



City of Pittsburg

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DEPARTMENT OF CONSERVATION  
AND DEVELOPMENT

January 21, 2009

Ms. Deidra Dingman  
Contra Costa County  
Community Development Department  
651 Pine Street, Fourth Floor, North Wing  
Martinez, California 94553-1229

RE: COMMENTS ON NOTICE OF PREPARATION FOR SUPPLEMENTAL EIR ON APPLICATION TO AMEND LAND USE PERMIT FOR KELLER CANYON LANDFILL

Dear Ms. Dingman:

The City of Pittsburg has reviewed the Notice of Preparation for a Supplemental EIR on the application to amend the Land Use Permit for Keller Canyon Landfill (KCL). City staff also attended the recent scoping meeting. As the City most affected by the presence and impacts of the landfill, the City responded to the County's prior application referral with comments set forth in our August 11, 2008 letter. The City likewise appreciates the opportunity to provide the following comments and suggestions on the scope of the environmental review for the project. Many of the City's previous comments remain applicable and are included as appropriate.

**EIR-level review.** The prior referral did not identify the intended level of CEQA review. The Notice of Preparation appropriately reflects the County's decision to prepare an EIR level review of the proposed project. The City recognizes that an EIR was certified for the original Land Use Permit in 1990, but as noted in our August 11, 2008 comments and acknowledged in the Notice of Preparation, there have been changes in circumstances under which the project will be carried out and new information that could have the potential for new significant or substantially intensified impacts since the earlier EIR was certified in 1990. Although CEQA provides for "supplements" to prior EIRs, this terminology does not relieve the later EIR from full, adequate and rigorous review of the potential for significant impacts beyond those previously identified. With the passage of nearly 20 years, dramatic changes in circumstances and regulatory requirements as well as changes to the previously identified project will require extensive review.

In response to a question from the City at the scoping meeting, the County acknowledged that an Initial Study was not prepared for the anticipated Supplemental EIR, so the basis for limiting the Supplemental EIR review to four topics (land use, air quality, noise, traffic) is unclear. The following comments include the City's recommendations for additional topics that should be analyzed in the Supplemental EIR.

**Stable, accurate and consistent project description.** The basis for any CEQA review is a stable, accurate and consistent project description. The land use application summary fails to address or appears to mischaracterize several elements of the proposed permit amendments.

**1. Proposed increase in maximum daily tonnage from 3,500 TPD to 4,900 TPD.** The proposed 40 percent increase in daily tonnage does not appear to fit within projections identified in the prior EIR. The proposed daily tonnage increase by KCL in January 2000 cited the 1990 EIR proposed estimated tons

based on assumed growth rates of 2 percent per year, with projections to 2005. KCL reached the proposed projection of the EIR in 2000; the additional 40 percent would substantially exceed the maximum daily tonnage analyzed in the 1990 EIR. The conservative projections and project summary in the 1990 EIR are outdated and KCL's application affirms this with their acknowledgement of "*east Contra Costa and Solano County growth that will occur over the next decade as well as the uncertainties surrounding out-of-county options*" statement (page 3). The Supplemental EIR must thoroughly describe the changed circumstances and assumptions from the 1990 EIR so the public and decision makers understand the nature and magnitude of the change being proposed through the Land Use Permit amendments.

**2. Assumptions regarding potential facility closures.** KCL's additional argument for the daily tonnage increase that landfill capacity was impacted by facility closures is inaccurate. Potential closures addressed in the 1990 EIR were anticipated for 1991 and 1993 (page 2-7), which dates have since been estimated at approximately 2002 and 2005. In addition, the applicant's project description implies that material currently going from the transfer station in Pittsburg to the Potrero Hills Landfill will be redirected to KCL in the event that Potrero Hills is unsuccessful in obtaining approvals for their facility expansion requests (pages 2-3). Other landfills in the region such as Altamont Landfill and Vasco Landfill also should be acknowledged, as the transfer station in Pittsburg may elect to send their material to one of these landfills. Failure to acknowledge these alternative landfill sites creates a misdirected sense of urgency around expected landfill closures and redirection of solid waste material.

