ranges from 88% to over 90% for most landfills with landfill gas collection systems. For a description of the existing and projected collection efficiency at the project site, the commenter is referred to Table 4.4-2 on page 4.4-22 of the Draft EIR. The project includes an increase in collection efficiency from 80 percent initially to 85 percent by 2028 and then to 90 percent by 2032, and then to 95 percent by 2035. The project assumes the 95 percent collection would be achieved with the implementation of temporary plastic covers and partial final closures.

The commenter states that reducing the landfill expansion would reduce methane production at the source. However, if the waste is not disposed within the expanded landfill, it would be diverted to another landfill in the region and would generate landfill gas from the receiving landfill, which may not include an RNG facility, temporary plastic covers or partial final closures, all of which are expected to reduce greenhouse gas emissions associated with the release of landfill gas at this landfill. For a discussion of greenhouse gas emissions associated with the project's estimated landfill gas generation, the commenter is referred to Section 4.4, Greenhouse Gas Emissions and Climate Change, of the Draft EIR.

83-14 The commenter states that the Draft EIR is extremely deficient in not studying higher tipping fees. This comment raises economic issues, which are outside of the scope of the EIR. For more information on this topic, the commenter is referred to Response to Comment 7-5. Although higher tipping fees may discourage vehicle trips to the project site, they could also increase illegal dumping. Therefore, it is unclear what effect increased tipping fees would have on the environment.

The commenter also states that the Draft EIR is criminal in creating conditions to not meet state goals for diversion, recycling, and greenhouse gas reduction from organics. San Benito County has received a rural exemption to the applicability of SB 1383 until December 31, 2026. Therefore, the County and projects within the County are not currently subject to the requirements of SB 1383. However, it is acknowledged that the rural exemption is for a short period of the life of the proposed project and SB 1383 diversion remains important. In consideration of these goals, a New Compost Facility Alternative was added to the Draft EIR, which could be added as a component of an approved project. For more information on SB 1383, please see Response to Comment 2-6. Please also see the discussion of the recycling activities at the existing landfill described in Section 3.4.1 on page 3-5 of the Draft EIR.

83-15 The commenter states that the air quality analysis should be considered in terms of cumulative emissions associated with displaced workers due to rising rents. The commenter states that the Draft EIR is deficient for not accounting for Highway 101's increasing pollutants. The emissions generated from vehicle trips on Highway would be considered part of the current air quality conditions, which are discussed in Section 4.3, Air Quality, of the Draft EIR. For a discussion of the project's cumulative air quality impacts, the commenter is referred to Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR.

83-16 The commenter states that the Draft EIR must consider cumulative impacts to air quality related to increasing pesticide pollutants related to the agricultural industry in the County. The proposed project does not propose the use of pesticides at the project site. Therefore, the project would not be expected to cause cumulative air quality impacts related to the use of pesticides. For a discussion of the project's cumulative air quality impacts, the commenter is referred to Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR.

83-17 Please see Responses to Comment 79-6, 79-16 and 79-17.

83-18 The commenter requests that a nuisance bird abatement plan be provided for crows and gulls. The current landfill operations include the use of bird bombs to disperse nuisance birds. Bird bombs are explosive pest control devises intended to frighten away birds. They are fired from a hand-held launcher that travels between 75 and 100 feet before exploding with a very loud bang. Other methods used at the site to deter

birds include mechanical deterrents, bird alarms and the use of falcons by a falconer. The use of these bird deterrent measures would be expected to continue with project implementation.

83-19 Please see Responses to Comments 1-1 and 1-2.

83-20 The commenter states that the local Groundwater Management Agency should be consulted and groundwater pumping be limited to 22 acre-feet/year. The offsite groundwater well proposed to supply water to the project site is not located within the boundaries of a Groundwater Management Agency. Therefore, no consultation with such an agency is required. Also, the offsite groundwater well can produce substantially more water than 22 acre-feet/year without causing any adverse effects. Therefore, a 22 acre-feet/year limit is unwarranted.

83-21 The commenter states that the Sunnyslope County Water District should be consulted regarding their ability to provide water to the proposed project. For a discussion of this issue, the commenter is referred to Responses to Comments 1-1 through 1-4.

From: Jaya Kopalle <jayakopalle@hotmail.com>

Too much traffic destroying the already potholed roads. Keep the town clean and no outsiders dumping their toxic trash. 84-1

Thank you

84-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Lou Chiaramonte, Jr. Indigenous Solidarity <southbayindigenoussolidarity@gmail.com>

Stan Ketchum,

My name is Louis Chiaramonte, Jr. I am a citizen resident of the State of California; my address is 10065 East Zayante Road, Felton, CA 95018. This is a public-comment written in regard to the John Smith Road Landfill Expansion draft environmental impact Project report (SCH# 2021020371) (hereafter referred to as the 'dEIR'). The opinions expressed are my own, and are largely based on my own experience working in the field of cultural resource management locally. 85-1

My comments are focused on section 4.7 of the dEIR. I appreciate that the Amah Mutsun representative Tribal Chair Lopez and Indian Canyon representative Sayers-Roods were consulted regarding this project. I also appreciate the fact that the copy of the public document further elaborating on cultural resources at the project site was forwarded to me upon request.

My comment has to do mainly with the fact that no trinomial site records exist for the project area described in the dEIR. As site records are usually created when archaeological/cultural sites are happened upon during construction processes, it is rather unsurprising that nothing exists for this particular project area. Although the environmental setting of this project area may not be the most likely potential setting for a large-scale historic pre-contact human settlement, that does not mean that the area does not potentially contain burial or other cultural assemblages.

I am surprised that the dEIR does not contain provisions for any test archaeological excavations to occur before large-scale grading of the site area. The pedestrian surface surveys seem to indicate very little ground visibility (usually 0%) and a large quantity of steeply sloped land, as well as some difficulty accessing portions of the site. My one recommendation is that the final dEIR include a provision for at least some test excavations to be conducted before large-scale grading be undertaken at the site, and that such test excavations be designed with input and participation of paid monitors from the Amah Mutsun Tribal Band and Indian Canyon, as well as third party archaeological professionals.

Because this geographic project area is relatively unknown in the archaeological record of San Benito County, it would be a disservice to San Benito County residents not to consider the potential cultural history of this portion of the County. Once the existing landfill is expanded, such inquiries will be much more difficult (if not impossible) to undertake. Because of the potential lack of cultural resources, it might be useful to design such test excavations with the dual purpose of obtaining information regarding biologic data for the region (samples of seeds, vertebrate remains, etc.). Test excavations extending 30 or more centimeters into the ground should provide some historic data regarding historical ecological conditions of the region (depending on where such excavations are sited). Such data is important in understanding issues such as climate change at a local/regional level.

Respectfully,
Lou Chiaramonte, Jr.
Member, *Santa Cruz County Democratic Central Committee*
Lead Organizer, *South Bay Indigenous Solidarity*
408-402-2796

85-1 The commenter states that they are surprised that the Draft EIR does not contain provisions for any test archaeological excavations to occur before large-scale grading of the site area. The project site includes an operational landfill that has included large-scale grading activities. In addition, no evidence of cultural resources was detected during the records search or pedestrian surface surveys of the project site conducted during preparation of the Draft EIR. Also, the relative remoteness of the project site from water sources or other resources that would have been a draw for prehistoric people likely indicates that the project area has a low cultural resource sensitivity and a very low potential to contain any buried archaeological deposits or tribal cultural resources. Nevertheless, the impact analysis included in Section 4.7, Cultural and Tribal Cultural Resources, of the Draft EIR concluded that the possibility remains that previously unidentified, buried historical or archaeological resources or tribal cultural resources may exist on the project site or within offsite utility corridors. Based on this potential, Mitigation Measure 4.7-1 required the preparation of a written inadvertent discovery plan prepared by a qualified archeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists before construction begins. The mitigation required implementation of the plan in the event of a discovery during project construction. Before construction commences, the contractor would be required to ensure that all construction personnel understand the need for proper and timely reporting of such finds and the consequences of any failure to report them. Therefore, test excavations are not necessary.

If an inadvertent discovery of buried or otherwise previously unidentified historical resources, including archaeological resources (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, building remains) and tribal cultural resources, is made by site or contractor personnel at any time during project-related construction activities or project planning, the mitigation requires that operations stop in the immediate vicinity of the find and that a qualified archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists be consulted to determine whether the resource requires further study. If such resources are discovered during project construction, the mitigation requires that all work within a 100-foot-radius of the find cease. A qualified archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists would be required to be retained at the applicant's cost to assess the discovery and recommend what, if any, further treatment or investigation is necessary for the find. The qualified archeologist, with input from other interested parties, would be required to develop a written plan that implements appropriate protection and feasible avoidance measures. Culturally affiliated Native American Tribes would be required to be notified in writing concerning resources of Native American origin. Based on these mitigation requirements, conducting test archaeological excavations was determined to not be necessary.

From: Madhu Kopalle <mkopalle@gmail.com> (9/6 - 5:02 pm)

Hello,
I am firmly against expanding the John Smith Landfill to receive trash from other counties. 86-1

The roads leading to the Landfill are already overcrowded and in bad conditions.

Thank you for considering our input.
Sincerely,
Madhu Kopalle
1171 Canyon Drive
Hollister, CA 95023

86-1 The commenter describes the reasons for their opposition to the proposed project. Roadway issues are discussed in Chapter 4.2 of the Draft EIR. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: janell bautista <janellb@sbcglobal.net> Received 5:41 pm)

Before BOS approves votes on this proposal, residents and BOS should review the findings of the dEIR from the independent consulting firm fired by BOS. The consultants are the experts. 87-1

From a financial aspect, it does not make since for San Benito County and it's residents. Waste management sets the landfill fees, contributes just $1 additional dollar from fee (passed on to customer) for road improvements) and will only contribute $1M towards road improvements to the John Smith/Fairview intersection. Financially, the profit margin for Waste Management is astounding at the cost is San Benito residents.

Approving the expansion is fiscally irresponsible. The numbers just don't add up.

Regards,
Janell Bautista
Hollister resident

87-1 The commenter states that approving the expansion is fiscally irresponsible. The commenter's statement regarding the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. Please see Response to Comment 7-5.

From: Darby Connolly <darbyconnolly@icloud.com> (9/6 - 6:38 pm)

I have lived in Hollister for over 30 years, I have seen the changes. This is not the same community that the original deal was made to accept outside trash. We have our own trash with the increase in population and big businesses ie Amazon. I do not want outside trash coming to our community. The fact that the # of trucks would increase from 59 to 95 is outrageous! I vote no on expansion of the dump. 88-1

88-1 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Robert Thorp <devils95.00.03.15@gmail.com> (9/6 - 6:59 pm)

EIR comment:
Roadway Pavement Hazards
The proposed haul route on Mc Closkey has already a pavement condition index (PCI) between 9-19.
The road is unsafe and in extremely hazardous road condition and it states in the EIR that this road would not be reconstructed until 2026.
Mitigation Measure 4.2.-6 pavement integrity page 4.2-16
The possible agreement between County and Applicant to pay a fair share fee toward road maintenance and rehab is unspecific and vague. The money to repair the roads isn't even fully guaranteed to to be put towards the damage that will be done by the increase in semi trucks in and out of Hollister.

Under these above mentioned conditions it is unacceptable to approve a Landfill expansion.

89-1

Robert Thorp IV
512 Egret Ln, Hollister, CA 95023

89-1 The commenter describes the reasons for their opposition to the proposed project. Mitigation Measure 4.2-6 requires reconstruction to "occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial vehicles." Please see Responses to Comments 80-28 and 81-6. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

From: Rudy Picha <rudyp4sscs@gmail.com> (9/6 - 8:50 pm)

Hello SBC Supervisors & Mr. Ketchum,

My name is Rudy Picha and I represent a growing consortium of Hollister-ites, including family, friends and business operators, all long time residents of Hollister, CA. Many of whom live directly on Fairview road and as a result of directly witnessing what is going on in the Fairview corridor over many years, we have a unique qualification to make a sound assessment of the ripple impact of quadrupling the size of the John Smith Landfill will
have. 90-1

In the last few years, traffic along Fairview road had increased dramatically, much of it is comprised of new residents in the Santana ranch area, and much is the increased semi truck traffic going to and from John Smith landfill. In the coming years 2 new housing developments will come online. Resulting in thousands of new Hollister-ites and hundreds of new motorists along the Fairview corridor.

Pertaining to the semi truck traffic, volume is increasing, the speed these truck drivers are doing is also increasing. My parents live on the intersection of Santa Ana and Fairview and we can attest to screeching tires and the use of loud engine braking techniques called "Jake-Braking" being employed to get speeding rigs to slow for traffic lights. To make matters worse, those lights along Fairview were a direct result of the increasing frequency of major automobile collisions, some of which have been fatal. A problem that will only increase as those Fairview road housing developments become occupied.

In addition, a major Amazon shipping facility on San Felipe Rd will impact all roads leading to Fairview, CA-156 & CA-25, only exacerbating a volatile cocktail of automobiles and semi trucks. In the coming year or two, we will likely see a potentially extremely dangerous situation play out with this traffic mixture.

As I read about the John Smith landfill expansion project I am struck at not just the size that the project wishes to grow but also the height. As it is you can now see John Smith landfill above the surrounding adjacent hills. You can see the landfill from ridgemark golf and country club as well as the new houses on Fairview creating an eyesore.

In addition to the above concerns, my group has performed a 'Deep Dive' of the EIR pertaining to the John Smith Landfill and we have identified various vagueries in the data and hence flaws in the conclusions drawn. One example is the amount of water runoff that collects along John Smith Road and the amount of harmful chemical carcinogens contained within and 90-2

also the proximity to the school on Fairview Rd. and what that could mean for the children attending that school. As per the runoff, during the EIR draft period, we have experienced drought conditions and any reasonable person knows that after the drought we will once again, soon experience large amounts of rainfall and even an atmospheric river or once again an El Nino or La Nina type weather pattern. When this occurs, we will see extra-ordinary rainfall and increased run-off with chemical carcinogens from JSLF. This is a future inevitability.

90-2 (Cont.)

Please keep in mind this email greets you with well over 35+ long time Hollister residents, all registered voters, who have a long history of knowing intimately what happens on John Smith road all emphatically hope everyone will vote no on this expansion project in its current form. We strongly urge all in a position to delay the vote on this project to slow the decision making process so a 'best case scenario' decision can be achieved. Please be mindful that the volatile mixture of increased traffic, increased speeds, not just motorists but semi truck operators as well, it's just too great a risk, just too great a danger to add even more semi truck operators to this mix. To say nothing additional about the various vagaries in the EIR data. Lastly, many concerned on this issue contend that we have more than 2 years to operate JSLF at current levels while we come to that best case scenario.

90-3

Please heed this request and grant the slow down of this decision and you will likely be rewarded for so doing as we are a very communicative group, influential and well resourced. Remember, every obstacle carries with it the seed of an equivalent opportunity. We work together to optimize this decision and good results for all stakeholders will be achieved.

Response or reply welcomed, thank you.

Rudy Picha B.S., M.B.A.
(831)638-3609
rudyp4sscs@gmail.com

Thought Food:
https://benitolink.com/five-people-die-on-hwy-156-over-the-weekend/
https://benitolink.com/accident-closes-highway-25-monday-morning/
https://benitolink.com/hollister-resident-dies-in-vehicle-crash-near-ridgemark/
https://benitolink.com/sbc-rma-to-host-two-virtual-meetings-on-john-smith-road-landfill-expansion-project/

FIVE PEOPLE DIE ON HWY 156 OVER THE WEEKEND

- Published 08/15/2022
- BenitoLink Staff

Email this Article

Four were Monterey County residents and another was a Santa Clara County resident.

Information provided by California Highway Patrol Hollister Gilroy

According to the California Highway Patrol Hollister-Gilroy, two car collisions over the past weekend resulted in five deaths and one hospitalization.

On Aug. 14 at 12:50 a.m., Monterey Communications Center (MCC) was advised of a vehicle which had run off road and caught fire. Units responded and determined through their investigation that a 27-year-old driver from Gilroy, who was not named in the report, was driving a 2005 Chevrolet westbound on

Highway 156, east of Buena Vista Road. The report says that for unknown reasons, the driver caused the Chevrolet to veer to the right, off the north road edge of Highway 156, where it collided into a private property fence, overturned and caught on fire. The driver was ejected from the vehicle and succumbed to injuries he sustained in the crash.

“It is unknown if alcohol and or drugs were a factor in this crash,” the release said.

CHP said the details of this investigation remain open. Any witnesses are requested to contact Officer M. Ruiz, ID 22608 at 408-848-2324 with information regarding this crash.

On the same day at approximately 10:05 p.m., a 55-year-old was driving a 2014 Tesla eastbound on Highway 156, west of Fairview Road. The report states for reasons unknown, the driver made a left turning movement causing the Tesla to travel from the eastbound lane of Highway 156 into the westbound lane of Highway 156 over solid double yellow lines and collided head-on with a 2015 Freightliner. The driver and three passengers of the Tesla, which according to the report were from Carmel Valley, sustained fatal injuries. The 39-year old driver of the Freightliner from Madera was taken to Hazel Hawkins Memorial Hospital with minor injuries.

“It is unknown if drugs and/or alcohol impairment was a factor to this collision,” the release said.

Any witnesses are requested to contact Officer N. Stewart, ID 22339 at 408 848-2324 with information.

BenitoLink Staff

ACCIDENT CLOSES HIGHWAY 25 MONDAY MORNING

- Published 06/01/2015
- BenitoLink Staff

Email this Article

Busy commuter route brought to a halt after Hollister man's vehicle crossed the double yellow lines in front of another vehicle, causing collision

hwy 25 car fire.jpg

A vehicle that crossed the double yellow line on Highway 25 near the San Benito/Santa Clara County line is believed to have caused an accident that left the vehicles in flames and forced the closure of the heavily traveled commuting route for an hour and 15 minutes Monday morning.

The California Highway Patrol received a call about the accident at approximately 7:15 a.m. Monday, with callers reporting that the crash involved two vehicles. The CHP said a witness indicated that a black vehicle — later

identified as a 1967 Camaro driven by a 41-year-old Hollister resident — appeared to make a U-turn in front of a 1994 Acura Legend and caused the collision. Witness Yesenia Perez Casas posted on Facebook that "I witnessed this horrible accident on highway 25 this morning. A Good Samaritan pulled a man out of the burning black car."

The Hollister man had moderate injuries and was airlifted to a San Jose hospital, according to the CHP. The San Jose man suffered minor injuries and was transported by ambulance

Within 10 minutes, the CHP reported that both vehicles were fully engulfed in flames and that Hwy. 25 would need to be shut down in both directions. At that time of the morning, the northbound direction — in particular — is busy because of the thousands of San Benito County commuters heading to the Bay Area for work. Traffic was diverted onto Shore Road while crews tended to the scene.

At one point, the CHP reported that a tow truck heading to the scene was stuck in traffic behind a long line of vehicles. The driver requested to use the shoulder of the roadway or obtain a CHP escort to the scene.

BENITOLINK STAFF

HOLLISTER RESIDENT DIES IN VEHICLE CRASH NEAR RIDGEMARK

- Published 07/29/2022
- BenitoLink Staff

Email this Article

CHP is investigating the cause of the accident.

chpPatch.png

California Highway Patrol is investigating a single vehicle accident that resulted in the death of Hollister resident Ruben Joshua Flores III, 20.

According to Sgt. Bryan Penney with the San Benito County Sheriff's Office, on July 24, around 2 a.m San Benito County deputies responded to a single vehicle accident on Highway 25, south of Ridgemark.

"Upon arrival deputies met with medical help where the driver had passed away," said Penney.

He added California Highway Patrol is conducting the investigation.

CHP officer Alfredo Uribe told BenitoLink he did not have information about the accident and that he would provide it when he obtained it. He has not responded to BenitoLink's request for updates.

BENITOLINK STAFF

SBC RMA TO HOST TWO VIRTUAL MEETINGS ON JOHN SMITH ROAD LANDFILL EXPANSION PROJECT

- Published 02/26/2021
- BenitoLink Staff

Email this Article

The proposed project includes a 388.05-acre expansion of the existing 95.16-acre landfill located approximately two miles outside of Hollister.

A truck heads into the John Smith Road Landfill. Photo by Noe Magaña.

Information provided by the County of San Benito.

The San Benito County Resource Management Agency will host two virtual meetings to present the proposed John Smith Road Landfill expansion project and seek input from the community and interested public agencies. The two meetings will take place on March 10 at 2 p.m. and March 11 at 6 p.m.

The proposed project site is located at the John Smith Road Landfill, 2650 John Smith Road, approximately two miles directly east of the city of Hollister.

According to a recent release, Waste Connections, through the project applicant Waste Solutions of San Benito, LLC, is proposing an expansion of the landfill. The proposed project includes a 388.05-acre expansion of the existing 95.16-acre landfill. This expansion would increase the landfill's disposal capacity and operating life span, increase the maximum permitted height of the final landfill, and increase the maximum permitted daily tonnage accepted from the current 1,000 tons per day to 2,300 tons per day.

To accommodate these changes, several operational changes are also being proposed. These include expanding the landfill entrance area to accommodate additional daily vehicle arrivals and reduce vehicle queuing on John Smith Road, expanding areas for recycling and the County's Household Hazardous Waste program, establishing an area for the future installation of a gas-to-energy facility, and clean closing the current Class I area owned by the city of Hollister and converting it to a disposal area for Class III waste. Additionally, the proposed project would potentially include the use of a portion of the San Benito County property located south of John Smith Road for habitat mitigation purposes.

The **Notice of Preparation** of the Environmental Impact Report, containing instructions for participating in the virtual meetings and additional information about the project and potential environmental impacts, is available at the following website:
https://www.cosb.us/home/showpublisheddocument?id=6574

Written comments can be submitted to:

San Benito County Planning and Land Use Division

2301 Technology Parkway

Hollister, CA 95023-9174

Attention: Stan Ketchum Email: **SKetchum@cosb.us**

Comments to be considered in the preparation of the environmental impact report must be received by March 23.

BENITOLINK STAFF

90-1 The commenter describes several concerns regarding existing and likely future traffic along Fairview Road. This issue is discussed in Chapter 4.2 in the DEIR as well as in Chapter 5, Cumulative impacts. In addition, a roadway Level-of-Service Analysis, although not required under CEQA, will be available to the Planning Commission and Board of Supervisors to consider as part of their project approval deliberations.

90-2 The commenter raises concerns regarding the amount of water runoff that collects along John Smith Road and the amount of harmful chemical carcinogens contained within the runoff. The commenter also raises concerns regarding the proximity to the school on Fairview Road and what that could mean for the children attending that school. For a detailed discussion of the surface water quality impacts of the proposed project, the commenter is referred to Impacts 4.8-1, 4.8-2, and 4.8-3 included in Section 4.8, Hydrology and Water Quality, of the Draft EIR. Please also see the Master Response on Groundwater Contamination included at the beginning of the responses.

90-3 The commenter describes the reasons for their opposition to the proposed project. The commenter's opposition to the proposed project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The commenter includes several web links at the end of their comment. These web links do not raise any substantive issues regarding the analysis included in the Draft EIR. Therefore, no additional response is necessary.

From: Gary Moran baler61 <gaelmoran@gmail.com>

Hello Stan

I Would like to follow up my comments from the 8/24 meeting with a written summary.
I'm not sure if verbal comments get captured in the meeting record.

91-1

I think truck traffic is a serious concern for everyone and it has not been properly evaluated in the EIR.

1. Fairview Rd is not a simple uninterrupted route
   Noise and emissions:
      There are 4 stop lights within the residential areas of the haul route.
      At every stop light there are houses, subdivisions, or a school.
      Trucks will be stopped often by these lights.
      When trucks accelerate from a stop they produce maximum noise and emissions.
      It seems that the EIR focused only on Leq noise.
      Acceptable Leq is an average and does not reflect the actual effect on residents near the stoplights.
      From Table 4.5-3 it appears that Lmax is about 10db higher if heavy trucks were present.
      10 db is an increase of 10 times the acoustic power not 10% (twice as loud to the ear).
      I believe the EIR is not adequate on this issue and needs more work.

   Traffic conditions:
      For unknown logic (p4.2-11), truck traffic in the EIR was limited to noise and emissions.
      Only a minimal increase in auto and light truck traffic was predicted and rated insignificant.
      This is misleading.
      In future years there would be about 190 trucks passing by everyday (one truck every 2 minutes).
      They will affect traffic flow and be a daily frustration for residents.
      The trucks will often have to stop at several lights and will slow the traffic considerably.
      Even today I have seen at rush hour cars backed up halfway to Santa Ana Valley rd from the Santa Ana Rd stoplight.
      This issue needs to be evaluated.

91-2

   Aesthetics and perception

Trucks passing every 2 minutes for decades will totally change the character of the area.
Landfill truck traffic will define the community.

91-3

2. My overall opinion
The scope of the project is too large to be accepted by or be a benefit to the community.
There is no good route for the trucks to reach the landfill without serious detrimental effects on the residents.
San Benito County needs a safe, efficient landfill.
We need to consider one of the alternatives.

91-4

Regards
Gary Moran

91-1 Please see Responses to Comments 57-1 and 73-1.

91-2 The commenter raises concerns regarding trucks passing by every two minutes. For the new out-of-County commercial trucks, at their peak level, they would be expected to pass every 4.5 minutes during weekdays, on average in winter months, with half of the passing trucks being fully loaded and the other half being empty. Because this number represents a peak of out-of-County commercial vehicles, during most weekdays the average passing time between new out-of-County commercial vehicles would be greater than 4.5 minutes, particularly during summer months when the arrival of commercial vehicles may be spread over a longer acceptance period. Additionally, because the proposed haul route would use different routes for travel to and from the landfill, the average passing time of new truck trips from most locations would be greater than 4.5 minutes. For a discussion of traffic hazards, the commenter is referred to Impact 4.2-3 commencing on page 4.2-11 of the Draft EIR. Please also see Response to Comment 57-2.

91-3 Please see Response to Comment 82-1.

91-4 The commenter states his opinions about the proposed project and states that one of the alternatives needs to be considered. The commenter's opinions regarding the proposed project are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

San Benito County John Smith Road Landfill Expansion Project
Draft Environmental Impact Report
WRITTEN COMMENT CARDS

Name: MarKham, Sherrie E-mail:

Agency: resident Phone No.: (269) 806-6428

Street Address: 1851 Prune St. City,County: Hollister/San Benito

- Written comments can be turned in today or preferably via e-mail to SKetchum@cosb.us

COMMENTS: The people voting on this measure/proposal need to verify the plan (EIR) is reflective of our mass growth in land projected Hollister in the last few years. It would be a huge debacle to vote to take other communities' trash to find our community could actually fill up the new acreage quicker than this plan reflects. Your due diligence is critical. It seems as much as we've already grown and continue to grow, we will need available refuse space for ourselves. Base decision on reality vs. profits of JSRL.

92-1 The commenter identifies the need to ensure that the County's disposal capacity is maintained to accommodate County growth. The commenter's comments are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

San Benito County Landfill Standing Committee

Verbal Comments Received during August 24, 2022 Landfill Standing Committee Meeting on the John Smith Road Landfill Expansion Project Draft Environmental Impact Report

Comments Summarized from Meeting Recording

Maureen Nelson:

My name is Maureen Nelson, I am in San Benito County. I want to raise a couple of issues with the landfill proposal. There's a lot of vague language within this EIR. We talk about road repair widening on McCloskey paid by waste connections at the time of the widening. To be reimbursed by the county for a fair share. What's a fair share? Who gets into a financial contract without knowing the cost that we're talking about. 93-1

We talked about alternatives A and B to the landfill proposed. A uses the full 483 acres, not for consumption of waste, but they have all 483 acres. What you see the difference in B is that they use less than something smaller. What does that mean? Once you own all 483 acres, it's available to you to open it again and apply for another expansion. It's like my box of See's candy. I can get a 1lb box, or I can get a 2lb box. if I eat 1lb, I'll be happy, if I get 2lb, I'll eat it all. 93-2

I want to talk about the transfer station. It does not state where it will be. How can you vote on a transfer station when your residents don't know what impacts and where it will be hosted out of? The 101 acres that are across the street on John Smith Road being proposed as an alternate site for mitigation of animals, that could be used as a new landfill. 93-3

The current landfill sits on 95 acres. It has been open since 1969. If we need more space, we have 101 acres. What the landfall has in the EIR is they would like to have an additional 72 acres purchased by the county for soil retention, we're currently using 95 acres with soil retention. Since when did soil grow to need its own 72 acres. 93-4

Biological assessments were done between 10 am and 2:30. Several of the biological animals come out at dawn and at dusk. You do not see what is out there at 10 to 2:30 during the day. 93-5

I'd also like to talk about the out of county trucks. This increase would increase the trucks to 95 per day? Do the math. That's a 190 passes in every day of a large truck in front of school children. We have Santana ranch, we have the Seventh Day Adventist school both on McCloskey. Both ways in and out are affected. That's what I had, wrote my notes fast. Thank you. 93-6

Barry Katz:

That's perfect. Thank you. My name is Barry Katz. I live in Aromas, in San Benito County. I only have 2 points. It's the biggest issue, I think, for a lot of people is traffic and in all the additional trucks, and I don't know if it's been answered or not but my question is whether the trucks would be restricted from the busiest hours on the busiest highways. I mean, we're using highway 25, which is insane at times. I know that many cities restrict truck traffic during that I don't know if that's been addressed or not. 93-7

And then the larger point that I have to say is that Measure Q is on the ballot, which would require a vote of the people of the county, the voters of the county, for projects of this nature and other large projects, and I don't 93-8

want to see this rushed before election day. I think that we should wait and see if the people vote for Measure Q, and if so, let them vote for or against this project. I particularly think a project that has a 65-year magnitude doesn't need to be rushed and shouldn't be. That's all I have to say. Thank you. 93-8 (Cont.)

John Freeman:

Yes, my name is John Freeman. I'm a resident of San Juan Batista, which is in San Benito County. Full disclosure, I'm on the Integrated Waste Management Board, and I'm here kind of as a general overview. I'd like to say that I come from the waste industry. I spent 20 years in the hazardous waste industry, Ramic Environmental in east Palo Alto California, so I know a little bit about it. I know what it's like to be tortured by well-meaning citizens who think I'm throwing waste into the bay, which was not true. So I have a little different perspective. But so basically, I think there's 2 questions before the board, and that's to expand the landfill and the issues of traffic and trucks and amount of tonnage received. I think the second question should be really separated from first, and that should be negotiated and reviewed every couple of years. It shouldn't be a static thing, but as for the landfill expansion, I think it should, it needs to occur, if it doesn't, we'll be back here 20 years, maybe 25 years arguing the same points again. Maybe even 15 years. So I think that's a waste of resources, time. I think it can be done properly. 93-9

At the public workshop that was held Monday night, and I have spoken to the people who live near the landfill, Heatherwood Estates and such, and they do have really legitimate concerns. I visited Heatherwood Estates and the traffic and the truck noise is disconcerting, to say the least, and I don't know if it's possible, maybe it's not but I would look for another route, you know. Even I said, the back way in. I was talking to a person. I joked the back way in, or something, but that's not, you know. So you need to find a way that can alleviate the traffic and the noise that the people are really complaining about, and if you have any further questions, most of you know me and my phone number you can chat with me anytime. Thank you. 93-10

Kent Gordon:

My name is Kent Gordon. I'm a resident of the Santa Ana Valley. My family has owned property there since 1872. Our, some of our land will be at the northern edge of the proposed expansion, and to say the least, my family is not at all excited about this proposal. The John Smith Landfill Expansion Project represents a significant shift in the usage and intention of the original landfill. The expansion was described in the EIR as roughly 80% for the benefit of Santa Clara County. This new version might rightly be called the Santa Clara County Landfill of Hollister, rather like the Los Angeles Angels of Anaheim, accepting 2,000 tons of trash per day from Santa Clara County is highly problematic. 93-11

That although the revenue stream from this waste is significant, it's never been accurately balanced out by accounting for the cost of ongoing maintenance and repair of roadways impacted by the trash trucks hauling there waste here. This treadmill effect means that San Benito County receives money and trash from Santa Clara County but spends much of it repairing the damage done to the roadways as a result of the trash trucks. It seems that no one, certainly not the representatives of waste solutions, is willing to discuss the ongoing costs offsetting the revenue stream to determine if the net benefit to San Benito County is effective. It's hard to make headway when you're on a treadmill. 93-12

The decision to acceptance out of county trash was a decision reached by the County Board of Supervisors some years ago, No doubt it seemed like a good idea at the time, but this new expansion greatly distorts the original concept through its sheer size and volume, the cost of accepting out of county trash, are accruing along Shore Road, Fairview Road, and John Smith Road. Repaving projects along these trash delivery routes merely points out the diversion of resources from other roads in the county that are in desperate need of repair. 93-13

The air pollution associated with the trash trucks can be quantified and accounted for and the amount of garbage escaping from these trucks can be observed by county residents, and those who live along the disposal route. Rerouting the trucks along 25 and McCloskey merely moves the problem from one location to another and solves nothing. 93-14

We now have the benefit of some years of observation and evaluation, accepting out of county trash has not been a winning strategy for addressing the needs of San Benito County .We should also consider the sustainability the project. Project Alternative 3 roughly sets out some parameters that might be appropriate for the needs of San Benito County residents, especially considering that for the next 50 years, we need to be able in the master plan to be able to account for trash needs of the county and these alternatives may be able to serve the needs of the county without the enormous impact of the original proposed expansion. Alternative 3 seems to provide some acceptable levels of trash capacity for the county and the reduced footprint of the project keeps it in line with the needs of the county, as does the 300 tons per day limit on trash disposal. This proposal does not generate the income of the original proposal, either San Benito County, nor the waste solutions group will become the beneficiary of quite the level of revenue stream, but it's a proposal that's in scale with the needs of the county and its residents and does not create the ongoing costs, environmental, economic and aesthetic that the original expansion entails. 93-15

If San Benito County Board of Supervisors looks at the entirety of the John Smith Landfill expansion project, you must consider the needs of the people of their county first and foremost. These needs and the needs and finances of waste solutions, the trash disposal needs of Santa Clara County should not be their primary concern. The original expansion plan is not a good fit for San Benito County and far better alternatives exist, that would be much more. 93-16

Gary Moran:

Good evening everybody. I thank you for letting me speak. Okay, my name is Gary Moran and I live in San Benito County. I have a lot of issues on my mind, but tonight I want to stick to the traffic issues that seems to be on everybody's mind. But I want to speak a little more directly to the EIR. I have asked some of my friends and neighbors about what they think about the landfill expansion. Some are basically unaware of the project but there were others who opposed it and interesting, though those who opposed it seem to think about the truck traffic rather than the actual landfill. So I think the truck traffic is a big deal for us to think about. The county decided on page 4.2-11 of the EIR that heavy trucks would not be included in the VMT. That's vehicles per mileage travelled. That is traffic, basically only autos and pickup, were evaluated. The evaluations of heavy trucks was limited to sections on noise and emissions rather than VMT or traffic flow, which seems a little strange to me. 93-17

Also, the EIR haul route seems to view Fairview Road as a straight line with speeds about 50 miles an hour. However, there are now 3 stoplights on Fairview Road, and soon a fourth at Hillcrest Road. Trucks will probably be stopped several times when going to or from the landfill. As we know that diesel trucks make the most noise and smoke when they're accelerating from a stop, at each light there are houses right next to the intersections there are subdivisions, houses, and a school that should be considered. Fairview Road is not a simple cruise at 50 miles an hour. At rush hour I have seen cars backed up from Santa Ana Light at Santa Ana Road to halfway to Santa Ana Valley Road. If we throw trucks in there it really gets a lot worse. 93-18

And regarding sound measurements per table 4.5-3, these measurements were taken in the morning, all of them were in the morning for some reason, and there was no wind. I can attest to the fact that in the afternoon, if you're on the east side of Fairview Road, the prevailing wind in the afternoon makes the traffic noise twice as 93-19

bad and exhaust smoke blows straight from the road to your house. Peak noise measurements should be taken as trucks accelerate away from the lights. I think they will most likely exceed the 80 decibels. 93-19 (Cont.)

I believe the EIR stated noise and emission impacts of less than significant on the haul route are not accurate and that ignoring traffic flow is a major omission of the EIR. Ignoring traffic flow, congestion, and aesthetics of several hundred trucks passing through residential areas every day for 50 years leaves the EIR pretty incomplete. I think these are significant and unavoidable issues that need to be evaluated. From a community perspective, 50 years of truck streaming to and from Hollister will be such a permanent site that it will become our trademark there. There go all the garbage trucks on their way to Hollister. 93-20

Canyon Sarahs Roots:

Canyon Sarahs Roots, part-time San Benito County, part-time Santa Clara county. I'm of Indian Canyon Nation. We are the local, indigenous, inhabitants and original stewards of this territory. I want to remind the community that just because in the environmental impact reports we acknowledge the historical, biological, and pre-contact history that even this meeting is happening in Ohlone territory and the indigenous people are still here. I do want to point out that I participated in a site visit and a lot of the times cultural resources are acknowledged only by historical artifacts that are present beneath the surface of the soil, and a phase one soil ground survey was taken, and a lot of that area has been highly disturbed just by ranchers and I want to point out that these are cultural landscapes, cultural soundscapes, and culturally significant spaces of my ancestors and I really appreciate the recent comments, because nowhere was there a conversation about if this is going to be expanded, the impact report regarding the road expansions and the development on these roads, these areas go through other cultural sites. 93-21

Other areas of significant impact and that would need its own review and survey and acknowledgement in that so I recognize the need of having more space to take waste but I definitely want to second, and our community of Indian Canyon recognizes that we don't want to be Santa Clara's drop off point. So if it was providing to our community, and if our community acknowledges the waste that it creates, we need to see our messes to be responsible as a community. And so I do want to point out that we are in Ohlone territory and the indigenous peoples need to be part of the decision making process not just part of an EIR, or not just part of the consideration at the very last second of saying here's the draft report and if you have any comments, even if there is a negative declaration. So I appreciate your efforts and I also want to second what John Freeman was saying. I recognize the position he holds being an in-between in the community is this as well as the considerations that our environment and our community considerations culturally, communally, and to the next generations need to consider these decision-making procedures. Thank you. 93-22

93-1 Please see Responses to Comments 7-5 and 31-1.

