

Permitting & Assistance Branch Staff Report
New Solid Waste Facilities Permit for the
California Waste Solutions North Gateway Recycling Facility
SWIS No. 01-AA-0332
September 9, 2022

Background Information, Analysis, and Findings:

This report was developed in response to the County of Alameda Department of Environmental Health Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a new proposed Solid Waste Facilities Permit (SWFP) for the California Waste Solutions North Gateway Recycling Facility, SWIS No. 01-AA-0332, located in Oakland, CA and owned and operated by California Waste Solutions, Inc. 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 received on July 18, 2022. Action must be taken on this SWFP no later than September 16, 2022. If no action is taken by September 16, 2022, the Department will be deemed to have concurred with the issuance of the proposed new SWFP.

The following are the key design parameters of the proposed project:

Parameter	Proposed SWFP
Operator	California Waste Solutions, Inc.
Owner	California Waste Solutions, Inc.
Facility Type	Transfer Station
Proposed Hours/Days of Operation	Receipt of Recyclable Material: 5:30 AM to 6:30 PM, 7 days a week Material Processing & Transfer: 24 hours a day, 7 days a week (Days Closed – See TPR)
Proposed Maximum Tonnage	850 tons per day (tpd)
Proposed Traffic Volume	308 vehicle trips per day (vpd)
Proposed Area (acres)	14.38 acres
Design Capacity	850 tpd
Waste Types	Recyclable material

Background:

California Waste Solutions, Inc. currently owns and operates two medium volume transfer/processing facilities in Alameda County that accept recyclable material. California Waste Solutions plans to surrender both registration tier permits associated with those facilities after opening the proposed new facility, California Waste Solutions North Gateway Recycling Facility. The new facility will be located at 2308 Wake Avenue in Oakland, CA. The proposed transfer processing permit would allow for acceptance of 850 tpd of recyclable material. The proposed permit prohibits acceptance of mixed municipal solid waste, bulky waste (furniture, mattresses, etc.), pressure treated lumber, waste tires, scrap metal, white good/appliances, biosolids, green waste, food waste or wood waste for any purpose including processing or transfer to disposal.

Findings:

Staff recommends concurrence in the issuance of the proposed new 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 May 19, 2022.
21685(b)(3) Solid Waste Facilities Permit	Acceptable: Staff received a proposed Solid Waste Facilities Permit on July 18, 2022.
21685(b)(4)(A) Consistency with Public Resources Code (PRC) 50001	Acceptable: The LEA provided a finding in the proposed SWFP received on July 18, 2022 that the facility is consistent with PRC 50001. Permitting & Assistance Branch (PAB) staff found the facility is identified in the Nondisposal Facility Element.
21685(b)(8) Operations Consistent with State Minimum Standards	Acceptable: See Compliance History below for details.
21685(b)(9) LEA CEQA Finding	Acceptable: The LEA provided a finding in their permit submittal package received on July 18, 2022 that the proposed SWFP is consistent with and supported by the existing CEQA documentation. See Environmental Analysis below for details.

27 CCR Sections	Finding
21650(g)(5) Public Notice and/or Meeting, Comments	Acceptable: A Joint Public Informational Meeting was held by the LEA and Operator on June 15, 2022. Written comments were received by LEA and addressed by LEA staff. Oral comments were addressed by the operator and City of Oakland staff. Written and oral comments were received by Department staff. See Public Comments below for details.
21570(g) Disadvantaged Community Public Meeting	Acceptable: The proposed new facility is located within 1 mile of a disadvantaged community (DAC) as defined pursuant to Section 39711 of the Health and Safety Code. The operator satisfied the regulatory requirements by using the LEA's joint public notice to distribute to the DAC, attending the joint public meeting and providing a summary of comments and responses that occurred during the public meeting.
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 new SWFP.

Compliance History:

PAB staff have determined that the design and operations described in the submitted Transfer Processing Report will allow the proposed facility to comply with State Minimum Standards.

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 Oakland, Planning and Building 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.