**3. Total tons per day for CEQA purposes vs. other purposes.** The City understands that KCL believes that the maximum daily tonnage was intended to be conditioned for refuse only as noted in the LUP and did not include soil and cover materials. However, if that was the true intent of the LUP, then other commercial waste, institutional waste and sludge would not have been accepted at this Class II designed landfill. Inconsistencies in terminology in the prior EIR may have contributed to this confusion in interpreting the LUP. For CEQA purposes, the project description should identify the cumulative tons per day (TPD) proposed to be handled at the landfill. Whether that material will be allocated under the Land Use Permit and other permits for disposal or non-disposal material is a regulatory distinction that may be addressed in the EIR; however, all the materials must be identified and analyzed in the Supplemental EIR. The City requests an accurate description of the cumulative TPD in solid waste KCL is requesting. It is misleading to indicate a proposed increase to 4,900 TPD in one part of the project description only to imply in succeeding paragraphs that the proposed 4,900 TPD excludes non-disposal material.

KCL is proposing the "*new maximum daily tonnage limit ...include all materials accepted for disposal but exclude non-disposal materials (i.e. cover, alternative daily coverage (ADC), inert materials that are beneficially re-used).*" In addition to the proposed new maximum daily tonnage limit of 4,900 TPD, KCL is requesting an amendment to their LUP that would allow them to accept the following additional 1,300 TPD, which would not be counted towards the daily tonnage:

- *Green Waste* 500 TPD
- *Wood Waste* 300 TPD
- *Inerts/Beneficial Re-Use* 500 TPD (includes concrete & asphalt/recyclable)

The City acknowledges that the regulations allow for the exclusion of ADC and beneficial re-use materials from disposal tipping fees but these materials are still counted toward the daily tonnage limit. That is, exclusion of these materials from tipping fees does not mean exclusion from CEQA review. Based on the application summary, it appears the cumulative maximum daily tonnage should be identified as an increase to 6,200 TPD (a 77 percent increase).

With respect to beneficial re-use tracking, KCL is allowed to use tarps, green waste and 'clean' soil as ADC. The Waste Flow Diagram (Attachment 5 of application summary) indicates that Wood Waste is "stockpiled" for beneficial re-use. The City would like to know to what beneficial re-use program at KCL the 300 TPD would be attributed. If the material is used for ADC, the City would like to know how the material will be processed. Per 27 CCR § 20686, how will the material be tracked to ensure compliance? Does the Development & Improvement Plan mentioned in the Land Use Permit, section 20.21 and 20.22, account for the volume and type of materials that can be used?

**4. Inconsistency between LUP and Solid Waste Facility Permit (SWFP) regarding daily truck trips.**

The existing LUP apparently allows 320 peak daily truck trips but the SWFP allows only 260 truck trips per day. KCL exceeded the truck trip count 63 days in 2007 and recorded 320 truck trips on Sept 12<sup>th</sup>. The City is concerned about the violations to the SWFP and believes the LUP should be modified to either reflect the Permitted Traffic Volume of 260 vehicles per day as conditioned in the SWFP or that condition 3.5 in the LUP, Compliance - Solid Waste Facility Permit, be adhered to. If the daily truck trips are to remain proposed at 320, it appears that modification of the SWFP should be included in the project description and any related environmental issues analyzed in the Supplemental EIR. See later comments under **Traffic impacts** regarding truck traffic impacts on Bailey Road.