93-2 The commenter asks what something smaller means for Alternative B. The commenter is assumed to be referring to Alternative 1B: 1,700 Tons-Per-Day Expansion, which is described commencing on page 6-6 of the Draft EIR. As stated in this description, it is assumed the landfill would operate for approximately the same life as the proposed project with implementation of Alternative 1B, which is 65 years with the final 15 years limited to in-County waste. The landfill waste footprint would be reduced and would consist of approximately Phases 2A, 2B, 3, and 5 of the currently proposed expansion project, or approximately 180 acres (in addition to the existing landfill) versus the approximately 195 acres associated with the proposed project (Figure 3-6 in Chapter 3 of the Draft EIR identifies the proposed landfill expansion phases). The final elevation of the fill area would be the same for Phases 2A, 2B, 3, and 5 as with the proposed project, or approximately 949 feet above mean sea level (msl).

If a reduced footprint alternative were selected, the fill permit would be limited to only that footprint. Any further expansion of the alternative would not be permissible without additional approvals from the County and State responsible agencies.

93-3 The commenter asks how one can vote on a transfer station when residents do not know what impacts and where it will be hosted. Chapter 6 of the Draft EIR includes a discussion of alternatives to the proposed project. One of these is Alternative 5: Transfer Station Alternative, which assumes a transfer station would be constructed on industrially-zoned land in or near the City of Hollister. The construction of a transfer station would require a roughly 90- by 120-foot transfer station building, an office area, scale house, household hazardous waste storage lockers, a recycling area, parking areas for spare transfer trailers and employees/visitors, and an inert disposal area. The transfer station is an alternative to the proposed project, it is not being proposed by the project applicant. Alternatives are not required to include as much detail as the proposed project. Their intent is to provide the decision-makers with sufficient information regarding potential alternatives to approving the project to inform their decision making. Should the Transfer Station Alternative be selected in concept by the Board of Supervisors, a site would need to be selected and additional CEQA review would be required prior to permitting the use of that site for that use.

The commenter further states that the 101 acres of County-owned land south of John Smith Road could be used as a new landfill. For a discussion of the use of the southern property for a new landfill, the commenter is referred to Alternative 4: Southern Landfill Alternative, which commences on page 6-17 of the Draft EIR.

93-4 The commenter questions why Alternative 4: Southern Landfill Alternative would need 67 acres for soil retention. As stated on 6-17 of the Draft EIR, to accommodate this expansion, a total of approximately 3,162,000 cubic yards of soil excavation would be necessary and 611,000 cubic yards of fill would be required over the life of the expansion. Due to the large volume of soil excavation, additional acreage would be necessary to store this soil until it is needed for daily, intermediate and final landfill cover. The existing landfill operations also include soil storage stockpiles that are not located within the operating landfill footprint and require additional site acreage to accommodate.

93-5 The commenter states that you do not see the biological animals between 10 am and 2:30 pm, when surveys were conducted. Because many sensitive species are nocturnal, it is not possible to observe them when they are active at night. Therefore, surveys are conducted during the daytime to determine if the habitat is supportive of the sensitive species being assessed and to determine if there are any signs of the species presence (e.g., footprints, active burrows, scat, etc.).

93-6 The commenter raises concerns regarding the increase in truck traffic, particularly near schools. The commenter's concerns are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project. The commenter is also referred to Section 4.2, Traffic and Transportation, of the Draft EIR. For a discussion of the school crossing condition on Fairview Road and the collision history on the current Fairview Road haul route, the commenter is referred to Responses to Comments 20-1 and 44-1.

93-7 The commenter asks if trucks would be restricted from the busiest hours on the busiest highways. The proposed project does not include any hour restrictions for trucks arriving at or departing from the site.

93-8 The commenter states that the vote on the project should wait until after Measure Q is decided. This comment is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

93-9 The commenter states that the landfill expansion needs to occur. The commenter's support for the project is noted and as such, is a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

93-10 The commenter states that the traffic and truck noise is disconcerting. This comment is noted. The commenter also suggests that an alternative back-way route be considered. For a discussion of alternative routes to the project site, the commenter is referred to Alternatives 6 and 7, discussed in Chapter 6 of the Draft EIR. Please also see Responses to Comments 37-1 and 39-4.

93-11 The commenter states that the proposed expansion represents a significant shift in the usage and intention of the original landfill. The commenter further states that accepting 2,000 tons of trash per day from Santa Clara County is highly problematic. The commenter's statements are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

93-12 Please see Response to Comments 7-5.

93-13 The commenter raises concerns regarding the size and volume of the proposed expansion and the cost of accepting out-of-County trash, particularly related to road repair. The commenter's concerns are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

93-14 The commenter states that air pollution associated with the trash trucks can be quantified and accounted for and the amount of garbage escaping from these trucks can be observed by county residents. The commenter further states that rerouting the trucks along 25 and McCloskey merely moves the problem from one location to another and solves nothing. These comments are noted. For more information regarding the proposed project's anticipated air quality impacts, the commenter is referred to Section 4.3, Air Quality, of the Draft EIR.

93-15 The commenter states that accepting out-of-County waste has not been a winning strategy and the sustainability of the project should be considered. The commenter further states that Alternative 3 may be appropriate. These comments are noted.

93-16 The commenter states that the needs of the people of the County must be considered first and foremost. The commenter further states that the original expansion plan is not a good fit for San Benito County and far better alternatives exist. These comments are noted.

93-17 Please see Response to Comment 57-2.

93-18 Please see Response to Comment 70-1. The commenter is also referred to Section 4.2, Traffic and Transportation, of the Draft EIR.

93-19 Please see Response to Comment 57-1. When wind noise is combined with other noise sources, the total noise level increases. However, the increase is related to the cumulative acoustic energy of the combined noise sources and would be similar for most noise sources that are combined. Wind does not generally increase traffic noise levels measured near roads.

93-20 Please see Responses to Comments 57-1, 57-2, and 57-3.

93-21 The commenter states that a lot of times cultural resources are acknowledged only by historical artifacts that are present beneath the surface of the soil and that these areas include cultural landscapes, cultural soundscapes, and culturally significant spaces. The commenter also raises concerns regarding the road expansions and the development on these roads, because these areas go through other cultural sites. As discussed under Impact 4.7-1 on page 4.7-7 of the Draft EIR, the potential for offsite disturbance of cultural resources was considered a significant impact requiring implementation of Mitigation Measure 4.7-1. This mitigation requires that a written inadvertent discovery plan be prepared by a qualified archeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists before onsite or offsite construction begins. The plan would describe the steps that would need to be followed if an inadvertent discovery of buried or otherwise previously unidentified historical resources occurs, including archaeological resources (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, building remains) and tribal cultural resources.

93-22 The commenter raises concerns regarding being Santa Clara's drop off point and states that indigenous peoples need to be part of the decision-making process. The commenter's concerns and statements are noted and as such, are a part of the administrative record that will be considered by the San Benito County Board of Supervisors in deciding whether to approve, approve with conditions, or deny the proposed project.

The County received the following comment letter submitted after the close of the public comment period on the Draft EIR for the Project. A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Res. Code § 21091(d); CEQA Guidelines § 15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Res. Code § 21091(d)(1); Pub. Res. Code § 21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters. (See CEQA Guidelines § 15088(a)). Nonetheless, for informational purposes, the County has elected to respond to the late letter, but it does so without waiving its position that written responses to late comment letters are not required by law.

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December 6, 2022

Stan Ketchum
San Benito County Resource Management Agency
2301 Technology Parkway
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sketchum@cosb.us

Subject: General Plan Amendment for the John Smith Road Landfill (JSRL) Expansion Project (Project)
Early Consultation (CON)
State Clearinghouse No: 2021020371

Dear Stan Ketchum:

The California Department of Fish and Wildlife (CDFW) received a CON from San Benito County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statue for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection,

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id*., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Waste Solutions Group of San Benito, LLC

Objective: The Project proposes a General Plan amendment to change the 388.05-acre expansion property's land use designations of Rangeland (RG) and Agriculture (A) to Public/Quasi-Public (PQP) to be consistent with the existing JSRL's land use designations and to accommodate the proposed waste disposal activities. The proposed project also requires issuance of a Conditional Use Permit, an Entrance Encroachment Permit, and building permits by San Benito County. The County also would need to update the San Benito County Integrated Waste Management Plan to include the expansion area.

Location:

The 388.05-acre proposed expansion project site is located adjacent to the JSRL to the west, north, and east of the existing JSRL property. This includes an approximately 200-foot-wide buffer around the Project site that was visually surveyed in January 2020 during pedestrian surveys; a 3.1-mile-wide radius around the project site that was examined through GIS analysis to evaluate suitable breeding habitat for special-status amphibians within dispersal distance of the project site; and a 5-mile-wide radius around the project site that was examined through desktop analysis for documented occurrences of special-status plant and wildlife species.

Annual grassland occupies nearly the entire study area according to the Project information provided. There is a 0.63-acre pond within the project limits in the northcentral portion of the study area with a maximum depth of 1-2-feet. The pond is located just south of Santa Ana Creek.

Although the project boundary includes 70 acres of the 101.3-acre County-owned property south of John Smith Road, the use of this property would be as a potential preserve area for habitat mitigation purposes only and would not include any physical changes that would affect the property's existing biological conditions. Therefore, this property was not included in the study area. Waste management activities are already approved on the existing 95.16-acre JSRL and the project would not change the biological impacts associated with the approved use; therefore, the existing JSRL was also not included in the study area.

The JSRL is located at 2650 John Smith Road approximately 2 miles directly east of the eastern boundary of the City of Hollister. The site is located in a hilly grassland/rural area east of the Hollister Valley and west of the rural Santa Ana Valley in unincorporated San Benito County.

The existing 95.16-acre JSRL includes two parcels owned by San Benito County that total 90.05 acres (Assessor Parcel Numbers [APN] 025-190-073 and 025-190-074) and one 5.11-acre parcel owned by the City of Hollister (APN 025-190-072). The two county-owned parcels contain an operating Class III landfill. Class III landfills only accept non-hazardous waste for disposal. The City of Hollister parcel includes a closed Class I waste disposal area covering less than an acre. Class I landfills may accept both hazardous and nonhazardous wastes for disposal. The County also owns 101.3 acres directly south of the JSRL and John Smith Road (APN 025-190-075).

Timeframe: N/A

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist San Benito County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

There are several special-status resources that may utilize the Project site and/or surrounding area, and these resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the Federally and State endangered and State fully protected California condor (*Gymnogyps californianus*), the Federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the Federally and State threatened California tiger salamander (*Ambystoma californiense*), the State threatened tri-colored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), the Federally threatened and State Species of Special Concern California red-legged frog (*Rana draytonii*), and the State Species of Special Concern American badger (*Taxidea taxus*), San Joaquin coachwhip (*Coluber flagellum ruddocki*), burrowing owl (*Athene cunicularia*), western pond turtle (*Actinemys marmorata*), and the western spadefoot (*Spea hammondii*). A-1

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS).

California Condor (CACO)

CACO have been observed flying above the east side of the JSRL within the proposed Project site (CNDDB 2022). The California condor is a State fully protected species, which means that no Project-related take can be authorized by CDFW and the species must be fully avoided to comply with California Fish and Game Code section 2511. A-2

Consistent with CEQA Guidelines, section 15380, the status of the California condor as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (Fish & G. Code, § 2050 *et seq.*) and as a Fully Protected species (Fish & G. Code § 3511) qualifies it as an endangered, rare, or threatened species under CEQA.

If condor use of the area increases beyond two different sightings per year, consultation with CDFW and the USFWS would be warranted to discuss minimization measures necessary to ensure no take of condor occurs. A-2 (Cont.)

If at any time during the Project a California condor is found dead or injured, the Project operator shall immediately contact CDFW and USFWS by email at: R4CESA@wildlife.ca.gov for further direction.

San Joaquin Kit Fox (SJKF)

SJKF occurrences have previously been documented within the proposed Project boundary (CDFW 2022). The Project has the potential to temporarily disturb and permanently alter suitable habitat for SJKF and directly impact individuals if present during construction and other activities. A-3

SJKF den in a variety of areas such as grassland, agricultural and fallow/ruderal habitat, and dry stream channels, and their populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). The Project site is situated in a seismically active geologic province. Soil disturbance activities associated with individual Project elements could increase soil erosion or affect soil stability. The stability of the expanded landfill could be affected by seismic activities or soil instability. SJKF may be attracted to Project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in grassland, fallow and agricultural fields and utilize stream channels as dispersal corridors. Santa Ana Creek is approximately 1.1 miles northwest of the Project site. As a result, there is potential for SJKF to occupy suitable habitat in the vicinity of the landfill area.

Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project vicinity contains suitable habitat including grassland and a stream channel which could be utilized as a dispersal corridor. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

CDFW recommends having qualified biologists conduct a habitat assessment for SJKF followed by presence/absence surveys of the Project area along with a 500-foot buffer as part of the biological technical studies conducted in support of the CEQA document to detect SJKF and their sign. CDFW also recommends following the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011).

SJKF detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to

ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

California Tiger Salamander (CTS)

CTS are known to occur in the vicinity of the Project area (CDFW 2022). Review of aerial imagery indicates the presence of several wetted/pond features in the Project's vicinity that have the potential to support breeding CTS. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS. A-4

Google aerial imagery shows that the proposed Project site and vicinity has upland habitat along with potential breeding habitat. There is a pond approximately 0.87mile northeast of the Project site, immediately south of Santa Ana Creek, and another ponded area approximately 1mile southwest that could provide breeding habitat. Potential ground- and vegetation-disturbing activities associated with Project activities could potentially include: collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal. Given the presence of suitable habitat potentially within, and adjacent to the Project site, ground-disturbing activities have the potential to significantly impact local populations of CTS.

CDFW recommends that a qualified biologist conduct a habitat assessment and protocol-level surveys for CTS as part of the biological technical studies conducted in support of the CEQA document and in accordance with the USFWS "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

If CTS protocol-level surveys as described above are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both

upland burrow and wetland/pond breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the Project site and obtain from CDFW an ITP in accordance with Fish and Game Code section 2081 subdivision (b).

A-4 (Cont.)

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided as described in Mitigation Measure 5, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through the acquisition of an ITP issued by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b). As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

Tri-colored Blackbird (TRBL)

TRBL occurrences have been documented near the Project site (CDFW 2022). Per CNDDB records, there was an occurrence of TRBL observed immediately south of the Project site, and another occurrence approximately 0.88mile northeast. TRBL colonies require suitable nesting habitat, nearby freshwater, and nearby foraging habitat including semi-natural grasslands, agricultural croplands or alkali scrub (Beedy et al. 2017). Habitat surrounding the Project area may provide suitable foraging habitat for TRBL and the ponded areas near the Project site may be suitable nesting habitat.

A-5

CDFW recommends that Project activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified wildlife biologist conduct a habitat assessment and protocol survey for nesting TRBL as part of the biological technical studies conducted in support of the CEQA document to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts. If potential habitat is identified, CDFW also recommends that surveys for nesting TRBL also occur no more than 10 days prior to the start of Project implementation.

If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agriculture Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason, a previously identified colony should be reassessed to determine the extent of the breeding colony within 10 days for Project initiation.

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities.

A-5 (Cont.)

Swainson's Hawk (SWHA)

SWHA have been observed in the vicinity of the Project site in 2019 and 2020 (CNDDB, 2022). There is a potential that SWHA could nest near the Project site as there are trees that may support nesting just north of Project limits per Project maps and Google aerial photography. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

A-6

SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). The Project as proposed will involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment, significantly impacting local nesting SWHA. To evaluate potential impacts, CDFW recommends that a qualified wildlife biologist conduct a habitat assessment and protocol surveys for nesting SWHA as part of the biological technical studies conducted in support of the CEQA document and following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to project implementation. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

If ground-disturbing Project activities are to take place during the normal SWHAbreeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. CDFW recommends a minimum no-disturbance buffer of ½-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

CDFW recommends compensation for the loss of SWHA foraging habitat to reduce impacts to SWHA foraging habitat to less than significant based on CDFW's Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (CDFG, 1994), which recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites and the amount of habitat compensation is dependent on nest proximity. In addition to fee title acquisition or conservation easement recorded on

property with suitable grassland habitat features, mitigation may occur by the purchase of conservation or suitable agricultural easements. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Vineyards, orchards, cotton fields, and other dense vegetation do not provide adequate foraging habitat

A-6 (Cont.)

CDFW recommends that in the event an active SWHA nest is detected during surveys and the ½-mile no-disturbance buffer around the nest cannot feasibly be implemented, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

California Red-Legged Frog (CRLF)

A-7

CRLF are known to occur within and adjacent to the Project area (CNDDB 2022). California red-legged frog habitat includes nearly any area within 1-2 miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and even, man-made structures (i.e. culverts, livestock troughs, spring-boxes, abandoned sheds) (USFWS 2017). Along with the pond within the Project limits, aerial imagery indicates that Santa Ana Creek and a small pond are present approximately 0.60mile north, which could serve as potential habitat to CRLF.

If suitable habitat is present within the Project site and adjoining area, CDFW recommends that a qualified biologist conduct a habitat assessment and protocol surveys for CRLF as part of the biological technical studies conducted in support of the CEQA document and, regardless of the results of the initial surveys, repeated within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS 2005) to determine if CRLF are within or adjacent to individual project sites.

If any CRLF are found during the initial protocol surveys conducted as part of the biological technical studies, the preconstruction surveys, or at any time during construction CDFW recommends that CDFW be contacted to discuss a relocation plan for CRLF. If CRLF are found at any time during construction, CDFW recommends that construction cease immediately and that CDFW be contacted to discuss a relocation plan for CRLF.

CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 through March 31). If ground-disturbing activities must take place between November 1 and

March 31, CDFW recommends that a qualified biologist monitor construction activity daily.

American Badger (AMBA)

There is suitable grassland habitat for AMBA in and adjacent to the Project vicinity (CDFW 2022). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project area has the potential to impact AMBA. A-8

Habitat loss is a primary threat to AMBA (Gittleman et al. 2001). The Project has the expectation to expand, resulting in 388.05-acres of land conversion and potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of AMBA.

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for AMBA as part of the biological technical studies conducted in support of the CEQA document and then repeat the focused surveys, regardless of the initial results, ten days prior to Project implementation.

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

Western Spadefoot (WESP)

WESP have been observed just east of the landfill along John Smith Road. The sighting is within Project boundaries. Additional WESP are known to occur in the area (CDFW 2022). There are several ponded areas and Santa Ana Creek in and near the Project area. Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include; collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. A-9

Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and breeding habitat (i.e., vernal pools/ponds and the seasonal creek listed previously). As a result, ground-disturbing activities associated with development/enlargement of the Project site have the potential to significantly impact local populations of this species.

CDFW recommends that a qualified biologist conduct focused surveys for WESP as part of the biological technical studies conducted in support of the CEQA document and then repeat the focused surveys, regardless of the initial results, ten days prior to Project implementation. A-9 (Cont.)

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

San Joaquin Coachwhip (SJCW)

San Joaquin coachwhip can inhabit grassland and upland scrub habitats (Thomson et al. 2016) and have been documented to occur in the vicinity of the Project site, which supports requisite habitat elements for these species (CDFW 2022). A-10

Habitat loss threatens this species (Thomson et al. 2016). Ground- and vegetation-disturbing activities associated with development of the Project have the potential to significantly impact local populations of these species. CDFW recommends that a qualified biologist conduct focused surveys for SJCW as part of the biological technical studies conducted in support of the CEQA document and then repeat the focused surveys, regardless of the initial results, ten days prior to Project implementation.

Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around the entrances of burrows that can provide refuge for reptiles.

Burrowing Owl (BUOW)

BUOW have been observed approximately 0.18-mile north of the Project site (CNDDB 2022). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery shows that the Project site is predominately composed of annual grassland. Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. A-11

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys for BUOW as part of the biological technical studies conducted in support of the CEQA document and then repeat the focused surveys, regardless of the initial results, ten days prior to Project implementation. Surveys would

follow the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

A-11 (Cont.)

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

Western Pond Turtle (WPT)

WPT have been observed approximately 0.47-mile south and approximately 0.59-mile north of the Project area per CNDDB records. WPT are known to nest in the spring or early summer within 100 meters (approximately 0.06-mile) of a water body, although nest sites as far away as 500 meters (approximately 0.31-mile) have also been reported (Thomson et al. 2016).

A-12

CDFW recommends that a qualified biologist conduct focused surveys for WPT ten days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched. If any WPT are discovered at the site immediately prior to or during Project activities, CDFW recommends they be allowed to move out of the area on their own. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

A-12 (Cont.)

II. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 1 through September 15), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

A-13

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project sites to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife

biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, San Joaquin kit fox, California tiger salamander and California red-legged frog. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities. A-14

Waters of the State and U.S.: Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize watercourses in the Project area include the following: increased sediment input from road or structure runoff; construction-related activity runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement through the area. The Regional Water Quality Control Board and United States Army Corps of Engineers (USACE) also have jurisdiction regarding discharge and pollution to Waters of the State. A-15

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the project's CEQA document be used to develop and modify the project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources should be mitigated to reduce impacts to a less than significant level, if feasible. A-16

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). Cumulative impacts should be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and should be focused specifically on the resource, not the project. An appropriate resource study area should be identified and utilized for this analysis. CDFW staff is available for A-17

consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals. A-18

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). A-19

CDFW appreciates the opportunity to comment on the Project to assist the City of Merced in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...
Julie A. Vance
Regional Manager

LITERATURE CITED

CDFW. 2022. Biogeographic Information and Observation System (BIOS). https://www.wildlife.ca.gov/Data/BIOS. Accessed November 18, 2022.

SJKF Literature Citations

Cypher and Frost 1999. Condition of San Joaquin Kit Foxes in Urban and Exurban Habitats. The Journal of Wildlife Management, July 1999.

Cypher, B. L., S. E. Phillips, P. A. Kelly, 2013. Quantity and distribution of suitable habitat for endangered San Joaquin kit foxes: conservation implications. Canid Biology and Conservation 16(7): 25–31.

USFWS. 2011. Standard recommendations for the protection of the San Joaquin kit fox prior to or during ground disturbance. United States Fish and Wildlife Service, January 2011.

CTS Literature Citations

USFWS, 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, October 2003.

TRBL Literature Citations

Beedy, E. C., W. J. Hamilton III, R. J. Meese, D. A. Airola, and P. Pyle. 2017. Tricolored Blackbird (*Agelaius tricolor*), version 3.0. *in* The birds of North America. P. G. Rodewald (Ed.). Cornell Lab of Ornithology, Ithaca, New York, USA. https://doi.org/10.2173/bna.tribla.03

CDFW. 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.

SWHA Literature Citations

CDFW. 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*). California Department of Fish and Wildlife. November 8, 1994.

CDFW. 2016. Five Year Status Review for Swainson's Hawk (*Buteo swainsoni*). California Department of Fish and Wildlife. April 11, 2016.

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.

CRLF Literature Citations

USFWS. 2005. Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog March 2005. 26 pp.

USFWS. 2017. Species Account for California Red-legged frog. March 2017. 1 pp.

AMBA Literature Citations

Gittleman, J. L., S. M. Funk, D. MacDonald, and R. K. Wayne, 2001. Carnivore conservation. Cambridge University Press, Cambridge, United Kingdom.

Zeiner, D. C., W. F. Laudenslayer, Jr, K. E. Mayer, and M. White. 1990. California's Wildlife Volume I-III. California Department of Fish and Game, editor. Sacramento, CA, USA.

WESP Literature Citations

Thomson, R. C., A. N. Wright, and H. Bradley Shaffer, 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press

SJCW Literature Citation

Thomson, R. C., A. N. Wright, and H. Bradley Shaffer, 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

BUOW Literature Citations

CBOC. 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.

CDFG. 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.

WPT Literature Citations

Thomson, R. C., A. N. Wright, and H. Bradley Shaffer, 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

A-1 The commenter identifies several species that are listed under the California Endangered Species Act or are species of special concern. These species are all identified and addressed in Chapter 4.6, Biological Resources, of the Draft EIR.

A-2 The commenter states that there are recent observations of California condor in the vicinity of the project site, as reported in the CNDDB (2022). The commenter states that if condor use of the area increases beyond two different sightings per year, consultation with CDFW and the USFWS would be warranted. The commenter also states that if at any time during the project a condor is found dead or injured, the project operator shall immediately contact CDFW and USFWS by email.

A review of the CNDDB conducted in December 2022 did not identify any reported occurrences of this species in the vicinity of the project site. Presumably, the condor records to which the commenter references are not publicly available on the CNDDB database. However, as stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a federal Endangered Species Act Section 10 Permit from the U.S. Fish and Wildlife Service and a State Endangered Species Act Section 2081 Incidental Take Permit from the California Department of Fish and Wildlife. Although these permits would not specifically authorize take of condors, the project applicant would be required to consult with these agencies during the permitting process to ensure project operations do not adversely affect this species. This would include the establishment of applicable reporting requirements for any dead or injured condors identified by project personnel at or near the project site, consistent with the commenter's statement. The project applicant is in the process of applying for an Incidental Take Permit.

A-3 The commenter states that San Joaquin kit fox could occur on the project site and that project activities could temporarily disturb and permanently alter suitable habitat and individuals. This is consistent with the conclusions of the Draft EIR, as described under Impact 4.6-9 on page 4.6-37, which acknowledges that although San Joaquin kit fox are likely rare in the area, they could disperse through the project site. The Draft EIR concludes on page 4.6-37 that the project site provides suitable denning habitat and prey resources for San Joaquin kit fox and assumes project impacts on this species would be significant.

The commenter recommends that a habitat assessment and surveys for San Joaquin kit fox be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of San Joaquin kit fox habitat and based on the results of the assessment, the Draft EIR assumed presence of San Joaquin kit fox on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Mitigation Measure 4.6-9 on page 4.6-34 of the Draft EIR requires preconstruction surveys before initial land clearing/vegetation removal activities. If potential or known dens for San Joaquin kit fox are found during these surveys, exclusion zones will be established and maintained as directed by a qualified biologist and meeting the minimum standards in the Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox (USFWS 2011), or the most current Standardized Recommendations at the time exclusion zones are established. These measures are consistent with the commenter's recommendations.

The commenter states that San Joaquin kit fox detection warrants consultation with CDFW to discuss take avoidance, and if avoidance is not feasible, to acquire an Incidental Take Permit. As stated on page 3-33

of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from CDFW. Also, the project applicant would be required to consult with CDFW during the permitting process and is in the process of applying for an Incidental Take Permit.

A-4 The commenter states that California tiger salamander could occur on the project site and that project activities could temporarily disturb and permanently alter suitable habitat and individuals. The commenter further states that ground-disturbing activities have the potential to significantly impact local populations of California tiger salamander. This statement is consistent with the conclusions of the Draft EIR, which acknowledges under Impact 4.6-1 on page 4.6-28 that the project would eliminate upland and aquatic habitat for the species and could result in injury and mortality to individuals. The Draft EIR concludes on page 4.6-28 that the proposed project would result in a significant impact on California tiger salamander.

The commenter recommends that a habitat assessment and surveys for California tiger salamander be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of California tiger salamander breeding and refugia habitat and based on the results of the assessment, the Draft EIR assumed presence of California tiger salamander on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Mitigation Measure 4.6-1 includes conducting California tiger salamander surveys in advance of ground disturbance and establishing avoidance buffers, which are consistent with the commenter's recommendations. Please also see Responses to Comments 79-5 and 79-6.

The commenter recommends specific mitigation measures but states that alternatively, the project applicant can assume presence of California tiger salamander and obtain an Incidental Take Permit from CDFW. As stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from CDFW. Also, the project applicant would be required to consult with CDFW during the permitting process and is in the process of applying for an Incidental Take Permit.

A-5 The commenter states that tri-colored blackbird could occur near the project site and recommends that project activities be timed to avoid the breeding season (February 1 – September 15) and/or that a minimum 300-foot no-disturbance buffer be established around any nesting colony documented during preconstruction surveys. The commenter recommends that a habitat assessment and surveys for tri-colored blackbird be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of tri-colored blackbird breeding and foraging habitat and based on the results of the assessment, the Draft EIR concluded that the project site does not support suitable breeding habitat for this species although it may provide forage habitat. However, other properties comprising thousands of acres in the project vicinity also provide foraging habitat for this species; thus, the Draft EIR concluded that the incremental disturbance of approximately 387.5 acres of annual grassland over a 50-to-100-year period associated with project implementation would not appreciably reduce foraging opportunities for this species in the area. Over time, much of the disturbed grassland would revert to grassland as interim and final cover is applied to the filled modules and revegetation occurs. Therefore, the Draft EIR concluded that implementation of the proposed project would not be expected to reduce the number or restrict the range of this species or interfere substantially with their movement, and the loss of foraging habitat on the project site would not have a substantial adverse effect overall on the population of the species. Please also see Responses to Comments 79-4 and 79-15.

Additionally, Mitigation Measure 4.6-6 requires that pre-construction surveys be conducted for nesting birds and that protective buffers be established if they are discovered. This mitigation requirement would

apply to tri-colored blackbird. The commenter states that in the event that a tri-colored blackbird nesting colony is detected during surveys, consultation with CDFW is warranted, or if avoidance is not feasible, the applicant should acquire an Incidental Take Permit. As stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from CDFW. Also, the project applicant would be required to consult with CDFW during the permitting process and is in the process of applying for an Incidental Take Permit, consistent with the commenter's suggestion. Please see Response to Comment 79-17 for refinements to Mitigation Measure 4.6-6 related to buffer distances.

A-6 The commenter states that there is a potential that Swainson's hawks could nest near the project site and that potentially significant impacts may result from project activities. The commenter's statement is consistent with Impact 4.6-6 of the Draft EIR, which concludes that project implementation would result in potentially significant impacts on raptors, which include Swainson's hawks.

The commenter recommends that a habitat assessment and surveys for Swainson's hawks be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of raptors, including Swainson's hawks, in the project vicinity and based on the results of the assessment, the Draft EIR assumed raptors may be present. Therefore, conducting additional surveys to determine whether Swainson's hawks are present is unnecessary during the CEQA process. Mitigation Measure 4.6-6 includes conducting raptor surveys in advance of ground disturbance and establishing avoidance buffers, which are consistent with the commenter's recommendations.

The commenter further recommends compensation for the loss of Swainson's hawk foraging habitat. Mitigation Measure 4.6-1(d) includes establishing compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. Compensation may be in the form of either the purchase of habitat credits from a USFWS- and CDFW-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan reviewed and determined adequate to maintain suitable habitat by a qualified biologist) of suitable on- and/or off-site habitat. Although Mitigation Measure 4.6-1(d) was written to address California tiger salamander; as clarified in the measure, it is also intended to be applied to mitigate other species impacts, including Swainson's hawk.

The commenter states that in the event that an active Swainson's hawk nest is detected during surveys and a no-disturbance buffer cannot feasibly be implemented, consultation with CDFW is warranted to discuss how to avoid take. The commenter further states that if take cannot be avoided, take authorization through the issuance of an Incidental Take Permit is necessary. As stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a State Endangered Species Act Section 2081 Incidental Take Permit from CDFW. Also, the project applicant would be required to consult with CDFW during the permitting process and is in the process of applying for an Incidental Take Permit, consistent with the commenter's suggestion.

A-7 The commenter states that California red-legged frog could occur on the project site and that potentially significant impacts may result from project activities. The commenter's statement is consistent with Impact 4.6-2 of the Draft EIR, which concludes that although it is unlikely that the California red-legged frog occurs in the study area due to the marginal habitat quality on the project site, the project's potential impacts on this species would be considered significant.

The commenter recommends that a habitat assessment and surveys for California red-legged frog be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of California red-legged frog habitat and based on the results of the assessment, the Draft EIR assumed California red-legged frog could be present on the

project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Mitigation Measures 4.6-1 and 4.6-2 include conducting California red-legged frog surveys in advance of ground disturbance, monitoring construction activity by a qualified biologist, implementing detailed avoidance measures, and providing compensation in the form of either the purchase of habitat credits from a USFWS-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan) of suitable on- and/or off-site habitat. These measures are consistent with the commenter's recommendations. However, to provide clarity regarding survey timing for California red-legged frogs, Mitigation Measure 4.6-2 on page 4.6-31 of the Draft EIR is hereby revised as follows:

> The project shall conduct the avoidance and minimization measures identified in Mitigation Measures 4.6-1(a) and 4.6-1(b) above prior to initial land clearing/vegetation removal activities associated with the construction of project components. <u>This includes conducting surveys 48 hours prior to the commencement of work (i.e., two-night surveys immediately prior to construction or as otherwise required by the U.S. Fish and Wildlife Service, in accordance with the U.S. Fish and Wildlife Service Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog (USFWS 2005) to determine if CRLF are within or adjacent to the project site.</u> If CRLF are found during the preconstruction survey or in the biological monitoring during land clearing/vegetation removal, as identified in Mitigation Measure 4.6-1(c), the biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own. If any life stage of CRLF is found in the land clearing/vegetation removal work area, construction activities shall cease within 100 feet of the animal and USFWS shall be notified within 48 hours. Construction activities will not be allowed within 100 feet of the animal. The biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own unless handling is approved in consultation with USFWS and such handling is done by a USFWS-approved biologist with appropriate handling permits to move the animal out of the work area to a USFWS-approved relocation site. If CRLF are found within the land clearing/vegetation removal work area, the project shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio<u>, as identified in Mitigation Measure 4.6-1(d)</u>. The County, in consultation with a qualified biologist, shall determine the total acreage of permanent loss of suitable habitat. Compensation may be in the form of either the purchase of habitat credits from a USFWS-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan) of suitable on- and/or off-site habitat. <u>Initial ground-disturbing activities shall be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 through March 31). If initial ground-disturbing activities must take place between November 1 and March 31, a qualified biologist shall monitor the construction activities daily. In addition, if recommended or required by regulatory agencies or a qualified biologist as provided for in the mitigation measures herein, the applicant shall install and maintain exclusion fencing in the locations and for the duration recommended or required by a regulatory agency or qualified biologist.</u>

A-8 The commenter states that American badger could occur on the project site and that project activities could convert and fragment badger habitat. The commenter's statement is consistent with Impact 4.6-8 of the Draft EIR, which concludes that implementation of the proposed project could impact this species if it is present in dens onsite or in the project vicinity during construction or during ongoing landfill operations and this impact would be significant.

The commenter recommends that focused surveys for American badger be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to

determine the existence and extent of American badger and based on the results of the assessment, the Draft EIR assumed this species could be present on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Consistent with the commenter's recommendation, Mitigation Measure 4.6-8 includes conducting surveys in advance of ground disturbance and if observed, establishing avoidance buffers around dens until individuals occupying the dens have dispersed. Please see Response to Comment 79-21 for refinements to Mitigation Measure 4.6-8.

A-9 The commenter states that western spadefoot have been observed just east of the landfill along John Smith Road and that the project's ground disturbing activities have the potential to significantly impact local populations of this species. The commenter's statement is consistent with Impact 4.6-4 of the Draft EIR, which concludes that the construction of project components would disturb and remove habitat for this species and could reduce the number or restrict the range of this species or interfere with their movement. The Draft EIR concluded this impact would be significant.

The commenter recommends that focused surveys for western spadefoot be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of western spadefoot habitat and based on the results of the assessment, the Draft EIR assumed this species could be present on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Consistent with the commenter's recommendation, Mitigation Measure 4.6-4 includes conducting surveys 10 days in advance of ground disturbance and if observed, avoiding land clearing/vegetation removal within the suitable habitat area, if feasible with respect to module design. If land clearing/vegetation removal is required within the suitable habitat, this mitigation requires that activities be monitored by a qualified biologist. The qualified biologist will have the authority to halt construction activities if a western spadefoot is observed within the work area, and the biologist may relocate animals to suitable habitats outside the area in consultation with CDFW. These measures are consistent with the commenter's recommendations. Please see Responses to Comments 79-13 and 79-14 for refinements to Mitigation Measure 4.6-4.

A-10 The commenter states that San Joaquin coachwhip can inhabit grassland and upland scrub habitats and have been documented to occur in the project vicinity. The commenter further states that the project's ground- and vegetation-disturbing activities have the potential to significantly impact local populations of this species. The commenter's statement is consistent with Impact 4.6-3 of the Draft EIR, which concludes that the construction of project components could reduce the number or restrict the range of this species. The Draft EIR concluded this impact would be significant.

The commenter recommends that focused surveys for San Joaquin coachwhip be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of San Joaquin coachwhip habitat and based on the results of the assessment, the Draft EIR assumed this species could be present on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Consistent with the commenter's recommendation, Mitigation Measure 4.6-3 includes conducting surveys in advance of ground disturbance and if observed, a qualified biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own unless handling is approved in a letter from CDFW authorizing this activity and such handling is done by a qualified biologist who is CDFW-approved to trap and move the animal(s) to a CDFW-approved relocation area. Construction activities will not be allowed within 100 feet of the animal. These measures are consistent with the commenter's

recommendations and the buffer distance of 100 feet is more restrictive than the 50-foot recommendation made by the commenter. Please also see Response to Comment 79-10.

