

PERMITTING & ASSISTANCE BRANCH STAFF REPORT

Revised Solid Waste Facilities Permit for the
West Miramar Sanitary Landfill
SWIS No. 37-AA-0020
July 20, 2020

Background Information, Analysis, and Findings:

This report was developed in response to the City of San Diego Development Services Department, Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for the West Miramar Sanitary Landfill, SWIS No. 37-AA-0020, located in the City of San Diego and owned by the United States of America Department of Navy, Marine Corps Air Station Miramar and operated by the City of San Diego Environmental Services Department, Refuse Disposal Division. A copy of the proposed SWFP is attached. This report contains Permitting & Assistance Branch (PAB) staff's analysis, findings, and recommendations.

The proposed SWFP was initially received on June 1, 2020. A new proposed SWFP was received on June 8, 2020. Action must be taken on this SWFP no later than August 7, 2020. If no action is taken by August 7, 2020, the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Changes:

The following changes to the first page of the SWFP are being proposed:

Parameter	Current Permit (2014)	Proposed Permit
Name & Mailing Address of Owner	United States of America Department of Navy Marine Corps Air Station Miramar Post Office Box 452007 San Diego, CA 92145	United States of America Department of Navy Marine Corps Air Station Miramar Post Office Box 452013 San Diego, CA 92145-2007
Design capacity (cubic yards)	87,760,000	97,354,735
Maximum Elevation (ft. MSL)	485	Phase I – 485 ft msl Phase II – 510 ft msl
Estimated Closure Year	2025	2031

Other changes to the SWFP include:

1. Updates to the following sections of the SWFP: “Findings,” “Prohibitions,” and “Documents” that describe and/or restrict the operation of the facility, including rewording, additions and/or deletions for the purpose of updating and/or clarifying; and
2. Incorporate the updated Joint Technical Document (JTD).

Key Issues:

The proposed SWFP will allow for the following:

1. Increase the design capacity from 87,760,000 cubic yards to 97,354,735 cubic yards;
2. Allow for the increase in the permitted height of the existing active portion of West Miramar Sanitary Landfill (WMSL) 238-acre Phase II from 485 feet above mean sea level (MSL) to 510 feet MSL; and
3. Increase the estimated closure year from 2025 to 2031.

Background:

The West Miramar Sanitary Landfill is located in the north-central part of the City of San Diego. The Miramar site has been separated into three distinct areas: South Miramar, North Miramar, and West Miramar landfill areas. The City of San Diego first disposed of refuse at the South Miramar site between 1959 and 1973. Operations then moved to North Miramar between 1973 and 1983. Landfilling at West Miramar Sanitary Landfill began in 1983 and continues to the present. The WMSL is divided into two subareas: Phase I, located in the east half of the West Miramar Sanitary Landfill, and Phase II, located in the west half.

Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff’s findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Finding
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	Acceptable: The LEA provided the required certification in their permit submittal letter dated June 2, 2020.

27 CCR Sections	Finding
21685(b)(2) LEA Five Year Permit Review	Acceptable: A Permit Review Report (PRR) was prepared by the LEA on September 30, 2019. The LEA provided a copy to the Department on February 11, 2020. The changes identified in the PRR are reflected in the proposed revised SWFP.
21685(b)(3) Solid Waste Facility Permit	Acceptable: Staff received a proposed permit on June 8, 2020.
21685(b)(4)(A) Consistency with Public Resources Code (PRC) 50001	Acceptable: The LEA provided a finding in the proposed SWFP received on June 8, 2020, that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Compliance Unit found the facility is identified in the Countywide Siting Element as described in their memorandum dated June 4, 2020.
21685(b)(5) Preliminary or Final Closure/Postclosure Maintenance Plans Consistency with State Minimum Standards	Acceptable: Engineering Support Branch staff in the Closure and Technical Support Section have found the Preliminary Closure/Postclosure Maintenance Plan is consistent with State Minimum Standards as described in an email dated June 17, 2020.
21685(b)(6) Known or Reasonably Foreseeable Corrective Action Cost Estimate	Acceptable: Engineering Support Branch staff in the Closure and Technical Support Section have found the written estimate to cover the cost of known or reasonable foreseeable corrective action to be technically adequate as described in their memorandum dated March 10, 2020.
21685(b)(7)(A) Financial Assurances Documentation Compliance	Acceptable: PAB staff in the Financial Assurances Unit staff found the Financial Assurances for closure, postclosure, and corrective action in compliance as described in their memorandum dated June 26, 2020.
21685(b)(7)(B) Operating Liability Compliance	Acceptable: PAB staff in the Financial Assurances Unit found the Operating Liability in compliance as described in their memorandum dated June 26, 2020.
21685(b)(8) Operations Consistent with State Minimum Standards	Acceptable: WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on June 23, 2020. See Compliance History below for details.

