

David Brockbank, Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Public Comment on Notice of Preparation and Public Scoping Meeting for
Supplemental Environmental Impact Report to Amend Land Use Permit 2020-89 for
Keller Canyon Landfill, County File #LP-08-2026

Dear Mr. Brockbank,

I am a nearby resident of the Keller Canyon Landfill, and am an attorney practicing in Pittsburg. I have lived in the same house for 16 years; it's the only home my children have known. I have chosen to raise my family in Pittsburg because of the deep sense of community here. My family is very involved in the local schools as well as various citizen groups, including Oak Hills Community Group, the Delta View P.T.A. and Pittsburg Challenger Baseball, which was founded by A.J. Fardella in part so that Pittsburg kids with disabilities, attached to oxygen machines or wheel chairs, could play baseball without judgment close to home. I have previously followed and commented on matters related to the Keller Canyon Landfill, including recent hearings related to the landfill's land use permit. .

To me the most important things we can do are to keep our children safe and to raise them in an environment that allows them to thrive. This is why we need to be extra vigilant in dealing with the announced possible expansion of a landfill that is already problematic in our community.

I have reviewed the recent Notice of Preparation and Public Scoping Meeting (NOP) for a Supplemental Environmental Impact Report (SEIR) supporting a proposed amendment to the County's land use permit for the operation of the Keller Canyon Landfill (Project). I also reviewed the old executive summary and supporting documentation referenced in the NOP itself. I submit the following comments on the scope of the SEIR, the underlying Project, and the County's handling of the noticing process.

To start, the NOP does not serve its intended purpose.

- The NOP fails to include an accurate and complete Project description;
- The NOP does not identify the Project's probable environmental impacts, including the scope of those impacts across more than five counties;
- The NOP fails to mention that the Keller Canyon Landfill is on the Cortese list of hazardous sites; and
- The NOP was not distributed to all parties owed notice.

In order to cure these problems, the County should re-issue the NOP and provide an additional 30 days for interested agencies and members of the public to comment. (Each of these defects are described in more detail below.)

1. **The SEIR should identify, clearly and unambiguously, what the Project really entails and accomplishes.**

The Project description in the NOP seems disingenuous in its portrayal of what KCL is proposing. The Project indicates that one of the main proposed changes is the raising of maximum permitted waste volumes that the Landfill can accept. In other words, KCL currently can accept a maximum of 3,500 tons per day at the landfill, but now seeks to increase that ceiling to 4,900 tons per day. But it's not really a 40 percent increase that is at stake. In truth, the Project would allow up to 6,200 tons of waste per day, as the applicant is proposing to reclassify green, wood, and other materials such that they are no longer counted as "disposal" materials. Looked at that way, the Project, then, entails *an 80 percent* increase in waste volume accepted by the Keller Canyon Landfill.

With nearly double the amount of garbage being accepted, an important public policy is at stake. The result, which is not even mentioned in the NOP, is that the useful life of the landfill is nearly halved. So whereas the Keller Canyon Landfill, when approved in the early 1990s, initially had a lifespan of about 50 years, approval of the Project would reduce the remaining 30-year life expectancy to 15 or 20 years. The County needs to consider, both in making policy and in conducting this CEQA review, why the landfill should accept more garbage, and what will happen when the landfill reaches capacity.

Thus, what is before the County is not the approval of more trucks. The County here is considering a request to burn through an important resource—available landfill space—in half the time everyone has expected. It is an issue of regional importance, and raises questions about the County's commitment to recycling and other forms of diversion, and reducing the County's garbage footprint. What is really at stake here is a reduction, by as much as half, of the useful life of the landfill. This issue is a major policy shift, and implicates broader questions of sustainability. For instance, are we committed to reducing our waste footprint through a greater commitment to recycling and other diversion programs? It looks like the Project takes us in the opposite direction.

2. **The NOP must be re-issued, and the public must be provided another 30 days to comment on the scope of the SEIR.**

An NOP should provide sufficient information regarding a proposed project's description, location, and probable environmental effects to enable responsible agencies to make a meaningful response. In light of these requirements, the NOP for the Project contains a number of significant defects. Each of these defects, alone, should cause the County to supplement the NOP with significant new information and re-issue the notice.

The Project description is unacceptably vague and inaccurate, requiring re-issuance of the NOP.