A-11 The commenter states that burrowing owl have been observed approximately 0.18 mile north of the project site and that this species could be exposed to potentially significant direct impacts. The commenter's statement is consistent with Impact 4.6-6 of the Draft EIR, which concludes that the construction of project components could affect suitable habitat and could result in loss of occupied burrows and/or nests. This could cause injury or mortality of burrowing owls. The Draft EIR concluded this impact would be significant.

The commenter recommends that surveys for burrowing owl be conducted in support of the CEQA document. In preparing the Draft EIR, a survey and habitat assessment were conducted to determine the existence and extent of burrowing owl habitat and based on the results of the assessment, the Draft EIR assumed this species could be present on the project site. Therefore, conducting additional surveys to determine species presence is unnecessary during the CEQA process.

Consistent with the commenter's recommendation, Mitigation Measure 4.6-6 includes conducting surveys in advance of ground disturbance and if any active bird nests are documented in the area that would be directly disturbed by initial land clearing/vegetation removal activities or active nests are documented within 500 feet, protective buffers shall be established and implemented until the nests are no longer active, consistent with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). The mitigation requires that a qualified biologist monitor the nests during these activities to confirm effectiveness of the buffers. These measures are consistent with the commenter's recommendations.

The commenter states that exclusion is considered a significant impact. However, in addition to exclusion, the mitigation measure includes the permanent conservation of habitat (with a corresponding conservation easement and long-term management plan) or purchase of credits from a CDFW-approved species conservation bank, at a minimum of a 1:1 ratio. The implementation of this habitat conservation for this species would ensure that the impact is reduced to a less-than-significant level.

Please see Responses to Comments 79-16 and 79-17 for refinements to Mitigation Measure 4.6-6.

A-12 The commenter states that there are two observations of western pond turtle within 0.6 miles of the project site, as reported in the CNDDB (2022). The commenter states that western pond turtle could occur on the project site and recommends focused surveys for this species in advance of ground disturbance.

A review of the CNDDB conducted in March 2023 did not identify any reported occurrences of this species in the vicinity of the project site. The closest two CNDDB occurrences were approximately 1.5 miles north and 6 miles south of the project area. Presumably, the pond turtle records to which the commenter references are not publicly available on the CNDDB database.

There are several permanent aquatic features consisting of constructed stock ponds and a stream located approximately 0.4 mile northwest of the project site. The commenter suggested that pond turtles can nest approximately 0.3 mile away from their water source. If the CNDDB occurrences mentioned by the commenter are confirmed to be present in the known permanent aquatic features described above, then the features are far enough away for pond turtles to not be present within the project site during their time of nesting.

Despite the occurrences identified by the commenter and other CNDDB occurrences in the greater vicinity, no suitable permanent aquatic habitat was identified during site surveys for this species on the project site or within more than 1 mile of the site. While there was one stock pond identified on the project site, it is seasonally inundated and only wetted during rain events and, therefore, less likely to be used by pond turtle. There is also a reasonable level of disturbance due to the presence of cattle on the

site, which may limit suitability for pond turtle. Additionally, no pond turtles were observed during previous surveys of this pond during the wet season or on the project site.

Therefore, the Draft EIR concluded that there is no potential for this species to occur on the project site and the project would have no impact on this species. Because this species is not expected to be present on the project site, there would not be the need to move these species out of harm's way and to a suitable location with project implementation.

A-13 The commenter recommends that project implementation occur outside the nesting bird season, that pre-activity surveys for birds occur no more than 10 days prior to construction start, and that either nests be continuously monitored during construction or minimum no-disturbance buffers of 250 feet (around non-listed bird nests) and 500 feet (around non-listed raptors) be established. These recommendations are consistent with Mitigation Measure 4.6-6. Please see Response to Comment 79-17 for refinements to Mitigation Measure 4.6-6.

A-14 The commenter recommends consulting with USFWS on impacts to federally listed species. As stated on page 3-33 of Chapter 3, Project Description, of the Draft EIR, the project applicant would be required to secure a federal Endangered Species Act Section 10 Permit from the USFWS. Therefore, the project applicant would be required to consult with the USFWS regarding impacts to federally listed species, as recommended by the commenter.

A-15 The commenter states that without mitigation, the project could result in pollution of Waters of the State. The commenter is referred to Mitigation Measure 4.6-1(a) on page 4.6-28 of the Draft EIR, which requires the implementation of erosion control measures to reduce sedimentation in aquatic habitat, which includes Waters of the State. Also, as stated on page 4.8-25 in Section 4.8, Hydrology and Water Quality, the proposed project would be subject to regulations applicable to the discharge of sediments and pollutants from the project site. Implementation of the proposed project consistent with the regulatory requirements described on page 4.8-25 would minimize the potential for the discharge of site soils and pollutants associated with site operations into Waters of the State.

A-16 The commenter recommends that the information and results obtained from biological technical surveys, studies, and analysis conducted in support of the Draft EIR be used to develop and modify the projects alternatives. Under CEQA Guidelines section 15126.6, the alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project" while also avoiding or substantially lessening significant impacts. One of the project objectives includes minimizing any adverse environmental impacts of landfill operations. In developing the project alternatives, this objective was taken into consideration, including related to avoiding the biological resource impacts anticipated with project implementation. This included identifying alternatives with smaller disturbance footprints (i.e., Alternative 1B, Alternative 2B, and Alternative 3) to minimize the loss of habitat, identifying a Southern Landfill Alternative to avoid any landfill expansion on the lands north of John Smith Road, and identifying a Transfer Station Alternative to avoid any habitat disturbance on the project site. For a detailed discussion of these and several other project alternatives, the commenter is referred to Chapter 6, Alternatives, of the Draft EIR.

A-17 The commenter recommends that a cumulative impact analysis be conducted for all biological resources that will be impacted by project implementation. The Draft EIR provided an analysis of overall cumulative impacts of the project taken together with other past, present, and probable future projects producing related impacts, as required by Section 15130 of the State CEQA Guidelines. The goal of this analysis was to determine whether the proposed project would cause a "cumulatively considerable" (and thus significant) incremental contribution to impacts of other projects with overlapping impacts, such that those "impacts would be cumulatively significant, or would contribute in a 'cumulatively considerable'

manner to existing significant cumulative impacts from those other projects." (See State CEQA Guidelines Sections 15130(a)-(b), Section 15355(b), Section 15064(h), Section 15065(c).)

Pursuant to Section 15130 of the State CEQA Guidelines, "[t]he discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impacts to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact."

For a discussion of the project's cumulative biological resource impacts, the commenter is referred to page 5-5 of Chapter 5, Cumulative and Growth Inducing Impacts, of the Draft EIR. The commenter is also referred to the 2035 General Plan Final EIR, which summarized the cumulative biological resource impacts anticipated with implementation of the 2035 General Plan.

A-18 The commenter requests that biological information developed in the EIR be reported to the California Natural Diversity Database, so that it may be used to make subsequent environmental determinations. The biological information developed during preparation of the Draft EIR has been incorporated into the California Natural Diversity Database, as requested by the commenter.

A-19 The commenter identifies the required fees payable upon filing of the Notice of Determination. These fees are noted and will be paid by the project applicant upon the filing of the Notice of Determination.

3 CORRECTIONS AND REVISIONS TO THE DRAFT EIR

This section contains changes to the text of the Draft EIR that are being made based upon agency and public comments received and responded to in Chapter 2 of this Final EIR. The changes are presented in the order in which they appear in the Draft EIR and are identified by Draft EIR page number. Text deletions are shown in strikeout (~~strikeout~~) and additions are shown in underline (underline).

Page 3-1 of the Draft EIR, the fourth paragraph is hereby revised as follows:

> The 388.05-acre expansion property is located on ~~portions of three~~ two parcels (APNs ~~025-190-011, 025-190-027, and 025-190-038~~025-190-078 and 025-190-079). The County also owns 101.3 acres directly south of the JSRL and John Smith Road (APN 025-190-075) (Figure 3-3). A 30-acre portion of this 101.3-acre County-owned property was previously considered for use as a resource recovery facility. The County approved a Resource Recovery Park District zoning overlay, but has not approved a project.

Page 3-16 of the Draft EIR, the seventh bullet is hereby revised as follows:

> The change from the current 923 tons per day to the projected 2,123 tons per day was phased in over 15 years. Over that 15 years, in-County tonnage would increase from 191 tons per day to 215 tons per day, and out of county waste would increase from 732 to ~~1,900~~ 1,908 tons per day assuming that old waste disposal contracts expire an average every 3 years and the out-of-County waste would increase in roughly 234-ton steps every three years.

Page 3-31 of the Draft EIR, the paragraph in Section 3.5.13 is hereby revised as follows:

> To offset biological impacts associated with the proposed landfill expansion, 1:1 mitigation of suitable habitat is required, and an approximately 70-acre area of the 101.3-acre County-owned property located south of John Smith Road is likely to be used toward this required habitat mitigation (Figure 3-3). The use of these lands for habitat mitigation would include establishing a conservation easement with a management plan that would ensure they are preserved in their current state and protected in perpetuity. No grading or construction activities would be anticipated with the use of this property for mitigation purposes. In addition, a minimum, mowed 30-foot-wide buffer area shall be established on the edges of the 70-acre property, consistent with CalFire wildland fire buffer recommendations and to create a physical separation between the 30-acre property and the remainder of the 70-acre mitigation property. This buffer may be increased as determined by CDFW and USFWS in their permitting of the use of the 70 acres as mitigation for the proposed expansion project.

Page 4.2-12 of the Draft EIR, Mitigation Measure 4.2-3 is hereby revised as follows:

> In order to reduce roadway hazards to a less-than-significant level, the measures set forth below shall be implemented. Generally, and notwithstanding any specific timing provisions set forth below, the following measures shall be implemented on a schedule to be specified by the County, and agreed by the County and the applicant, such that the measures will be constructed or installed prior to the occurrence of the impact requiring the mitigation. Also, such measures shall be implemented to the extent that existing public right-of-way is available for such measures (based on preliminary analysis such right of way does appear available, this will be confirmed in connection with specific design of the measures, and comparable and equally effective or superior revised mitigation shall be developed if there is any insufficiency of public right of way).
>
> - **John Smith Road/Project Entrance Intersection:** The applicant shall construct ~~(or ensure the construction of)~~ a left-turn lane at the proposed new project entrance on John Smith Road to provide

for left-turn access to the site that is a minimum of 70 feet in length before the new entrance is open for public use. Any required roadway right-of-way would be taken from the north side of the John Smith Road, generally within the boundaries of the project site. Additionally, the applicant shall install a stop sign for the landfill exit lane onto John Smith Road before the new entrance is open for public use. The applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. The applicant shall provide and maintain a minimum sight distance of 550 feet in both directions at the new landfill entrance, including regular maintenance and vegetation trimming on property that is either owned by the applicant or the County or is located within a public right-of-way, to ensure minimum sight distance. The project applicant shall apply for all necessary County permits for the new landfill entrance expansion described in Section 3.5.5 within two years, and the new landfill entrance expansion shall be constructed and open to the public within one year of issuance of the last required County permit for construction.

- **Fairview Road/John Smith Road Intersection**: Prior to the acceptance of out-of-County waste~~Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first~~, the applicant shall ~~construct (or ensure the construction of), the~~ restrip**e**~~ing of~~ the northbound left-turn pocket to St. Benedict Lane to accommodate a southbound left turn pocket on the Fairview Road approach to John Smith Road that it is a minimum of 105 feet in length. Any roadway widening that may be necessary to accommodate this larger southbound turn lane will occur within the existing right-of-way on the east side of Fairview Road. The applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative.

- **Fairview Road/McCloskey Road Intersection**: Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the applicant shall ~~construct (or ensure the construction of), the~~ relocat**e**~~ion of~~ the existing traffic light pole at the southwest corner of Fairview Road and McCloskey Road, so that it does not impede right turns at this intersection, and for the installation of guard railing around the existing utility pole and box. Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the applicant shall ~~also construct (or ensure the construction of) the~~ install~~ation of~~ ten feet of widened pavement at the southwest corner of Fairview Road and McCloskey Road to accommodate right turns from McCloskey Road onto Fairview Road. The applicant shall submit project plans for the intersection improvements to the County for approval prior to construction. The reconstruction shall occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial haul vehicles. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative.

- **Haul Route:** Prior to the acceptance of out-of-County waste, ~~Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first,~~ the applicant shall install ~~or ensure the installation of~~ truck route and speed limit signage along the commercial vehicle haul route consistent with the most current version of the Caltrans Manual on Uniform Traffic Control Devices.

Page 4.2-14 of the Draft EIR, Mitigation Measure 4.2-4 is hereby revised as follows:

Prior to ~~waste being placed in~~ or at the ~~first~~ same time as approval of the expansion ~~cell~~ project, the ~~applicant and~~ County shall ~~execute an agreement obligating the applicant to pay~~ adopt a fair share fee toward roadway ~~maintenance and~~ rehabilitation, repair, and reconstruction along the haul route for the life of the expansion project that is consistent with the San Benito County Landfill Expansion Road Impact Analysis ("Road Impact Analysis") (September 2023) prepared by Pavement Engineering Inc. and the applicant shall pay such adopted fair share fee for all tonnage in the expansion area in accordance with the

adopted fee program. The Board of Supervisors may elect, in its sole discretion, to allocate revenue it receives under the Landfill Operating Agreement to cover all or a portion of the applicant's fair share fee provided for herein. The tonnage accepted at the site shall be factored into the fair share fee so that an increase in waste tonnage deliveries to the site would result in a corresponding increase in ~~road maintenance funding for the County~~ rehabilitation, repair, and reconstruction funding for the County. In April of each year or at another time mutually agreed to by the County and applicant, provided that meetings occur at least once per year, the County and applicant shall meet to discuss the necessary rehabilitation, repairs, reconstruction, or maintenance for the haul route in that upcoming year. The County shall determine the necessary scope of work and prepare a written plan for the required work. However, for any "maintenance" work as defined under Public Contract Code section 22002, the County shall not use the fair share fees imposed and collected under this mitigation measure. The County shall timely obtain contracts for the work, including compliance with competitive bidding requirements under state law, if applicable to the work. If the County determines that road rehabilitation, repair, or reconstruction is not necessary in a particular year, the funds will continue to be reserved in a segregated account consistent with the Mitigation Fee Act, including the findings and accounting requirements therein.

Page 4.2-16 of the Draft EIR, Mitigation Measure 4.2-6 is hereby revised as follows:

Within three years of project approval or prior to exceeding 1,000 tons per day of waste for burial, whichever occurs first, the ~~The~~ applicant shall ensure that its fair share of funding is provided for the reconstruction of portions of Wright Road and McCloskey Road used for the proposed haul route. The applicant's fair share shall be established in ~~applicant and County will enter into a reimbursement agreement that will reimburse the applicant for reconstruction costs in excess of the applicant's fair share~~ the San Benito County Landfill Expansion Road Impact Analysis (September 2023) adopted by the Board of Supervisors prior to or at the same time as approval of the expansion project. The Board of Supervisors may elect, in its sole discretion, to allocate revenue it receives under the Landfill Operating Agreement to cover all or a portion of the applicant's fair share of funding provided for herein. This measure shall be implemented on a schedule to be specified by the County, and agreed by the County and the applicant, such that the reconstruction shall occur prior to use of the Wright Road and McCloskey Road haul route by out-of-County commercial vehicles. This mitigation would not be applicable for either the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, however, the fair share fee in Mitigation Measure 4.2-4 and implemented through the San Benito County Landfill Expansion Road Impact Analysis (September 2023) includes rehabilitation and reconstruction of the pavement on the selected haul route to accommodate the expansion project and applies to the South Fairview Road Haul Route Alternative or the Best Road Haul Route Alternative, if selected.

Page 4.4-22 of the Draft EIR, the first full paragraph is hereby revised as follows:

The baseline condition, as of 2021, includes an estimated collection efficiency of 80% at a total LFG flow rate of 625 cubic feet per minute measured at the landfill flare. Methane content of the LFG is approximately 38 percent as currently measured. This results in a total landfill methane generation rate of approximately ~~297~~ 238 cfm (625 cfm x 0.38), collection of ~~238~~ 190 cfm methane (238 cfm x 0.8), soil oxidation of approximately ~~6~~ 5 cfm ((238 cfm -190 cfm) x 10%) and fugitive methane emission of approximately ~~53~~ 42 cfm.

Page 4.4-22 of the Draft EIR, Table 4.4-2 is hereby revised as follows:

Table 4.4-2
Summary of LandGEM Model Results

Variable	Baseline	Proposed Project Peak[2, 3]	Difference

Year	2021	2071[2]	51
Assumed collection efficiency	80%	95%	15%
Total LFG generated, cfm at 50% methane	~~594~~ 446	2,447	~~1,853~~ 2,001
Total methane generated, cfm	~~297~~ 223	1,224	~~927~~, 1001
Methane flared, cfm	~~238~~ 180	1,162	~~924~~ 982
LFG flared, cfm @ 50% methane	~~475~~ 360	2,325	~~1,850~~ 1,965
Fugitive LFG, cfm @ 50% methane[1]	~~119~~ 86	122	~~3~~ 36
Methane oxidized, cfm	~~6~~ 5	6	~~0~~ 1
Fugitive methane, cfm	~~53~~ 41	56	~~3~~ 15

Notes:
1. Fugitive: Emitted through cap or into surrounding soil.
2. Filling will continue until 2086 but at a much lower rate with a resulting diminishing LFG generation rate.
3. Assumes 95% current collection efficiency and 10% fugitive methane oxidization in cap (unaffected by RNG facility implementation).

Page 4.4-39 of the Draft EIR, Mitigation Measure 4.4-1(a) is hereby revised as follows:

> a. Before the project produces approximately 550 cfm at approximately 50 percent methane (annual average) of recovered landfill gas, the RNG facility shall be fully operational. Any tube trailers associated with the RNG facility must be powered by RNG or another renewable fuel source (e.g., electric).

Page 4.4-40 of the Draft EIR, the following text is hereby added to the end of Mitigation Measure 4.4-1(e)(1):

> The project applicant shall coordinate with the District and, provided that existing infrastructure is sufficient to provide the needed power and is located at the site of any new charging stations, shall purchase and install (or provide funding for) four electric vehicle charging stations at District buildings, based on need and capacity of District parking lots at the time of mitigation. The charging stations required by this measure shall be Level II 220-volt charging stations.

Page 4.6-29 of the Draft EIR, the first sentence of Mitigation Measure 4.6-1(c) is hereby revised as follows:

> A qualified biologist shall conduct pre-construction biological surveys no more than ~~four weeks~~ 10 days prior to initial land clearing/vegetation removal activities and such surveys shall comply with the most current USFWS and/or CDFW survey methods in effect at the time of the survey.

Pages 4.6-29 and 4.6-30 of the Draft EIR, Mitigation Measure 4.6-1(d) is hereby revised as follows:

> The project sponsor shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio. The County, in consultation with a qualified biologist, shall determine the total acreage of permanent loss of suitable habitat. The County's determination shall be verified and approved by CDFW and/or USFWS, as applicable, and revised as necessary. Compensation may be in the form of either the purchase of habitat credits from a USFWS- and CDFW-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan reviewed and determined adequate to maintain suitable habitat by a qualified biologist) of suitable on- and/or off-site habitat. Evidence of compliance with these compensatory habitat mitigation requirements shall be required prior to land disturbance that would impact

special-species habitat. If off-site habitat is preserved with a conservation easement, the long-term management plan shall include:

- Identification of the responsibilities of the entities designated to hold and monitor the easement and to conduct long-term management activities;
- Description of the type, frequency and duration of land management activities;
- Requirements for the required diversity of plant species within the management plan area;
- Requirements for the amount of invasive species allowed within the management plan area;
- Identification of the number of required annual monitoring site visits by the qualified biologist;
- Requirements for infrastructure to minimize trespassing (e.g., fencing, no trespassing signage);
- Monitoring reporting and agency notification requirements; and
- Funding mechanisms and assurances from the applicant to ensure continued management of plan area.

Page 4.6-30 of the Draft EIR, Mitigation Measure 4.6-1(e) is hereby revised as follows:

~~If~~ Prior to initial land clearing/vegetation removal activities associated with the construction of project components ~~commences during the wet season and active dispersal period for CTS (generally between October 16 and May 14, depending on the precipitation year)~~, a qualified biologist shall conduct pre-construction biological surveys no more than ~~four weeks~~ 10 days prior to the construction and such surveys shall comply with the most current USFWS and/or CDFW survey methods in effect at the time of the survey. Potential CTS habitat will be surveyed by a qualified biologist to confirm no salamanders are moving above-ground, or taking refuge in burrow openings or under materials that could provide cover such as boards, scrap metal, woody debris, or other materials. The project shall also retain a qualified biologist to provide biological monitoring during initial land clearing and vegetation removal activities to monitor the removal of the top 12 inches of topsoil at all project locations. If any life stage of CTS is found in the land clearing/vegetation removal work area, construction activities shall cease within 100 feet of the animal and USFWS and CDFW shall be notified within 48 hours. Construction activities shall not be allowed within 100 feet of the animal. The biologist shall monitor the California tiger salamander to make sure the amphibian is not harmed and that it leaves the site on its own unless handling is approved in consultation with USFWS and CDFW and such handling is done by a USFWS- and CDFWapproved biologist with appropriate handling permits to move the animal out of the work area to a USFWS- and/or CDFW-approved relocation site.

Page 4.6-31 of the Draft EIR, Mitigation Measure 4.6-2 is hereby revised as follows:

The project shall conduct the avoidance and minimization measures identified in Mitigation Measures 4.6-1(a) and 4.6-1(b) above prior to initial land clearing/vegetation removal activities associated with the construction of project components. This includes conducting surveys 48 hours prior to the commencement of work (i.e., two-night surveys immediately prior to construction or as otherwise required by the U.S. Fish and Wildlife Service, in accordance with the U.S. Fish and Wildlife Service Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog (USFWS 2005) to determine if CRLF are within or adjacent to the project site. If CRLF are found during the preconstruction survey or in the biological monitoring during land clearing/vegetation removal, as identified in Mitigation Measure 4.6-1(c), the biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own. If any life stage of CRLF is found in the land clearing/vegetation removal work area, construction activities shall cease within 100 feet of the animal and USFWS shall be notified within 48 hours. Construction activities will not be allowed within 100 feet of the animal. The biologist shall monitor the animal(s) to make sure it is not harmed and that it leaves the site on its own unless handling is approved in consultation with USFWS and such handling is done by a USFWS-approved biologist with appropriate handling permits to move the animal out of the work area to a USFWS-approved relocation site. If CRLF are found within the land clearing/vegetation removal work area, the project shall provide compensatory habitat mitigation to offset the permanent loss of suitable habitat at a minimum of a 1:1 ratio, as identified in Mitigation Measure 4.6-1(d). The County, in consultation with a qualified biologist, shall determine the total acreage of permanent loss of suitable habitat. Compensation may be in the form of either the purchase of habitat credits from a USFWS-approved conservation bank or the permanent protection (through conservation easement) and management (including a long-term management plan) of suitable on- and/or off-site habitat. Initial ground-disturbing activities shall be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 through March 31). If initial ground-disturbing activities must take place between November 1 and March 31, a qualified biologist shall monitor the construction activities daily. In addition, if recommended or required by regulatory agencies or a qualified biologist as provided for in the mitigation measures herein, the applicant shall install and maintain exclusion fencing in the locations and for the duration recommended or required by a regulatory agency or qualified biologist.

Page 4.6-32 of the Draft EIR, Mitigation Measure 4.6-4 is hereby revised as follows:

Prior to initial land clearing/vegetation removal activities associated with the construction of project components, a qualified biologist shall evaluate the work area and vicinity (within 1,200 feet of the work area, as feasible and accessible) for the presence of suitable western spadefoot habitat (i.e., features that pond water for at least 3 weeks and lack predators, and terrestrial habitat within 1,200 feet of potentially suitable western spadefoot breeding habitat). The areas that are identified as suitable habitat for western spadefoot shall be surveyed during the wet season preceding ground disturbance by a qualified biologist. In addition, a survey shall be conducted of those same areas no more than ~~four weeks~~ 10 days prior to the disturbance. If this species is identified onsite, land clearing/vegetation removal within the suitable habitat will be avoided through the establishment of a 50-foot non-disturbance buffer around the identified burrows, if feasible. If land clearing/vegetation removal is required within the suitable habitat, activities will be monitored by a qualified biologist. The qualified biologist shall have the authority to halt construction activities if a western spadefoot is observed within the work area, and the biologist may relocate animals to suitable habitats outside the area in consultation with CDFW.

Page 4.6-33 of the Draft EIR, the texts following the summary of Impact 4.6-6 and Mitigation Measure 4.6-6 are hereby revised as follows:

Burrowing Owls

Although no burrowing owls have been identified within the study area, grasslands within the project site provide potentially suitable habitat for burrowing owls. ~~Raptors and other migratory birds also may nest in grasslands or the trees in the study area.~~ The construction of project components could affect suitable habitat and could result in loss of occupied burrows and/or nests. This could cause injury or mortality of burrowing owls ~~and raptors or other migratory birds~~, if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, these species could be displaced from active burrows or nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. These species could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied burrows or nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on these species.

Raptors (Including Swainson's Hawks)

Raptors (including Swainson's hawks) may nest in grasslands or the trees in the study area. The construction of project components could affect suitable habitat and could result in loss of occupied nests. This could cause injury or mortality of raptors (including Swainson's hawks), if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, raptors could be displaced from active nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. Raptors could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on raptors (including Swainson's hawks).

Migratory Birds

Migratory birds may nest in grasslands or the trees in the study area. The construction of project components could affect suitable habitat and could result in loss of occupied nests. This could cause injury or mortality of migratory birds, if they are present within the project site or along the RNG pipeline alignments when initial land clearing/vegetation removal activities occur. If disturbance levels are high enough, these migratory birds could be displaced from active nests, potentially resulting in abandonment of active nests and loss of eggs or young. Even where suitable habitat (i.e., annual grassland) would remain intact, potential indirect effects may result due to ongoing landfill operations occurring within and adjacent to these areas. These migratory birds could also be indirectly affected by project implementation through the attraction of predators, the diminishment of value of adjacent suitable habitats, the restriction of local and regional of movements, and the disruption of behaviors. Because of the potential for destruction and/or disturbance of occupied nests, if present on the project site during initial land clearing/vegetation removal activities and ongoing landfill operations, the proposed project would have a potentially significant impact on these migratory birds.

Mitigation Measure 4.6-6: Potential Loss of Western Burrowing Owl Individuals, Raptors and Other Migratory Birds

Burrowing Owls

The project applicant shall implement the following measures conforming to the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012):

a. If feasible, the project shall avoid negative impacts and disturbance that could result in take of burrowing owls, nests, or eggs, including, but not limited to:

   - Avoid disturbance of occupied burrows during the nesting period, from February 1 through August 31.
   - Avoid impacting burrows during non-breeding season by migratory or non-migratory resident burrowing owls.
   - Avoid direct destruction of burrows.
   - Develop and implement a worker awareness training program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
   - Place visible markers near burrows to ensure machinery does not collapse burrows.
   - If burrowing owls and their habitat can be protected in place on or adjacent to a project site, use buffer zones, visual screens or other measures consistent with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) while project activities are occurring to minimize disturbance impacts.

b. A qualified biologist shall conduct take avoidance surveys for burrowing owl in accordance with Appendix D of the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) no less than 10 days prior to initiating ground disturbance activities.

c. If a burrow is confirmed occupied on the site and avoidance measures outlined in subsection (a) are not feasible, artificial burrow locations shall be appropriately located and their use shall be documented, consistent with Appendix E of the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). An exclusion plan shall be developed that includes conducting appropriate scoping to confirm burrows are vacant prior to conducting burrow excavation. Excavation shall be conducted using hand tools with refilling to prevent reoccupation. The excavation plan shall include monitoring of the site to evaluate success and, if needed, the implementation of remedial measures to prevent subsequent owl use.

d. Mitigate for permanent impacts to nesting, occupied and satellite burrows and burrowing owl habitat shall be developed in coordination with CDFW, consistent with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012), and may include the permanent conservation of habitat (with a corresponding conservation easement and long-term management plan) or purchase of credits from a CDFW-approved species conservation bank, at a minimum of a 1:1 ratio, as identified in Mitigation Measure 4.6-1(d).

Raptors (Including Swainson's Hawks) and Migratory Birds

- A qualified biologist shall conduct early-season surveys of suitable nesting habitat for common raptors (including Swainson's hawks) and other migratory birds that would be directly disturbed by initial land clearing/vegetation removal activities as well as suitable nesting habitat, if present, within 500 feet of these activities. In addition, pre-activity surveys shall be conducted within 10 days before project activities begin near suitable nesting habitat during the breeding season (March 1 – September 15). If any active bird nests are documented in the area that would be directly disturbed by these activities or active nests of common raptors and other migratory birds are documented within 500

feet, protective buffers shall be established and implemented until the nests are no longer active. A qualified biologist shall monitor the nests during these activities to confirm the effectiveness of the buffers. The size of the buffer shall be the size necessary to avoid disturbance to the nests and shall be determined by the qualified biologist after considering all relevant factors, including the type and intensity of project disturbance, presence of visual buffers, and other variables that could affect susceptibility of the nest to disturbance. For tricolored blackbirds, the buffer distance shall be a minimum of 300 feet. In addition, the compensatory mitigation provided in Impact 4.6-1(d) for California tiger salamander shall also provide suitable compensatory habitat for raptors including Swainson's hawks.

~~a. A qualified biologist shall conduct surveys of suitable nesting habitat for common raptors and other migratory birds that would be directly disturbed by initial land clearing/vegetation removal activities as well as suitable nesting habitat, if present, within 500 feet of these activities. Surveys shall be conducted within 14 days before project activities begin near suitable nesting habitat during the nesting season (February 1 – August 31). If any active bird nests are documented in the area that would be directly disturbed by these activities or active nests of common raptors and other migratory birds are documented within 500 feet, protective buffers shall be established and implemented until the nests are no longer active. A qualified biologist shall monitor the nests during these activities to confirm effectiveness of the buffers. The size of the buffer shall be the size necessary to avoid disturbance to the nests and shall be determined by the qualified biologist after considering all relevant factors, including the type and intensity of project disturbance, presence of visual buffers, and other variables that could affect susceptibility of the nest to disturbance.~~

~~b. The project shall implement the following measuring conforming to Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012):~~

- ~~A qualified biologist shall be on-site during all initial land clearing/vegetation removal activities associated with the construction of project components in potential burrowing owl habitat and nesting habitat for raptors and other migratory birds. A qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) shall conduct pre-construction surveys of the permanent and temporary impact areas, plus a 150-meter (approximately 492-foot) buffer, to locate active breeding or wintering burrowing owl burrows no less than 14 days prior to construction. If lawful access cannot be achieved to adjacent areas, surveys can be performed with a spotting scope or other methods. The survey methodology will be consistent with the methods outlined in the Staff Report and will consist of walking parallel transects 7 to 20 meters apart, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. Copies of the survey results shall be submitted to CDFW and the County Planning Department.~~

- ~~If burrowing owls are detected, no ground-disturbing activities, such as road construction or ancillary facilities, shall be permitted within the distances listed below unless otherwise authorized by CDFW. Burrowing owls shall not be moved or excluded from burrows during the breeding season:~~

~~Burrowing Owl Burrow Buffers — Level of Disturbance~~

~~Location~~	~~Time of Year~~	~~Low~~	~~Medium~~	~~High~~
~~Nesting sites~~	~~April 1–August 15~~	~~656 feet~~	~~1,640 feet~~	~~1,640 feet~~
~~Nesting sites~~	~~August 16–October 15~~	~~656 feet~~	~~656 feet~~	~~1,640 feet~~

~~Any occupied burrow October 16 March 31 164 feet 328 feet 1,640 feet~~

- ~~If avoidance of active burrows is infeasible outside of the breeding season, the owls can be passively displaced by a qualified biologist from their burrows according to recommendations made in the 2012 Staff Report on Burrowing Owl Mitigation. Burrowing owls should not be excluded from burrows unless or until:~~

  - ~~Occupied burrows shall not be disturbed during the nesting season unless a qualified biologist meeting the Biologist Qualifications set forth in the May 2012 CDFW Staff Report, verifies through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation; or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

  - ~~A Burrowing Owl Exclusion Plan is developed and approved by the applicable local CDFW office and submitted to the County Planning Department. The plan shall include, at a minimum:~~

    - ~~Confirm by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping;~~

    - ~~Type of scope and appropriate timing of scoping to avoid impacts;~~

    - ~~Occupancy factors to look for and what will guide determination of vacancy and excavation timing (one-way doors should be left in place 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily and monitored for evidence that owls are inside and cannot escape i.e., look for sign immediately inside the door);~~

    - ~~How the burrow(s) will be excavated. Excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that no owls reside inside the burrow);~~

    - ~~Removal of other potential owl burrow surrogates or refugia on-site;~~

    - ~~Photographing the excavation and closure of the burrow to demonstrate success and sufficiency;~~

    - ~~Monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take;~~

    - ~~How the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete.~~

  - ~~Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.~~

    - ~~Temporary exclusion is mitigated in accordance with the measures described below.~~

    - ~~Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for~~

~~one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.~~

- ~~Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band re-sight).~~

- ~~In accordance with the Burrowing Owl Exclusion Plan, a qualified wildlife biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed. Alternatively, burrows can be filled to prevent reoccupation.~~

- ~~During construction activities, monthly and final compliance reports shall be provided to CDFW, the County Planning Department, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project.~~

Page 4.6-36 of the Draft EIR, Mitigation Measure 4.6-7(a) is hereby revised as follows:

Following the USFWS-approved protocol (USFWS 2017), no more than one year prior to the initial land clearing/vegetation removal activities, the project shall conduct pre-construction surveys for vernal pool fairy shrimp in the onsite seasonal pond during the wet season (generally between October 16 and May 14, depending on the precipitation year) or when the seasonal pond is inundated and in any other natural areas on the project site that are demonstrated to pond water temporarily during a rainy period. A pre-construction survey shall also be conducted during the dry season. If the surveys demonstrate negative findings, and the USFWS concurs with these results, no additional mitigation measures are necessary. If the surveys demonstrate positive findings, the following measure shall be implemented.

Page 4.6-37 of the Draft EIR, Mitigation Measure 4.6-8 is hereby revised as follows:

To determine if active badger dens are present on the project site or along the RNG pipeline alignment, preconstruction surveys for badger dens shall be conducted no more than 10 days prior to construction in areas of suitable habitat. CDFW shall be consulted in advance of the preconstruction surveys to confirm the survey methodology and avoidance strategies to be implemented if dens are detected. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens with a shovel to prevent badger re-use during construction. Identified dens will be determined to be inactive by installing and operating a camera station for five consecutive days at the potential den entrance to determine den use and by what species. An alternative method may be used to determine inactivity if it is acceptable to the County in consultation with the CDFW.

If a qualified biologist determines that active badger dens are present on or adjacent to the project site during the breeding season (February 1 through July 31), the biologist shall notify CDFW. No destruction of active dens is to occur during the breeding season. During the non-breeding season, entrances to the dens shall be blocked with soil, sticks, and debris for three to five days to discourage use of these dens prior to project disturbance. The den entrances shall be blocked to an incrementally greater degree over the three- to five-day period. After the qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use

during construction. A biologist shall remain on call throughout construction in the event a badger wanders onto the site.

Construction activities shall not occur within 50 feet of active badger dens, consistent with CDFW recommendations. ~~, an avoidance buffer shall be maintained between the den and construction activities during pupping season (February 15 through July 1, or as otherwise determined through surveys and monitoring of the den).~~

Page 4.6-38 of the Draft EIR, the following text is hereby added to the last paragraph of Mitigation Measure 4.6-10:

The written Restoration and Monitoring Plan requirements shall be implemented throughout the applicable construction project with annual reports to the County on compliance with the plan. The reports also shall be made available for review and comment by the Central Coast Regional Water Quality Control Board. If any non-compliance is identified, the County and RWQCB shall prepare further compliance requirements and the applicant shall be required to implement these requirements as directed by the County and RWQCB.

Page 4.6-42 of the Draft EIR, the first two citations are hereby deleted as follows:

~~National Oceanic and Atmospheric Administration(NOAA) – Regional Climate Centers. 2022a. Accumulated Precipitation - Marysville Airport (ASOS), California from October 1, 2016 to May 15, 2017. SC ACIS Version 2. Available at: https://scacis.rcc-acis.org. Accessed April 6, 2022.~~

~~_____. 2022b. Accumulated Precipitation - Marysville Airport (ASOS), California from October 1, 2019 to May 15, 2020. SC ACIS Version 2. Available at: https://scacis.rcc-acis.org. Accessed April 6, 2022.~~

Page 4.8-27 of the Draft EIR, the following text is hereby added after the last paragraph under Impact 4.8-3

The current General Order R3-2020-0001(Specification 14.) allows surface application of condensate and leachate under the following conditions:

14. The Discharger may return landfill leachate or landfill gas condensate to waste management units (WMUs), if all the following criteria are met:

    a. The WMU is equipped with a containment system that meets or exceeds the performance standard of CCR, title 27, §20330 and §20340, and CFR, title 40, §258.40(a)(2).

    b. Condensate and leachate disposal volume is measured and recorded in accordance with MRP Order No. R3-2020-0001.

    c. Condensate and leachate storage include a secondary containment system sized to hold 100 percent of the primary containment system holding capacity.

    d. Condensate or leachate is not discharged to the surface of the WMU within 48 hours of any forecasted rain event (greater than 50% chance of rain as predicted by the National Weather Service for the most appropriate weather station nearest to the landfill), during any rain event, or 48-hours after any rain event.

    e. Condensate or leachate discharge to the WMU is conducted in accordance with an Executive Officer approved JTD.

f. An alternate method of condensate and leachate disposal (e.g., leachate injection, wastewater treatment plant) or adequate emergency storage is maintained as a contingency as identified in the Executive Officer approved JTD.

