

**Permitting & Assistance Branch Staff Report**  
 Revised Solid Waste Facilities Permit for  
 Bee Canyon Greenery  
 SWIS No. 30-AB-0469  
 December 14, 2023

**Background Information, Analysis, and Findings:**

This report was developed in response to the Orange County Health Care Agency, Environmental Health Division, 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, Compostable Materials Handling Facility Permit (SWFP), for Bee Canyon Greenery, SWIS No. 30-AB-0469, located in Irvine, CA and owned and operated by Orange County Waste & Recycling (OCWR). 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 November 1, 2023. Action must be taken on this SWFP no later than December 31, 2023. If no action is taken by December 31, 2023, the Department will be deemed to have concurred with the issuance of the proposed new SWFP.

**Proposed Changes:**

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

Parameter	Current Permit (2020)	Proposed Permit
Permitted Maximum Tonnage	437 Tons per Day	876 Tons per Day* (see condition d)
Permitted Area (in acres)	Total: 30 Composting: 30	Total: 37.3 Composting: 31.4
Permitted Hours of Operation	Receipt of Feedstock: Monday – Saturday / 7:00 AM to 5:00 PM  Ancillary Operations/Facility Operating Hours: 24 hours/7 days	Receipt of Feedstock: Monday – Saturday / 7:00 A.M. to 5:00 P.M.  The facility is not open to the public. (Closed on six major holidays)  Ancillary Operations/Facility Operating Hours: 24 hours per day/7 days a week (General Operations/Facility Maintenance)
Waste Types	Wood Waste, Green Material	Green Material, Wood Waste, Agricultural Material, Manure, Vegetative Food Material, Food Material

Other Changes include:

1. Updates to the findings section, prohibitions section, documents that describe and/or restrict the operation of the facility section, self-monitoring section, and LEA conditions section of the permit.

**Key Issues:**

The proposed SWFP will allow for the following:

1. increasing the permitted maximum tonnage from 437 tons per day to 876 tons per day;
2. increasing the composting permitted area from 30 acres to 31.4 acres;
3. increasing the total permitted area from 30 acres to 37.3 acres;
4. additional information regarding permitted hours of operation; and
5. the addition of food material, vegetative food material and manure as acceptable materials.

**Background:**

Bee Canyon Greenery (BCG) started as a Composting Operation on one acre at the Frank R. Bowerman Landfill (FRB) with a 92 cubic yard single open windrow which operated under an Enforcement Agency Notification (EAN), filed with the LEA in May 2018. OCWR expanded the Composting Operation into a fully permitted Compostable Materials Handling Facility on December 14, 2020. The FRB Landfill utilized processed green material (PGM) as alternative daily cover; however, this operation has ceased and the PGM is now processed at the BCG. In order to provide additional organics processing, OCWR is proposing a number of changes at the BCG as part of Phase 1C of the facility development. These changes include what is described in the Key Issues section and the following: chipping and grinding operations; addition of covered aerated static pile technology (CASP) for future operations; and compost giveaway days.

**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 November 1, 2023.
21685(b)(2) LEA Five Year Permit Review	Acceptable: A new Permit was issued on December 14, 2020. The next Permit Review Report (PRR) is due by December 14, 2025.
21685(b)(3) Solid Waste Facilities Permit	Acceptable: Staff received a proposed Solid Waste Facilities Permit on November 1, 2023.
21685(b)(4)(A) Consistency with Public Resources Code (PRC) 50001	Acceptable: The LEA provided a finding in the proposed SWFP received on November 1, 2023 that the facility is consistent with PRC 50001. Permitting & Assistance Branch (PAB) staff found that the facility is identified in the Nondisposal Facility Element.
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 December 7, 2023. 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 November 1, 2023, that the proposed SWFP is consistent with and 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 September 28, 2023. Written and verbal comments received 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.
21570(g) Disadvantaged Community Public Meeting	Acceptable: PAB staff determined that the facility is not located within one mile of a disadvantaged community as defined pursuant to section 39711 of the Health and Safety Code.

**Compliance History:**

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on December 7, 2023 and found that the operation was 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 and quarterly inspection reports during the last five years:

- 2023 – 2018 - No violations were noted.

**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 OCWR, 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 SWFP include: increasing the permitted maximum tonnage from 437 tons per day to 876 tons per day; increasing the composting permitted area from 30 acres to 31.4 acres; increasing the total permitted area from 30 acres to 37.3 acres; and the addition of food material, vegetative food material and manure as acceptable materials.

A Mitigated Negative Declaration (MND), State Clearinghouse No. 2019099059, was circulated for a 30-day comment period from September 18, 2019 to October 21, 2019. The MND was adopted by the Lead Agency on March 24, 2020.

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 adopted MND if minor technical 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 MND have occurred, pursuant to Section 15164(b) of the CEQA Guidelines.

Thus, Section 15164(b) of the CEQA Guidelines provides that an addendum to an MND 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 MND, State Clearinghouse No. 2019099059, was prepared by the OCWR, dated October 24, 2022, and circulated for a comment period from October 24, 2022 to November 23, 2022. CalRecycle staff submitted comments in a letter dated November 22, 2022. CalRecycle staff’s comments were addressed by the Lead Agency.

The LEA has 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 MND 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 MND approved by the Lead Agency on December 14, 2022, 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 public informational meeting on September 28, 2023, utilizing the virtual platform Zoom. Twenty-three people were in attendance, of which six were from the public. A member of the public questioned if fire hazards have been considered, what environmental study and model was conducted for odor analysis, and what the mitigation measures are for odor control. The LEA answered that the Orange County Fire Authority has reviewed and determined that the facility plans are in compliance with their fire authority, has adequate water supply and clearance between compost piles. The LEA indicated that the AERMOD (American Meteorological Society/Environmental Protection Agency Regulatory Model) was used for odor analysis and calculated different scenarios. The LEA and OCWR also responded that they have not received any odor complaints specific to BCG, that BCG is built on an asphalt pad and the retention basin has an aerating system to prevent stagnant water, BCG is surrounded by a 15-foot fence attached with a misting system to prevent the inversion layer, and with the implementation of the CASP method, that odors will be more controlled.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on November 21, 2023. No comments were received by Department staff.

Attachment: Proposed Revised SWFP