An Environmental Impact Report (EIR), State Clearinghouse No. 2001082058, was circulated for a 30-day comment period from May 2002 to June 2002. The Final EIR was certified by the Lead Agency on July 31, 2002.

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, based on 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 EIR, State Clearinghouse No. 2001082058, was prepared by the Lead Agency, dated July 2021.

The Alameda County LEA has provided a finding that the proposed new 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 new SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed new SWFP and all of its components and supporting documentation, this staff report, the Addendum to the EIR approved 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 new 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 and operator held a joint public informational meeting on June 15, 2022, at West Oakland Park Library, in the City of Oakland. The meeting was broadcasted virtually via Zoom Video/Teleconference. A combined number of thirty-two members of the public were in attendance both in person and virtually.

Members of the public questioned what the timelines were for the new facility to become operational, how long the other CWS facilities would remain operational and what would happen to the land that the other facilities are located on after closure. Additional questions included inquiries about day to day operations and financial implications for the Operator. The LEA, Operator, and City Planner from the City of Oakland answered all comments/questions during the meeting.

The LEA received a written comment from a member of the public in opposition of the project stating concerns about the location's proximity to a neighborhood and airborne toxins, odors, noise, and general pollution. The LEA responded with reference to the CEQA and Use Permit Documents as well as the Alameda County Integrated Waste Management Plan that was amended for the siting of this project. The LEA stated that when the full SWFP is issued the facility is regulated and subject to the LEA's periodic inspections to examine concerns and/or nuisances under the State Minimum Standards. The LEA also stated that Enforcement Actions would follow if repeated violations and/or areas of concerns are not corrected by the operator in a timely manner.

The LEA received another written comment from a member of the public with concerns about the amount of recycling, truck routes, and how the city is handling permitting of solid waste facilities without addressing other ongoing issues within the city of Oakland. The LEA response stated that the CWS Recycling Facility will be regulated under Title 14 California Code of Regulations and is subject to the periodic inspections by the LEA to identify Violations, Area of Concerns, and/or nuisances under the State Minimum Standards (SMS). Enforcement Actions will follow if repeated Violations and/or Area of Concerns are not timely corrected by the operator. The LEA also stated that comments/questions received regarding city's planning are forwarded to the City of Oakland for follow up.

The LEA received another written comment from a member of the public questioning the prohibition section of the proposed new SWFP and if the facility would be limited to only being allowed to accept recyclable materials, potential for the permit to be amended without public notice, being one of the largest transfer stations in the state, and the overall purpose of the facility. The LEA responded that the LEA complies with the solid waste regulations as indicated in Title 14 of the California Code of Regulations and with guidance from CalRecycle to write the proposed Solid Waste Facility Permit (SWFP). This includes Section 14 of the SWFP which details Prohibitions at the facility. When the California Waste Solution Recycling Facility's Full SWFP is approved and issued, the Facility is regulated under Title 14 of the California Code of Regulations and is subject to periodic inspections by the LEA to identify Violations, Area of Concerns and/or nuisances under the State Minimum Standards (SMS). Any significant changes to the operation of the Facility may require a Report of Facility Information Amendment, a Permit Modification or Permit Revision (the latter of which requires CEQA approval). The operator shall submit a written notice of any proposed changes to the LEA at least 180 days in advance of the change.

The LEA received two written comments from members of the public in support of the new proposed facility. One of the comments had additional concerns about closure of the facility's current locations and future developments which the LEA forwarded to the City of Oakland for follow up.

Department staff received written and oral comments from a member of the public requesting clarification if the permit would have conditions restricting the facility from acceptance of putrescible waste. Department staff responded via email with a copy of the proposed permit and highlighted the prohibitions section that states: The permittee is additionally prohibited from receiving mixed municipal solid waste, bulky waste (furniture, mattresses, etc.), pressure treated lumber, waste tires, scrap metal, white good/appliances, biosolids, green waste, food waste or wood waste for any purpose including processing or transfer to disposal.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on August 16, 2022. No comments were received by Department staff.

Attachment: Proposed New SWFP