The project applicant may elect to surface apply leachate and condensate under this provision. While leachate and condensate contain VOC's, the VOC's would evaporate or re-enter the landfill under these requirements. However, recent requirements for PFAS sampling have indicated the presence of PFAS constituents in the leachate and condensate. As a result, the Central Coast Regional Water Quality Control Board requires submittal of a "leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts." As described in Specification 14.f, above, an alternate method of leachate and condensate disposal shall be provided should surface application become infeasible. Injection of leachate and condensate into lined portions of the landfill (proposed with this project) and current sewer disposal (existing) are two options. The project will comply with Regional Water Quality Control Board regulations for surface application of leachate and management of PFAS in applied leachate. Therefore, the impact is considered less than significant.

Per adapted Order R3-2020-0020 regarding the application of leachate, the CCRWQCB has indicated that the use of leachate for dust control would require a leachate management plan.

Page 4.10-16 of the Draft EIR, Mitigation Measure 4.10-3 is hereby revised as follows:

The operator shall implement and fund a litter pick-up program on the adopted haul route to the landfill entrance that provides for inspection and removal of any litter at least three times per week. All complaints received from the public about litter, or calls to the litter hotline shall be reported to Integrated Waste Management monthly. Complaints about litter shall be responded to within 48 hours. In addition, although not required to reduce a significant environmental impact, and, assuming Best Road is not the selected haul route, the applicant's litter pickup program shall occur once per month along Best Road.

4 REFERENCES

California Department of Fish and Game. 2012 (May 7). Staff Report on Burrowing Owl Mitigation.

Golder Associates. 2022 (June 6). PFAS Detection Follow-Up Workplan, John Smith Landfill, San Benito County, CA. Prepared on behalf of Waste Solutions Group of San Benito County, LLC.

Lawrence & Associates. 2021 (November). Design Basis Report for the John Smith Road Landfill Expansion, San Benito County, California.

APPENDIX A

Effectiveness of Landfill Lining System and Groundwater
Lawrence & Associates, November 28, 2022

November 28, 2022 009130.01 T46

Mr. Doug Brown
Douglas Environmental
1517 28th Street
Sacramento, CA 95816

Dear Mr. Brown:

SUBJECT: EFFECTIVENESS OF LANDFILL LINING SYSTEM AND GROUNDWATER, RESPONSES TO COMMENTS, JOHN SMITH ROAD LANDFILL EXPANSION PROJECT, SAN BENITO COUNTY, CALIFORNIA

This letter collectively addresses comments received and related to the Draft Environmental Impact Report (DEIR) for the Expansion of John Smith Road Landfill specifically regarding the following items:

- The effectiveness of the Subtitle D lining systems at the John Smith Road Landfill (JSRL) to manage landfill leachate.
- Potential impacts of Per- and Polyfluoroalkyl substances (PFAS).
- Existing release and potential for downgradient migration of contaminants in groundwater.

Lawrence & Associates (L&A) has been preparing waste management unit (WMU, i.e., landfill module) designs for the existing JSRL since 2013. During this time, L&A has worked effectively with the Central Coast Regional Water Quality Control Board (CCRWQCB) in performing the required regulatory analyses and preparing design plans, specifications, and construction quality assurance (CQA) guidelines.[1] The CCRWQCB is the regulatory agency for approving the overall WMU design, individual module design prior to construction, and construction quality assurance reports (post-construction) prior to waste placement. The CCRWQCB additionally requires and regulates a detection monitoring system for JSRL through waste discharge requirements (WDRs) and corresponding monitoring and reporting programs.

LANDFILL LINING SYSTEM

The regulatory background for lining systems is described in DEIR Section 3, but is summarized below for the purposes of this discussion. There were several commentors that stated "toxic chemicals" would impact groundwater. JSRL is a Class III (nonhazardous landfill) municipal solid waste landfill (MSWLF) and is not allowed to accept waste that, under Title 22 of the California Code of Regulations (CCR), bear the characteristics of toxicity, corrosivity, reactivity, or flammability (the characteristics of hazardous wastes). Historically, generated leachate has been considered nonhazardous,

[1] The CQA guidelines assist third party CQA observation companies in preparing their CQA Plan.

however, it does contain constituents such as inorganic salts (such as sodium chloride), traces of metals, and volatile organic compounds (VOCs) that have the potential to degrade groundwater quality if left uncollected. Described below is a brief history of the development of liner regulations.

Federal Subtitle D Lining System

The federal regulations governing MSWLFs were promulgated by the USEPA in October 1991 under 40 Code of Federal Regulation (CFR), Part 258, Subtitle D (Subtitle D) to establish minimum national criteria for all MSWLFs and came into effect on October 9, 1993. The USEPA developed the Subtitle D standards to ensure protection of human health and the environment, with the primary performance goal for waste containment systems being the protection of groundwater quality.

Prior to the promulgation of the Subtitle D regulations, most landfills were unlined or clay lined. The need for waste containment in landfills was driven by the need to contain liquids and gases generated in the landfill. Extensive research was, therefore, performed under the direction of the USEPA to develop a protective waste containment system standard. This information is presented in the Preamble to the promulgation of the 40 CFR 258 regulations (Federal Register, Vol. 56, No. 196, Rules and Regulations, October 9, 1991) and in the Solid Waste Disposal Facility Criteria, Technical Manual (EPA, April 1998 Revision; Original November 1993).

The USEPA found that the "prescriptive" Subtitle D liner system components, which includes a geomembrane overlying a low permeability (typically clay) soil layer, were an effective barrier against leakage due to the synergy of the two elements. This type of liner system is known as a composite liner. Subtitle D also includes requirements for a leachate collection and removal system overlying the liner system that reduces the liquid head or pressure on the liner system and significantly minimizes the potential for any flow through the barrier.

Approximately 10 years after promulgation of the Subtitle D regulations, the USEPA conducted an extensive study to evaluate the field performance of Subtitle D liner systems (Assessment and Recommendation for Improving the Performance of Waste Containment Systems, USEPA/600/R-02/099; Bonaparte, Daniels, and Koerner, 2002).[2] The study analyzed 80 landfills throughout the USA and confirmed that composite lining systems (i.e., a combination of geomembrane overlying a clay liner) performed well in field situations. The study identified only one Subtitle D lined landfill where an environmental impact to groundwater or surface water quality could be attributed to the liner system. At that landfill, groundwater impacts by volatile organic constituents (VOCs) were attributed to gas migration through a relatively permeable soil layer that secured the edge of the geomembrane liner and extended from the crest of the liner system side slope to beyond the liner system. The problem was resolved by installing additional gas-extraction wells in the landfill. Prior to the 2002 study, geo-electric leak testing was not in common use for Municipal Solid Waste Landfills and became more widespread with subsequent issuance of ASTM D 7007 in 2003.[3] Since that time, the widespread use of geoelectric leak detection methods as part of construction quality assurance has further reduced the risk of leaks.

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[2] Bonaparte, Rudolph, Daniel, David E., and Koerner, Robert M., December 2002, *Assessment and Recommendations for the Performance of Waste Containment Systems*, EPA/600/R-02/099.

[3] American Society for Testing Materials (ASTM) D7007-16 *Standard Practices for Electrical Methods for Locating leaks in Geomembranes Covered with Water or Earthen Materials*, page 1, footnote.

California Lining System Requirements

In June 1993, the State of California Water Quality Control Board (SWRCB) adopted the federal Subtitle D regulations under Resolution No. 93-62 to become an approved state. The state regulations regarding MSWLFs and lining systems are detailed in Title 27 CCR.

The prescriptive lining system for MSWLFs in Title 27 is as follows:

> i. **Upper component** -- Has a Synthetic Liner at least 40-mils thick (or at least a 60-mil thick if high-density polyethylene is used) that is installed in direct and uniform contact with the underlying compacted low-permeability soil component described in paragraph III.A.1.a.ii.; and
>
> ii. **Lower component** -- Has a layer of compacted low-permeability soil that is at least two feet thick and that has a hydraulic conductivity of no faster than 1 x 10^{-7} cm/sec (0.1 feet/year).

Both Title 27 CCR §20330 and 40 CFR Part 258.40, allow "engineered alternative" liner systems that provide equivalent protection against water quality impairment.

The standards for leachate collection are:

- Include a leachate collection and removal system which conveys to a sump (or other appropriate lined collection area) all leachate which reaches the liner, and which does not rely upon unlined or clay-lined areas for such conveyance.
- Leachate shall not exceed 30 cm (12 inches) on top of the liner, except in the lined sump.
- The leachate collection system must be designed to transmit twice the anticipated leachate flow.

Regional Lining System Requirements

Because a portion of JSRL is unlined, in 2010 the CCRWQCB implemented a requirement for a preferential leachate pathway (PLP) where new lined WMUs are installed adjacent to unlined WMU (Module 1 at JSRL) and the waste for the new lined WMU will overlap the waste from the adjacent unlined WMU. The PLP consists of either clay with a permeability no faster than 1 x 10^{-6} cm/sec, a geomembrane such as HDPE, or linear low-density polyethylene (LLDPE) that provides an equivalent or lower permeability. The PLP intercepts leachate that would otherwise move downward into the unlined waste and routes it into the adjacent lined module where it can be collected by the leachate collection system. The requirement for a PLP, along with other design requirements was subsequently incorporated into the Central Coast Region-Wide General Order R3-2020-0001 to be implemented for all landfills in the Central Coast Region.

General Order R3-2020-0001 requires that a design report be submitted to the CCRWQCB for each Module for review and approval prior to construction of the liner for each Module. The General Order also requires submittal of a construction quality assurance (CQA) plan, CQA observation and testing and submittal of a CQA Report by a third party CQA firm to the CCRWQCB prior to placing waste in the new Module (likely 25 modules or more over the life of the landfill). The CCRWQCB requires that a design report be submitted prior to installing a liner in each new module (versus the entire landfill),

to ensure that changes in regulations, technology, or understanding of the site are incorporated into the landfill design as they arise.

JSRL Landfill Liner and Leachate Collection and Removal Systems

The JSRL currently has a 58-acre area covered with waste of which approximately 30 acres are unlined (Module 1 is unlined and also may be called "pre-Subtitle D") and 28 acres are lined as described above. JSRL is proposing an expansion that would add approximately 195 lined acres for a total of approximately 253 acres of combined lined/unlined landfill area.

Since the construction of Module 2 in 2008, all subsequent modules designed and constructed at the JSRL have incorporated an approved engineered alternative lining system that meets the regulatory requirements described earlier. As required by the CCRWQCB, a site-specific performance demonstration was prepared and submitted to the CCRWQCB for the JSRL Landfill Subtitle D compliant liner and LCRS (Performance Demonstration for a Single Composite Liner, Emcon, 1989, and updated by Golder). The site-specific performance demonstration was assessed by the CCRWQCB in developing the Waste Discharge Requirements (WDRs) for the JSRL and approval of the engineered alternative liner.

As described in the Design Basis Report for the project, the expanded landfill would include an expanded leachate collection and recovery system (LCRS) and the following alternative engineered design components that appropriate regulatory agencies have approved for use at the site, including (generally from top to bottom):[4]

- Leachate drainage layer beneath the waste (and the operations layer described below) on the entire bottom of the expanded landfill to prevent buildup of over 12 inches of head (leachate depth) on top of the liner system.
- A system of pipes to drain the leachate into sumps designed to handle no less than double the peak leachate flow.
- Leachate sumps with a pumping system designed for no less than twice the peak flow and underlain by a leak-detection sump or "pan lysimeter."

The pan lysimeter is essentially a composite lined secondary sump. In the unlikely event of leakage through the primary composite lined sump, liquid can be pumped and removed from the pan lysimeter/secondary composite lined sump through the secondary riser pipe. The primary sump and pan lysimeter are checked daily for liquids and are pumped routinely to remove liquids and reduce the head/pressure on the liner. Liquid from the sump is currently pumped into the City of Hollister sewer system and the proposed project includes leachate storage tanks so that some or all of the leachate can be used for dust control or reinjected into the landfill if desired.

On the bottom of the landfill, the LCRS system is integral with the overall bottom liner system and underlain by a composite liner system including the following from top to bottom:

- 12-inch soil "operations" layer (to protect the LCRS and liner system from damage during waste placement).

[4] Lawrence & Associates, November 2021, *Design Basis Report for the John Smith Road Landfill Expansion, San Benito County, California*.

- Geotextile separator fabric (to prevent soil from entering and clogging the LCRS between the separator and HDPE liner).
- 12-inch LCRS drainage layer.
- Geotextile cushion layer.
- 60-mil high-density polyethylene (HDPE) geomembrane.
- Reinforced geosynthetic clay liner (GCL).
- 12 inches of clay with a permeability no faster than 1×10^{-6} centimeters/second (cm/sec; one foot per year at one foot of head or 1/10 of a foot per year with 1/10 of a foot of head).
- Minimum of 5-foot separation from the top of the geomembrane to highest anticipated groundwater.

On the sideslopes, the following liner system would be used, again from top to bottom. Note that a LCRS is not used on the sideslopes because they shed water (due to the relatively steep slope) without a gravel LCRS.

- 24-inch soil operations layer (to protect the liner from damage during waste placement).
- 60-mil high-density polyethylene geomembrane.
- Reinforced GCL.
- Prepared (smooth) soil subgrade.

The USEPA Hydrologic Evaluation of Landfill Performance (HELP) model is a tool that is used to compare the performance of prescriptive design described above and the engineered alternative. It uses very conservative assumptions regarding leachate generation. As described in the Design Basis Report:

> *"the US EPA Hydraulic Evaluation of Landfill Performance (HELP) model was used to calculate leakage through the liner system and was found to be negligible less than 0.1 gallon per day per acre under both the sideslopes and bottom on a peak day with a 50-year return frequency and assuming good installations and average number of defects per acre in the geomembrane installation. This rate is considered negligible and would be less during closure."*

Note that the HELP model predicts the peak day in a 50-year period. Or, in other words, the peak flow that would occur only on one day during a 50-year period and would be less all other times (hence <u>less than</u> 0.1 gallons per day per acre). After closure, the HELP model predicts nearly zero gallons per day per acre would be generated. As described in the DEIR, the landfill will be constructed, filled and capped incrementally, so at any given time there will be portions of the landfill that produce essentially zero leachate leakage while other areas remain uncapped. As described in the Design Basis Report, Appendix F, the modeled leakage rate from the engineered alternative design described above is approximately 1/10 of the prescriptive design and is more protective of water quality than the prescriptive design. Based on previous modules, the permeability of the low-hydraulic conductivity layer has been lower than that assumed in the HELP model analyses. That combined with the use of geoelectric leak tests to reduce the risk of leaks, the leakages rate would be less than the modeled quantity.

JSRL's established construction, operations, and monitoring standards enhance the performance of the liner system. All modules at the JSRL are designed to satisfy regulatory requirements and the designs, drawings, construction specifications, and CQA program are stamped by a California registered

professional engineer or certified engineering geologist and reviewed and approved by the CCRWQCB prior to construction. The CQA program is implemented by a third party and includes assessments of materials and construction techniques for compliance with the approved drawings and specifications at every stage of construction. CQA also includes electric leak location tests of the composite liner following construction of the overlying components. A CQA Report is prepared and certified by a California registered professional engineer or certified engineering geologist and submitted for approval by the CCRWQCB before any waste is placed in the lined WMU.

Underlying Soils Contribution to Groundwater Protection

As described in Section 4.9 of the DEIR: "*The results from the drilling of the new wells around the expansion area suggest that the geologic formation is of very low permeability in the area of the new wells and that groundwater occurs mostly in a confined condition.*" Any new landfill modules would be required, per Title 27 CCR, to maintain a five-foot separation between the highest anticipated groundwater level and the bottom of the waste. Throughout most of the current landfill and proposed expansion area, the first encountered groundwater is located 20 feet or more below the current and proposed base grades. However, in wells that are constructed to intersect groundwater under confined conditions,[5] groundwater was observed to rise from the depth at which it is first encountered to a higher level because it is under confining pressures. That is, the true water level is deeper than that measured in the wells. In those cases, the highest anticipated water levels based on water levels measured in wells could be less than 5 feet from the base grades, but not represent the true (and in this case deeper) separation from the waste in certain locations under the expansion area. Confined conditions in an aquifer indicate a condition where groundwater cannot move upward in the bedrock or soil. Conversely, water would not move downward to the aquifer within the region of confinement.

Previous groundwater monitoring has revealed that this condition could occur in two small, localized areas on the east side of proposed Phases 2A and 2B. During the design and construction of Phases 2A and 2B, an additional well would be installed to verify the confined condition and track groundwater elevations. If the proposed base grades are determined to be less than 5 feet from the top of the highest groundwater levels, the landfill would refine the groundwater model as necessary, and if needed, revise the cell design with base grade elevations to ensure that a separation of 5 feet or greater is maintained during landfill operations and post-closure (Lawrence and Associates, 2021). This would be necessary to comply with the 5-foot separation requirements pursuant to Title 27 CCR.

JSRL Landfill Controls

Operational controls at the landfill, which also enhance the performance of the liner system and LCRS, include leachate and landfill gas collection, management, and monitoring programs described in General Order R3-2020-0001. Placement of daily, intermediate, and final covers minimizes precipitation from entering the landfill and forming leachate, and also controls vectors and other nuisance conditions. In addition, the load checking program keeps hazardous materials from being disposed at the landfill.

[5] Confined groundwater conditions refer to groundwater that is under pressures greater than atmospheric due to the presence of an overlying impervious or semi-impervious confining layer. Groundwater under confined conditions rises to a "potentiometric surface" in a well, which refers to the imaginary surface representing the total pressure head of the groundwater under confined conditions.

Surface water controls at the landfill also aid in minimizing the generation of leachate. Surface water is controlled on the landfill by grading landfill areas away from the active face and incorporating benches, V-ditches and down-drains that convey surface water to onsite sedimentation ponds. General Order R3-2020-0001 requires that stormwater conveyances be lined with clay or other low-permeability lining materials. The low-permeability clayey soil available on-site is used for this purpose. As required by Title 27 CCR, surface water control systems are designed to comply with the regulatory requirement for Class III landfills of the 100 year, 24-hr storm.

In addition to the operational controls at the landfill, routine operational inspections (typically daily or weekly, as described in standard observations in Order R3-2020-0001), regulatory inspections (typically monthly and after storm events) and extensive monitoring programs (ranging from quarterly to semiannually), such as groundwater, surface water, and landfill gas, are required by the various regulatory agencies that oversee the landfill. Any potential releases from the landfill would be identified in the inspections and monitoring programs and corrective action measures implemented, as necessary. These programs are in place through the operational life of the landfill and throughout the minimum 30-year postclosure period.

Summary

The proposed landfill includes a robust engineered alternative liner design that is more protective of water quality than a liner system prescribed by regulation. When combined with the underlying geology, detailed construction CQA practices, monitoring and operating practices, the ability to adapt and improve over time and implementation of partial closure caps, the expanded landfill is anticipated to be protective of groundwater quality and have, on-average, significantly less leakage than 0.1 gallons-per-day-per-acre. The conclusion described in Impact 4.8-5 remains unchanged – less than significant.

COMMENTS REGARDING POTENTIAL FOR DOWNGRADIENT GROUNDWATER CONTAMINATION

There were several comments to the DEIR regarding potential impacts to domestic wells such as those in the Best Road Mutual Water Company (BRMWC) and Fox Hills Estates, Heatherwood, and Fisher Subdivisions including from the existing landfill and proposed future landfill expansion. Of particular concern are the limits of the existing VOC plume from the unlined portion of the landfill and the potential for the existing or expanded landfill to affect water quality, particularly arsenic, in the domestic wells within these areas. The purpose of this section is to address those comments.

Background

As described above, recognizing the potential for groundwater impairment from unlined landfills, the US EPA promulgated Subtitle D regulations. In addition to the requirements for composite-lined landfills, Subtitle D (40CFR Part 258.50) contains requirements for installation of groundwater-monitoring wells, periodic sampling of those wells, and statistical analyses of the groundwater analyses. The requirements were subsequently adopted by the State of California, incorporated into Title 23 CCR, and subsequently rolled into the current Title 27 CCR (Section 20005 et seq). Title 27 regulations include requirements for sampling and statistical data evaluation called a "detection monitoring program" (Section 20425). If a release is detected, the regulations require implementation of an evaluation monitoring program (Section 20425) to assess the nature and extent of the release.

Once the nature and extent of the release have been determined, "a corrective action program" (Section 20430) is required to identify a remediation method and verification monitoring to contain and correct the release.

Monitoring and reporting requirements specific to JSRL were incorporated by the CCRWQCB into the Waste Discharge Requirements (WDR) and Monitoring and Reporting Program (MRP) for JSRL and more recently (2021), the standardized WDR and MRP were incorporated into General Order R3-2020-0001. In September 2022, site-specific requirements for JSRL were incorporated into a Notice of Applicability issued by the CCRWQCB.

Over time, the groundwater monitoring network has grown to approximately 34 groundwater monitoring wells (previously 35 wells, as one well has been abandoned) of which 24 are actively sampled and the remainder are used for water-level measurements to document the direction of the groundwater gradient. Seven of the wells are monitored under the Class III landfill detection monitoring program as a release from the lined areas has not been documented. Fourteen wells are sampled under the Class III Landfill corrective action monitoring program (for the unlined area VOC release). Four wells are sampled under the Class I Area closure detection program (the data from two wells is used for multiple programs). An additional 11 monitoring wells were installed in and around the perimeter of the proposed expanded landfill and would be incorporated into the detection monitoring program as the landfill expands.

VOC Release from the Unlined Portion of JSRL

The existing VOC release and groundwater-extraction system are described in Section 4.8 of the DEIR and the referenced documents in Section 4.8.4. The referenced Golder 2020 First Semi-Annual Monitoring Report and other Monitoring Reports can be viewed on the Regional Water Quality Control Board GeoTracker Website:
https://geotracker.waterboards.ca.gov/profile_report?global_id=L10008478954

In 1987, during the initial state-mandated Solid Waste Assessment Program, traces of VOC contamination above the California primary Drinking Water Standard (Maximum Contaminant Level [MCL] were found in groundwater downgradient of the unlined landfill (now called Module 1 Figure 4.8-4).[6] The detected contaminants are commonly found in landfill gas and landfill leachate (see the above reference report for detected constituents).

Over subsequent years, using additional monitoring wells, additional groundwater sampling (See DEIR Page 4.9-7), permeability testing, mapping and data evaluation, a conceptual model was developed describing the hydrogeologic conditions (e.g., geologic units, permeability and groundwater flow direction), vertical and horizontal limits of the VOC release. By 1993, the source of the VOCs was identified to be from the base of the unlined Class III landfill (Module 1) where groundwater was at or near the bottom of the waste. It was also found that the pesticides and herbicides from the adjacent Class I Area were not present in the landfill leachate or VOC plume.[7] It was found that the unlined landfill had been filled in a valley underlain by shallow alluvium on top of weathered Panoche Formation Bedrock. Groundwater contamination followed the shallow valley alluvium from beneath the unlined Class III Area, down slope towards the existing landfill entrance and beneath the field

[6] WDR Order No. R3-2013-0047, December 5, 2013, Item 37 (paraphrased).
[7] Wahler Associates, March 1993, *County of San Benito County and City of Hollister, Additional Studies Report (On-Site Investigations), John Smith Road Landfill Class III Area, EPA I.D. No. CAAD 990665432.*

across John Smith Road southwest of the entrance to the Landfill. The shallow valley alluvium is identified on the geologic map in the DEIR as "Qal – Alluvium." In another version of the same map, the unit has been identified as "Qa - alluvial gravel, sand, and clay of valley areas."[8] The VOC "plume" migrated through the 5- to 10-foot thick shallow valley alluvium and uppermost (10 to 20 feet) of the underlying Panoche Formation approximately in the area shown on Figure 4.8-4 in the DEIR.[9]

In the process of developing a conceptual model for the release, Wahler Associates found that the permeability of the underling Panoche Formation varied widely and was one to three orders of magnitude lower than the shallow valley alluvium. In general, however, permeability was relatively low and groundwater moved slowly (average of 0.27 feet per day) downgradient.[10]

In 1993, a groundwater-extraction system was installed downgradient of Module 1 using three extraction wells (E-1 through E-3) on the landfill property near the current landfill entrance and two extraction wells (E-4 and E-5) in the field southwest of JSRL. The extraction wells are used to intercept water in the plume. As described in Section 4.8 (Page 4.8-9) of the DEIR:

> "*The overall declining concentrations of VOCs indicate that the on-site groundwater extraction system has been effective at capturing affected groundwater. Improvements in landfill operations have also reduced leachate production, thus reducing the source for the historical impact identified as originating from unlined Module 1*."

Attached is Figure 4.8-4 from the DEIR showing the limits of the plume (limits of detectable VOC). The direction of groundwater is down the valley to the northwest. The plume does not reach Monitoring Well WA-20 or the adjacent Lima 3 Well. As shown on the geologic map in the DEIR (Figure 4.9-2), the shallow alluvium ends west of the landfill entrance and does not provide a preferential path for groundwater movement downgradient past that point. As shown on the attached Figure 1, prepared by Golder Associates, the nearest known residential well (A Lima (2006)) is approximately 0.75 miles west of Monitoring Well Lima 3 and is well removed from the potential for VOC contamination from the Landfill.

Operation of the groundwater-extraction system and the limits of the VOC plume in the surrounding area are part of the ongoing corrective action program. While the existing release and successfully controlled plume are an existing baseline condition, it provides an example of successful application of the regulations, corrective action by the landfill owner and operator, and oversight by the CCRWQCB.

The existing plume was the result of groundwater located close to the bottom of an unlined portion of the landfill in a valley underlain by shallow valley alluvium and shallow groundwater. It is a lithologically (layered rock strata) and topographically controlled system (waste in a valley). It is not related to regional structural control such as factures and bedding. A release similar to the existing one cannot occur in the expansion area because (1) the shallow valley alluvium does not occur within the expansion area, (2) the expanded landfill will be lined, and (3) a minimum 5-foot separation between

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[8] Dibblee, Thomas W., 2006, *Geologic Map of the Tren Pinos Quadrangle, San Benito County California*. Dibblee Geologic Center Map #DF-232 published by Santa Barbara Museum of Natural History, 2559 Puestra Del Sol Road, Santa Barbara, CA.

[9] Note that the limit of VOC contamination above drinking water standards (MCL) remain within the landfill property.

[10] Wahler Associates, March 1993, County of San Benito County and City of Hollister, Additional Studies Report (On-Site Investigations), John Smith Road Landfill Class III Area, EPA I.D. No. CAAD 990665432. Page III-10.

the bottom of the waste and highest anticipated groundwater elevation must be maintained. Having said this, should a release occur, the unlined area release demonstrates that there is a regulatory process to successfully control and correct the releases to prevent impacts to downgradient groundwater users. On this basis, as described in Impact 4.8-3, the potential for long-term degradation of water quality remains less than significant.

Because (1) the current release has been controlled and does not continue downgradient past the plume limit described above, and (2) the nearest known domestic well is 0.75 miles west of the plume limit, there is no evidence that VOCs have affected the downgradient domestic wells. Because the conditions that caused the VOC plume cannot occur in the expanded landfill, as described in DEIR Appendix C, Section 8.6.3, the assumption that groundwater is not a pathway for health risk remains unchanged.

Arsenic in Groundwater West of Landfill

Several commentors asked about the arsenic levels in the BRMWC wells and other wells in the surrounding area. Arsenic is a naturally occurring element in the minerals within the native soil and bedrock at this location, and it commonly dissolves in the groundwater.

Potential impacts from arsenic around the landfill are described in the DEIR starting on the bottom of Page 4.8-10 as shown for convenience here (see Figure 4.8-4 for well locations):

> *"Along the southern edge (downgradient) of the existing landfill area, the average arsenic concentration in groundwater is 10.8 µg/L (in wells G-26, G-28, G-29, G-30, G-32 and G-33). Along the northern edge of the landfill (cross-gradient), the average arsenic concentration is 8.8 µg/L (in wells G-27, W-4, W-5, and CP-30). In the extraction wells EW-1 through EW-5, the average arsenic concentration between 2015 and 2020 was 10.5 µg/L and is generally similar between the wells. The extraction wells cover a range of sampling depths from approximately 10 to 100 feet below ground surface.*
>
> *In wells downgradient of the unlined module and within the contaminant plume, arsenic values range from non-detected to 3.4 µg/L in wells CP-31 and WA-15 (alluvial aquifer). The farthest downgradient well in the bedrock aquifer, well CP-25, has shown arsenic concentrations up to 3.1 µg/L. Background arsenic levels range from 3.9 to 18 µg/L in well WA-11 (alluvial aquifer) and from non-detected to 11 µg/L in well E-15 (bedrock). The latter well is upgradient of the Class III landfill, but downgradient of the Class I unit.*
>
> *These groundwater monitoring data from onsite and offsite landfill wells show that groundwater concentrations of arsenic are consistent and represent naturally-occurring background ranges. The data does not indicate that leachate from the unlined portion of landfill or the Class I area has caused elevated arsenic concentrations downgradient of the landfill, even in the area of the leachate-contamination plume."*

The BRMWC[11] is located west of the Landfill and south of John Smith Road in the vicinity of Best Road, Maranatha Drive and surrounding areas. As shown on Figure 4.9-7 in the DEIR, this area is located within and at the edge of the Gilroy-Hollister Valley Groundwater Basin. Attached is an

[11] Including Fox Hills Estates, Heatherwood, and Fisher Subdivisions. Not all residences within the BRMWC may be connected to the water system and may have their own wells.

updated version of Figure 4.9-7 that shows the locations of the BRMWC wells and the Simpson Blum well. As described in the DEIR, most of the domestic wells draw water from the Gilroy-Hollister Valley Groundwater Basin. From a regional standpoint, and as described on page 4.8-10 of the DEIR:

> *"Trace and minor elements are naturally present in the minerals in rocks and soils and in the water that contact those materials. In the south coast interior groundwater study unit, trace and minor elements were detected at high concentrations in about 20 percent of the primary aquifer system and at moderate concentrations in about 23 percent. Arsenic, boron, and molybdenum were the trace elements that were most frequently detected at high concentrations (USGS 2014)."*

Reportedly, high arsenic concentrations are a common problem around the periphery of the Gilroy-Hollister groundwater basin where bedrock is shallow. The arsenic problem does not occur with the deeper portions of the aquifer.[12]

The California primary Drinking Water Standard (Maximum Contaminant Level [MCL]) for arsenic was reduced from 50 µg/L [parts per billion] (0.05 mg/L; [parts per million]) to 10 µg/L (0.01 mg/L; [parts per million]) in 2007, and required previously compliant water systems throughout the state to install costly water treatment systems for their water-well sources. The MCLs described above apply only to public drinking water systems. In its 2019 Central Coast Basin Plan, the CCRWQCB, established Water Quality Objectives (Table 3-2) for arsenic in agricultural use of 0.1 mg/L (100 µg/L) for irrigation supply and 0.2 mg/L (200 µg/L) for livestock watering.

According to the March 2022 minutes from the BRMWC board meeting, at least one of the two BRMWC wells has had a persistent problem with arsenic over the 10 µg/L MCL. According to the California Drinking Water Watch website, the BRMWC had 15 violations of the arsenic MCL between 2016 and 2021 (ranging from slightly above the limit to as high as 26.9 µg/L in 2017).[13] The data from the California Department of Drinking Water website indicate that for the period of 1/6/11 through 7/8/22, arsenic concentrations in Well 1 ranged from nondetect to 29 µg/L with an average of 6.2 µg/L and 9% of monthly sampling results exceeding 10 µg/L. For the period of 4/27/12 through 6/15/22, arsenic in Well 2 ranged from 2 to 59 µg/L with an average of 12.2 µg/L and 48% of monthly sampling results exceeding 10 µg/L. The arsenic concentrations appear to be highly variable – more so in Well 2. As of the 2021Consumer Confidence Report, the BRMWC is under SWQCB Division of Drinking Water Compliance Order No. 02_05_16R_005 for the arsenic exceedances.

Additionally, the records indicated that the secondary MCL (aesthetic limit e.g., taste, odor, or appearance that do not affect health) for Manganese, and conductivity have been exceeded.[14, 15]

According to the June 2018 BRMWC Board Agenda, under SWQCB Compliance Order No. 02-05-18R-002, Well 1 is considered "under the influence of surface water". For a public drinking water well, a "well seal" consisting of concrete, cement, or bentonite clay must be installed from the surface down to 50 feet

[12] Pers. comm. Drew Lander, August 2022.
[13] https://sdwis.waterboards.ca.gov/PDWW/JSP/Violations.jsp?tinwsys_is_number=3711&tinwsys_st_code=CA
[14] 2019 Consumer Confidence Report for Best Road Mutual Water Company dated June 25, 2020.
[15] 2021 Consumer Confidence Report for Best Road Mutual Water Company dated June 8, 2022.

below ground surface in the "annular" space between the well bore and well casing. When the well seal leaks, there is the potential for surface water containing coliform bacterial from animals and humans (such as nearby septic tanks and leach fields) to enter the well water. Water from wells that are subject to surface influence are required to provide treatment and testing, similar to surface-water sources, or the well repaired or discontinued from use. Unfortunately Well 1 has the lowest arsenic concentration of the two wells. As of issuance of the 2021 Consumer Confidence Report by the BRMWC, Well 1 is still covered under the Compliance Order.

Based on BRMWC board-meeting minutes, it appears that the BRMWC is working towards merging with the Sunnyslope Water District and discontinuing use of the wells. The arsenic concentrations described are below the limit for agricultural uses described above. Therefore, there is potential to use the water for other non-potable uses.

Based on the above information, naturally occurring arsenic above the drinking water MCL is common within the bedrock aquifer and edge of the Gilroy-Hollister Valley Groundwater Basin. There is no indication of a release from the landfill and no indication that the JSRL has contributed to arsenic concentrations, or that the expanded lined landfill would contribute to off-site arsenic concentrations. On this basis, as described in Impact 4.8-3, the potential for long-term degradation of water quality remains less than significant. As described in DEIR Appendix C, Section 8.6.3, the assumption that groundwater is not a pathway for health risk remains unchanged.

COMMENTS REGARDING PFAS

There were several comments regarding the ability of the landfill liner to contain PFAS and regarding using leachate, potentially containing PFAS, for dust control.

Background

As described in DEIR Section 4.8, "*Per- and polyfluoroalkyl substances (PFAS) are a family of more than 5,000 man-made and mostly unregulated chemicals that have been produced since the mid-1900s. They are mobile and persistent in the environment and are bioaccumulative. They are resistant to degradation in the environment and when degradation occurs, it often results in the formation of other PFAS compounds. PFAS are manufactured globally and have been used in the production of a wide range of industrial and household products such as dental floss, non-stick cookware, food packaging materials, non-stick products (e.g., Teflon™), waterproof and water repellent textiles, water repellent furniture, carpet, polishes, waxes, paints, cleaning products, medical garments, and fire-fighting foams*."

Based on literature from the Interstate Technology and Regulatory Council (ITRC), understanding of the scope and health effects of PFAS has begun to mature in recent years.[16] Only in October 2021 did the US EPA develop a strategic road map for managing PFAS.[17] In August 2019, California's Office of Environmental Health Hazard Assessment (OEHHA) issued notification-level drinking-water concentration recommendations for PFAS constituents PFOA (Perfluorooctanoic Acid) and PFOS (Perfluorooctane Sulfonic Acid) and recommended that the State Water Resources Control Board

[16] Interstate Technology and Regulatory Council (ITRC), June 2022. *Per- and Polyfluoroalkyl Substances Technical and Regulatory Guidance*. https://pfas-1.itrcweb.org/wp-content/uploads/2022/09/PFAS-Guidance-Document-9-2022.pdf

[17] US EPA PFAS Strategic Road Map : *EPA's Commitments to Action 2021-2024*. https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024

(SWRCB) issue notification limits as non-regulatory advisory level.[18] In 2020, the SWRCB issued Order DW 2020-0003-DDW, effective October 1, 2020, that required some public water systems to test for PFAS. In August 2021, the SWQCB issued Notification Levels for PFOA and PFOS in drinking water. In 2021, the SWRCB issued order DW 2021-0001-DDW that required additional public water systems to test for PFAS. On May 3, 2021, OEHHA identified PFOA as a carcinogen, added it to the Proposition 65 list, and did the same for PFOS on December 24, 2021. To date, the SWRCB has not issued drinking water MCLs for these constituents.

As described in the DEIR page 4.8-9, in 2019, the SWRCB issued Order WQ 2019-0006-DWQ that required landfills to sample selected wells and leachate for PFAS constituents. PFAS consitituents were detected in the leachate (similar to other landfills in the region) and the CCRWQCB requested submittal of a work plan for additional sampling which was submitted by Golder Associates on October 7, 2021. After requested revisions by the CCRWQCB were incorporated, the revised work plan was submitted June 6, 2022. The sampling has not been completed as of this writing.

PFAS and Liners

A permeation coefficient or permeability is employed to describe the mass transfer process across a membrane, such as a geomembrane, in a steady state. According to Gates, et al. 2020, the permeation coefficients (Dg) for Linear Low-Density Polyethylene (LLDPE) ranged from $<10 \times 10^{-16}$ m^2/sec for PFOA to $<6.7 \times 10^{-16}$ m^2/sec for PFOS.[19] HDPE liners are expected to have lower permeation coefficients. For example, benzene, a common leachate contaminant, has a Dg of 4×10^{-13} m^2/sec in LLDPE.[20] This indicates that potential for PFOS and PFOA to pass through an HDPE Geomembrane is much lower than other typical VOCs found in landfill leachate.