27 CCR Sections	Finding
21685(b)(9) LEA CEQA Finding	Acceptable: The LEA provided a finding in their permit submittal package received on June 2, 2020, that the proposed SWFP is supported by the existing CEQA documentation. See Environmental Analysis below for details.
21650(g)(5) Public Notice and/or Meeting, Comments	Acceptable: A Public Informational Meeting was held by the LEA on May 15, 2020. Written comments were received by the LEA. Oral comments were addressed by LEA staff. See Public Comments below for details.
CEQA Determination to Support Responsible Agency's Findings	Acceptable: The Department is a responsible agency under CEQA with respect to this project. PAB staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.

Compliance History:

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on June 23, 2020 and found that the facility is in compliance with applicable state minimum standards and permit conditions.

Below are the details of the facility's compliance history based on the LEA's monthly inspection reports during the last five (5) years:

Violation	2015	2016	2017	2018	2019	2020	Total
27CCR 20690 - Alternative Daily Cover	0	1	0	0	0	0	1
27 CCR 20939 - Control Excessive Gas Concentrations	0	0	0	0	3	0	3
27CCR 17355 - Disposal	0	1	0	0	0	0	1
27 CCR 20820 - Drainage and Erosion Control	0	1	0	0	0	0	1
27 CCR 20921 - Gas Monitoring and Control	2	5	0	1	0	0	8
27 CCR 20650 - Grading of Fill Surfaces	0	0	1	2	1	1	5
27 CCR 20870 - Hazardous Wastes	0	1	0	0	0	0	1
27 CCR 21600 - Report of Disposal Site Information	0	1	0	0	0	0	1
27 CCR 20750 - Site Maintenance	0	0	0	1	0	0	1
27 CCR 20615 - Supervision	0	3	0	0	0	0	3
27 CCR 20860 - Traffic Control	0	2	0	0	0	0	2
27 CCR 20810 - Vector and Bird Control	0	0	0	1	0	0	1
Total	2	15	1	5	4	1	28

All violations were corrected to the satisfaction of the LEA. No violations have been cited by the LEA since January 2020.

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the City of San Diego Development Services Department, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The changes that will be authorized by the issuance of the proposed permit include: increasing the design capacity from 87,760,000 cubic yards to 97,354,735 cubic yards; increasing in the permitted height of the existing active portion of WMSL 238-acre Phase II from 485 feet above mean sea level to 510 feet mean sea level; and increasing the estimated closure year from 2025 to 2031.

A Draft Environmental Impact Report (EIR), State Clearinghouse No. 2006051004, was circulated for a 45-day comment period from May 17, 2007 to July 2, 2007. The Final EIR, dated July 2007, was certified by the City of San Diego Hearing Officer on October 3, 2007.

Under CEQA Guidelines Section 15162, when an EIR has been certified or a negative declaration (ND) adopted for a project, no subsequent environmental document shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project, which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or ND;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects

- of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

PRC Section 21068 defines “Significant effect on the environment” as a substantial, or potentially substantial, adverse change in the environment. CEQA Guidelines Section 15382 further defines, a “Significant effect on the environment” as meaning a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. A lead or responsible agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary and none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent EIR have occurred, pursuant to Section 15164(a) of the CEQA Guidelines.

Thus, Section 15164(a) of the CEQA Guidelines provides that an addendum to an EIR is the appropriate documentation when the Lead Agency or a Responsible Agency has determined that none of the conditions described in CEQA Guidelines Section 15162 exist – specifically there are no new significant environmental effects as a result of the changed project.

An Addendum to the 2007 Final EIR, was prepared by the Lead Agency, dated August 19, 2019.