This NOP fails to specify what exactly is being proposed, and, in my mind, deliberately lacks transparency. For instance, the NOP discusses increases to various waste tonnages (up to 6,200 tons per day) and daily truck trips (up to 395 trucks per day), but does not propose a ceiling for transfer trucks. On this point, the NOP merely states that “the current limit of 225 transfer trucks (large 18-wheel trucks) would be lifted.” This raises the question, of whether the Company is proposing an *unlimited* number of transfer trucks, or whether it proposes a limit of 395?

The NOP is similarly vague in its discussion of the proposed expansion of the landfill’s Extent of Disturbance area (EOD). The Project includes a proposal to increase the size of the EOD from 480 acres to 572 acres, a difference of 92 acres. The purpose, as best described in the NOP, is for “slope maintenance, landslide remediation, and grading and construction associated with stormwater management infrastructure improvements.” Contemplated activities also include surveying and geologic testing, excavation and stabilization, the placing of engineered fill, instrumentation, and earthmoving. Is the public to believe that the landfill operator is undertaking this planning effort, which covers 92 acres, solely to control landslides and install stormwater facilities?

The first questions that come to mind are, why are these activities necessary? Are existing facilities threatened by landslides? Are the stormwater facilities required to mitigate problems from the existing operations?

Perhaps what is not being said is more important than what is being said. In fact, the silence is deafening.

County records indicate that on December 16, 2014, the County Board of Supervisors modified the then current Keller Canyon Landfill use permit to require that the landfill operator, prior to January 2016, seek approvals to construct an on-site composting facility. The on-site composting facility is a reasonably foreseeable expansion that is mentioned nowhere in the NOP.

As the County also knows, the landfill operator recently petitioned the County Board of Supervisors for the right to operate an on-site C&D diversion center at the Keller Canyon Landfill. The County rejected this request on September 22, 2015. (I attended that hearing and commented on the proposal.)

Three short weeks later, this NOP appears after the expansion proposal had languished for years. It looks like the NOP includes some attempt to perform “early” environmental review for the expansion of the Keller Canyon Landfill in ways the NOP does not identify. For instance, though the NOP fails to mention the on-site compost facility contemplated in recent amendments to the landfill’s use permit, it appears the Project is an implementation of the amended condition that requires the landfill operator to seek regulatory approvals for expansion prior to January 2016. But perhaps there is more at stake than a composting facility. Perhaps having CEQA clearance would support future attempts to reverse the

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County Board of Supervisors' September 22, 2015 decision, or perhaps the CEQA clearance would support future applications to expand the landfill's waste cells. After all, if disturbance to a set area is covered in a CEQA document, and increased truck trips also are studied, a party seeking to expand the capacity of the Keller Canyon Landfill in the future may be able to support an application with the very SEIR that is proposed now.

Failure to identify the entirety of the Project, including its components and objectives, renders the analysis defective. Specifically, dividing a project into smaller components in order to minimize its impacts is known as "piece-mealing," and it is illegal. The NOP should clarify exactly what the additional 92 acres reasonably can support, and a full accounting of those activities must be covered by the SEIR. If all of the surveying, testing, earthmoving, and other activities indeed is to support only landslide protection and stormwater facilities that mitigate dangers associated only with current operations, this relationship must be explained in a detailed way that allows for meaningful public analysis. As things stand, it looks like the SEIR is really meant to support an expansion of the Keller Canyon Landfill to include at least a composting facility, and maybe an expansion of its 244-acre waste disposal site.

The NOP is inaccurate and, in failing to acknowledge recent amendments to the landfill's use permit, the NOP fails to provide the public with any meaningful sense of what changes are effected by the Project.

The NOP is defective not only because it is vague, but because it is inaccurate. The NOP, as well as the Project application rely entirely on documents that were first presented in 2008 and 2009, and omit all mention that the County Board of Supervisors amended the landfill's use permit on September 22, 2015. In fact, the Executive Summary for the Project's 2008 Project Application contains statements that directly contradict the Board's recent action. The application indicates, for instance, that construction and demolition (C&D) waste can be directly hauled to the landfill. That is not accurate. The County's September 22, 2015 action clarified that direct haul is not consistent with the terms of its land use permit.

In essence, the NOP has failed to acknowledge the current terms of the Keller Canyon Landfill land use permit, making it impossible to understand how the Project would change operations. It is akin to asking the public to consider changes to an old statute that has been superseded. The "differences" are illusionary, and do not reflect what really is at stake. Therefore, the NOP should be clarified and re-issued.

The NOP does not contain sufficient information concerning the Project's probable effects.

If a project site is listed on the "Cortese list" of hazardous waste sites, then this information is supposed to be included in the NOP.