Use of Leachate Potentially Containing PFAS for Dust Control

As described in the letter dated July 14, 2021, regarding the PFAS Detection Follow-up Plan for JSRL, per California Water Code section 13267, the landfill operator is required to submit the following:[21]

> *"Leachate management – Waste Connections* [JSRL Operator] *must develop a leachate management strategy to properly manage leachate. The use of leachate for dust control will need to be managed to prevent PFAS surface and groundwater quality impacts."*

The CCRWQCB requires that the strategy include a backup disposal method for leachate should use for dust control be discontinued.

Currently, leachate is disposed in the City of Hollister sewer system and submittal of a strategy for leachate management has not been required. However, as a project component, the landfill operator intends to reduce sewer disposal by storing leachate and condensate in tanks and use those liquids for

[18] OEHHA, August 2019, Notification Level Recommendations Perfluorooctanoic Acid and Perfluorooctane Sulfonate in Drinking Water. https://oehha.ca.gov/media/downloads/water/chemicals/nl/final-pfoa-pfosnl082119.pdf

[19] Gates, Will P., et al., December 2020. *Interactions of Per-and Polyfluoralkyl Substances (PFAS) with Landfill Liners*.

[20] McWaters, R.S, and Rowe, R.K. February 27, 2009. *Transport of VOCs through a Co-Extruded Geomembrane with a Nylon barrier*. Presented in Geosynthetics 2009 (cited data is based on the LLDPE liner to which the coextruded liner was compared).

[21] Letter from Matther T. Keeling of the CCRWQCB to John Rogers of Waste Management dated July 14, 2021, titled *Land Disposal Program: John Smith Road Landfill, San Benito County – PFAS Detection Follow-Up Work Plan, WDID No. 3 350300001*.

dust control, or reinject them into the Landfill to promote early decay of the waste. During permitting for the expansion, the CCRWQCB will require the operator to submit the required strategy for approval. Dust control would likely be the primary management method followed by alternatives of injection and sewer disposal. For dust control, management methods would typically include:

- No surface application within 72 hours after measurable precipitation.
- No surface application 72 hours prior to a rainfall event with a 50% chance or greater of precipitation as determined by NOAA.
- No surface ponding caused by the application.
- Application in lined areas only.
- Application away from direct public access.
- Application no closer than 50 feet from the landfill edge of waste boundary.
- Application at a rate that does not create mud that can be tracked off site.

There is a clear existing regulatory framework for controlling leachate sprinkling and ceasing leachate sprinkling, if needed. Because the operator would be required to comply with the current regulations regarding PFAS used in dust control and because PFAS can readily be controlled by a HDPE liner, as described in Impact 4.8-3, the impact remains less than significant. As described in DEIR Appendix C, Section 8.6.3, the assumption that groundwater is not a pathway for health risk remains unchanged.[22]

CONCLUSION

In conclusion, the above discussion indicates no changes to conclusions of the mitigation analyses and no changes are recommended.

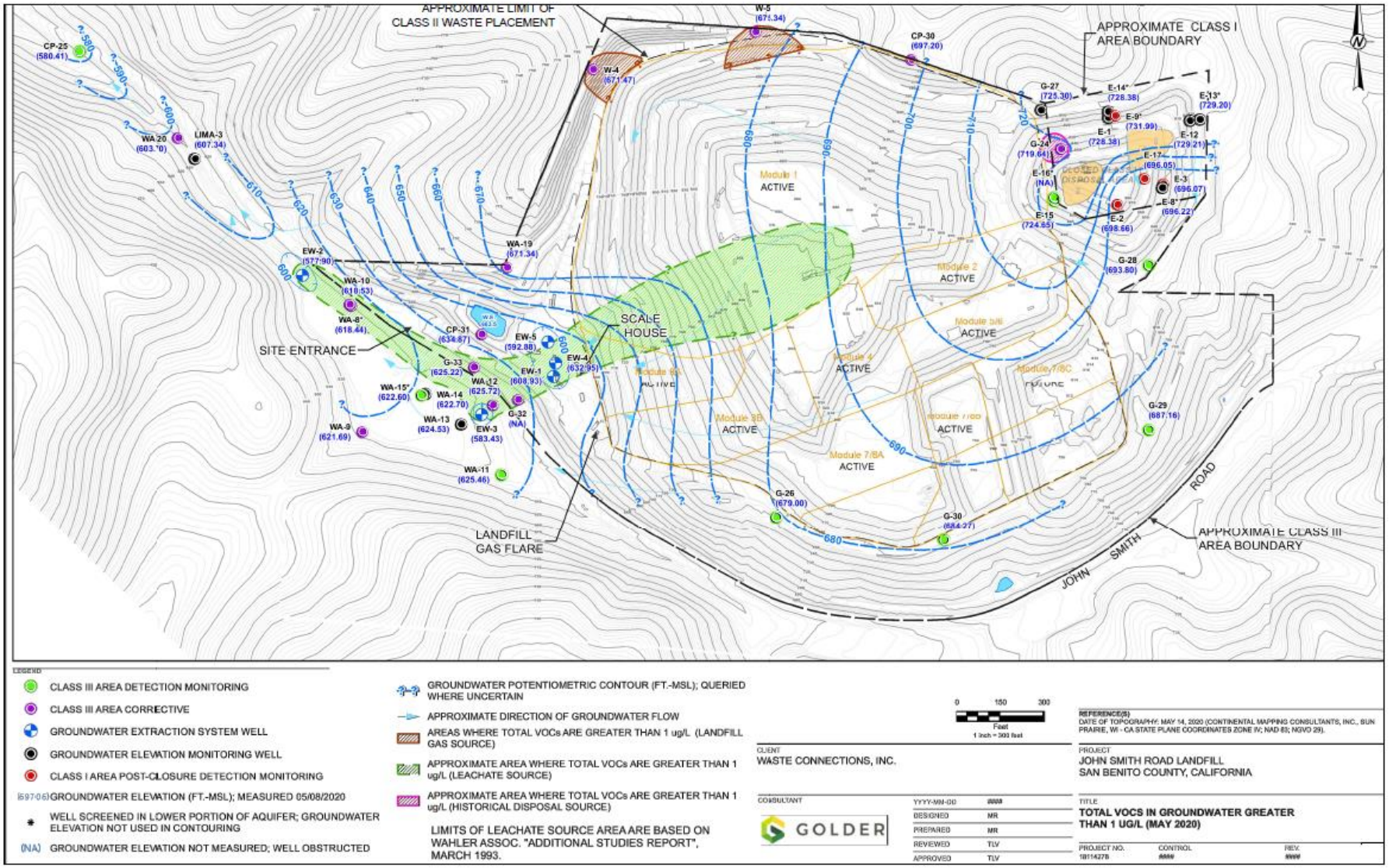
Please email at ccoles@lwrnc.com or call me at (530) 275-4800.

Sincerely,

Clayton E. Coles
Principal Engineering Geologist

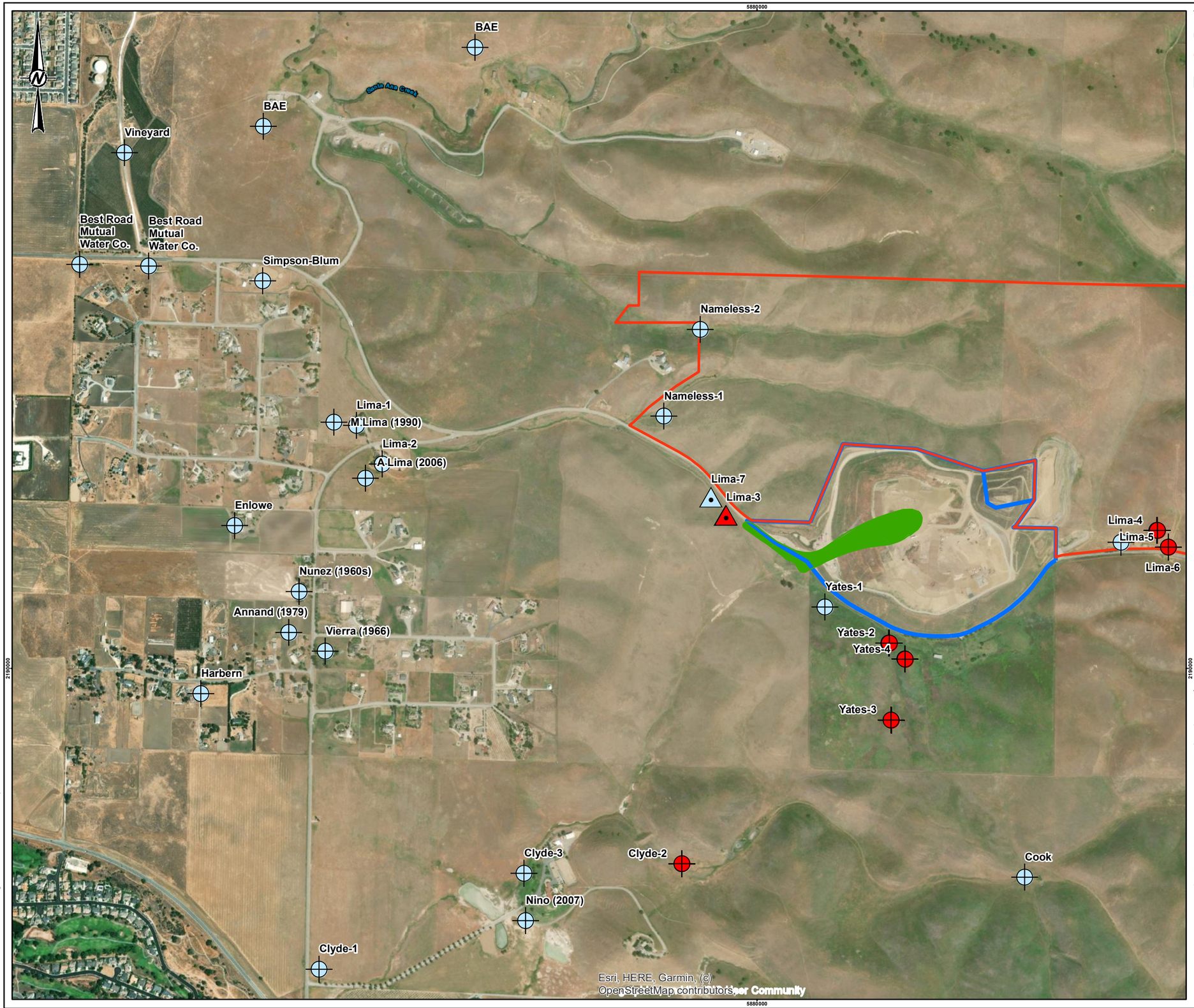
Enc. Figure 4.8-4
Map from Golder Associates
Figure 4.9-7 (Revised)

[22] Not assumed to be used to reduce water usage.



Source: Lawrence & Associates 2021

Existing Groundwater Extraction System **Figure 4.8-4**



LEGEND

- APPROXIMATE CURRENT LANDFILL BOUNDARY
- APPROXIMATE LANDFILL EXPANSION BOUNDARY
- APPROXIMATE AREA WHERE TOTAL VOCs ARE GREATER THAN 1 ug/L (LEACHATE SOURCE)
- INACTIVE WELL
- INACTIVE SPRING
- ACTIVE SPRING
- ACTIVE WELL

0 0.125 0.25 0.5 Miles

NOTE(S)

1.WELL LOCATIONS ADAPTED FROM "FIGURE 5, WELL SURVEY MAP" BY SHAW ENVIRONMENTAL, INC. ON AUGUST 2006 & "FIGURE A, WELL SURVEY MAP" BY GOLDER ASSOCIATES ON 12/9/11.

CLIENT
WASTE CONNECTIONS, INC

PROJECT
JOHN SMITH ROAD LANDFILL
SAN BENITO COUNTY, CALIFORNIA

TITLE
DOWNGRADIENT WELLS AND VOC-IMPACTED GROUNDWATER AREA

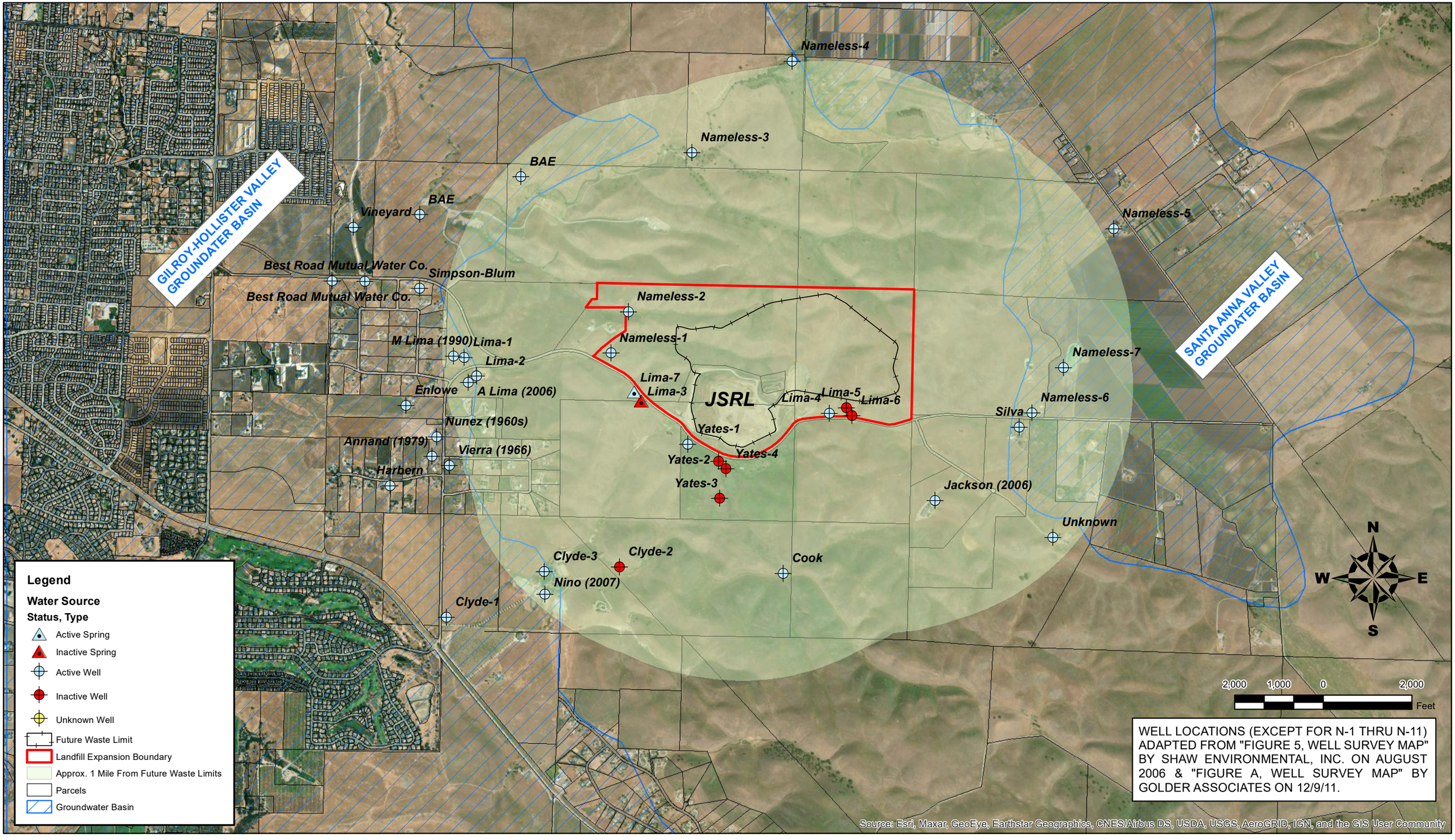
CONSULTANT
wsp GOLDER

YYYY-MM-DD	2022-10-07
DESIGNED	CMM
PREPARED	CMM
REVIEWED	KJ
APPROVED	KJ

PROJECT NO. 31404847 | REV. 0 | FIGURE 1

PATH: M:\Sites\John Smith Rd\GIS\2022 Plume Figure\Water Well and Plume Location Map2.mxd PRINTED ON: 2022-10-10 AT: 3:32:00 PM

IF THIS MEASUREMENT DOES NOT MATCH WHAT IS SHOWN, THE SHEET SIZE HAS BEEN MODIFIED FROM: ANSI B



Z:\p\009130.01 - WC - John Smith Rd LF - Project Description\well radius.mxd 10/7/2022

WELLS WITHIN 1 MILE OF PROPOSED WASTE BOUNDARY **FIGURE 4.9-7**

APPENDIX B

Attachments Included with Comment Letter 55 from Brian Schmidt, Committee for Green Foothills

KRISHNA A. ABRAMS
District Attorney of Solano County
DIANE NEWMAN, SBN 179926
Deputy District Attorney
Consumer and Environmental Crimes Unit
675 Texas Street, Suite 4500
Fairfield, CA 94533
Telephone: (707) 784-6800

Attorneys for Plaintiff,
The People of the State of California

Additional Counsel listed as signatories

VIA FACSIMILE

FILED/ENDORSED
Clerk of the Superior Court

SEP 15 2021

By J. KALAMARAS
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SOLANO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

ULTA BEAUTY, INC., a Delaware Corporation, ULTA SALON, COSMETICS & FRAGRANCE, INC., a Delaware Corporation, ULTA, INC., a Delaware Corporation, and POSSIBILITIES AB, INC., a Delaware Corporation,

Defendants.

CASE NO. FCS057080

STIPULATION FOR ENTRY OF FINAL JUDGMENT AND PERMANENT INJUNCTION AND ORDER THEREON
Filing Fees Exempt (Govt. Code § 6103)

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, generally appearing through its attorneys: Krishna A. Abrams, District Attorney of Solano County; Nancy E. O'Malley, District Attorney of Alameda County; Michael L. Ramsey, District Attorney of Butte County; Diana Becton, District Attorney of Contra Costa County; Lisa A. Smittcamp, District Attorney of Fresno County; Maggie Fleming, District Attorney of Humboldt County; Gilbert G. Otero, District Attorney of Imperial County; Lisa S. Green, District Attorney of Kern County; Keith Fagundes, District Attorney of Kings County; George Gascón, District Attorney of Los Angeles County; Michael N. Feuer, City Attorney of Los Angeles; Lori E. Frugoli, District Attorney of Marin County; Jeannine M. Pacioni, District Attorney of Monterey County; Allison Haley, District Attorney of Napa County; Todd Spitzer, District Attorney of Orange County; Morgan Gire, District Attorney of Placer County;

Michael A. Hestrin, District Attorney of Riverside County; Anne Marie Schubert, District Attorney of Sacramento County; Jason Anderson, District Attorney of San Bernardino County; Summer Stephan, District Attorney of San Diego County; Mara W. Elliott, City Attorney of San Diego; Chesa Boudin, District Attorney of San Francisco County; Tori Verber Salazar, District Attorney of San Joaquin County; Dan Dow, District Attorney of San Luis Obispo County; Stephen M. Wagstaffe, District Attorney of San Mateo County; Joyce E. Dudley, District Attorney of Santa Barbara County; Jeffrey F. Rosen, District Attorney of Santa Clara County; Stephanie A. Bridgett, District Attorney of Shasta County; Jill R. Ravitch, District Attorney of Sonoma County; Birgit A. Fladager, District Attorney of Stanislaus County; Amanda Hopper, District Attorney of Sutter County; Tim Ward, District Attorney of Tulare County; Erik Nasarenko, District Attorney of Ventura County; and Jeff W. Reisig, District Attorney of Yolo County; (hereafter collectively the "People" or "Plaintiff"): and Defendants ULTA BEAUTY, INC., a Delaware Corporation, ULTA SALON, COSMETICS & FRAGRANCE, INC., a Delaware Corporation, ULTA, INC., a Delaware Corporation, and POSSIBILITIES AB, INC., a Delaware Corporation,, (hereafter "Defendants") generally appearing through their attorneys, Manatt, Phelps & Phillips, LLP by Matthew Williamson.

THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:

1. This Court may enter this Stipulation for Entry of Final Judgment and Permanent Injunction ("Final Judgment") before the taking of any proof and without trial or adjudication of any fact or law;

2. This Court has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the parties to this Final Judgment;

3. This Final Judgment is a fair and reasonable resolution of the matters alleged in the People's Complaint;

4. Entry of this Final Judgment is not an admission or denial by Defendants regarding any issue of law or fact in the above-captioned matter or any violation of any law;

5. This Final Judgment shall be binding upon the People and upon Defendants; and

6. The People and Defendants (collectively, "the Parties") waive any right to set aside the Final Judgment through any collateral attack, and further waive their right to appeal from the

Final Judgment.

7. The Parties acknowledge this resolution has been reached during a global pandemic and that certain terms may have been offered or eliminated due to these unusual circumstances. The Parties acknowledge the resolution in this matter is unique due to the issues surrounding the COVID-19 Pandemic Crisis and its impact on this particular industry.

NOW THEREFORE, the People and Defendants having requested this Court enter this Final Judgment, and the Court having considered the Final Judgment reached between the Parties, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. JURISDICTION

This Court has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Final Judgment.

2. SETTLEMENT OF DISPUTED CLAIMS

This Final Judgment is a fair and reasonable resolution of the Covered Matters (as defined in Paragraph 6 below) and is in the best interest of the public.

3. DEFINITIONS

Except where otherwise expressly defined in this Final Judgment, all terms shall be interpreted consistent with Health and Safety Code sections section 25100 *et seq.* (Hazardous Waste Control Law), section 25500 *et seq.* (Hazardous Materials Release Response Plans and Inventory Law), and section 117600 *et seq.* (Medical Waste Management Act), and the regulations promulgated under these sections.

"Certified Unified Program Agency" or "CUPA" is defined in Health and Safety Code sections 25123.7, subdivision (b) and 25404, subdivision (a), and means the agency that, pursuant to Chapter 6.11 of the Health and Safety Code, and California Code of Regulations, is certified by the California Environmental Protection Agency with the jurisdictional responsibility and authority to implement and enforce certain state environmental program requirements specified in Health and Safety Code section 25404, subdivision (c)(1).

"Facility" or "Facilities" mean the stores, distribution centers, and facilities listed in **Exhibit A** that Defendants formerly or currently own or operate, and all other Ulta stores and facilities within

the State of California that Defendants, or any respective successor corporation or assignee, owns or operates subsequent to the effective date of this Final Judgment.

"Participating Agency" means an agency that has been designated by the CUPA to administer one or more state environmental programs on behalf of the CUPA.

4. INJUNCTIVE RELIEF

4.1 Applicability

The provisions of this injunction are applicable to Defendants and their respective successor corporations or assignees, and all persons, partnerships, corporations, and other entities that have Direct Operational Control over Defendants' hazardous waste management program and that are subject to the jurisdiction of the courts in the State of California, acting under, on behalf of, or at the direction of Defendants, or their respective successor corporations or assigns, with notice of this injunction. "Direct Operational Control" shall be interpreted to mean any person, partnership, corporation, or other entity that actively participates in the operation of hazardous waste and/or hazardous materials management programs for Facilities located in the State of California.

4.2 General Injunctive Provision:

Pursuant to the provisions of Health and Safety Code sections 25181, 25515.6, 25515.8, 118325 and Business and Professions Code section 17203, Defendants shall comply as applicable with Chapters 6.5 and 6.95 of Division 20 and Chapter 10 of Division 104 of the California Health and Safety Code, and the regulations promulgated under these chapters and Civil Code section 1798.81. Notwithstanding any other provision in this Final Judgment, nothing in this Final Judgment shall relieve Defendants from complying with any and all applicable laws and regulations, nor shall any term of the Final Judgment extend to Defendants' facilities, including its retail stores, outside the state of California.

4.3 Specific Injunctive Provisions:

Pursuant to the provisions of Health and Safety Code sections 25181, 25515.6, 25515.8, 118325 and Business and Professions Code section 17203, to the extent those provisions apply to Defendants' Facilities, Defendants are enjoined, restrained and prohibited from doing any of the following:

4.3.a. Disposing, or causing the disposal, of any of Defendants' hazardous waste at a point not authorized by law, in violation of Health and Safety Code sections 25189 and 25189.2, including, without limitation, to any trash container, dumpster, compactor, drain, sink, or toilet at any of the Facilities, or onto the surface or subsurface of the ground at any unauthorized location in California, or at a landfill or transfer station in California not authorized to receive hazardous waste, to the extent prohibited by Health and Safety Code sections 25189 and 25189.2;

4.3.b. Transporting, transferring custody of, or causing to be transported, any hazardous waste from a Facility using a transporter that is not registered to transport hazardous waste, to the extent prohibited by Health and Safety Code section 25163;

4.3.c. Transporting, or causing to be transported any hazardous waste to an unauthorized location in California, to the extent prohibited by Health and Safety Code sections 25189.5 and 25163.

4.3.d. Failing to determine if each item of waste generated at the Facilities, including waste that is a result of a spill or container breakage or other means, or product returned by a customer to the Facilities, is a hazardous waste, to the extent such determination is required by Title 22 of the California Code of Regulations section 66262.11 and 66260.200;

4.3.e. Treating, storing, disposing of, transporting, and offering for transportation, any hazardous waste without having received and used a proper identification number from the U.S. Environmental Protection Agency or the California Department of Toxic Substances Control ("DTSC") for the Facilities, to the extent such identification number is required by Title 22 of the California Code of Regulations, section 66262.12, subdivision (a);

4.3.f. Failing to submit to DTSC a legible copy of each manifest used within thirty (30) days of each shipment of hazardous waste off-site or into California, to the extent the submission of such manifests is required by Title 22 of the California Code of Regulations, section 66262.23, subdivision (a);

4.3.g. Failing to maintain a program for the lawful storage, handling and accumulation of hazardous waste, and for the lawful segregation of hazardous-waste items that are in

leaking containers, to the extent such program is required by Health & Safety Code Section 25123.3 and California Code of Regulations, Title 22, Sections 66262.34, 66265.173 and 66265.177;

4.3.h. Failing to maintain properly designated and designed hazardous waste storage areas, which include the segregation of hazardous wastes, at each Facility, to the extent such areas are required by California Code of Regulations, Title 22, Sections 66262.34;

4.3.i. Failing to conduct weekly inspections of hazardous waste storage areas, to the extent such inspections are required by Title 22 of the California Code of Regulations, section 66265.174 and Title 40 of the Code of Federal Regulations, section 265.174;

4.3.j. Failing to keep containers of hazardous waste closed, except when removing or adding hazardous waste, to the extent required by Title 22 of the California Code of Regulations, section 66265.173;

4.3.k. Failing to implement, maintain or submit to the CUPA a complete hazardous materials business plan ("HMBP") for each of the Facilities, to the extent such HMBP is required by Health and Safety Code sections 25505 and 25508 and Title 19 of the California Code of Regulations, section 2650;

4.3.l. Failing to comply with any employee training program requirements at the Facilities to the extent such employee training program is required by Health and Safety Code section 25505, subdivision (a)(4), and Title 19 of the California Code of Regulations, section 2659;

4.3.m. Failing to comply with employee training obligations pertaining to handling of hazardous waste and emergency procedures at the Facilities, to the extent such employee training is required by Title 22 of the California Code of Regulations, section 66262.34 and Title 40 of the Code of Federal Regulations, section 262.16, subdivision (b)(9)(iii);

4.3.n. Failing to retain copies or receipts of any required hazardous waste manifests for three (3) years for the Facilities, to the extent such retention is required by Health and Safety Code sections, 25160.2, subdivision (b)(3), and Title 22 of the California Code of Regulations section 66262.40, subdivision (a);

4.3.o. Failing to label or mark, manage, and accumulate any universal waste at each of the Facilities in compliance with the standards for universal waste management found in Title 22

of the California Code of Regulations, sections 66273.33 through 66273.36or in the alternative, failing to manage any such waste as hazardous waste in compliance with Chapter 6.5 of the Health and Safety Code and its implementing regulations in Title 22 of the California Code of Regulations, including, but not limited to, section 66262.34;

4.3.p. Failing to comply with any applicable storage, transportation or disposal requirements under the California Medical Waste Management Act, Health and Safety Code section 117600 *et seq.* at the Facilities, including but not limited to any requirements for storage, transportation or disposal of regulated pharmaceutical waste as defined in Health and Safety Code section 117690, to the extent such storage, transportation, or disposal is required by Health and Safety Code sections 117915 and 117918; and

4.3.q. Failing to take all reasonable steps to dispose, or arrange for the disposal, of Defendants' customer records from Facilities within its custody or control containing personal information, to the extent such disposal is required by Civil Code 1798.81.

4.4 **Compliance Assurance Program**

Pursuant to the provisions of Health and Safety Code section 25181 and Business and Professions Code section 17203, Defendants shall implement the following compliance assurance programs to supplement the injunctive provisions of this Final Judgment:

4.4.a. Training. Defendants shall ensure that all employees at all of their California retail stores, and any other employees at the Facilities (to the extent such other employees' job responsibilities include waste handling and emergency procedures) are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operation and emergencies.

4.4.a.1. For any training conducted in accordance with 4.4.a., Defendants shall maintain documentation sufficient to identify the topic(s) on which employees received training and include the dates of training. Such records may be maintained electronically. Defendants shall maintain any documentation for a period of five (5) years from the date the training was conducted, in a manner

that allows retrieval of the records within five (5) business days of receipt of any request for governmental inspection.

4.4.a.2. Defendants shall require employees to participate in a training program to familiarize them with hazardous waste handling and emergency procedures, relevant to the employee's responsibilities during normal operations and emergencies, within six (6) months of hire. Employees shall be supervised by a manager trained in such procedures, until the employees have completed such training program. Defendants shall maintain, and review records quarterly, to ensure that this requirement is met.

4.4.a.3. Defendants shall promptly make available upon request by any CUPA Inspector, peace officer, agent of the Department of Justice, California Environmental Protection Agency, the DTSC, District Attorney or City Attorney all training records maintained for each Facility pursuant to paragraph 4.4.a.1.- 4. In the event that such records are not available at the time of a governmental inspection, Defendants shall provide such records to the requesting body within five (5) business days.

4.4.a.4. To the extent any one of Defendants' Facilities generates more than 1,000 kg/month of hazardous waste, or 1 kg/month of acute hazardous waste, or 100 kg/month of acute spill residue or soil, then Defendants shall additionally comply with the personnel training requirements contained in and Title 22 of the California Code of Regulations section 66265.16, to the extent applicable, for that particular Facility's employees.

4.4.b. Compliance Certification. Within sixty (60) days after the end of each calendar year following entry of this Final Judgment for a period of five (5) years, Defendants shall provide the persons listed in Exhibit B with a statement regarding Defendants' compliance with this Final Judgment. The statement shall include a summary description of the actions taken by the Defendants pursuant to this Final Judgment in the previous calendar year, and a copy of all hazardous waste inspection reports received by Defendants, notices of violation, notices to comply, and return to

compliance statements, if any, issued to the Facilities during the prior calendar year. The statement shall be signed by a responsible corporate officer and include the following certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all documents submitted herewith; and that, to the best of my knowledge and belief, the submitted information is true, accurate, and complete.

5. CIVIL PENALTIES, SUPPLEMENTAL ENVIRONMENTAL PROJECTS, AND COSTS

5.1 **Civil Penalties**

Within twenty-one (21) business days after entry of this Final Judgment, Defendants shall pay FOUR HUNDRED THIRTY-NINE THOUSAND FIVE HUNDRED DOLLARS ($439,500.00) as civil penalties pursuant to Health and Safety Code sections 25189 and 25515, and Business and Professions Code section 17206, and Government Code section 26506, to be distributed to the prosecuting agencies/regulatory agencies identified in and in accordance with the terms of **Exhibits C-1 and C-2**, attached and made part of this Final Judgment and Permanent Injunction by this reference.

5.2 **Supplemental Environmental Projects**

Within twenty-one (21) business days after entry of this Final Judgment, Defendants shall pay SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS ($62,500) for supplemental environmental projects identified in, and in accordance with the terms of, **Exhibit D**.

5.3 **Reimbursement of Costs of Investigation and Enforcement**

Within twenty-one (21) business days after entry of this Final Judgment, Defendants shall pay TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00) for reimbursement of attorneys' fees, costs of investigation, and other costs of enforcement, to the entities identified in, and in accordance with the terms of, **Exhibits E-1 and E-2**, attached.

5.4 **Payments and Expenditures**

The payment of all civil penalties, supplemental environmental projects, and reimbursement of cost payments and other expenditures set forth in paragraphs 5.1, 5.2 and 5.3, above, shall be made by checks and delivered to the District Attorney's Office for the County of Solano, Attention: Diane Newman, Deputy District Attorney, for distribution pursuant to the terms of this Final Judgment.

Pursuant to the terms of this Final Judgment and Government Code section 26506 and without objection by Defendants, the above-referenced payments shall be distributed and used as herein requested by Plaintiff and as set forth in Exhibits C-1, C-2, D, E-1 and E-2.

6. MATTERS COVERED BY THIS FINAL JUDGMENT

6.1. This Final Judgment is a final and binding resolution and settlement of all claims, violations or causes of action that were asserted or could have been asserted within the scope of the allegations specifically set forth in the Complaint against Defendants and its officers, directors, employees through the date of entry of this Final Judgment regarding the included Facilities ("Covered Matters").

6.2. Any claim, violation, or cause of action that is not a Covered Matter is a "Reserved Claim." Reserved Claims include, without limitation, any violation that occurs after the Court's entry of this Final Judgment; any claim, violation, or cause of action against Defendants' independent contractors or their subcontractors; and separate and independent violations arising out of matters or allegations that are not set forth in the Complaint, whether known or unknown. Reserved Claims also include any claims or causes of action against Defendants for performance of cleanup, corrective action, or response action for any actual past or future releases, spills, or disposals of hazardous waste or hazardous substances that were caused or contributed to by Defendants at or from any of Defendants' Facilities.

6.3. In any subsequent action that may be brought by the People based on any Reserved Claim, Defendants cannot assert that failing to pursue any Reserved Claim as part of this action constitutes claim-splitting. This Paragraph does not affect any statute of limitations, if any, which may be applicable to any Reserved Claim, and does not prohibit Defendants from asserting any statute of limitations or other legal or equitable defenses that may be applicable to any Reserved Claim.

6.4. Defendants covenant not to pursue any civil or administrative claims against the People or against any agency of the State of California, or any county or city in the State of California, or any CUPA, Participating Agency or local agency (collectively, "Agencies"), or against any of their officers, employees, representatives, agents, or attorneys, arising out of or related to any

Covered Matter and arising before entry of this Final Judgment; provided, however, that if any Agencies initiate claims against Defendants, Defendants retain any and all rights and defenses against such Agencies.

7. EFFECT OF FINAL JUDGMENT

Except as expressly provided in this Final Judgment, nothing in this Final Judgment is intended, nor shall it be construed, to preclude the People, or any state, county, city, or local agency, department, board, or any CUPA from exercising its authority under any law, statute or regulation. Defendants retain all of their defenses to the exercise of the aforementioned authority.

8. NO WAIVER OF RIGHT TO ENFORCE

The failure of the People to enforce any provision of this Final Judgment shall neither be deemed a waiver of such provision nor in any way affect the validity of this Final Judgment. Except as expressly provided in this Final Judgment, the failure of the People to enforce any such provision shall not preclude them from later enforcing the same or any other provision of this Final Judgment, subject to paragraphs 12 and 20. Except as expressly provided in this Final Judgment, Defendants retain all defenses to any such later enforcement action.

9. INTERPRETATION

This Final Judgment was drafted equally by all Parties hereto. Accordingly, any and all rules of construction including Civil Code section 1654 which provides that ambiguity is construed against the drafting party shall not apply to the interpretation of this Final Judgment.

10. INTEGRATION

This Final Judgment constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for herein. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered in this Final Judgment shall be construed to relieve any Party of its obligations under this Final Judgment. No oral representations have been made or relied upon other than as expressly set forth herein.

11. FUTURE REGULATORY CHANGES

Nothing in this Final Judgment shall excuse Defendants from meeting any more-stringent requirement that may be imposed by applicable existing law or by any change in the applicable law.

To the extent any future statutory or regulatory change makes Defendants' obligations less stringent than those provided for in this Final Judgment, Defendants' compliance with the changed law shall be deemed compliance with this Final Judgment; however, any change in law or regulation shall not reduce or diminish Defendants' obligations to comply with Paragraph 4.4., above.

12. TERMINATION OF COMPLIANCE PROGRAM

Defendants' obligations to engage in a compliance program pursuant to Paragraph 4.4 of this Final Judgment shall terminate five (5) years after the Effective Date of this Final Judgment provided that Defendants first demonstrate that it paid all amounts owed per Exhibits C-1, C-2, D, E-1, and E-2.

13. NOTICES

Unless otherwise specified in this Final Judgment, all notices under this Final Judgment shall be made in writing, by both email and mail, and addressed to the persons identified in Exhibit B. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address.

14. CONTINUING JURISDICTION

The Court shall retain continuing jurisdiction to enforce the injunctive terms of this Final Judgment and to address any other matters arising out of or regarding this Final Judgment.

15. ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS

On reasonable notice, Defendants shall permit any duly authorized representative of the People to inspect and copy records and documents reasonably relevant to determine compliance with the terms of this Final Judgment on Consent. Nothing in this paragraph is intended to require access to or production of any documents that are protected from production or disclosure by attorney-client privilege, the attorney work product doctrine or other applicable privilege, defense, exemption, or immunity afforded to Defendants under applicable law, nor does it waive any of the objections or defenses to which Defendants would be entitled in responding to requests for documents made by subpoena or other formal legal process or discovery. This obligation shall not require Defendants to alter their normal document-retention policies (including, but not limited to, policies regarding backup tapes for electronic documents); provided, however, that Defendants' policies must comply

with Health and Safety Code Chapters 6.5 and 6.95; Health and Safety Code Sections 117600, *et seq.*; Civil Code Sections 1798.80, *et seq.* and their implementing regulations as applicable, and any other applicable law addressed in this action, to the extent those provisions apply to Defendants' California Facilities. Nothing in this paragraph is intended to limit the authority of any governmental agency to inspect Defendants' Facilities or their records and documents under applicable law.