The City of San Diego Development Services Department, Local Enforcement Agency, provided a finding that the proposed revised SWFP is consistent with and supported by the cited environmental document.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the EIR and Addendum as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed revised SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed revised SWFP and all of its components and supporting documentation, this staff report, the Addendum to the EIR adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed revised SWFP. The custodian of the Department’s administrative record is Ryan Egli, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. The LEA held a virtual public informational meeting on May 28, 2020, via Microsoft Teams in order to comply with public meeting requirements and requirements related to COVID-19 social distancing guidelines including Executive Order N-25-20. Twenty-six (26) members of the public attended.

Below is a summary of the public comments and questions received for the proposed project during the public informational meeting:

Question/Comment #1:

How will the height increase be monitored to ensure no further negative impacts on residents with unwanted odors from the landfill?

Response: The LEA inspects the facility monthly to confirm compliance with the permit and state minimum standards. The operator also preforms daily surveys and an aerial photometry survey every 5 years.

Question/Comment #2:

Why would you allow a height increase while the landfill is receiving multiple complaints and violations?

Response: The LEA explained its application processing requirements. The LEA will consider all comments before issuing the permit. The landfill has made operational changes to reduce odors. The LEA explained that authority over odors is under the purview of the Air Pollution Control District (APCD).

Question/Comment #3:

Is the scheduled infrequent monitoring sufficient to ensure daily monitoring?

Response: The LEA conducts at least two separate inspections a month. Sometimes more when inspecting closed cells.

Question/Comment #4:

How do you plan to reduce odors coming from the site?

Response: The LEA does work with APCD to assist in addressing odor concerns. The LEA has odor authority over the Miramar Greenery (compost facility), the APCD has odor authority over the landfill.

Question/Comment #5:

Are the biosolid facility and asphalt plant also potential sources of odor?

Response: Yes, there are other potential odor sources. APCD would have authority over the biosolid plant.

Question/Comment #6:

What is the deadline to make a decision regarding the height increase?

Response: The LEA must submit the proposed permit to CalRecycle next week. CalRecycle then has 60 days to concur or not concur with the proposed permit. Then the LEA would issue the permit.

Question/Comment #7:

The site is continually violating their OIMP (Odor Impact Minimization Plan). How can a business in continuous violation be allowed to expand? How does enforcement help when it keeps happening? There was no improvement from spring to November.

Response: The LEA only has odor authority over the Miramar Greenery, which has an OIMP. For the landfill, the LEA also ensures waste is properly covered and that incoming loads are managed properly. Otherwise, APCD has authority over odors. Odors could also be from an algae bloom and the north reclamation plant.

Question/Comment #8:

How will Senate Bill 1383 help reduce odors at the landfill?

Response from operator: The bill requires landfills to divert food waste from landfills.

Question/Comment #9:

What is the backup plan besides the height increase?

Response from operator: Either a proposed facility that has not been built yet or divert the waste to Sycamore Landfill.

Question/Comment #10:

Odors started before the algae bloom.

Response: The LEA does not have authority over odors at the landfill or biosolid facility.

Question/Comment #11:

Odor practices are not being followed at the Miramar Greenery. How can they be given a height increase when not addressing odor issues?

Response: Deodorant is being used at the landfill. This is still under APCD authority.

Question/Comment #12:

Why not move to Sycamore now?

Response from operator: Sycamore is a backup plan. Longer hauling distance and increased disposal costs is not as efficient as a height increase.

Question/Comment #13:

Deodorant is not effective at landfill.

Response: No response provided by the LEA.

Question/Comment #14:

Why not repeal the People's Ordinance?

Response: Not in the purview of the LEA and this public meeting.

Question/Comment #15:

Can you not make this part of your recommendation?

Response: No decisions are being made at this public informational meeting.

Question/Comment #16:

Odors starting 6 years ago is in your purview.

Response: Purview is with APCD. The LEA has authority over the Miramar Greenery and has taken enforcement action when needed.

Below is a summary of the written public comments and questions received by the LEA for the proposed project before and after the public informational meeting:

Letter #1:

We have been smelling the horrible odors coming from the landfill for years and it is time to close it down. I have made multiple complaints about the smell and I am concerned about the health of my family as well as the health of the residents in this area. Not to mention my concern of the property values in the stench zone. Who wants to buy or rent in an area where you can't go outside in the morning or the early evening?

Response: The LEA provided a link and time and date of the public meeting. The LEA also read letter at the public meeting.