Cal EPA records indicate that the Keller Canyon Landfill site encompasses 23 separate places on the Cortese list, where an unauthorized waste discharge has occurred. Most, if not all, the these 23 places have an open cleanup status, and a few of these discharge points occur in the 92 acres that KCL would like to add to the EOD.

The NOP should be recirculated with information on the 23 waste discharges that have qualified for inclusion on the Cortese list.

The NOP does not contain sufficient information concerning the Project's probable environmental effects.

The NOP contains no specifics with respect to the Project's probable environmental effects. The County is required to sufficiently identify the probable environmental effects of a project in the NOP. This NOP fails this requirement. The document, on page 4, only lists "issues to be addressed in the EIR," and includes a table that merely lists thirteen of the topics included in CEQA Guidelines. This list is not unique to the Project but is a cookie-cutter, boiler-plate checklist of environmental topics that every CEQA document must address. A new NOP should be issued explaining, in more detail, *how this Project* would probably effect the environment.

The NOP does not adequately account for the environmental setting, precluding an understanding of the Project's probable environmental effects. Even on the limited record available here, it is pretty clear that this project will have regional implications and the reasonably foreseeable impacts of the increased landfill capacity proposed by the Project include the direct hauling of wastes (including but not limited to green wastes and C & D debris) to the landfill for increased distances from out-of-county origins, resulting in increased vehicle miles travelled (VMT), increased toxic air contaminant (TAC), greenhouse gas (GHG), and particulate matter (PM₁₀ and PM_{2.5}) emissions, and increased degradation of local and regional roadways.

The NOP likely was not distributed to all parties required by law.

The NOP fails to adequately acknowledge that the proposed project's adverse impacts will truly be *regional* in nature—they will not stop at the borders of Contra Costa County, much less those of the landfill site. While the NOP does notice a scoping meeting, it fails to acknowledge that the project—due to its potentially significant air quality, traffic and transportation, and sensitive wildlife habitat impacts, at the very least—is one of regional or area wide significance. Accordingly, the County should give notice of a scoping meeting to interested and affected cities, counties and agencies. In this case at least Marin, Napa, Sonoma, Solano, and Alameda Counties should have been provided a timely copy of the NOP, as well as each county that borders the foregoing. The NOP also should have been distributed to the East Bay Regional Parks District and the Bay Area Air Quality Management District and anyone else that commented in 2008 and 2009.

Given that I did not receive any notice of the scoping meeting nor did my neighbors and or community members, I suspect that some other important commenters were similarly left in the dark. Thus, not only should the notice reissue, but a new scoping session should be scheduled and more widely noticed. I would also request that the scoping session be held at a place and time that community members are likely to be able to attend.

3. **The County should investigate the extent to which the SEIR is being proposed to legitimize landfill practices that currently violate the landfill's use permit.**

As recently as September 2015, the County determined that the company has ignored diversion requirements set forth in the Keller Canyon Landfill's use permit. For instance, the company has been direct hauling C&D materials to the landfill, where the existing use permit requires that C&D waste first be processed at a transfer station, so that 50 percent of it may be recycled. The County Board of Supervisors amended the use permit on September 22, 2015 to include procedures so that it could better ensure the landfill operator abided by the terms of the use permit. None of this was mentioned in the NOP.

The County should take a hard look to see whether the Project and the SEIR are designed to legitimize practices that would not comport with the use permit and other applicable laws.

For instance, seven years ago, when the landfill operator first submitted an application to expand the Keller Canyon Landfill, it was predicted that demand for landfill disposal would equal 3,865 tons per day in 2012. The increased volume proposed under the Project, as you know, is 4,900 tons per day (when excluding green waste, wood waste, and other materials). The Project thus is asking for an expansion of operative capacity that allegedly was needed, in part, three years ago. A good question to ask before looking at an actual *expansion* of current capacity is whether the landfill operator has been abiding by the maximum waste limits set forth in section 9.3 of the land use permit. Given the recent problems I respectfully request that the County undertake an independent audit.

Separately, the County should look really closely at the 92-acre expansion to the EOD as it may be legitimizing grading and other activities that have already taken place in this area. Looking at Figure 2 of the NOP, the existing EOD, and the expanded EOD, it appears the expanded 92-acre area already has been disturbed, in its entirety, with roadways and some type of grading. I request the County address whether these activities were permitted and consistent with all existing land use controls and laws.

4. **Comments on scope of SEIR.**

As explained above, the Project substantially reduces the useful life of the Landfill. While the Project is framed as an amendment to an existing land use permit, the inevitable result of its approval would be an expansion to an existing landfill in the region or the creation of a new regional landfill. All of these impacts must be thoroughly analyzed, along with a discussion of feasible project alternatives and mitigation measures, in a full – not merely supplemental – EIR.