**5. Adequacy of 320 truck trips per day for proposed maximum daily tonnage.** It is unclear how the project could increase the tonnage from 3,500 TPD to 6,200 TPD without exceeding the daily permitted truck trips of 260, based on a truck weight of 23 tons. As mentioned above and in contrast to the statement made on page 4 of the applicant's project description, KCL has, on 64 occasions in the last year, met or exceeded the more lenient LUP cap of 320 truck trips per day under its current maximum tonnage of 3,500 TPD. With the 77 percent increase in maximum daily tonnage requested by KCL, there is a reasonable expectation that both the 260-trip cap specified in the SWFP as well as the 320-trip cap specified in the LUP will be exceeded on a regular and frequent basis. The applicant's project description suggests that truck trips would not increase (page 4), but includes little justification to support that assertion. The project description in the Supplemental EIR must identify how the increased maximum daily tonnage can be accommodated by the same number of trucks as currently permitted under the LUP. Supplemental impacts may result from whatever truck number, size or other features are proposed to accommodate the increased tonnage. The 1990 EIR analyzed a maximum of 320 peak weekday in-bound truck trips (page 3-181). A truck trip count higher than the 320 trips, or truck size other than assumed and analyzed in the 1990 EIR could trigger additional traffic, air quality and roadway maintenance impacts not identified in the previous EIR. The Supplemental EIR should also disclose and analyze any increase in the number of employees, employee or maintenance vehicles and any other similar factors necessary to accommodate the proposed increased tonnage.

**6. Diversion and recycling forecasts.** The City is concerned that KCL has not taken into consideration mandates to reduce waste streams and increased recycling requirements. In addition, legislation to increase the present 50% waste diversion and reduce the ADC credits for greenwaste was proposed in the last legislative session and is likely to be reintroduced this year. The City would like to see a better explanation in the project description to see if these factors have been taken into consideration.

**7. Increase in working face of landfill.** The project does not propose to increase the footprint of the landfill; however, it appears that the amount of the working face(s) could be substantially increased. Any such operational increase in the landfill operations should be clearly identified in the project description and any potential impacts (e.g., odor, litter, increase in seagull-related nuisance) should be analyzed.

**Regulatory setting.** The landfill operation is subject to numerous regulatory requirements and permits in addition to the LUP amendment. As noted at the scoping meeting, the City recommends that the Supplemental EIR include a comprehensive description of the regulatory setting for the landfill.

**Environmental topic areas requiring Supplemental EIR analysis.** The County staff presentation at the scoping meeting identified four topic areas expected to be updated in the Supplemental EIR, air quality, land use, noise, traffic. The City requests that the following additional analyses be included in the Supplemental EIR.

**1. Aesthetics impacts.** Transfer trucks access the landfill from Highway 4 down a less than one mile stretch of Bailey Road. The area around Highway 4 and Bailey Road is a major gateway to the City of Pittsburg and currently experiences a serious refuse problem due to the landfill operations. Residents and employees of the City have reported seeing plastic bags and trash floating out of the tops of transfer vehicles only to litter the roadway along Highway 4 and Bailey Road and become entangled in the fence line of BART mainly on the south side of the highway. The City is concerned about the effect the increase in tonnage will have on refuse and litter as well as drivers' perception of Pittsburg as they enter from the western City limits. The Supplemental EIR should examine whether previously identified mitigation measures were adopted and are being implemented and should identify any supplemental mitigations necessary to reduce the impacts of the increase in volume requested by KCL that would further degrade the current litter problem. Also, to the extent that additional or larger trucks may be required to accommodate the increased tonnage, the Supplemental EIR should examine whether the increased size or number of trucks would substantially degrade the existing visual character of the area.

**2. Air quality/odor impacts.** The City regularly receives complaints about odor from the landfill. The Supplemental EIR should examine the potential for increased odor from the increased tonnage requested and any increase in working face(s). Climatological information should be provided or updated as necessary to identify prevailing winds or seasonal elements that would affect the creation of or dispersal of odors. To the extent that more or larger trucks would be required to accommodate the proposed project, appropriate air quality analysis should be included in the Supplemental EIR. The City notes the range of issues identified by the BAAQMD in the August 8, 2008 record of telephone conversation with Carol Allen and urges that those issues be analyzed in the Supplemental EIR.