Letter #2:

Every reasonable measure to mitigate the burgeoning need for landfill space has only delayed the inevitable decision that it is time to plan for the closure of Miramar and seek alternatives to the City's need for disposal capacity. As detailed above, the City and County of San Diego face a looming problem of available landfill capacity in the region which past administrations have not addressed. The obvious solution is the East Otay Mesa Recycling Collection Center and Landfill.

Response: The LEA confirmed the comment was received and read the letter at the public informational meeting.

Letter #3:

I would like to know if it is possible for me to attend the meeting in person as opposed to just virtually? For years we never had issues with landfill odors until approximately the winter of 2014. We then started to smell these horrific odors, always in the evening and through until the early morning. We complained to various people like our mayor, council members, and multiple agencies as we had a difficult time navigating through the government bureaucracies to discover who was responsible for the odor and whom to file complaints with. We eventually discovered the San Diego Air Pollution Control District. We are completely opposed to the landfill height being raised and I feel confident we do not stand alone. Please shut down the operation and relocate it to Sycamore Canyon.

Response: The LEA thanked the stakeholder for the comment and read comment at the public meeting. The LEA also advised that an in person meeting was not possible at this time.

Letter #4:

Thank you for conducting this meeting. I had difficulty signing on to the virtual meeting today and missed the first 10 minutes. Can you please email me any slides you showed? After the meeting I heard from numerous people that they had difficulty signing on as well. For the last six years my health and well-being and that of the community has been jeopardized and infringed on with odors that were never there prior to the existence of the greenery. I believe that if you lived in the community, or your daughter, mother or sister did, you would be sending paperwork to CalRecycle telling them you are recommending to not expand in the current location, to immediately relocate the facility to a temporary location, and to begin the process to start finding a new permanent home. A landfill/greenery in the middle of the city needs to be addressed and moved now to stop the odors, vermin, and possible potential disease threats we don't even know about.

Response: The LEA made the meeting available via YouTube.

Letter #5:

Please make a note of my concerns regarding the West Miramar Landfill Permit Revision. We, the residents of UC, request that the landfill be relocated rather than increased in height. The odor level has already passed the tolerable level. It is a significant nuisance to the residents, brings down our property values, and makes it difficult to live a normal life. On many days, it is impossible to stay outside, and we must shut all of the windows because the smell is so pervasive. If we are forced to do so, we will resort to legal action to force the relocation of the landfill. There are many more suitable places for it that are not adjacent to residential neighborhoods.

Response: The LEA did not provide a direct response, but odor issues were discussed during the public meeting.

Letter #6:

There is already an odor problem. Please don't allow them to go higher. It will adversely affect many residents in 92122 and possibly other neighborhoods.

Response: The LEA did not provide a direct response, but odor issues were discussed during the public meeting.

Letter #7:

I live in the University Gardens neighborhood and I am strongly against the proposal to increase the height of the Miramar Landfill. The odor wafting this way is already unbearable and we do not want our young children to grow up with more of this pollution. I strongly recommend that you consider an organics program similar to the one set up in Toronto, Canada Organics Program.

Response: The LEA did not provide a direct response, but odor issues were discussed during the public meeting.

Letter #8:

Was not able to gain entry to the community meeting last night. The base of the Miramar Landfill might have been spread out with these older compaction standards. This would make the landfill more and more susceptible to a liquefaction collapse the higher it gets. A liquefaction collapse could easily overrun Route 52. A disinterested third party, with no political or economic interest, should review the Miramar dump engineering. The berms to the south west of the landfill probably should be raised in order to contain a landfill collapse. Raising the height of the dump sends more gas towards East UC. So locals are not imagining a higher level of stink, it is real. Methane is a simple asphyxiate displacing oxygen in the lungs; in high amounts it can affect those on medical oxygen.

Response: The LEA did not provide a direct response, but the increase in height was discussed during the public meeting.

Letter #9:

I am writing you today to let you know that I have a concern about the proposed 25 foot height increase for the Miramar Landfill. I'm not as concerned about the height increase as I am about the purpose of this height increase. It's my understanding this proposal is being made to extend the life of the landfill. Rather than extend the life of the landfill, why not move now? Based on what I'm reading in the proposal, the 25 foot height increase merely delays the situation and does not address the need for another location. Every year costs go up; let's move now.

Response: The LEA did not provide a direct response, but the option of closing the landfill and using another disposal site was discussed during the public meeting.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on June 16, 2020. No comments were received by Department staff.

Attachment: Proposed Revised SWFP