The Project impacts are not limited to Contra Costa County, and the geographic scope of the SEIR should provide for a regional analysis.

As discussed herein, while the Keller Canyon Landfill is located in Contra Costa County, the Project represents a shift in the region's waste stream, affecting traffic and waste facilities across Northern California. The landfill operator's own Project application confirms this scope, indicating that the Project is meant to accommodate demand for waste disposal in Marin County, Napa County, Alameda County, Solano County, and Sonoma County. The greatest amount of waste supply that would feed the Project's new appetite for garbage would come from Sonoma County, where daily waste tonnage would increase from 227

tons per day to 830 tons per day. That is a 360 percent increase in waste from Sonoma County, and would account for more than 20 percent of the landfill's import of solid waste. What this means is that, presumably, haul routes between Sonoma County and the Keller Canyon Landfill will see 360 percent more trucks. Haul routes from all the other counties listed above would also see more increases.

Regionwide traffic impacts should be studied. The SEIR should identify, with particularity, how each haul route from each waste facility in each of the above half-dozen counties will intensify. Additional traffic also would result from the increased personnel that would be necessary to handle greater volumes of waste, and so the traffic analysis should account for trips to and from work.

Regional air quality impacts should be evaluated. Due to the increased VMT from more and longer haul routes, the project's impacts on attainment of air quality standards should get particular analysis and attention in the SEIR. Caltrans and other public agencies (including counties and cities impacted because portions of the transportation facilities impacted by the anticipated haul routes are within their jurisdictions) should be notified and consulted as well, and County and out-of-county transportation facility impacts should be thoroughly studied.

In order to accurately calculate the Project's increased emissions, it will be necessary to understand the composition of the fleet of trucks that would transport the doubled volume of trucked fill anticipated, as well as the types of equipment that will be used at the Keller Canyon Landfill. The SEIR also should identify the existing and forecasted equipment from other affected facilities, located upstream and downstream in the processing of waste. *See* Section 5.1.3, below.

Health risk assessments should be performed for all affected sensitive receptors located near the Keller Canyon Landfill and along the truck haul routes. Sensitive receptors include the occupants of residential dwellings, schools, daycares, and senior centers.

The SEIR also should account for the impacts of *not* encouraging the diversion of more waste to the landfill. The use of green waste as ADC is essentially equivalent to landfilling all green waste and diverting none to higher uses (e.g., compost); this use increases the Project's GHG emissions due to the off-gassing from the landfilled green waste and correspondingly exacerbates adverse climate change impacts.

The Project indirectly would cause an intensification of uses at upstream and downstream waste-related facilities, both in the County and outside the County.

The Project, which entails nearly a doubling of activity at the Keller Canyon Landfill, will directly or indirectly cause an intensification of activities at in-County (or out-of-County) transfer stations and other waste stream points of origin. The SEIR should identify those locations and evaluate all impacts that might result (e.g., impacts concerning traffic, air quality, noise, etc.)

Ultimately, the SEIR should identify and evaluate environmental impacts from the reasonably foreseeable expansion and establishment of transfer stations and other waste facilities that either send or receive materials from the Keller Canyon Landfill.

Noise impacts on sensitive receptors along all haul routes must be evaluated. Noise and vibration impacts (both project-generated and cumulative) from the changed truck traffic on sensitive receptors in neighborhoods near the Keller Canyon landfill and also along impacted haul routes should be analyzed.

Biological resources should be carefully reviewed. The Project's proposed increase in the area of disturbance to 92-acres will have potentially adverse impacts on local and regional open space and biological resources, including the East Contra Costa County Habitat Conservation Plan Natural Communities Conservation Plan (HCP) habitat preserve system. Concerned agencies and organizations, including the East Bay Regional Park District (EBRPD) and Save Mount Diablo, have previously pointed out in comments on the NOP's prior iteration that the Project has the potential to impact as many as 69 special-status wildlife and 11 special-status fish species that actually or potentially inhabit the HCP inventory area. These species include the California Tiger Salamander, California Red Legged Frog, American badger, Alameda whip snake, various species of raptors, etc.

The Project will impact these species through its as-yet-unanalyzed impacts from truck traffic/wildlife mortality, water quality degradation, water consumption, creek diversions, and the spread of invasive/exotic plants. Impacts on Lawler Creek—a perennial creek crossing the Landfill's buffer area—also should be assessed. To this end, the SEIR should analyze whether the Project will frustrate any of the mitigations imposed by the original Keller Canyon Landfill EIR and conditions of approval. That is, the SEIR must answer the question as to whether expanding operations will interfere with the landfill's *existing* obligations to ensure that Lawler Creek and local species do not suffer impacts from the existing landfill operations.