**3. Biological impacts.** The project does not propose to increase the footprint of the current landfill but it is possible that the operational modifications could indirectly affect biological resources, e.g., if there were a change in drainage or hydrology that is important to biological species or habitat elsewhere in the vicinity of the active landfill.

**4. Geological impacts.** The landfill was presumably engineered based on initial physical and operational assumptions. The Supplemental EIR should examine whether the proposed modifications could substantially change those assumptions as they relate to the stability of the landfill and the geological structures and soils upon which it is located. For example, can the landfill physically withstand the additional loading or weight that would result from the increased tonnage?

Also, the City is concerned that the increase tonnage will not only shorten the lifespan of the landfill but will also increase the rate of grading of the hills south of the City to accommodate the covering of the additional volume being disposed of. This is not only a grading concern but also an aesthetic concern in that Increases in the current rate of grading in the southern hills would negatively impact Pittsburg residents' perception of the landfill's effect on the hillsides. The effect would be more dramatic than gradual as originally expected over the longer potential lifespan of the landfill.

**5. Hydrological impacts.** The original landfill design presumably included engineered drainage features. The Supplemental EIR should examine whether the proposed modifications could substantially alter or otherwise affect the landfill drainage system.

**6. Noise impacts.** The City is adjacent to the landfill and its operations directly affect nearby City residences and patrons of the City's public golf course. Noise transmission in hilly areas and the effects of the proposed operational changes should be carefully analyzed taking into account nearby sensitive receptors. The potential effects of project noise on open space areas and any public trails, paths or similar features should also be evaluated.

**7. Traffic impacts.**

a. Bailey Road. Maintenance of Bailey Road is a major issue. The severe wear and tear on roadway pavement from slow moving heavy loads such as truck traffic is well documented. The existing roadway is already showing signs of significant distress. Increases in truck traffic will have a severe impact on the pavement life of Bailey Road disproportionate to the increase in the total vehicles. Bailey Road was designed to accommodate some truck traffic; however, it was not designed to accommodate the proposed truck traffic loads. The road maintenance surcharge to be collected by KCL may be inadequate for the proposed project and needs to be resolved as a result of the project impact. As noted above, due to the large size and slow acceleration of the transfer trucks, the City of Pittsburg also feels that the increase in transfer vehicle traffic will also have a disproportionate effect on traffic congestion, noise, and air pollution.

b. Traffic impact analysis. The Supplemental EIR traffic impact analysis should be based on current traffic conditions and land use assumptions, including those of the County's Pittsburg/Bay Point BART Station Area Specific Plan (2002) and the Pittsburg General Plan (2001, as amended), should comply with current county-wide standard procedures for preparation of traffic studies, and should identify appropriate new mitigation measures to address any newly-identified impacts that would result from the proposed permit revision.

c. Modification of direct haul vehicle requirements. The City does not have a copy of the draft LUP to comment on the limitations on the types of vehicles allowed. The City requests a copy of the draft LUP to review and comment when it is available. In the meantime, the Supplemental EIR should identify the types of vehicles involved with the project, including any change from existing vehicle types, sizes, operations, etc. The City has always been concerned about the balance of vehicles on the less than one mile stretch of road leading to KCL and will continue to be concerned due to the increase in cumulative traffic in the area from development within Contra Costa County and the City.

**Regional facility, local impacts.** The landfill is a regional facility, accepting waste from a broad area, including Marin and Napa counties. The landfill was sited, however, adjacent to the communities of Pittsburg and Bay Point. These communities have no regulatory authority over the landfill even though their residents and workers are disproportionately affected by the presence and operation of the landfill, and will be similarly affected by expansion of the operations to accommodate increased tonnage. The Supplemental EIR should include a comprehensive description of the environmental setting, including nearby residential development, the golf course, and other recreational and open space uses.