16. PAYMENT OF LITIGATION EXPENSES AND FEES

Defendants shall make no request of the People to pay their attorney fees, expert witness fees and costs, or any other costs of litigation or investigation incurred to date in connection with Covered Matters in this Final Judgment.

17. COUNTERPART SIGNATURES

The stipulation for entry of this Final Judgment may be executed by the Parties in counterparts. For purposes of this Final Judgment, facsimile signatures shall be deemed originals, and the parties agree to exchange original signatures as promptly as possible.

18. INCORPORATION OF EXHIBITS

Exhibits "A" through "E-2" are incorporated herein by reference.

19. MODIFICATION

The injunctive provisions of this Final Judgment may be modified only on noticed motion by one of the parties with approval of the Court, or upon written consent by all of the Parties and the approval of the Court.

20. TERMINATION OF PERMANENT INJUNCTION

At any time after this Final Judgment has been in effect for five (5) years, and Defendants have paid and expended all amounts required under the Final Judgment, Defendants may move to terminate the injunctive provisions in Paragraphs 4.2 and 4.3 pursuant to Code of Civil Procedure section 533 and Civil Code section 3424. After this Final Judgment has been in effect for seven (7) years, and Defendants have paid and expended all amounts required under the Final Judgment, the injunctive provisions in Paragraphs 4.2 and 4.3 will terminate automatically.

21. EFFECTIVE DATE OF FINAL JUDGMENT

This Final Judgment shall become effective upon entry. The Parties need not file a Notice of Entry of Judgment.

IT IS SO STIPULATED.

FOR THE PEOPLE:

KRISHNA A. ABRAMS, District Attorney
County of Solano, State of California

DATED: 8/24/2021

By: Diane Newman
DIANE NEWMAN
Deputy District Attorney

NANCY E. O'MALLEY, District Attorney
County of Alameda, State of California

DATED: 7/6/21

By:
KENNETH A. MIFSUD
Assistant District Attorney

MICHAEL L. RAMSEY, District Attorney
County of Butte, State of California

DATED: _____

By: _____
ROBERT E. NICHOLS
Deputy District Attorney

DIANA BECTON, District Attorney
County of Contra Costa, State of California

DATED: _____

By: _____
STACEY GRASSINI
Senior Deputy District Attorney

ALLISON HALEY, District Attorney
County of Napa, State of California

DATED: _____

By: _____
PATRICK COLLINS
Deputy District Attorney

21. EFFECTIVE DATE OF FINAL JUDGMENT

This Final Judgment shall become effective upon entry. The Parties need not file a Notice of Entry of Judgment.

IT IS SO STIPULATED.

FOR THE PEOPLE:

KRISHNA A. ABRAMS, District Attorney
County of Solano, State of California

DATED: _____ By: _____
DIANE NEWMAN
Deputy District Attorney

NANCY E. O'MALLEY, District Attorney
County of Alameda, State of California

DATED: _____ By: _____
KENNETH A. MIFSUD
Assistant District Attorney

MICHAEL L. RAMSEY, District Attorney
County of Butte, State of California

DATED: July 26, 2021 By: _____
ROBERT E. NICHOLS
Deputy District Attorney

DIANA BECTON, District Attorney
County of Contra Costa, State of California

DATED: _____ By: _____
STACEY GRASSINI
Senior Deputy District Attorney

ALLISON HALEY, District Attorney
County of Napa, State of California

DATED: _____ By: _____
PATRICK COLLINS
Deputy District Attorney

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Assistant District Attorney

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County of Butte, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

DIANA BECTON, District Attorney
County of Contra Costa, State of California

DATED: 7/1/21 By: _____
STACEY GRASSINI
Senior Deputy District Attorney

ALLISON HALEY, District Attorney
County of Napa, State of California

DATED: _____ By: _____
PATRICK COLLINS
Deputy District Attorney

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Deputy District Attorney

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DATED: _____ By: _____
STACEY GRASSINI
Senior Deputy District Attorney

ALLISON HALEY, District Attorney
County of Napa, State of California

DATED: 7/1/21 By: _____
PATRICK COLLINS
Deputy District Attorney

LISA A. SMITTCAMP, District Attorney
County of Fresno, State of California

DATED: 8/2/2021

By: _____
ADAM KOOK
Deputy District Attorney

GILBERT G. OTERO, District Attorney
County of Imperial, State of California

DATED: _____

By: _____
ROBERT E. NICHOLS
Deputy District Attorney

LISA S. GREEN, District Attorney
County of Kern, State of California

DATED: _____

By: _____
JOHN OHANESIAN
Deputy District Attorney

KEITH FAGUNDES, District Attorney
County of Kings, State of California

DATED: _____

By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MICHAEL N. FEUER, City Attorney
City of Los Angeles, State of California

DATED: _____

By: _____
JESSICA B. BROWN
Supervising Deputy City Attorney

LISA A. SMITTCAMP, District Attorney
County of Fresno, State of California

DATED: _____ By: _____
ADAM KOOK
Deputy District Attorney

GILBERT G. OTERO, District Attorney
County of Imperial, State of California

DATED: July 26, 2021 By: _____
ROBERT E. NICHOLS
Deputy District Attorney

LISA S. GREEN, District Attorney
County of Kern, State of California

DATED: _____ By: _____
JOHN OHANESIAN
Deputy District Attorney

KEITH FAGUNDES, District Attorney
County of Kings, State of California

DATED: July 26, 2021 By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MICHAEL N. FEUER, City Attorney
City of Los Angeles, State of California

DATED: _____ By: _____
JESSICA B. BROWN
Supervising Deputy City Attorney

LISA A. SMITTCAMP, District Attorney
County of Fresno, State of California

DATED: _____ By: _____
ADAM KOOK
Deputy District Attorney

GILBERT G. OTERO, District Attorney
County of Imperial, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

CYNTHIA ZIMMER
~~LISA S. GREEN~~, District Attorney
County of Kern, State of California

DATED: 7-27-2021 By: _____
JOHN OHANESIAN
Deputy District Attorney

KEITH FAGUNDES, District Attorney
County of Kings, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MICHAEL N. FEUER, City Attorney
City of Los Angeles, State of California

DATED: _____ By: _____
JESSICA B. BROWN
Supervising Deputy City Attorney

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County of Fresno, State of California

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County of Kern, State of California

DATED: _____ By: _____
JOHN OHANESIAN
Deputy District Attorney

KEITH FAGUNDES, District Attorney
County of Kings, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MICHAEL N. FEUER, City Attorney
City of Los Angeles, State of California

DATED: July 26, 2021 By: _____
JESSICA B. BROWN
Supervising Deputy City Attorney

GEORGE GASCÓN, District Attorney
County of Los Angeles, State of California

DATED: Jul 14, 2021

By: _____
DANIEL J. WRIGHT
Deputy District Attorney

JEANNINE M. PACIONI, District Attorney
County of Monterey, State of California

DATED: _____

By: _____
DIJE NDREU
Deputy District Attorney

TODD SPITZER, District Attorney
County of Orange, State of California

DATED: _____

By: _____
WILLIAM G. FALLON
Deputy District Attorney

MORGAN GIRE, District Attorney
County of Placer, State of California

DATED: _____

By: _____
JANE CRUE
Deputy District Attorney

MICHAEL A. HESTRIN, District Attorney
County of Riverside, State of California

DATED: _____

By: _____
LAUREN MARTINEAU
Deputy District Attorney

GEORGE GASCÓN, District Attorney
County of Los Angeles, State of California

DATED: _____ By: _____
DANIEL J. WRIGHT
Deputy District Attorney

JEANNINE M. PACIONI, District Attorney
County of Monterey, State of California

DATED: 6/21/21 By: _____
DIJE NDREU
Deputy District Attorney

TODD SPITZER, District Attorney
County of Orange, State of California

DATED: _____ By: _____
WILLIAM G. FALLON
Deputy District Attorney

MORGAN GIRE, District Attorney
County of Placer, State of California

DATED: _____ By: _____
JANE CRUE
Deputy District Attorney

MICHAEL A. HESTRIN, District Attorney
County of Riverside, State of California

DATED: _____ By: _____
LAUREN MARTINEAU
Deputy District Attorney

GEORGE GASCÓN, District Attorney
County of Los Angeles, State of California

DATED: _____ By: _____
DANIEL J. WRIGHT
Deputy District Attorney

JEANNINE M. PACIONI, District Attorney
County of Monterey, State of California

DATED: _____ By: _____
DIJE NDREU
Deputy District Attorney

TODD SPITZER, District Attorney
County of Orange, State of California

DATED: 6/25/21 By: [signature] for William Fallon
WILLIAM G. FALLON
Deputy District Attorney

MORGAN GIRE, District Attorney
County of Placer, State of California

DATED: _____ By: _____
JANE CRUE
Deputy District Attorney

MICHAEL A. HESTRIN, District Attorney
County of Riverside, State of California

DATED: _____ By: _____
LAUREN MARTINEAU
Deputy District Attorney

GEORGE GASCÓN, District Attorney
County of Los Angeles, State of California

DATED: _____ By: _____
DANIEL J. WRIGHT
Deputy District Attorney

JEANNINE M. PACIONI, District Attorney
County of Monterey, State of California

DATED: _____ By: _____
DIJE NDREU
Deputy District Attorney

TODD SPITZER, District Attorney
County of Orange, State of California

DATED: _____ By: _____
WILLIAM G. FALLON
Deputy District Attorney

MORGAN GIRE, District Attorney
County of Placer, State of California

DATED: 6-16-2021 By: _____
JANE CRUE
Deputy District Attorney

MICHAEL A. HESTRIN, District Attorney
County of Riverside, State of California

DATED: _____ By: _____
LAUREN MARTINEAU
Deputy District Attorney

GEORGE GASCÓN, District Attorney
County of Los Angeles, State of California

DATED: _____ By: _____
DANIEL J. WRIGHT
Deputy District Attorney

JEANNINE M. PACIONI, District Attorney
County of Monterey, State of California

DATED: _____ By: _____
DIJE NDREU
Deputy District Attorney

TODD SPITZER, District Attorney
County of Orange, State of California

DATED: _____ By: _____
WILLIAM G. FALLON
Deputy District Attorney

MORGAN GIRE, District Attorney
County of Placer, State of California

DATED: _____ By: _____
JANE CRUE
Deputy District Attorney

MICHAEL A. HESTRIN, District Attorney
County of Riverside, State of California

DATED: June 15, 2021 By: _____
LAUREN MARTINEAU
Deputy District Attorney

ANNE MARIE SCHUBERT, District Attorney
County of Sacramento, State of California

DATED: 6/18/21

By: _____
DOUGLAS WHALEY
Supervising Deputy District Attorney

JASON ANDERSON, District Attorney
County of San Bernardino, State of California

DATED: _____

By: _____
DAVID TULCAN
Deputy District Attorney

MARA W. ELLIOTT, City Attorney
City of San Diego, State of California

DATED: _____

By: _____
JULIE RAU
Deputy City Attorney

SUMMER STEPHAN, District Attorney
County of San Diego, State of California

DATED: _____

By: _____
MICHAEL McCANN
Deputy District Attorney

CHESA BOUDIN, District Attorney
County of San Francisco, State of California

DATED: _____

By: _____
ALETHEA SARGENT
Assistant District Attorney

ANNE MARIE SCHUBERT, District Attorney
County of Sacramento, State of California

DATED: _____ By: _____
DOUGLAS WHALEY
Supervising Deputy District Attorney

JASON ANDERSON, District Attorney
County of San Bernardino, State of California

DATED: 6-25-21 By: David Tulcan
DAVID TULCAN
Deputy District Attorney

MARA W. ELLIOTT, City Attorney
City of San Diego, State of California

DATED: _____ By: _____
JULIE RAU
Deputy City Attorney

SUMMER STEPHAN, District Attorney
County of San Diego, State of California

DATED: _____ By: _____
MICHAEL McCANN
Deputy District Attorney

CHESA BOUDIN, District Attorney
County of San Francisco, State of California

DATED: _____ By: _____
ALETHEA SARGENT
Assistant District Attorney

ANNE MARIE SCHUBERT, District Attorney
County of Sacramento, State of California

DATED: _____ By: _____
DOUGLAS WHALEY
Supervising Deputy District Attorney

JASON ANDERSON, District Attorney
County of San Bernardino, State of California

DATED: _____ By: _____
DAVID TULCAN
Deputy District Attorney

MARA W. ELLIOTT, City Attorney
City of San Diego, State of California

DATED: 6/30/21 By: Julie Rau
JULIE RAU
Deputy City Attorney

SUMMER STEPHAN, District Attorney
County of San Diego, State of California

DATED: _____ By: _____
MICHAEL McCANN
Deputy District Attorney

CHESA BOUDIN, District Attorney
County of San Francisco, State of California

DATED: _____ By: _____
ALETHEA SARGENT
Assistant District Attorney

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Supervising Deputy District Attorney

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County of San Bernardino, State of California

DATED: _____ By: _____
DAVID TULCAN
Deputy District Attorney

MARA W. ELLIOTT, City Attorney
City of San Diego, State of California

DATED: _____ By: _____
JULIE RAU
Deputy City Attorney

SUMMER STEPHAN, District Attorney
County of San Diego, State of California

DATED: 6-30-21 By: Mike McCann
MICHAEL McCANN
Deputy District Attorney

CHESA BOUDIN, District Attorney
County of San Francisco, State of California

DATED: _____ By: _____
ALETHEA SARGENT
Assistant District Attorney

ANNE MARIE SCHUBERT, District Attorney
County of Sacramento, State of California

DATED: _____ By: _____
DOUGLAS WHALEY
Supervising Deputy District Attorney

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County of San Bernardino, State of California

DATED: _____ By: _____
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City of San Diego, State of California

DATED: _____ By: _____
JULIE RAU
Deputy City Attorney

SUMMER STEPHAN, District Attorney
County of San Diego, State of California

DATED: _____ By: _____
MICHAEL McCANN
Deputy District Attorney

CHESA BOUDIN, District Attorney
County of San Francisco, State of California

DATED: 6/30/2021 By: Alethea Sargent
ALETHEA SARGENT
Assistant District Attorney

TORI VERBER SALAZAR, District Attorney
County of San Joaquin, State of California

DATED: July 7, 2021

By: Celeste Kaisch
CELESTE KAISCH
Deputy District Attorney

DAN DOW, District Attorney
County of San Luis Obispo, State of California

DATED: _____

By: _____
KENNETH JORGENSEN
Deputy District Attorney

STEPHEN M. WAGSTAFFE, District Attorney
County of San Mateo, State of California

DATED: _____

By: _____
JOHN E. WILSON
Deputy District Attorney In Charge

JOYCE E. DUDLEY, District Attorney
County of Santa Barbara, State of California

DATED: _____

By: _____
CHRISTOPHER DALBEY
Deputy District Attorney

JEFFREY F. ROSEN, District Attorney
County of Santa Clara, State of California

DATED: _____

By: _____
BUD PORTER
Supervising Deputy District Attorney

TORI VERBER SALAZAR, District Attorney
County of San Joaquin, State of California

DATED: _____ By: _____
CELESTE KAISCH
Deputy District Attorney

DAN DOW, District Attorney
County of San Luis Obispo, State of California

DATED: 6-16-21 By: Kenneth Jorgensen
KENNETH JORGENSEN
Deputy District Attorney

STEPHEN M. WAGSTAFFE, District Attorney
County of San Mateo, State of California

DATED: _____ By: _____
JOHN E. WILSON
Deputy District Attorney In Charge

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DATED: _____ By: _____
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DATED: _____ By: _____
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DATED: 6-21-21 By: _____
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DATED: _____ By: _____
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Deputy District Attorney

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County of San Mateo, State of California

DATED: _____ By: _____
JOHN E. WILSON
Deputy District Attorney In Charge

JOYCE E. DUDLEY, District Attorney
County of Santa Barbara, State of California

DATED: June 30, 2021 By: _____
CHRISTOPHER DALBEY
Deputy District Attorney

JEFFREY F. ROSEN, District Attorney
County of Santa Clara, State of California

DATED: _____ By: _____
BUD PORTER
Supervising Deputy District Attorney

TORI VERBER SALAZAR, District Attorney
County of San Joaquin, State of California

DATED: _____ By: _____
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Deputy District Attorney

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County of San Luis Obispo, State of California

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County of San Mateo, State of California

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County of Santa Barbara, State of California

DATED: _____ By: _____
CHRISTOPHER DALBEY
Deputy District Attorney

JEFFREY F. ROSEN, District Attorney
County of Santa Clara, State of California

DATED: 6/16/21 By: _____
BUD PORTER
Supervising Deputy District Attorney

STEPHANIE A. BRIDGETT, District Attorney
County of Shasta, State of California

DATED: 06/17/2021

By: _____
ANAND B. JESRANI
Deputy District Attorney

JILL R. RAVITCH, District Attorney
County of Sonoma, State of California

DATED: 6/17/21

By: _____
MATTHEW T. CHEEVER
Deputy District Attorney

BIRGIT A. FLADAGER, District Attorney
County of Stanislaus, State of California

DATED: _____

By: _____
DARRELL GRIFFIN
Deputy District Attorney

AMANDA HOPPER, District Attorney
County of Sutter, State of California

DATED: _____

By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MAGGIE FLEMMING, District Attorney
County of Humboldt, State of California

DATED: _____

By: _____
ROBERT E. NICHOLS
Deputy District Attorney

TIM WARD, District Attorney
County of Tulare, State of California

DATED: _____

By: _____
RODNEY BLACO
Deputy District Attorney

STEPHANIE A. BRIDGETT, District Attorney
County of Shasta, State of California

DATED: _____ By: _____
ANAND B. JESRANI
Deputy District Attorney

JILL R. RAVITCH, District Attorney
County of Sonoma, State of California

DATED: _____ By: _____
MATTHEW T. CHEEVER
Deputy District Attorney

BIRGIT A. FLADAGER, District Attorney
County of Stanislaus, State of California

DATED: 7/14/21 By: _____
DARRELL GRIFFIN
Deputy District Attorney

AMANDA HOPPER, District Attorney
County of Sutter, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MAGGIE FLEMMING, District Attorney
County of Humboldt, State of California

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County of Sonoma, State of California

DATED: _____ By: _____
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County of Stanislaus, State of California

DATED: _____ By: _____
DARRELL GRIFFIN
Deputy District Attorney

AMANDA HOPPER, District Attorney
County of Sutter, State of California

DATED: July 26, 2021 By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MAGGIE FLEMMING, District Attorney
County of Humboldt, State of California

DATED: July 26, 2021 By: _____
ROBERT E. NICHOLS
Deputy District Attorney

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County of Tulare, State of California

DATED: _____ By: _____
RODNEY BLACO
Deputy District Attorney

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County of Sonoma, State of California

DATED: _____ By: _____
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County of Stanislaus, State of California

DATED: _____ By: _____
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County of Sutter, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

MAGGIE FLEMMING, District Attorney
County of Humboldt, State of California

DATED: _____ By: _____
ROBERT E. NICHOLS
Deputy District Attorney

TIM WARD, District Attorney
County of Tulare, State of California

DATED: June 16, 2021 By: _____
RODNEY BLACO
Deputy District Attorney

ERIK NASARENKO, District Attorney
County of Ventura, State of California

DATED: July 26, 2021

By: _____
KAREN WOLD
Senior Deputy District Attorney

JEFF W. REISIG, District Attorney
County of Yolo, State of California

DATED: _____

By: _____
DAVID J. IREY
Assistant Chief Deputy District Attorney

FOR ULTA BEAUTY, INC.:

DATED: _____

By: _____
Jodi Caro
General Counsel, Chief Risk & Compliance Officer

FOR ULTA SALON, COSMETICS & FRAGRANCE, INC.:

DATED: _____

By: _____
Jodi Caro
General Counsel & Corporate Secretary

FOR ULTA, INC.:

DATED: _____

By: _____
Jodi Caro
Vice President & Secretary

FOR POSSIBILITIES AB, INC.:

DATED: _____

By: _____
Jodi Caro
Vice President & Secretary

ERIK NASARENKO, District Attorney
County of Ventura, State of California

DATED: _____ By: _____
KAREN WOLD
Senior Deputy District Attorney

JEFF W. REISIG, District Attorney
County of Yolo, State of California

DATED: 7/27/2021 By: _____
DAVID J. IREY
Assistant Chief Deputy District Attorney

FOR ULTA BEAUTY, INC.:

DATED: _____ By: _____
Jodi Caro
General Counsel, Chief Risk & Compliance Officer

FOR ULTA SALON, COSMETICS & FRAGRANCE, INC.:

DATED: _____ By: _____
Jodi Caro
General Counsel & Corporate Secretary

FOR ULTA, INC.:

DATED: _____ By: _____
Jodi Caro
Vice President & Secretary

FOR POSSIBILITIES AB, INC.:

DATED: _____ By: _____
Jodi Caro
Vice President & Secretary

ERIK NASARENKO, District Attorney
County of Ventura, State of California

DATED: _____ By: _____
KAREN WOLD
Senior Deputy District Attorney

JEFF W. REISIG, District Attorney
County of Yolo, State of California

DATED: _____ By: _____
DAVID J. IREY
Assistant Chief Deputy District Attorney

FOR ULTA BEAUTY, INC.:

DATED: 8/4/21 By: Jodi Caro
Jodi Caro
General Counsel, Chief Risk & Compliance Officer

FOR ULTA SALON, COSMETICS & FRAGRANCE, INC.:

DATED: 8/4/21 By: Jodi Caro
Jodi Caro
General Counsel & Corporate Secretary

FOR ULTA, INC.:

DATED: 8/4/21 By: Jodi Caro
Jodi Caro
Vice President & Secretary

FOR POSSIBILITIES AB, INC.:

DATED: 8/4/21 By: Jodi Caro
Jodi Caro
Vice President & Secretary

REVIEWED AND APPROVED AS TO FORM AND CONTENT:

DATED: 8/4/21

MANATT, PHELPS & PHILLIPS, LLP

By: _____
Matthew Williamson
Attorneys for Defendants

IT IS SO ORDERED.

DATED: SEP 13 2021

ALESIA JONES

By: _____
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

Exhibit A – California ULTA Facilities

	Address	City	County
1	4948 Dublin Blvd	Dublin	Alameda
2	2245 South Shore Center	Alameda	Alameda
3	43806 Pacific Commons Blvd	Fremont	Alameda
4	3839 Emery St, Ste 200	Emeryville	Alameda
5	15555 E 14th St, Ste 106	San Leandro	Alameda
6	3090 W Jack London Blvd	Livermore	Alameda
7	39221 Fremont Hub, Fremont	Fremont	Alameda
8	2068 Dr Martin Luther King Jr Pkwy	Chico	Butte
9	2465 Sand Creek Rd, Ste 100	Brentwood	Contra Costa
10	1975 Diamond Blvd, D130	Concord	Contra Costa
11	1216 Fitzgerald Dr	Pinole	Contra Costa
12	2015 Crow Canyon Pl	San Ramon	Contra Costa
13	155B Crescent Plaza	Pleasant Hill	Contra Costa
14	7911 N Blackstone Ave	Fresno	Fresno
15	1315 Herndon Ave	Clovis	Fresno
16	6587 North Riverside Dr	Fresno	Fresno
17	639 E Shaw Ave, Ste 179	Fresno	Fresno
18	3300 Broadway, Ste 15	Eureka	Humboldt
19	508-1 E Danenberg Dr	El Centro	Imperial
20	9000 Ming Ave, Ste L2	Bakersfield	Kern

Exhibit A – California ULTA Facilities

	Address	City	County
21	9280 Rosedale Hwy, Ste 200	Bakersfield	Kern
22	168 N 12th Ave	Hanford	Kings
23	3393 E Foothill Blvd	Pasadena	Los Angeles
24	12771 Towne Center Dr	Cerritos	Los Angeles
25	7100 Santa Monica Blvd, Ste 210	West Hollywood	Los Angeles
26	1351 N Victory Pl	Burbank	Los Angeles
27	39246 10th Street West	Palmdale	Los Angeles
28	1229 S Lone Hill Ave	Glendora	Los Angeles
29	1513 Hawthorne Blvd	Redondo Beach	Los Angeles
30	24235 Magic Mountain Pkwy	Valencia	Los Angeles
31	6000 Sepulveda Blvd, Ste 2200	Culver City	Los Angeles
32	6312 E Pacific Coast Hwy	Long Beach	Los Angeles
33	4681 Firestone Blvd	South Gate	Los Angeles
34	342 Lakewood Center	Lakewood	Los Angeles
35	4550 Pico Blvd, Ste C321	Los Angeles	Los Angeles
36	17651 Colima Rd	City of Industry	Los Angeles
37	1781 S Alameda St	Compton	Los Angeles
38	8941 Tampa Ave	Northridge	Los Angeles
39	13455 W Maxella	Marina del Rey	Los Angeles
40	2700 E Workman Ave	West Covina	Los Angeles

Exhibit A – California ULTA Facilities

	Address	City	County
41	9020 Apollo Way	Downey	Los Angeles
42	3534 Rosemead Blvd	Rosemead	Los Angeles
43	51A Peninsula Center	Rolling Hills Estates	Los Angeles
44	1234 Wilshire Blvd	Santa Monica	Los Angeles
45	4550 N Van Nuys Blvd, Ste G	Sherman Oaks	Los Angeles
46	7401 Carson Blvd	Long Beach	Los Angeles
47	15235 Whittier Blvd	Whittier	Los Angeles
48	10925 Kinross Ave	Los Angeles	Los Angeles
49	21650 Valley Blvd	City of Industry	Los Angeles
50	23741 Calabasas Rd, Ste A	Calabasas	Los Angeles
51	20045 W Rinaldi St	Porter Ranch	Los Angeles
52	8620 Washington Blvd	Pico Rivera	Los Angeles
53	4200 E Carson St	Long Beach	Los Angeles
54	729 E Huntington Dr	Monrovia	Los Angeles
55	780 S Pacific Coast Hwy	El Segundo	Los Angeles
56	10310 Sepulveda Blvd	Mission Hills	Los Angeles
57	6500 Canoga Ave	Canoga Park	Los Angeles
58	6650 N. Fallbrook Avenue	Los Angeles	Los Angeles
59	600 Francisco Blvd. W	San Rafael	Marin
60	108 Vintage Way	Navato	Marin

Exhibit A – California ULTA Facilities

	Address	City	County
61	2080 California Ave	Sand City	Monterey
62	860 Northridge Shopping Center	Salinas	Monterey
63	1725 Trancas St	Napa	Napa
64	7777 Edinger Ave, Ste 130	Huntington Beach	Orange
65	2863 Park Ave	Tustin	Orange
66	23608 El Toro Rd	Lake Forest	Orange
67	30682 Santa Margarita Pkwy	Rancho Santa Margarita	Orange
68	12339 Seal Beach Blvd	Seal Beach	Orange
69	427 Newport Center Dr	Newport Beach	Orange
70	13676 Jamboree Rd	Irvine	Orange
71	574 N Euclid St	Anaheim	Orange
72	1521 W Imperial Hwy	La Habra	Orange
73	257 E 17th St	Costa Mesa	Orange
74	510 Camino de Estrella	San Clemente	Orange
75	1500 E Village Way, Ste 2191	Orange	Orange
76	10071 Adams Ave	Huntington Beach	Orange
77	27080 Alicia Pkwy, Ste B	Laguna Niguel	Orange
78	8375 La Palma Ave	Buena Park	Orange
79	763 S. Main St, #150	Orange	Orange
80	100 Irvine Avenue	Newport Beach	Orange

Exhibit A – California ULTA Facilities

	Address	City	County
81	1232 Galleria Blvd, Ste 100	Roseville	Placer
82	2795 Bell Rd	Auburn	Placer
83	5120 Commons Dr	Rocklin	Placer
84	117 Ferrari Ranch Rd, Ste 100	Lincoln	Placer
85	2541 Tuscany St, Ste 103	Corona	Riverside
86	72-369 Highway 111, Ste 100	Palm Desert	Riverside
87	12423 Limonite Ave, Ste 1	Eastvale	Riverside
88	12625 Frederick St, Ste G1	Moreno Valley	Riverside
89	30050 Haun Rd	Menifee	Riverside
90	40460 Winchester Rd	Temecula	Riverside
91	3502 Tyler St, Ste 101	Riverside	Riverside
92	2243 W Florida Ave	Hemet	Riverside
93	18418 Collier Ave	Lake Elsinore	Riverside
94	78-825 Hwy 111	La Quinta	Riverside
95	5200 East Ramon Rd, Bldg H	Palm Springs	Riverside
96	1688 North Perris Blvd, Major C	Perris	Riverside
97	42350 Jackson St	Indio	Riverside
98	1545 2nd Street	Beaumont	Riverside
99	9141 West Stockton Blvd	Elk Grove	Sacramento
100	5927 Sunrise Blvd	Citrus Heights	Sacramento

Exhibit A – California ULTA Facilities

	Address	City	County
101	3591 N Freeway Blvd	Sacramento	Sacramento
102	2381 Iron Point Rd	Folsom	Sacramento
103	1785 Arden Way	Sacramento	Sacramento
104	10919 Olson Dr	Rancho Cordova	Sacramento
105	8180 Delta Shores Cir S	Sacramento	Sacramento
106	2717 Marconi Ave	Sacramento	Sacramento
107	1785 Arden Way	Sacramento	Sacramento
108	7431 Laguna Blvd	Elk Grove	Sacramento
109	4041 Grand Ave	Chino	San Bernardino
110	1927 North Campus Ave	Upland	San Bernardino
111	18821 Bear Valley Rd	Apple Valley	San Bernardino
112	27461 San Bernardino Ave, Ste C	Redlands	San Bernardino
113	1 Mills Circle, Ste 113	Ontario	San Bernardino
114	15248 Summit Ave, Ste 200	Fontana	San Bernardino
115	1215 W Renaissance Pkwy, Ste 650	Rialto	San Bernardino
116	12188 Foothill Blvd, #100	Rancho Cucamonga	San Bernardino
117	12505 N. Mainstreet, Suite 200	Rancho Cucamonga	San Bernardino
118	1905 Calle Barcelona, Ste 110	Carlsbad	San Diego
119	2645 Vista Way	Oceanside	San Diego
120	185 S Las Posas Dr	San Marcos	San Diego

Exhibit A – California ULTA Facilities

	Address	City	County
121	3315 Rosecrans St	San Diego	San Diego
122	315 Parkway Plaza	El Cajon	San Diego
123	1072 Camino del Rio North	San Diego	San Diego
124	3951 Camino de la Plaza, Ste 105	San Ysidro	San Diego
125	10455 4S Reserve Dr, Ste 151	San Diego	San Diego
126	4941 'B' Clairemont Dr	San Diego	San Diego
127	2015 Birch Rd, Ste 1801	Chula Vista	San Diego
128	1266 Auto Park Way	Escondido	San Diego
129	11485 Carmel Mountain Rd	San Diego	San Diego
130	10653 Westview Pkwy	San Diego	San Diego
131	8657 Villa la Jolla Drive, La	La Jolla	San Diego
132	2675 Geary Boulevard	San Francisco	San Francisco
133	555 9th Street	San Francisco	San Francisco
134	5410 Pacific Ave	Stockton	San Joaquin
135	2475 N Naglee Rd	Tracy	San Joaquin
136	2292 Daniels St	Manteca	San Joaquin
137	1423 S Lower Sacramento Rd	Lodi	San Joaquin
138	281 Madonna Rd, Ste C	San Luis Obispo	San Luis Obispo
139	2145 Theatre Dr	Paso Robles	San Luis Obispo
140	3010 Bridgepointe Pkwy	San Mateo	San Mateo

Exhibit A – California ULTA Facilities

	Address	City	County
141	119 Colma Blvd	Colma	San Mateo
142	1140 El Camino Real, #209	San Bruno	San Mateo
143	7000 Marketplace Dr	Goleta	Santa Barbara
144	755 E Betteravia Rd	Santa Maria	Santa Barbara
145	615 North H Street, Hwy 1	Lompoc	Santa Barbara
146	31 Curtner Ave	San Jose	Santa Clara
147	600 El Paseo de Saratoga	San Jose	Santa Clara
148	950 Renz Ln, Ste 10	Gilroy	Santa Clara
149	20580 Homestead Rd	Cupertino	Santa Clara
150	5650 Cottle Rd, Ste 20	San Jose	Santa Clara
151	1038 East Brokaw Rd, Ste 10	San Jose	Santa Clara
152	5140 Cherry Ave, Ste 50	San Jose	Santa Clara
153	1027 Cochrane Rd	Morgan Hill	Santa Clara
154	200 W. McKinley	Sunnyvale	Santa Clara
155	900 Dana Dr, D-15	Redding	Shasta
156	1641 E Monte Vista Ave, Ste C	Vacaville	Solano
157	1350 Travis Blvd, Ste 1475-B	Fairfield	Solano
158	147 Plaza Dr	Vallejo	Solano
159	2080 Santa Rosa Ave	Santa Rosa	Sonoma
160	401 Kenilworth Dr, Ste 520	Petaluma	Sonoma

Exhibit A – California ULTA Facilities

	Address	City	County
161	361 Coddingtown Center	Santa Rosa	Sonoma
162	3900 Sisk Rd, Ste E2	Modesto	Stanislaus
163	2841 Countryside Dr	Turlock	Stanislaus
164	2407 Claribel Rd	Riverbank	Stanislaus
165	1068 Harter Pkwy, Ste A	Yuba City	Sutter
166	4023 S Mooney Blvd	Visalia	Tulare
167	1267 West Henderson Ave	Porterville	Tulare
168	690 Collection Blvd	Oxnard	Ventura
169	1555 Simi Town Center Way, Ste 600	Simi Valley	Ventura
170	205 N Moorpark Rd, Ste C	Thousand Oaks	Ventura
171	500 E. Ventura Blvd, Ste 1514	Camarillo	Ventura
172	431 West Esplanade Drive	Oxnard	Ventura
173	2135 Bronze Star Dr	Woodland	Yolo

EXHIBIT B

Exhibit B – Notices

For the People:

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EXHIBIT C-1

EXHIBIT C-1

AGENCY	Civil Penalties - Business and Professions §17200 Penalties	Civil Penalties - Health and Safety §25515.2 Penalties	Civil Penalties - Health and Safety §25189 Penalties	Total of Civil Penalties Paid to Agency
Alameda Co. District Attorney's Office	$ 21,119.00	$ -	$ -	**$ 21,119.00**
Butte Co. District Attorney's Office	$ 2,414.00	$ -	$ -	**$ 2,414.00**
Contra Costa Co. District Attorney's Office	$ 23,119.00	$ -	$ -	**$ 23,119.00**
Fresno Co. District Attorney's Office	$ 4,608.00	$ -	$ -	**$ 4,608.00**
Humboldt Co. District Attorney's Office	$ 2,414.00	$ -	$ -	**$ 2,414.00**
Imperial Co. District Attorney's Office	$ 2,414.00	$ -	$ -	**$ 2,414.00**
Kern Co. District Attorney's Office	$ 922.00	$ -	$ -	**$ 922.00**
Kings Co. District Attorney's Office	$ 2,414.00	$ -	$ -	**$ 2,414.00**
Los Angeles City Attorney's Office	$ 5,529.00	$ -	$ -	**$ 5,529.00**
Los Angeles Co. District Attorney's Office	$ 7,500.00	$ -	$ -	**$ 7,500.00**
Marin Co. District Attorney's Office	$ 922.00	$ -	$ -	**$ 922.00**
Monterey Co. District Attorney's Office	$ 26,119.00	$ -	$ -	**$ 26,119.00**
Napa Co. District Attorney's Office	$ 922.00	$ -	$ -	**$ 922.00**
Orange Co. District Attorney's Office	$ 7,500.00	$ -	$ -	**$ 7,500.00**
Placer Co. District Attorney's Office*	$ 3,686.00	$ -	$ -	**$ 3,686.00**
Riverside Co. District Attorney's Office**	$ 21,119.00	$ -	$ -	**$ 21,119.00**
Sacramento Co. District Attorney's Office***	$ 7,372.00	$ -	$ -	**$ 7,372.00**
San Bernardino Co. District Attorney's Office	$ 21,119.00	$ -	$ -	**$ 21,119.00**
San Diego City Attorney's Office	$ 5,529.00	$ -	$ -	**$ 5,529.00**
San Diego Co. District Attorney's Office	$ 23,119.00	$ -	$ -	**$ 23,119.00**
San Francisco Co. District Attorney's Office	$ 23,119.00	$ -	$ -	**$ 23,119.00**
San Joaquin Co. District Attorney's Office****	$ 30,150.00	$ 17,580.00	$ -	**$ 47,730.00**
San Luis Obispo Co. District Attorney's Office	$ 1,843.00	$ -	$ -	**$ 1,843.00**
San Mateo Co. District Attorney's Office	$ 1,843.00	$ -	$ -	**$ 1,843.00**

EXHIBIT C-1

Santa Barbara Co. District Attorney's Office	$ 2,765.00	$ -	$ -	**$ 2,765.00**
Santa Clara Co. District Attorney's Office	$ 7,371.00	$ -	$ -	**$ 7,371.00**
Shasta Co. District Attorney's Office	$ 22,119.00	$ -	$ -	**$ 22,119.00**
Solano Co. District Attorney's Office*****	$ 37,335.00	$ -	$ 4,395.00	**$ 41,730.00**
Sonoma Co. District Attorney's Office	$ 2,765.00	$ -	$ -	**$ 2,765.00**
Stanislaus Co. District Attorney's Office	$ 2,765.00	$ -	$ -	**$ 2,765.00**
Sutter Co. District Attorney's Office	$ 2,414.00	$ -	$ -	**$ 2,414.00**
Tulare Co. District Attorney's Office	$ 2,843.00	$ -	$ -	**$ 2,843.00**
Ventura Co. District Attorney's Office	$ 2,765.00	$ -	$ -	**$ 2,765.00**
Yolo Co. District Attorney's Office	$ 21,643.00	$ 17,580.00	$ -	**$ 39,223.00**
Total - Prosecutor Penalties	$ 351,600.00	$ 35,160.00	$ 4,395.00	**$ 391,155.00**

* PLACER: The money paid to the Placer County District Attorney as penalties pursuant to Business and Professions Code section 17206, shall be for the sole and exclusive use of the District Attorney to augment the enforcement of consumer and environmental protection laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

**RIVERSIDE Penalties: Business and Professions Code §17200: "Defendant" shall pay $19,725.00 to the Riverside County District Attorney's Office as civil penalties for violations of Business and Professions Code section 17200. Pursuant to Business and Professions Code section 17206(b), said sum will be paid in the form of a check made payable to the District Attorney, County of Riverside; sums to be distributed as follows: 100 percent will be deposited into the consumer protection prosecution account in the General Fund of Riverside County.