Aesthetic impacts should be evaluated. Aesthetic impacts on the largely undisturbed Los Medanos Hills (from additional development and scattered and windblown litter) must be analyzed and mitigated for the benefit of the thousands of members of the general public who travel Kirker Pass and Bailey Road on a daily basis, and who currently enjoy views of the surrounding landscape.

Open space and recreational impacts should also be evaluated, as the site of the proposed expanded Project occupies a critical location between the Concord Naval Weapons Station redevelopment area to the west and the Black Diamond mines and Mount Diablo State Park to the east/southeast. The Naval Weapons development will dedicate 3,200 acres of land to parks and open space uses, to be located on the eastern portion of its property adjacent to the Project site, and EBRPD may have updated its Master Plan to include a proposed trail in the Project vicinity linking that Naval Weapons open space through the Black Diamond mines to Mount Diablo State Park. The Project proponent must consult and coordinate with EBRPD and the City of Concord regarding potential impacts on planned regional trails and open space.

Cumulative impacts of the Project together with similar impacts of all new projects in the relevant region and vicinity (e.g., the Concord Naval Weapons Base redevelopment, which will add 10,000 nearby residential units and consume 2,000 acres of valuable and increasingly scarce open space habitats) should be carefully identified and studied.

Thus, the SEIR should account for reasonably foreseeable projects not only in the immediate vicinity of the landfill, but most especially those projects that would contribute traffic to identified, inter-county haul routes, and in the vicinity of waste facilities that will see an increased demand for services due to the intensified use of the landfill. This Project truly has regional implications, and cumulative impacts in a great number of communities will result. The SEIR must evaluate these impacts.

The SEIR should address what will happen when the Keller Canyon Landfill reaches capacity sooner than anticipated.

As explained above, with nearly double the amount of garbage being accepted at Keller Canyon Landfill under the proposed Project, the landfill's life expectancy will be reduced by as much as half. The County needs to identify and analyze the reasonably foreseeable consequence of this early closure. Among the scenarios that should be contemplated are: (1) the expansion of the Keller Canyon Landfill's 244-acre waste disposal area; (2) the expansion of other regional landfills, including Portrero Hills and the Sonoma County and Marin County landfills; or (3) the establishment of a new landfill in the region. Each of these scenarios are reasonably foreseeable and their potential impacts must be considered in the SEIR.

Accordingly, the SEIR's no project alternative should account for the "natural life" of the Keller Canyon Landfill, and the SEIR must meaningfully compare impacts between the two.

Scope of SEIR alternatives analysis.

As explained above, the SEIR's no project alternative should address the benefits of limiting waste import at the Keller Canyon Landfill, including that the useful life of the landfill will be substantially longer than under the proposed Project.

The SEIR also should include: (1) a reduced size alternative; and (2) an alternative that results in the diversion of the "new" waste and its reuse as a beneficial use, such as composting.

The SEIR must identify all feasible mitigation measures.

The SEIR should consider the following, non-exclusive list of measures to offset traffic, air quality, and noise impacts:

- Soundwalls along haul routes.

- Adoption of the best available green technology in operating transport and on-site trucks and vehicles, including filtration systems for particulate matter and cleaner engines.
- Purchases of offsets under the California Air Resource Board's cap and trade program.
- Litter fences and off-site litter policing.
- The off-site replacement and preservation of habitat insofar as the expansion of the EOD interferes with existing habitat and otherwise impacts sensitive habitats.

5. **Conclusion.**

There is more than meets the eye here, especially in terms of what the NOP purports to disclose. The County is not being asked to consider a simple amendment to a landfill permit. It is being asked to approve an action that would shorten the life of the Keller Canyon Landfill, and encourage the disposal of solid waste, as opposed to its diversion. The action also would disproportionately burden local residents, to the benefit of the owner and distant communities. [I and my neighbors watched our houses being built back in 1999. We want our children to live in our lovely little enclave. A landfill that won't service our children will break up the unique community we have built over many years.](#)

These are important considerations for the entire region and should be handled as such. I request that the NOP be corrected and re-issued and that a new appropriately timed and noticed scoping session be scheduled.

I am deeply interested in following the Project's CEQA process and, accordingly, request that the County send me future written notices at the following address.

Sincerely,

Lisa Della Rocca