CEQA recognizes that the potential for significant impacts may be different in different settings. A potential impact in a rural area may be significant in a more urban setting. Accordingly, the proximity of the landfill to developed and development areas of the City of Pittsburg should be considered in the land use compatibility analysis in the Supplemental EIR as well as in determining whether aesthetic, air quality, noise, odor, traffic and other potential impacts from the project are significant, and in determining how the impacts should be mitigated.

Enforcement of regulatory requirements and mitigation measures is an important element of the project, especially for areas proximate to the landfill. As noted earlier, the SWFP and the County's LUP permit

are inconsistent and should be reconciled. The Supplemental EIR should also examine how well prior adopted mitigations have been implemented and enforced as more stringent mitigation may be required for the project to ensure that the mitigating effects are realized.

**Other comments on application summary from August 11, 2008 letter.** The City provided the following comments in its August 11, 2008 letter, some of which address environmental issues and some of which have been updated. The City does not have a copy of the draft LUP in which KCL is proposing text edit changes. The City will comment on what information it has in its possession but reserves the right to provide additional comments and or revise statements below if the text is not consistent with the present LUP.

**1. Attachment 3: KCL Proposed Text Edits to LUP Conditions of Approval:**

*Land Use Permit Section 3.4.* The City believes the word should be left as is since the County already has the discretion to enforce the 'severity' of violations of the LUP as it deems necessary.

*Reciprocal Capacity Agreement Section 5.3 & Emergency Use Section 6.5.* The City believes that KCL is actually referencing section 5.4 of the LUP. The City believes these sections are still pertinent.

*Eligible Vehicles Section 8.1c.* The City feels this language should remain.

*Eligible Vehicles Section 8.1g.* The City does not have this language and requests a copy for review and comment.

*Maximum Daily Tonnage Section 9.3.* The City provided comments above on this condition.

*Section 11.6.* The City would need to review the draft to comment on this section.

*Section 17.17.* The City objects to any increase in the working face. The City has received many odor and litter complaints over the years, and recently, the County has also had to investigate such complaints. In addition, the high winds have been of concern as well as the release of litter beyond the litter fences. KCL staff has had to do litter clean up in the surrounding neighborhoods next to KCL. An increase in the working face would amplify the litter situation within the surrounding neighborhoods.

*Wood Chipping Section 31.6.* The City does not have this language and requests a copy for review and comment.

*Special Conditions of Approval Section 35.* The City does not have this language and requests a copy for review and comment.

**2. Present Land Use Permit.** Per the approved Land Use Permit for Keller Canyon Landfill dated June 25, 2002, the City is concerned about the following:

*Administration; Permit Review 11.1.* Will there be a Public Hearing to address the revisions requested by the Landfill Operator?

*Administration; Local Advisory Committee 11.2.* Has the Local Advisory Committee been established? If yes, who are the members? Are they reviewing the Land Use Permit? The City

would like to know when the next meeting is and attend. If no, will an Advisory Committee be established to review and discuss the Land Use Permit revisions?

**3. Consistency between SWFP and LUP.** The City of Pittsburg respectfully requests that conditions in the SWFP be reflected in the LUP for consistency and appreciates the attempts to eliminate the inconsistency between these two documents.

The City requests the comments above be considered and included in the Supplemental EIR as well as the amended LUP, as appropriate. As requested in our August 11, 2008 letter, the City requests to be included in any future meetings and to be sent any information concerning Keller Canyon Landfill's Land Use Permit amendments, related CEQA review, or otherwise.

Please contact Laura Wright for clarification on the comments provided above. She can be reached at (925) 252-4114.

Respectfully Submitted,



Marc S. Grisham  
City Manager

- cc. R. Matt Rodriguez, Deputy City Manager - External Operations  
Don Stockenberg, R.E.H.S., City of Pittsburg LEA  
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