***SACRAMENTO: The money paid to the Sacramento District Attorney as penalties pursuant to Business and Professions Code section 17206, shall be for the sole and exclusive use of the District Attorney to augment the enforcement of consumer and environmental protection laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

****SAN JOAQUIN: Business and Professions Code § 17200 Penalties shall be paid to the "Treasurer of San Joaquin County". Penalties allocated to Health and Safety Code § 25500 shall be paid to the "San Joaquin Co. District Attorney's Office".

*****SOLANO: Court further orders that these proceeds are designated as non-supplanting funds to be used by the Solano County District Attorney's Office only for the investigation and prosecution of environmental protection cases including, without limitation, those cases that can potentially be brought as unfair competition actions pursuant to B&P Code Section 17200 et seq.

EXHIBIT C-1

Pursuant to Government Code section 26506, any civil penalties recovered in a civil action "brought jointly in the name of the People of the State of California by the Attorney General, one or more district attorneys, or by one or more city attorneys, or any combination thereof, shall be paid as approved by the court."

EXHIBIT C-2

EXHIBIT C-2 - PENALTIES

Agency	Civil Penalties - Health and Safety Code §25515.2	Civil Penalties - Health and Safety 25189	Total of Civil Penalties Paid to Agency
Alameda Co. -Environmental Health Services	$ 1,910.00	$ 254.00	$ 2,164.00
Alameda Co. - Fremont City Fire Dept., Haz Mat Unit	$ 1,280.00	$ 169.00	$ 1,449.00
Alameda Co. - City of San Leandro Environmental Services	$ 640.00	$ 85.00	$ 725.00
Alameda Co. - Livermore/Pleasanton Fire Dept., Haz Mat Unit1 (see below)	$ 640.00	$ 85.00	$ 725.00
Contra Costa Co. - Health Services Dept., Hazardous Materials Program	$ 3,190.00	$ 423.00	$ 3,613.00
Department of Toxics Substances Control	$ -	$ 8,790.00	$ 8,790.00
Monterey Co. - Environmental Health Division	$ 1,280.00	$ 169.00	$ 1,449.00
Riverside Co. - Dept. of Health, Hazardous Materials Division	$ 7,010.00	$ 927.00	$ 7,937.00
Sacramento Co. - Environmental Mgmt. Dept.	$ 2,000.00	$ -	$ 2,000.00
San Bernardino Co. - Fire Haz Mat	$ 5,100.00	$ 676.00	$ 5,776.00
San Diego Co. - Dept. of Environmental Health	$ 5,100.00	$ 676.00	$ 5,776.00
San Francisco Co. - City & County Public Health Dept.	$ 1,280.00	$ 169.00	$ 1,449.00
San Joaquin Co. - Environmental Health Department	$ 2,550.00	$ 338.00	$ 2,888.00
Shasta Co. - Environmental Health Divison	$ 640.00	$ 85.00	$ 725.00
Solano Co. - Environmental Health Services	$ 1,900.00	$ 254.00	$ 2,154.00
Yolo Co. - Environmental Health	$ 640.00	$ 85.00	$ 725.00
Total - Agency Civil Penalties	**$ 35,160.00**	**$ 13,185.00**	**$ 48,345.00**

EXHIBIT D

Exhibit D – Supplemental Environmental Projects

1. California CUPA Forum. *

ULTA BEAUTY, INC., ET AL. shall provide the amount of Fifty Thousand Dollars ($50,000.00) to fund scholarships for attendance and participation at the annual California Unified Program Annual Training Conference. Each of these scholarships shall cover conference registration, transportation, meals, and hotel at the training conference rate. Travel and per diem expenses will be reimbursed in accordance with the reimbursement policies of the "California CUPA Forum Board Training Conference Expense Reimbursement Policies", and any subsequent modifications thereto.

2. California Hazardous Material Investigators Association (CHMIA). *

ULTA BEAUTY, INC., ET AL. shall provide the amount of TWELVE THOUSAND FIVE HUNDRED DOLLARS ($12,500.00) to be used by the CALIFORNIA HAZARDOUS MATERIALS INVESTIGATORS ASSOCIATION (CHMIA) for purposes that serve and promote CHMIA's overall mission to encourage the cooperation, coordination and education of environmental crimes investigations. ULTA BEAUTY, INC., ET AL.'s check shall be made payable to the "CALIFORNIA HAZARDOUS MATERIALS INVESTIGATORS ASSOCIATION."

* If the payment provided by ULTA BEAUTY, INC., ET AL., is accepted by a designated entity, the designated entity shall provide, until the exhaustion of the funds, annual letter reports describing the specific use of the funds. The annual letter reports shall be submitted to the Plaintiff's representatives identified in this Stipulation for Entry of Final Judgment and Permanent Injunction.

EXHIBIT D - SEPs

Employer ID (FEIN)	Agency	Total SEP to Agency
[redacted]	California CUPA Forum	$ 50,000.00
[redacted]	California Hazardous Materials Investigators Association (CHMIA)	$ 12,500.00
	Total - SEPs	**$ 62,500.00**

EXHIBIT E-1

EXHIBIT E-1 - PROSECUTOR COSTS

Jurisdiction	Total Prosecutor Costs
Alameda Co. District Attorney's Office	$5,280.00
Butte Co. District Attorney's Office	$858.00
Contra Costa Co. District Attorney's Office	$5,940.00
Fresno Co. District Attorney's Office	$495.00
Humboldt Co. District Attorney's Office	$858.00
Imperial Co. District Attorney's Office	$858.00
Kern Co. District Attorney's Office	$495.00
Kings Co. District Attorney's Office	$858.00
Los Angeles City Attorney's Office	$3,795.00
Los Angeles Co. District Attorney's Office	$495.00
Marin Co. District Attorney's Office	$495.00
Monterey Co. District Attorney's Office	$20,378.00
Napa Co. District Attorney's Office	$495.00
Orange Co. District Attorney's Office	$495.00
Placer Co. District Attorney's Office*	$495.00
Riverside Co. District Attorney's Office**	$10,891.00
Sacramento Co. District Attorney's Office***	$1,980.00
San Bernardino Co. District Attorney's Office	$5,940.00
San Diego City Attorney's Office	$495.00
San Diego Co. District Attorney's Office	$20,835.24
San Francisco Co. District Attorney's Office	$11,303.00
San Joaquin Co. District Attorney's Office	$42,077.00
San Luis Obispo Co. District Attorney's Office	$495.00
San Mateo Co. District Attorney's Office	$495.00
Santa Barbara Co. District Attorney's Office	$495.00
Santa Clara Co. District Attorney's Office	$495.00
Shasta Co. District Attorney's Office	$16,968.03
Solano Co. District Attorney's Office	$30,113.00
Sonoma Co. District Attorney's Office	$495.00
Stanislaus Co. District Attorney's Office	$1,485.00
Sutter Co. District Attorney's Office	$858.00
Tulare Co. District Attorney's Office	$2,145.00
Ventura Co. District Attorney's Office	$495.00
Yolo Co. District Attorney's Office****	$50,739.73

Total - Prosecutor Costs **$241,090.00**

* PLACER: The money paid to the Placer County District Attorney as costs pursuant to this stipulation, shall be for the sole and exclusive use of the District Attorney as reimbursement for costs expended in the enforcement of the consumer protection and environmental laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

EXHIBIT E-1 - PROSECUTOR COSTS

**RIVERSIDE Costs: "Defendant" shall pay $10,891.00 as costs to the Riverside County District Attorney's Office. Said sum will be paid in the form of a check made payable to the District Attorney, County of Riverside.

***SACRAMENTO: The money paid to the Sacramento District Attorney as as costs pursuant to this stipulation, shall be for the sole and exclusive use of the District Attorney as reimbursement for costs expended in the enforcement of the consumer protection and environmental laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

****YOLO: This money shall be paid in two separate checks: (1) one check addressed to the Yolo County District Attorney's Office in the amount of $10,739.73, and (2) one check addressed to the Craig Thompson Environmental Protection Prosecution Fund in the amount of $40,000.00.

EXHIBIT E-2

EXHIBIT E-2 - AGENCY COSTS

Agency	Total Cost Amount to Agency
Contra Costa Co. - Health Services Dept., Hazardous Materials Program	$ 330.00
Riverside Co. - Dept. of Health, Hazardous Materials Division	$ 2,310.00
Sacramento Co. - Environmental Mgmt. Dept.	$ 660.00
San Diego Co. - Dept. of Environmental Health	$ 2,805.00
San Francisco Co. - City & County Public Health Dept.	$ 495.00
San Joaquin Co. - Environmental Health Department	$ 1,650.00
Solano Co. - Environmental Health Services	$ 660.00
Total - Agency Costs	**$ 8,910.00**

RESEARCH REPORT

CARBON FOOTPRINT OF CONSTRUCTION EQUIPMENT

Climate Neutral Group
for better business

CE Delft

SGS SEARCH

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Climate Neutral Group

Executive summary

Introduction

The climate crisis is said to be one of the biggest challenges for humanity at this moment. The effects of global heating (natural disasters) show themselves more often and are getting more severe. Climate change comes from global warming which is directly related to a higher density of greenhouse gas emissions in the atmosphere.
185 World leaders gratified, on behalf of their countries, the Paris Agreement. The main goal of this agreement is working towards a net zero global carbon emissions economy in 2050 (only 30 years away!). All companies must have mostly eliminated their carbon footprint by then.

Circular economy

Besides legal measures; strategies are designed to lower the carbon footprint of the economy in general or for companies specifically. The philosophy of the circular economy is one of those strategies. The circular economy names seven principles that enhance circularity for a company, often referred to as the 7R's: Rethink, Reduce, Re-use, Repair, Refurbish, Recover and Recycle. Basically, aiming for an efficient use of materials and products, and by doing so avoiding environmental impact.

Rental

Rental for one represents this circular philosophy by organizing the handling of their assets in the most effective way possible. As a result, we can assume that rental contributes to lower emissions and a lower environmental impact. This assumption is the starting point for this research project:

"How does equipment rental contribute to avoiding carbon emissions?"

Research partners

This research was performed by **SGS Search**, **CE Delft** and **Climate Neutral Group**. Three independent, internationally operating and renowned research companies.

Scope and methodology

To answer the research question a selection of 10 pieces of construction equipment is made representing the portfolio of rental companies in Europe. The selection of products studied has been guided by the principle that they are all machines that are frequently both rented and owned by contractors. Next the carbon footprint is made of these machines. The carbon footprint exists of three phases: the production phase, the use phase and the end of life phase. Rental impacts mainly the use phase and the end of life phase. For the total footprint of the chosen products, we used the representing figures from the rental practice to calculate the footprint of the use phase. Research shows that 5 parameters have the biggest effect on the carbon footprint in use phase and the end of life phase: 1. intensity of use; 2. Energy consumption; 3. Transportation; 4. Recycling and 5. Innovation. *Paragraph 7.2* from this research shows the effect of these parameters for the different machines.

Results and conclusions

The main conclusions from the Life Cycle Assessments (LCAs) are: i. the use of fossil fuel has a significant impact on the total carbon footprint of a product - to the extend that it in case of the generator, fuel overshadows the impact of all other factors. ii. In general, the heavier the machine, the bigger the carbon footprint is of the production phase; iii. there is a lot to be won using recycled materials in the production phase; iv. recycling the product, parts of the product, or materials from the parts positively influences the carbon footprint; and v. after energy, production and recycling the fourth biggest impact factor is transport.

Based on the LCA information a carbon calculator is built that allows for the parameters to be filled in using different variables, calculating the total carbon footprint of the machine in different user scenarios. Using the information from qualitative interviews a user scenario is constructed that interprets the way rental organizes the handling of its equipment. Interviews provided also information on examples of handling that show less efficient practices. For exercise purposes this report shows five of those theoretical user cases. Comparing these theoretical user cases with the user case from the rental industry it shows per situation an indication of the benefits gained by adopting the more effective practice we encountered at rental companies.

We conclude that rental as a business model embodies factors that contribute to lowering carbon emissions. The two main factors contributing to these reductions are i. avoiding the production by facilitating shared use and ii. efficiently organizing the handling of construction equipment.
A carbon calculation tool was developed as a second product on top of this report, to precisely predict the difference in impact between the rental practice and other user cases. This tool makes it possible for users to fill in the different parameters reflecting their own practice and compare that to the rental practice inspired user case.

Recommendations

The researchers recommend that this carbon calculation tool is further developed and then released for the rental and construction industry to be used. Much alike the way the *Total Cost of Ownership Calculator* on the website of the ERA is there to fuel the conversations on determination in which situations rental is the best option to make use of specific construction equipment but, in this case, from an environmental, carbon impact perspective.

Introduction

3.1 Climate change and the Paris Agreement

Industrialization has given our societies tremendous amounts of wealth, improving living standards, life expectancy, among many other benefits. Fossil fuels are mainly responsible for driving this progress: coal, oil, and gas use make up about 85% of the total energy used by the entire human civilization (Statistical Review of World Energy (June 2016)). As fossil fuels are burned up, greenhouse gas emissions are released into the atmosphere, increasing the concentration of carbon dioxide and other gases (such as methane and nitrous oxide) and consequently warming the atmosphere. As we have seen in the past years, the effects of climate change are becoming more and more intense, with extreme weather events, flooding, droughts, ocean acidification and coral bleaching.

Acknowledging this challenge, world nations signed the Paris Agreement in 2015 with the central aim of strengthening the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius (UNFCCC, 2018). Further reports by the Intergovernmental Panel on Climate Change sharpened the reduction targets that we have to reach in order for this to happen: global emissions have to drop by approximately 50% by 2030 and reach net-zero emissions by 2050 in order to limit warming to 1.5 degrees above pre-industrial levels (IPCC, 2018)[2].

Actors from the public, private and civil society sectors are working together and individually to determine the implication of these targets for their own scopes. Governments are setting their own Nationally Determined Contributions, national emissions reduction goals, while companies are working with voluntary reduction targets that express their own ambition. Each of these vary tremendously, but one thing is for certain: if we want to limit the costly impacts of climate change, all actors have to get serious about reducing our reliance on fossil fuels and accelerate the transition to a net-zero carbon economy.

3.2 The construction industry and it's impacts

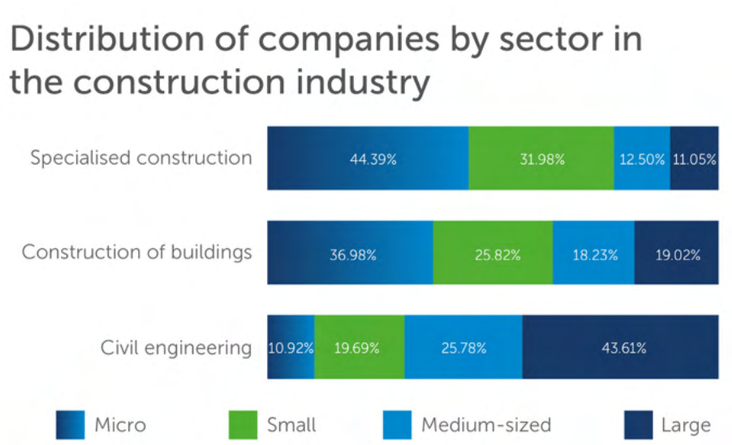
Industry (including construction) contributes about 25% of the world gross domestic product (GDP)[3]. The construction sector is responsible for about a fifth (20%) of the global emissions[4,5]. In Europe, the construction industry contributes 9% to the GDP[6]. And is responsible for approximately 13% of the carbon emissions.

Analyzing the carbon footprint/ life cycle of a building can be divided into the following phases: extraction of required raw materials; processing and manufacturing of construction materials and building components; transportation and installation of building materials and components; operation, maintenance, and repair of building; and, finally, disposal of materials at the end of the building lifecycle. Each phase demands energy, material and other resources to produce the required input for a successive phase to complete the cycle[7]. In all of these phases, the use of equipment is needed, with most weight accounted to the total production phase and end of life phase.

The rental industry comes into play in exactly this part of the carbon footprint of construction projects (the equipment, transportation of the equipment and handling of the construction equipment).

Construction industry and the use of equipment

Company size within the construction sector varies highly, with a handful of large companies and thousands of smaller companies. Some larger construction companies have an equipment department that rents out their own equipment. Others like to rent their equipment from rental companies. This decision is based on different arguments in terms of Total Cost of Ownership, taking into account capital costs, transportation, operation, maintenance. After the contributions of this project, the carbon impact might also one day play a role in the decision between buying or renting.



The market for rental equipment in the construction sector has been growing steadily during the last decade. In the EU-28 and EFTA countries, equipment rental companies (11.200 companies[8]) providing rental services generated a total rental turnover of more than EUR 25.7 billion, with average construction industry penetration of 1.5%[9].

Considering the significant impact of the construction industry, it also has a responsibility to take action and reduce its emissions if, we as a society want to reach the internationally agreed upon goals to limit the effects of climate change.

3.3 Using circle economy principles to reach this goal

Circularity is one of the tools that can be used to avoid carbon emissions, especially in a production branch like construction. A central role in the circular economy is to implement seven circular principles (7S model): Rethink, Reduce, Re-use, Repair, Refurbish, Recover and Recycle, in order to strive for economic prosperity and environmental quality (Kirchherr et al., 2017)[10]. Recently, The Ellen MacArthur foundation and TNO[11] analyzed the potential impact of CO2 reduction as a result of adopting the circular economy. They found that transforming the current linear economic model to a 100% circular economy has the potential to reduce the carbon footprint of a country by 10%. As such, circular business models have the potential to significantly contribute towards the Paris Agreement climate targets of limiting global warming to 1,5-2°C by 2050.

Europe is leading in defining circularity. Both in the public and private sector the concept is finding its way into policies and business models. But whilst some countries, such as Norway and the Netherlands have made significant steps, the concept is still in early stages. Best practices and success stories are slowly being developed. And while the concept is attractive from a theoretical point of view, evidence-based examples of successful implementation are needed further the implementation.

The rental industry - by definition - operates in a circular business model. As such, rental companies avant la lettre contribute to the transformation towards a more circular economy. By optimizing the utilization rate of equipment, minimizing idle and unused equipment, and optimizing re-use & re-cycling, the sector likely contributes significantly to overall carbon reduction. Sharing/rental can increase the efficiency of use of tools. Each user of construction equipment is aware that some machines are used quite efficiently, while other are sitting idly for most of their lifespans. There is, thus, a tremendous amount of differences in usage that has not been comprehensively mapped and quantified. There have been a number of case studies done, in particular for consumer rental products, e.g. Leisman (2013)[12], but not to the extent that compares inefficient versus efficient use of construction equipment.

Furthermore, companies are increasingly expanding into rental business models and also providing products as a service, as a way to respond to the challenges of the circular economy. This trend goes beyond the construction sector but illustrates how the economy is shifting to different business models such as rental. An interesting example is how the Phillips company offers light as a service to the Dutch airport, Schiphol. The airport no longer buys lightbulbs, instead Phillips remains the owner of the equipment, is responsible for installation and maintenance, and receives periodic payments for the "service"of light[13]. This gives an incentive to Phillips to design the most efficient and longest lasting products.

The following section explains the objective of this study, within the context of reducing carbon emissions from the construction sector, by adopting effective rental practices.

4 Objective

The goal of this study is to research the benefits of rental on the life cycle carbon footprint of equipment used in construction and other industries.

This is done i. by calculating the effects that the rental business model has on the efficiency of use during the first technical life span of ten pieces of equipment; and ii. by researching upon the potential avoided emissions by applying the sharing principle.

5 Scope and boundaries

5.1 Scope

To define the environmental benefits of rental for the environment, this study researches the impact of the rental practice on the carbon footprint of construction equipment. Even though the majority of the machines researched are used as construction equipment, the scope of utilization of these machines is broader than construction. The carbon footprint is measured during the three stages of the Life Cycle of these machines.

The production phase covers the upstream impacts such as extraction of raw materials, production of parts, assembly, and delivery of the finished product. The use phase covers operation of the machine as well as transport to job sites. The end of life phase covers the downstream impacts including the disassembly, transport and processing of waste of the product.

In other words, the carbon footprint analysis covers the product's carbon lifetime impacts from cradle to grave. The diagram below describes the scope of the analysis.

From the earlier interviews maintenance wasn't brought forth as one of the main factors impacting the carbon footprint. That's why maintenance is excluded from the LCAs.

Figure 2. Scoping

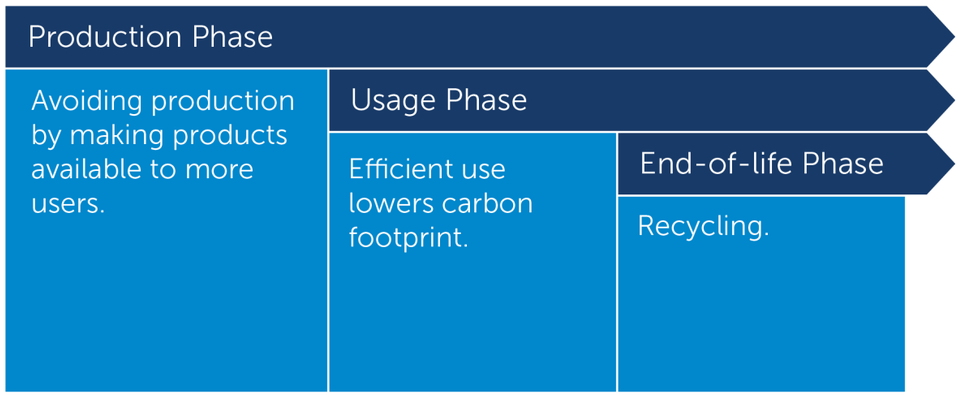
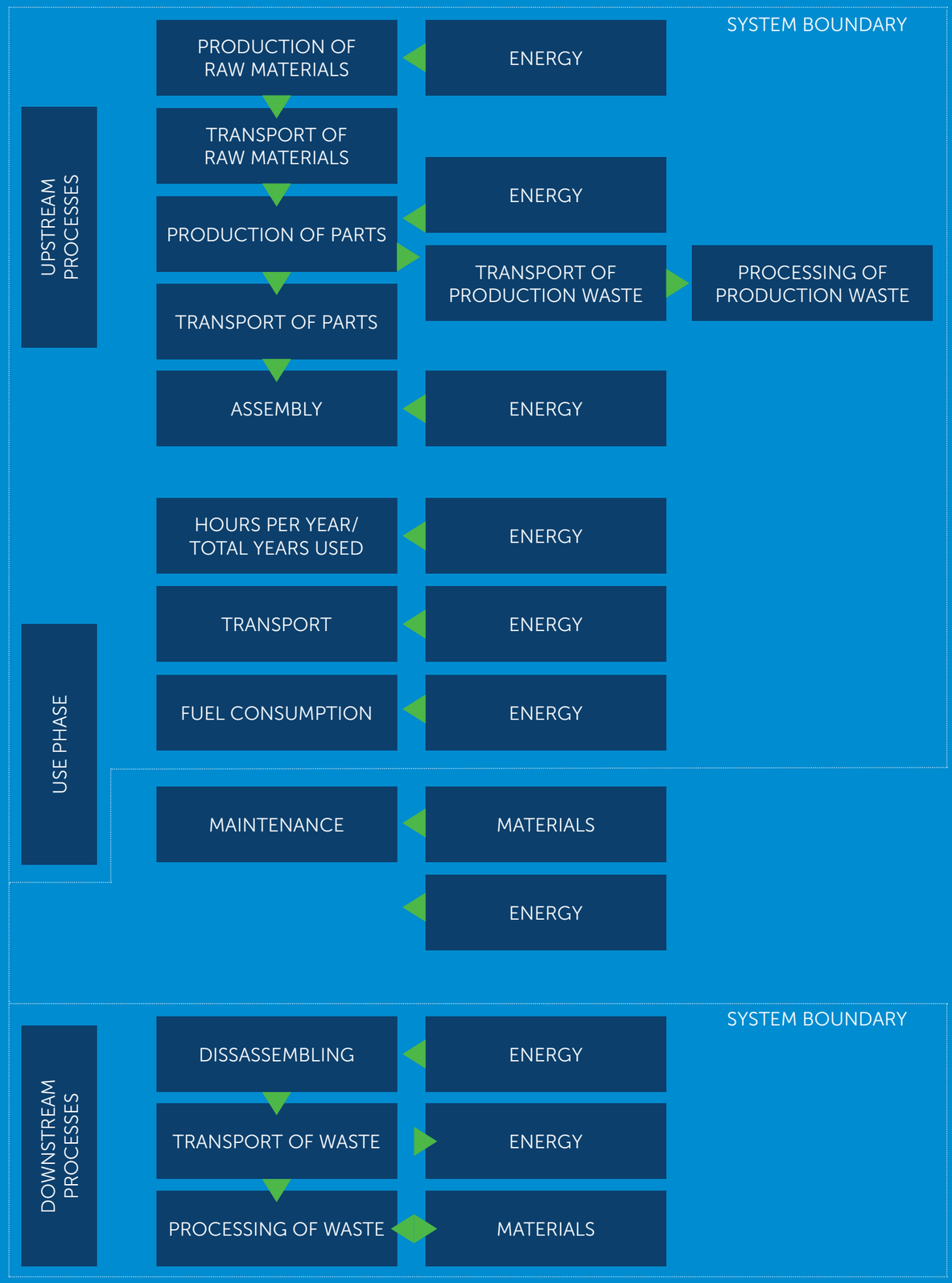


Figure 3. Process diagram for scoping



[2] *https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf*
[3] *https://data.worldbank.org/indicator/nv.ind.totl.zs*
[4] *https://ourworldindata.org/co2-and-other-greenhouse-gas-emissions*
[5] *Huang, L., Renewable and Sustainable Energy Reviews (2017), http://dx.doi.org/10.1016/j.rser.2017.06.001*
[6] *https://ec.europa.eu/growth/sectors/construction_en*
[7] *https://www.researchgate.net/publication/273693109_Estimating_energy_consumption_during_construction_of_buildings_a_contractor's_perspective*
[8] *Austria, Belgium, Czech Republic, Denmark, Finland, France Germany, Italy, The Netherlands, Norway, Poland, Spain, Sweden, Switzerland, United Kingdom – ERA Market Report 2018*
[9] *ERA Market Report 2018*
[10] *https://www.sciencedirect.com/science/article/pii/S0921344917302835*
[11] *https://www.tno.nl/media/8551/tno-circular-economy-for-ienm.pdf*
[12] *http://www.mdpi.com/2079-9276/2/3/184/pdf*
[13] *https://www.ledsmagazine.com/leds-ssl-design/modular-light-engines/article/16695809/lighting-as-a-service-poised-to-deliver-the-circular-economy-magazine*

5.2 Boundaries

Rental companies offer a broad portfolio of machines and equipment used in the construction industry and beyond. To keep this research practical, a selection of products was made. The portfolio of rental companies in Europe can be roughly divided in five product categories: i. earth moving, ii. material handling, iii. power, iv. access and v. tools. This study focuses on ten products covering these five categories. A second criterion used was the difference in product specifications on the energy use and size of these machines. These variations enable showing the effect of different user scenarios on the total footprint of these machines.

The table below gives an overview of the specific type of products that are analysed.

Product category	Category	Size	Power source
Earth moving	Mini excavator Excavator Wheel loader	2.5t 8 to 14t 1 to 1.3 m^3	Diesel Diesel Diesel
Material handling	Telehandler	14m	Diesel
Power	Generator	60 KVA	Diesel
Access	Mast boom lift Electric scissor Electric articulating boom lift	8m 12m	Electricity Electricity Electricity
Tools	Breaker Battery drill	10kg	Electricity Electricity

Table 1. Overview of products

Products are often, after reaching their technical lifespan, sold to second hand markets. These second and often third lives are left out of scope of this research because it is difficult or impossible to keep track of these machines. Due to this reason, the research only takes the first technical life span into account.

6 Methodology

In this research, a four-step approach is taken to answer the research question.

1. Carbon footprint measurement for upstream processes (production phase) and downstream processes (end-of-life phase).
2. Definition of four parameters that influence efficiency during use phase as well as carbon footprint for use phase. Development of a carbon footprint tool that incorporates the life cycle carbon emissions from all stages and allows for adjustment of parameters during use phase and end-of-life phase.
3. Comparison of ten user cases, two per product category that compares rental-inspired efficient use with theoretical inefficient use. These user-scenarios are built to demonstrate the effect of the different parameters on the carbon LCA of a product.
4. Briefly researching the implications of avoided production due to sharing of equipment.

Since this research is commissioned by the European Rental Association (ERA), the impartiality of the outcomes must be guaranteed by the independency of the parties executing the research. Climate Neutral Group, as an independent research company, was selected to manage the project and independently verify the results of all stages of the research, which was done with two additional expert parties. SGS Search was responsible for calculating the carbon LCA according to the ISO14040 and ISO14044 standards (step 1) and CE Delft for defining the use phase parameters, building the carbon footprint tool (step 2) and building the user scenarios (step 3). The following sections elaborate the different steps.

6.1 Carbon life cycle assessment (LCA)

Measuring the carbon footprint of each piece of equipment requires making an inventory of all materials and energy use needed for its production. The scope for this is the upstream impacts (production phase) as well as the downstream impacts (end-of-life phase). Usually, a life cycle assessment considers several impact categories, however for the purpose of this study only the global warming potential (GWP), measured in kg CO2 equivalents (CO2e) per functional unit, is considered. CO2 equivalents is a practical metric that also takes into account other greenhouse gases such as methane, nitrous oxide, and fluorocarbons. This metric is the most standard form of measurement when comparing the impact of fossil

fuels and how they contribute to global warming.
Original Equipment Manufacturers (OEMs) of the different products provided information on the products. This information was gathered and assessed by SGS Search. In case of missing information this was complemented by information from the Ecoinvent database, an internationally known LCA database with information of the environmental impact of the various materials.

To add impartiality to the research, Climate Neutral Group carried out an independent verification of each carbon LCA, critically reviewing the analysis according to the ISO14040 and ISO14044 standard.

6.2 Definition of the parameters on efficiency and carbon footprint tool

Definition of parameters
The rental industry, due to the way it is organized, is able to have a strong influence on the use phase of products. The following section of the research focused on defining parameters that influence efficiency.

To establish how construction equipment is typically used, for instance in terms of lifetime, utilisation rate or transportation, 30 companies were contacted, of which 20 provided useful data. These include the original equipment manufacturers (OEMs), rental companies, and contractors. Through an extensive questionnaire and follow-up interviews, data on all relevant parameters was gathered. This was done separately for each equipment type.

A gross list of parameters influencing the efficiency usage of the equipment was derived from these conversations. The parameters were tested in calculation models in order to define the parameters that had the most effect on efficiency. These are described below:

1. Lifetime and utilization: this parameter captures how often (hours per year) a piece of equipment is used during its life-time (total years in first technical life).
2. Energy consumption: this parameter focuses on the energy use, in terms of fuel or electricity consumption per hour.
3. Transport: Pieces of equipment have to be transported from construction site to storage and again to the next location. Parameters that influence the CO2 impact during its life cycle include distance between storage and job site, load factor of transport vehicle, the loading factor on the return of the transport vehicle (sometimes it can be empty, increasing the emissions for that journey), and the type of vehicle that is used..
4. Re-use/recycling: Proper recycling of the product at the end of its life reduces the total impact of the product, because recycling saves new (virgin) materials.

Each of these parameters was selected based on the goal of attempting to differentiate various types of inefficient and efficient use of construction tools. Based on research, there were significant variations of use that could affect the total carbon footprint. Other influencing factors such as innovation (when replacing a product by a newer and more energy efficient model, CO2 emissions are reduced), fleet management (optimization), maintenance, waste management and recycling, equipment use training, were left out of scope due to lack of data. The table below gives an overview of the scope.

Lifecycle Stage	Description	Included in Scope
Upstream processes	Production of raw materials	Yes
	Production of parts	Yes
	Transport of raw materials and parts	Yes
	Assembly	Yes
Use phase	Hours per year	Yes
	Transport during use	Yes
	Fuel consumption	Yes
	Maintenance and parts/oil	No
	Equipment training	No
	Equipment replacement due to innovation	No
Upstream processes	Disassembly	Yes
	Transport of waste	Yes
	Processing of waste	Yes

After defining the parameters, CE Delft built a Carbon Footprint Calculator in which the effects of the different parameters can be input individually and combined to determine the life time carbon emissions of the selected pieces of equipment.

Carbon Footprint Calculator

The purpose of the Carbon Footprint Calculator is to show how different parameters and user scenarios can affect the carbon footprint of construction equipment. The carbon footprint is calculated using the LCA method, and includes the following life cycle phases: production of the equipment, energy consumption during use, transport to/from construction sites, and treatment at end-of-life.

The tool compares two different scenarios, called Scenario 1 and Scenario 2. Scenario 1 corresponds to realistic, efficient use of the construction equipment, as inventoried by CE Delft via interviews with diverse companies[14].

After reviewing the received data, the default parameters for Scenario 1 were selected. This was done by considering all data points and their apparent quality. Furthermore, in establishing the default parameters of Scenario 1, the aim was to combine matching data (e.g. for utilisation rate and energy data) wherever possible. The following part of this section explains how specific data points were selected.

[14]OEMs, rental companies and contractors

These efforts to find the most representative data notwithstanding, it should be noted here that establishing realistic user scenarios is not straightforward. For example, different interpretations of 'use' exist (e.g. equipment is rented out, equipment is on-site, equipment is switched on, equipment is actively using energy, etc.). Furthermore, the energy use of equipment can strongly depend on how it is used. For example, the amount of diesel that an excavator uses per hour depends on how intensively it is used, whether it is moving or digging, how much load it is carrying, etc. For these reasons, there is a degree of uncertainty in the carbon footprint results that are obtained when the default Scenario 1 parameters are used.

The selected data on user scenarios was combined with LCA results on the production and end-of-life of the construction equipment as provided by SGS Search.

6.3 Use cases – the effect of the combined parameters

Ten user cases were designed for this study. Two per each product category: one as an example for efficient use of the product based on the practices learned from the interviews and inspired by the rental industry and the other as example for inefficient use.

The user cases are based on hypothetical scenarios. This means that the cases are fictional, but parameters used are based on interviews and actual data received from companies, owners, rental companies, end users, and additional research. The cases are constructed to give a balanced insight into the full spectrum between the interview-based estimates for inefficient use and efficient use.

6.4 Research on avoided production

Interviews were held and databases of rental companies searched to establish how much production can be avoided by offering construction equipment for rent.
Two main questions were researched:

1. What are the main drivers for users to rent instead of purchasing a piece of equipment; and
2. How much production related emissions are actually avoided.

6.5 Assumptions and limitations

The carbon footprint calculator is based on the assumption that a specific piece of equipment has only one owner, thus the lifetime impacts are for the first technical life span (the first owner). Often when machines reach the end of their technical life span, they are sold to secondary use markets, and manufacturers and rental companies lose track of these machines. Since it is not possible to measure the extra hours of use in these markets, it is left out of scope.

7 Results

7.1 LCA results

7.1.1 LCA results for upstream and downstream impacts (Capital goods)

The table below gives an overview of the total and net carbon footprint (in kg CO2e) for all pieces of equipment analysed. The total figures represent the emissions for a piece of equipment without proper disposal, while the net figure represents the emissions that take into account proper recycling.

The table below shows the importance of recycling materials when a product reaches the end of its lifecycle. Properly disposing of and utilizing materials from equipment can significantly reduce its carbon footprint. Depending on the size and material composition, reductions can vary from -21% to -54%. Setting up closed-loop ownership cycles, together with design for disassembly, will improve recycling rates and further reduce the carbon impact of the construction sector.

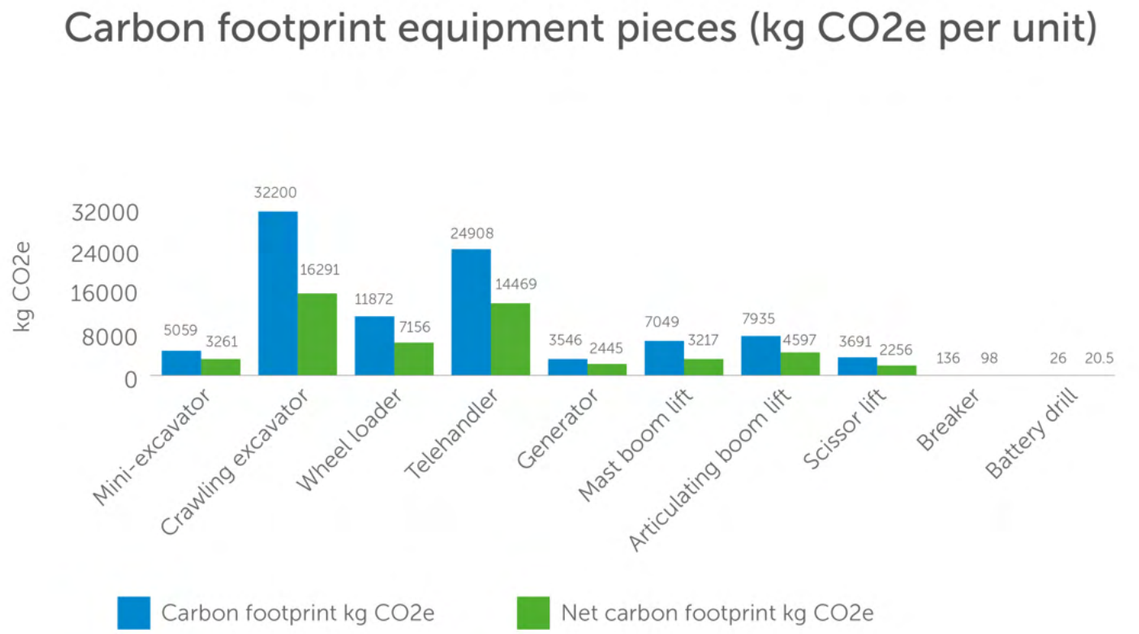


Figure 4. Overview of total and net carbon footprints.

	Mini-excavator	Crawling excavator	Wheel loader	Tele-handler	Generator	Mast boom lift	Articulating boom lift	Scissor lift	Breaker	Battery drill
Carbon footprint kg CO2e	5059	32200	11872	24908	3546	7049	7935	3691	136	26
Net carbon footprint kg CO2e	3261	16291	7156	14469	2445	3217	4597	2256	98	20
% change if properly recycled	-36%	-49%	-40%	-42%	-31%	-54%	-42%	-39%	-28%	-21%

Table 2. Difference between up-stream and down-stream effects.

Sensitivity analyses

Another result from the carbon LCA's performed by SGS Search were sensitivity analyses. These analyses made theoretical calculations to assess the impact on the carbon footprint of the production stage by replacing primary material with secondary or recycled materials. The table below shows that the footprint of all products can be significantly reduced when secondary materials are used. The first line shows the amount of primary steel content, with a lower figure meaning there is more secondary steel used. The second line represents the amount of recycled plastic in the product.

It becomes clear from the analysis above that companies can significantly (from 15-34%) cut their carbon emissions by choosing secondary materials for the construction of their products.

Assumptions for end of life

After use, the machines are disassembled. Commonly in Europe the materials will be sent to end-of-life treatment. The end-of-life scenarios used for these LCA are based on EU averages as presented in Table 5. This distribution is applied to all materials of the machine except the engine oil. Assumed is that the oil is 100% incinerated and has a net calorific value of 11MJ/kg. Moreover, it should be mentioned that, data from automotive products are used and that it is assumed that the same applies to machinery, although EU directives do not mention this explicitly.

	Mini-excavator	Crawling excavator	Wheel loader	Tele-handler	Generator	Mast boom lift	Articulating boom lift	Scissor lift	Breaker	Battery drill
Primary steel content (%)	10%	31%	14%	8.5%	0%	41%	10%	6%	N.A.	N.A.
Recycled plastic content (%)	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	100%	100%
Reduction of upstream impacts (%)	24%	20%	21%	32%	15%	15%	17%	15%	34%	25%

Table 3. Sensitivity analyses on primary and secondary materials
N.A. = not applicable

Table 4. End-of-life scenario's

Product	Recycle	Incineration	Landfill	Reference
Plastics**	95%	3,5%	1.5%	Eurostat ELV[15]
Tyres	57.5%	42%	0.5%	Eurostat ELV
Metal	99%	0%	1%	Eurostat ELV
Glass	99%	0%	1%	Eurostat ELV
Electronics	83%	9.5%	7.5%	Eurostat WEEE[16]
Battery (metal)	95%	0%	5%*	Eurostat battery[17]
Battery (plastic)	47.5%*	47.5%*	5%*	Eurostat battery

[15]Eurostat 2016 data: https://ec.europa.eu/eurostat/web/waste/key-waste-streams/elvs
[16]Eurostat 2016 data: https://ec.europa.eu/eurostat/web/waste/key-waste-streams/weee
[17]Eurostat 2017 data: https://ec.europa.eu/eurostat/web/waste/key-waste-streams/batteries

** Assumption, no data available*
*** Except glass reinforced plastics, those are considered non-recyclable and therefore assumed to go to incineration and landfill*
[18]CE Delft, 2017; STREAM Goederenvervoer 2016: Emissies van modaliteiten in het goederenvervoer – Versie 2; CE Delft, Delft, January 2017. Tables 29, 30 and 31.

7.1.2 Results life cycle including operation

The graph below represents the main findings of the first life cycle carbon footprints for all analyzed products. It shows how complex the relation between impacts and life-cycle phases can be. For example the use phase is most dominant in the generator, excavator and wheel loader, while the access category is impacted more by transport and production.

7.2 Comparative analysis

7.2.1 Effects of parameters on efficiency

This section describes how the Carbon Footprint Calculator expresses the effects of the different parameters. Here we elaborate on what we have learned on the parameters.

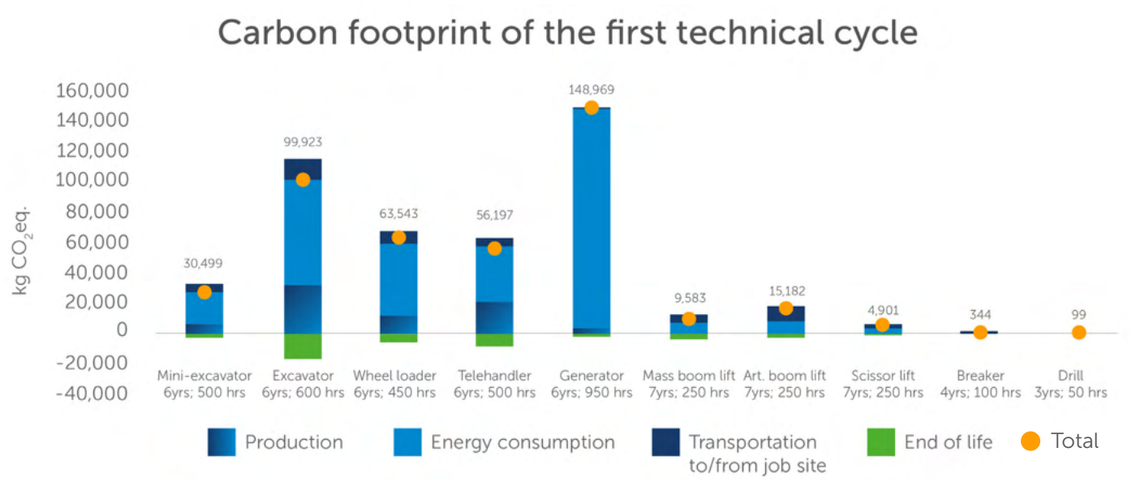


Figure 5. Life cycle carbon footprint of all products

Intensity of use

This parameter is defined by hours of use per year and the total amount of years that it is used during its first technical life span. The impact of producing the machine (and its end-of-life) is spread out over the number of hours it runs during its life. To lower the equipment's carbon footprint at the level of emissions per hour of use, it can be kept in use for longer (increasing the lifetime) or it can be used more intensively (higher utilisation rate).

Energy consumption

Energy consumption is defined by the amount of fuel or energy consumption per hour of use. The tool enables inserting the type of fuel (conventional vs biofuel) or electricity (average EU mix vs electricity from renewable sources), as well as stand-by time, when a machine is turned on but not being used.

Note: The calculator does not yet enable calculation of the change in impact from switching from diesel to electric power (for the same type of equipment). This is included in the recommendations (Chapter 9). Changing to electrically powered equipment may in the future lead to near-zero emission for energy consumption, when the electricity is generated from renewable sources. Certificates of Origin can in these cases guarantee the source and origin from energy used. Nowadays, though, the electricity mixes in most EU countries is still carbon intensive, being partly generated with coal and gas. Still, the average impact of electricity is lower than the impact of diesel. Calculations of the switch from diesel to the average EU mix show a reduction in impact by 20-25% (CE Delft, 2017[18]). Of course this switch requires a change of motor type and redesign of the equipment.

Transportation

The parameter for transportation of a machine, to reach the customer or a job site and to bring it back, is the most complex of all: it depends on load factor, return load factor, distance to the job site, vehicle type used, and fuel type.
By optimization of logistics, avoiding unnecessary transport as much as possible, CO2-emissions can be avoided. Combined transport for multiple products increases the load factor, avoids empty rides and may shorten the total transportation distance.

Selecting the right size truck for the transport is important. Large trucks have a lower impact than small trucks per ton transported weight, but only if the load capacity of the truck

is indeed utilised. It is better to choose a smaller truck of which the load capacity can be fully utilised, rather than a large truck only partly utilised.

Empty rides

Ideally, equipment is transported to and from the job site while bringing and picking up other equipment. If an empty transport movement occurs, the impact of the empty ride is attributed to the equipment, although it is not being transported.

Calculation example:

The excavator is the heaviest piece of equipment selected in this project: it weighs 15 (metric) tons.

For this, we have constructed an efficient transportation scenario:

A large truck and a trailer are used for transportation, having a load capacity of 28 ton of cargo. 80% of this load capacity is utilised, meaning that not only the excavator is transported, but also other cargo. No empty rides occur, meaning that the company has an efficient logistics, bringing and taking other pieces of equipment to the job site(s) as well.

The excavator is used at 15 jobs per year and a one-way transport average distance is 60 km.

The table below shows the effect of changes, of less efficient transportation

Scenario (change)	Result per job (kg CO2-eq.yr) (from calculation tool)	Result per year (kg CO2-eq) At 15 jobs/yr	Difference with baseline per year (kg CO2-eq.)
BASELINE, EFFICIENT SCENARIO	76	1.140	-
Empty rides	132	1.980	840
Lower load factor: 53%. Only the excavator is transported with the large truck/trailer	104	1.560	420
Lower load factor: 53% AND empty rides	188	2.820	1.680
Much lower truck with a load capacity of 40 ton, but only the excavator is transported. No empty rides.	121	1.815	675

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Recycling

The tool allows to choose from three options for recycling. The first uses the European averages for recycling as explained in the methodology section. The second considers a higher-than average (100%) recycling rate assuming that the product is fully disassembled when properly disposed of. The third option is no recycling at all, which is chosen when the product is sold to a second-hand market.

7.2.2 Comparison of user scenarios

Out of the 10 pieces of equipment, 5 were chosen because they have similar use patterns and are therefore representative for their category. The following selection was made for each product category:

- Earth moving: Mini-excavator
- Material handling: Telehandler
- Power: Generator
- Access: Mast boom lift
- Tools: Breaker

The following user scenarios are presented in three parts (per product category). The first table gives an overview of the average data that was gathered for the rental-inspired scenario (Scenario 1). The graph under the table gives a representation of the carbon footprint in kilograms per hour of use, comparing the rental inspired use case (Scenario 1) and the theoretical inefficient case (Scenario 2). Then the explanation below the graph indicates which parameters were changed to demonstrate the effect on the carbon footprint. The user case concludes with an example of inefficient use and the possible effects of avoided productions.

Earth moving: Mini-excavator

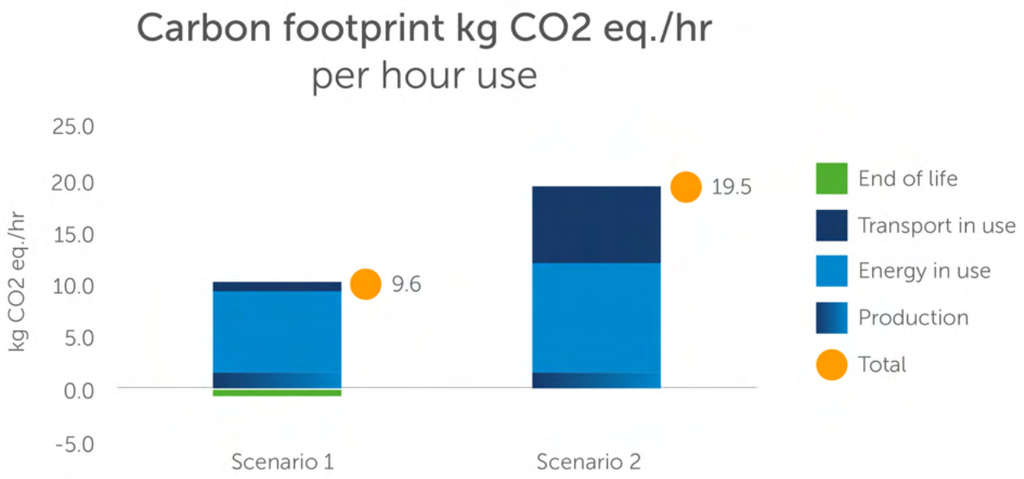
Rental inspired scenario

Scenario 1 represents rental-inspired scenario and scenario 2 is a theoretical inefficient scenario where transport is farther away, uses a larger type of transport vehicle, where there are less hours of use and a longer life span. Also, the product is sold off at the end of its life cycle so it is uncertain if it will be recycled.

Considering an inefficient scenario for the mini-excavator

Parameter: Hours of use. A (large private) land owner buys a mini-excavator for irregular (garden) maintenance, such as shrub clearing, soil levelling or digging for tree planting. The impact of one excavator is about 3.250 kg CO2-eq. (incl. end-of-life treatment), which would be saved if the landowner would rent instead. Provided that the rented excavator is used at other clients as well.

Section	Detail	Value	Justification/source
Transport	Load capacity and truck size, tonne	28 (large truck + trailer)	Most frequently transported in heavy trucks with trailers (16-32 t) according to questionnaires.
	Distance, km	40	Rounded average based on data provided by 6 European rental companies and contractors. Data provided ranged roughly between 20 and 50 km. One outlier (5 km) not considered.
	Jobs per year	65	Based on a typical duration of use at one site of 4 days. Employment rate of 70% of the time, based on interviews with 2 rental companies.
Lifetime and utilisation	Utilisation rate (h/yr)	500	Rounded average based on data provided by 6 European rental companies and contractors. Data ranged from 300 h/yr to about 600 h/yr. Very high values (e.g. 1600 h/yr)were considered unrealistic and/or unrepresentative for the diesel consumption used, and have therefore not been taken into account.
	Life time (1st use), yr	6	Average based on data provided by 6 European rental companies and contractors. Data ranged from ~3 to 8 years.
Energy	Diesel consumption, l/h	2.4	Value provided by OEM and deemed representative for typical construction sites. Rental companies and contractors provided slightly higher values but did not indicate how these were derived.



Material handling: Telehandler

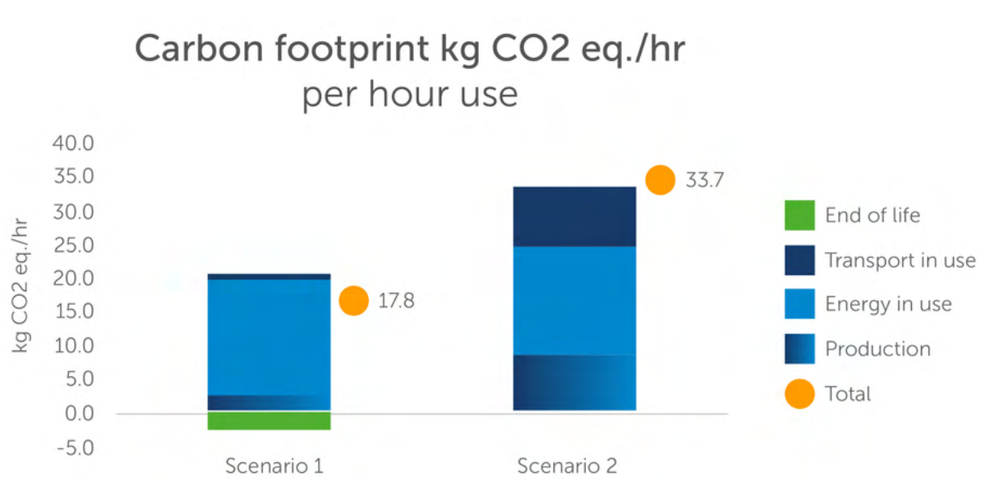
Rental inspired scenario

In the comparison below scenario 2 represents a theoretical inefficient scenario where transport is farther away (50 vs 75 km), uses a larger type of transport vehicle, and the delivery vehicle makes an empty return journey (both travel journeys are allocated to that machine). Additionally, in scenario 2 there are less hours of use and a longer life span. Also, the product is sold off at the end of its life cycle so it is uncertain if it will be recycled. In this case, because the telehandler has such a large footprint for its production, the recycling of metals would significantly affect the overall emissions if the machine is properly disposed of.

Considering an inefficient scenario for the telehandler

A farmer owns a telehandler to move bales of hay after harvest in the autumn. The rest of the year the telehandler is not used, or just very occasionally. The utilisation rate (hours per year) is low and the farmer could rent a telehandler instead. The impact of a telehandler is the highest of all assessed equipment types: over 12.000 kg CO2-eq. (incl. end-of-life treatment). By renting the telehandler, this impact would be avoided.

Section	Detail	Value	Justification/source
Transport	Load capacity and truck size, tonne	28 (large truck + trailer)	Most frequently transported in heavy trucks with trailers (16-32 t) according to questionnaires.
	Distance, km	50	Rounded average based on data provided by 5 European rental companies and contractors, ranging from 30 to 100 km.
	Jobs per year	10	Based on a typical duration of use at one site of 20 days. Employment rate of 70% of the time, based on interviews with 2 rental companies.
Lifetime and utilisation	Utilisation rate (h/yr)	500	Rounded average based on data provided by 4 European rental companies and contractors, ranging from 280 to 720 h/yr. Very high values (e.g. >1000 h/yr) were considered outliers that may not be representative for the energy use. These have not been taken into account.
	Life time (1st use), yr	6	Rounded average based on data provided by 7 European rental companies and contractors. Data provided varied between 3,75 to 10 years.
Energy	Diesel consumption, l/h	4	Value provided by OEM.



Power: Generator

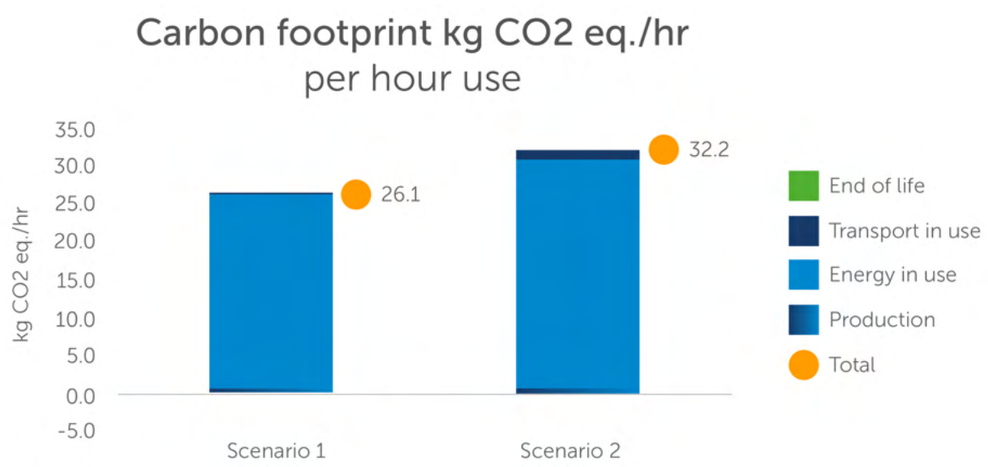
Rental inspired scenario

In the belowexamples, the parameters that have been shown in scenario 2 express the theoretical case where a larger vehicle has been used for transport, with a lower loading capacity (80% vs 11% loading factor), and a slightly longer distance (30 km vs 40 km). The utilization rate is lower and the life span is longer (6 vs 8 years), but the most important factor here is the energy consumption. With a slightly lower diesel use of 1,5 liters per hour, scenario 2 has a higher footprint. This is to demonstrate the importance of efficient machines when deciding which one to pick for a job.

Considering an inefficient scenario for the generator

Parameter: Hours of use. A generator is bought as a backup device at home, in case of power grid failure or outage. It is not in use. This generator can be replaced by a shared (rented) generator. This saves the impact of one generator: 2.450 kg CO2. Another case is that job sites usually order larger generators that provide excess energy that will not be used, burning more fuel than necessary. This can be avoided by advising clients on the right amount of energy use for a specific type of job.

Section	Detail	Value	Justification/source
Transport	Load capacity and truck size, tonne	28 (large truck + trailer)	Most frequently transported in heavy trucks (16-32 t) according to questionnaires.
	Distance, km	30	Rounded average based on data provided by 5 European rental companies and contractors, ranging from 15 to 50 km.
	Jobs per year	15	Based on a typical duration of use at one site of 15 days. Employment rate of 70% of the time, based on interviews with 2 rental companies.
Lifetime and utilisation	Utilisation rate (h/yr)	950	Rounded average based on data provided by 5 European rental companies and contractors, ranging from 500 to 1600 h/yr. Very high values (e.g. >1600 h/yr) were considered outliers that may not be representative for the energy use. These have not been taken into account.
	Life time (1st use), yr	6	Rounded average based on data provided by 7 European rental companies and contractors. Data provided varied between 4,4 to 8 years.
Energy	Diesel consumption, l/h	8	Value provided by OEM.



Access: Mast boom lift

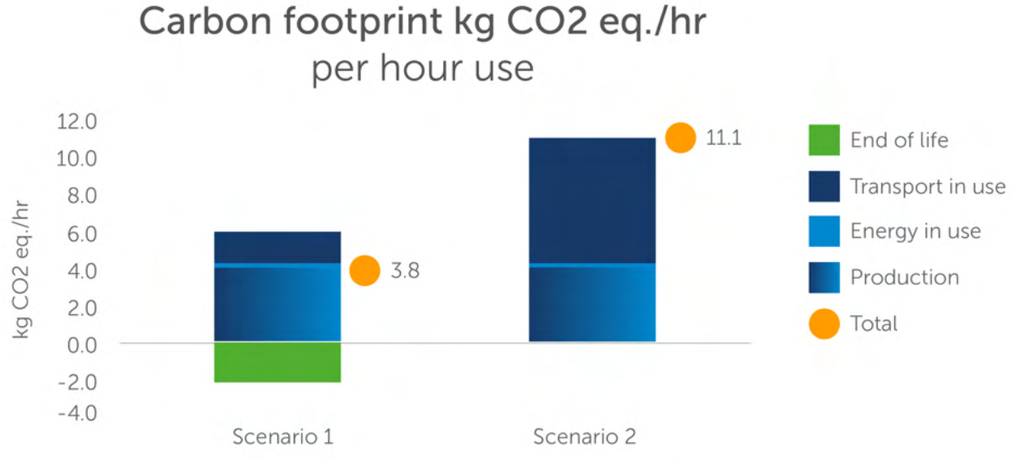
Rental inspired scenario

The comparison below shows the following parameters for scenario 2: Even though a better type of transport vehicle has been picked for scenario 2 (meaning a full loading capacity in comparison with 80% loading capacity in scenario 1), because distance is longer (40 km vs 100 km) and slightly more job site trips are made, the footprint is higher in scenario 2. Utilization rates and energy use for both are the same. Finally, the product is sold off at the end of its life cycle in scenario 2, so the benefits of recycling cannot be attributed.

Considering an inefficient scenario for the mast boom lift

Inefficient use: A municipality uses a lift only a few times per year, for instance for mounting and removing decorations in the streets. Another possibility is a (small) municipality that has a dedicated boom lift for replacing lights on lantern posts. The impact of a mast boom lift is about 3.200 kg CO2-eq. (incl. end-of-life treatment), which would be saved if the municipality would rent instead. Provided that the rented mast boom lift is used at other clients as well.

Section	Detail	Value	Justification/source
Transport	Load capacity and truck size, tonne	7,5 (medium truck)	Questionnaire data wildly varied (from 3,5t to 16-32t truck). As default value an value in the middle has been chosen.
	Distance, km	40	Rounded average based on data provided by 5 European rental companies and contractors. Data varied between 20 and 80 km.
	Jobs per year	20	Based on a typical duration of use at one site of 12 days. Employment rate of 70% of the time, based on interviews with 2 rental companies.
Lifetime and utilisation	Utilisation rate (h/yr)	250	Indication based on data by one rental company; and set similar to the other lifts. Interpretation is uncertain (whether this represents all functional hrs/yr or only hours at which energy is consumed; see also Ch.1)
	Life time (1st use), yr	7	Rounded average based on data provided by 6 European rental companies and contractors. Data provided varied between 3,5 to 10 years.
Energy	Electricity consumption, kWh/h	2	Questionnaire data varied from 1 to 4 kWh. The value is assumed to be similar to the articulating and scissor lifts.
	Hours of active use per year, h/yr	60	Based on the average value provided by 2 European rental companies that have chips installed to measure the hours of active use. The data ranged from 57-65 hours per year.



Tools: Breaker

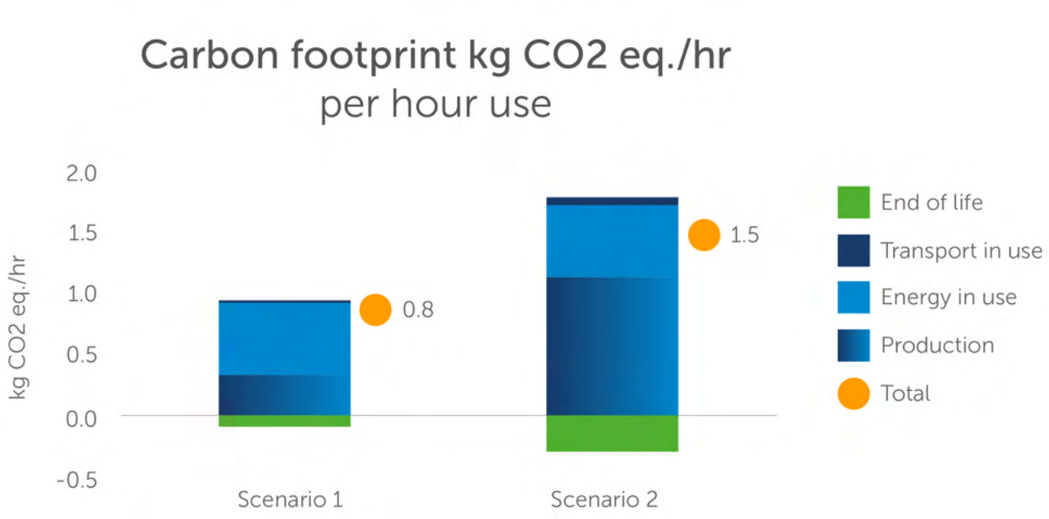
Rental inspired scenario

Scenario 1 represents the rental inspired scenario; scenario 2 is a theoretical inefficient scenario based on much less efficient use (around 1/5th of scenario 1). All other parameters are kept the same. The only difference is the total amount of hours the breaker is used in its first lifetime. The figure shows that the impact of production (and benefit of recycling) become much more prominent.

Considering an inefficient scenario for the breaker

Considering the most relevant parameter for this tool, hours of use: a breaker is bought as standard equipment by a construction company, and stored in a van, just in case it is needed. The impact of a breaker is 101 kg CO2-eq. (incl. end-of-life treatment).This would be saved if the construction company would rent instead. Provided that the breaker is used at other clients as well.

Section	Detail	Value	Justification/source
Transport	Load capacity and truck size, tonne	1.2 (large van)	Varied and limited data received. In general, smaller vehicles appear to be used compared to larger pieces of equipment.
	Distance, km	20	Based on data provided by 4 European rental companies. Data varied between 10 to 40 km.
	Jobs per year	7	Based on a typical duration of use at one site of 28 days. Employment rate of 50%, based on an indication by a large rental company. Uncertain data: another rental company mentions a 10% employment rate for small tools.
Lifetime and utilisation	Utilisation rate (h/yr)	100	Based on OEM-provided data on the time machines were in active use ('switch-on time'). High-end of provided range to correspond with efficient machine use.
	Life time (1st use), yr	4	Based on data provided by 4 European rental companies. Data varied between 2 and 5 years.
Energy	Electricity consumption, kWh/h	1.25	Data provided by rental company. Uncertain data: only one data point, which is not the OEM



7.3 Avoiding production by sharing equipment

Rental is a prime example of the sharing economy. By using equipment for rent, users don't have to own equipment themselves. This avoids the production of these machines, and therefore avoids the carbon emissions related to the production and the end-of-life phases.

7.3.1 Drivers to choose rental above ownership

There are many factors that determine how rental is more effective than ownership. These factors also directly influence the rental rate/ penetration rate of the products.

Purchasing price versus rental price

Whether or not to choose for rental is above all a financial consideration. This shows the relevance of the TCO (Total Cost of Ownership) calculator on the ERA site[19]. Consider tools for example, which have relatively low retail prices: companies tend to buy these tools themselves. When products get bigger and prices are higher, companies look at the total costs of ownership more in depth, taking into account maintenance, security check-ups, use rate and other factors as mentioned below.

Availability and Risk management

Some machines are crucial for project continuity on a construction site. When such a machine is not available, the construction process is sometimes delayed to the extent that a project deadline is not made. The constructor is then often fined. So there is a financial risk by not having the right machine at the right moment on the construction site.

Supply of the right equipment

Some tasks need very specific tools/equipment. This was often encountered on the subject of access materials. Depending on how often these specific tasks occur became the basis for the decision for the users to rent and could explain why the access products group has a high penetration in rental.

7.3.2 Actual avoided production and hence avoided emissions

To provide input for the question of avoided production, researchers received data from a rental company showing that a mini-excavator was rented by ten different users in a year. We could argue, for sake of this study, that these ten users would otherwise have bought the mini-excavators. By using rental, the carbon emissions of the production and end-of-life phase are avoided for ten mini-excavators in this example. The carbon footprint of the production phase for a mini-excavator is approximately 5.000 kg of CO2 and if properly recycled, recycling reduces the carbon footprint by approximately 1.700 kg of CO2. In theory, adding up the net carbon emissions of 3.300 kg CO2 per avoided mini-excavator ten times adds up to a total of 33.000 kg CO2.

Note: because the clients in this case could not be interviewed it is impossible to confirm that all would have bought the machine if it was not offered for rent or that they would have filled in their need otherwise.

Working on the assumption that only 50% of the clients would have bought the mini-excavator in this case. With this taken into account we can say that with reasonable confidence that applying the rental practice in this case saved about 16.500 kg CO2 – for this one mini-excavator in one year.

7.4 Implications

The insights provided by this research lead to some additional implications for the future:
Considering that the use phase of these tools can have such a large impact, it is imperative that all OEMs and users of these tools work together to accelerate the transition to a low carbon economy and remove the dependency on fossil fuels. By being able to tweak fuel type and consumption in the tool, users can see the potential for emissions reduction by making responsible fuel choices.

Once this transition is made and energy plays a minor role, and in a future where materials (especially rare earth metals) become more scarce, the importance of designing for disassembly and recovering all the materials used in machines becomes clear. Companies will have an economic incentive to keep all their products within their control, to avoid the export of valuable materials to other parts of the world that will seek to increase the stockpile of their own strategic resources.
In the meantime, companies can unlock the tremendous potential for efficiency gains in energy use, further cutting costs in fuel and electricity by using telematics and developing increasingly efficient machines.

Further efficiency gains, not only in fuel use but in carbon reductions, can be made by optimizing logistics and transport during rental. This research has shed light on the strong effects that inefficient transport can have in the total life cycle emissions of products.

[19] *https://equipmentcalculator.org/en*

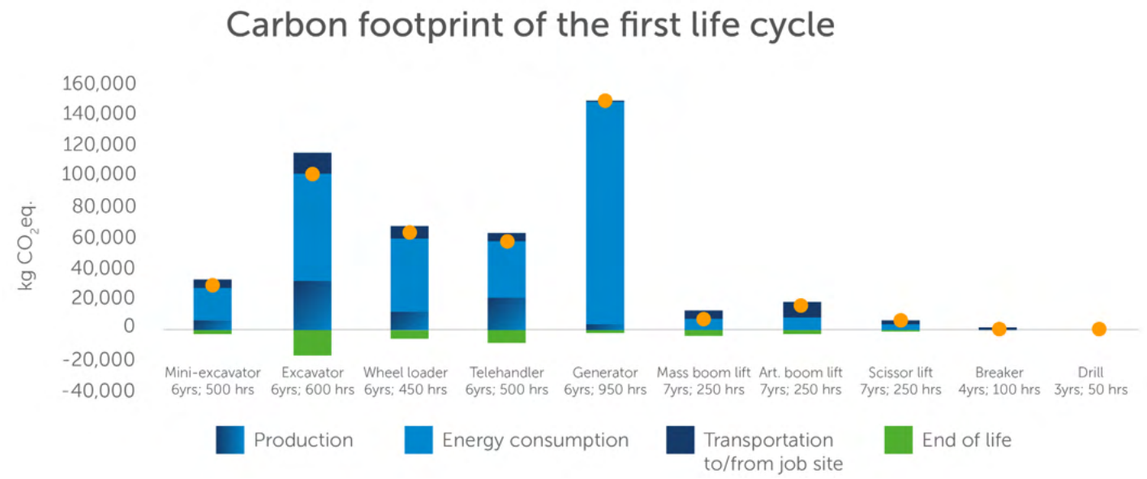
8 Conclusions

The climate crisis is said to be one of the biggest The climate crisis is said to be one of the biggest challenges for humanity at this moment. Global warming is directly related to a higher density of greenhouse gas emissions in the atmosphere. Besides legal measures, strategies are designed to lower the carbon footprint of the economy. The philosophy of the circular economy is one of those strategies. Rental, avant la lettre, is a circular business model and contributes to lower emissions.

The goal of this study is to find out how equipment rental contributes to avoiding carbon emissions of the life cycle carbon footprint of construction equipment.

Rental as a business model may ensure a highly efficient handling of the equipment. Various parameters can be subject to efficient handling. The parameters having pronounced influence on the carbon footprint of equipment are: 1. The intensity of use; 2. Energy consumption; 3. Transportation; 4. Recycling and 5. Innovation. Organizing equipment handling efficiently contributes, as is often key to the business model of a rental company, lowers carbon emissions.

Next follows an overview of the carbon footprints of the ten machines used for this research, including a realistic use scenario based on interviews.



This graph shows that for the products using fuel, energy consumption is the largest part of the carbon footprint. To the extent that for the generator the impact of energy consumption overshadows all other factors.

Rental contributes to lowering emissions by providing a wide range of products enabling the client to choose the best machine for the task, making sure that the machines are put to best practice, and have the most efficient fuel consumption per hour. Rental companies can also request the client to use biofuel (if technically possible), which lowers the carbon footprint significantly. Additionally, rental ensures proper maintenance of the products which leads to enduring optimal performance of the products.

For the electrically driven equipment, the impact of production and transportation is more prominent than the contribution of electricity. This is because this equipment generally has much lower utilization rates (hours of use per year) than the -- often continually working -- diesel powered equipment types. The assessment shows that inefficient transport leads to a significantly higher total carbon footprint.

When fuel consumption is taken out of the equation, for instance when switching to renewable energy or biofuel, other components start weighting heavier on the carbon footprint. Especially then, transport becomes a major factor, an issue in which rental companies research optimization.

Rental companies and their clients represent a big customer share for OEMs. Rental companies can influence their customers to choose more sustainable equipment and with that providing OEMs with the business case to produce more sustainable and electrically driven equipment. ERA can facilitate this process for its members are both rental companies and OEMs.

9 Recommendations

The following section briefly outlines some recommendations for the next steps after conclusion of this project.

1. Expand the functionality of the carbon calculator
    a. Option to compare diesel powered equipment with an electrical counterpart;
    b. Include oil consumption (maintenance)

2. Make the Carbon Footprint Calculator accessible for members to use in their sales pitches

3. Strive to accelerate the transition to electrical equipment that is based on renewable energy. That lowers the footprint of the use phase dramatically and gives more significance to the production and end-of-life phase, enhancing the positive effect of rental.

4. Increase use of telematics to get better insight in idle times, hours of use and total life-time of machines to increase accuracy of numbers in carbon calculator.

5. Carry out carbon footprint on different levels, to have more insights into the impact of the companies itself:
    a. Aim to calculate the footprint of the total fleet of companies
    b. Calculate the carbon footprint of the rental companies

6. Carry out a sector-wide research to determine how often rental is used and production emissions are avoided.








10 About

10.1 Climate Neutral Group

Climate Neutral Group (CNG) wants to accelerate the transition to a net-zero carbon economy. Founded in 2002, CNG is one of the longest established and most recognized providers of carbon management and offsetting services in the market. CNG offers its clients advice on how to fight climate change whilst strengthening their corporate strategies. Via services as carbon footprinting, life cycle analysis (LCA), emission reduction and carbon offsetting, organizations and their products and services become climate neutral.
Headquarters: Utrecht, Netherlands

10.2 CE Delft
Committed to the Environment

Through its independent research and consultancy work CE Delft is helping build a sustainable world. In the fields of energy, transport and resources our expertise is leading-edge. With our wealth of know-how on technologies, policies and economic issues we support government agencies, NGOs and industries in pursuit of structural change. For 40 years now, the skills and enthusiasm of CE Delft's staff have been devoted to achieving this mission.
Headquarters: Delft, Netherlands

10.3 SGS Search

SGS is the world's leading inspection, verification, testing and certification company and is recognized as the global benchmark for quality and integrity. With more than 95.000 employees, SGS operates a network of over 1.200 offices and laboratories around the world.
WHEN YOU NEED TO BE SURE
Headquarters: Amsterdam, Netherlands

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