



San Mateo, Santa Clara & San Benito Counties

September 6, 2022

Mr. Stan Ketchum
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
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RE: DEIR for John Smith Road Landfill Expansion Project

Dear Mr. Ketchum,

The Sierra Club Loma Prieta Chapter is an environmental organization that works to protect natural resources and promote the enjoyment of nature. We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the landfill expansion. The Project proposes to dramatically increase the amount of waste received at the John Smith Road Landfill on a daily basis. The environmentally preferred alternative would be to maintain current waste intake, increase diversion and recycling, implement tiered rates and increased tipping fees,¹ and install cameras to deter illegal dumping. Please find our DEIR comments below.

1. Alternatives

The alternatives analysis in the DEIR does not include an adequate range of alternatives. The DEIR indicates that local waste will increase about 13% while out-of-county waste will increase by 160%. We ask for a community alternative (Maintain 1,000 Tons-Per-Day Alternative) that reduces the impacts on the San Benito County community and on the County's natural resources to be analyzed.

Of the alternatives discussed in the DEIR that achieve most of the objectives of the Project, Alternative C is the environmentally superior alternative. However, to maximize reduction of significant impacts and to foster informed decision making and public participation, an alternative that does not increase the daily tonnage accepted should also be included, the Maintain 1,000 Tons-Per-Day Alternative.

¹ <https://www.ebrdgreencities.com/policy-tool/category/waste/price-signals-and-funding/>

a. The following restrictions should be included in the Maintain 1,000 Tons alternative.

1. No increase in the maximum permitted daily tonnage accepted or the maximum number of vehicles per day
2. Limit the service area from which waste will be accepted to San Benito and immediately adjacent counties. Honor existing contracts, but restrict new contracts to this region.
3. Decrease the size of the expansion, eliminating some later phases.
4. Continue to accept only municipal and industrial waste. Prohibit acceptance of construction waste from large construction projects such as dams, roads, and railroads or from resource extraction facilities such as quarries. With many such projects occurring in the vicinity in the near future, these wastes could quickly max out the daily tonnage limits and displace capacity to accept municipal/urban waste.

b. The following considerations support the inclusion and analysis of this Maintain 1,000 Tons alternative.

1. The DEIR does not demonstrate a need to expand the current tonnage limit to provide a minimum of 50 years of local waste disposal capacity for the benefit of County residents and provide regional solid waste disposal capacity. Tons-per-day accepted at the facility has not increased in recent years. In addition, State regulations continue to be enacted to divert waste from landfills, which will reduce waste stream volumes in the future.
2. There is no reason to eliminate all out-of-county waste in this alternative as such waste is accommodated at the current facility, as follows.
3. There appears to be capacity to continue accepting out-of-county waste. In-county waste is expected to increase to 300 tons per day, leaving capacity for 700 tons per day of out-of-county waste.
4. This alternative would not substantially reduce the existing daily level of activity at the site. The level of activity would remain the same or increase slightly.
5. Activity levels may also increase depending on the quantity of recyclables and materials for beneficial reuse delivered to the site.
6. The alternative could allow the landfill to continue expanding into the Phase 2B and other areas of the site as needed and provide public health benefits to San Benito County and the immediate region.
7. Increasing the landfill area by over 300% and the landfill capacity by about 520% will create unnecessary environmental impacts, especially on the surrounding open space. Open space provides habitat for flora and fauna, has scenic value, and can be used to enhance carbon sequestration in the future.

8. This alternative appears to be environmentally superior to the No-Project Alternative since it could eliminate increased greenhouse gas (GHG) emission impacts, and other potentially significant impacts such as habitat and wetland impacts.

c. Regarding GHG emission for Alternative C and Maintain 1,000 Tons alternative:

1. Unknown out-of-county GHG emissions should not be used to determine that there will be significant and unavoidable impacts.
2. The Maintain 1,000 Tons alternative likely will not increase GHG emissions and thus would eliminate significant and unavoidable impacts.

d. Regarding Project Objectives for Alternative C and Maintain 1,000 Tons alternative:

1. Although a renewable natural gas facility is listed as a project objective consistent with General Plan policy NCR-6.1 Local Renewable Energy, the reduced impacts of Alternative C or the Maintain 1,000 Tons should be considered. The community benefits of a reduced alternative are certain to out-weigh the benefits of a renewable natural gas facility.
2. A project objective to support General Plan policy NCR-6.1 makes more sense. These reduced alternatives should include installation of solar panels in the expanded entrance area to provide renewable energy and shade. Renewable natural gas is still a fossil fuel with ongoing GHG emissions. Operation of solar power eliminates most if not all GHG emissions.
3. There is no information in the DEIR indicating that the Class I Area could not be clean closed and re-used as landfill space under reduced alternatives. All alternatives should include this activity as an earlier phase of landfill expansion (perhaps after phase 2). This action would further reduce impacts on grazing land, habitat, and visual resources.
4. There is no analysis in the DEIR showing the projected waste volumes will be met, and therefore no guarantee the Class I Area will be clean closed under the proposed Project.
5. There is no analysis in the DEIR showing that reduced-scale alternatives cannot maintain a stable and relatively predictable cost structure for solid waste disposal and provide net positive revenue to the County and to the applicant.

e. The DEIR alternatives analysis is also inadequate as follows.

1. Although Alternatives 2A and 2B double the tons of waste accepted per day, the transportation impacts analysis says “[t]his alternative generally represents a continuation of the existing landfill’s current trip generation

on local roads.” It simply cannot be true that doubling the intake of waste will not increase the number of trips. The alternatives analysis for transportation impacts appears to be inadequate. Numeric estimated impacts need to be provided for each alternative so the alternatives can be objectively compared.

2. Similarly, the analysis of air quality impacts for Alternatives 2A and 2B says these alternatives “generally [represent] a continuation of the existing landfill’s current operations.” Again, numeric estimated impacts need to be provided.
3. Please provide a narrative table comparing the impacts of the proposed Project to the impacts of each alternative so this information can be easily referenced for discussion. Table 6-2, which summarizes only the level of impacts, is insufficient to allow true comparison of impacts.

In summary, the alternatives presented in the DEIR seem designed not to meet project objectives and no alternative is provided that would eliminate significant and avoidable impacts. Alternative C should be changed as described in these comments and a new Maintain 1,000 Tons-Per-Day alternative should be added to provide options for decision makers that truly limit impacts on the community and meet the project objectives.

2. Transportation and Greenhouse Gas Emissions

a. Greenhouse gas emissions must be reduced to meet California’s SB 32. Vehicle miles travelled (VMT) must decrease. It is clear from the latest Scoping Plan that the California Air Resources Board (CARB) is more convinced than ever that, in addition to achieving GHG reductions from cleaner fuels and vehicles, California must also reduce VMT.² CARB determined that VMT must be reduced by 7 percent below projected levels in 2030, which includes currently SB 375 Sustainable Communities Strategies (page 101). In 2050, VMT must be reduced by 15 percent below projected levels.

This Project on the other hand will increase VMT (Table 4.2-2) adding to climate destruction from increased greenhouse gases. Bay Area VMT is currently increasing 1% per year according to the Metropolitan Transportation Commission.³ This adds to the ongoing problems of drought, fire, and floods which impact San Benito County disproportionately⁴ because of lower per capita incomes in the region. San Benito County is 62% Latinx according to the Census. **The Project should not increase harm to low income and vulnerable populations especially when feasible alternatives exist to mitigate the impacts.**

² https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf

³ <https://www.vitalsigns.mtc.ca.gov/daily-miles-traveled>

⁴ <https://www.un.org/sustainabledevelopment/blog/2016/10/report-inequalities-exacerbate-climate-impacts-on-poor/>

b. Greenhouse gases will increase primarily from organics decomposing in the landfill.⁵ However state law SB 1383 requires 75% diversion of organics plus 20% recovery of currently disposed edible food by 2025.⁶ “Pay as you throw” pricing can be targeted to support organic waste reduction, paying for programs such as home and community composting to support gardens to reduce waste streams.

c. The Project, instead of reducing organics per SB 1383 and reducing greenhouse gases per SB32, is proposing to turn the landfill into a natural gas reclaimed power generator. This is an example of what the Intergovernmental Panel on Climate Change Sixth Plenary Working Group III calls maladaptation.⁷ Maladaptation is “solutions” to climate change that just make things worse. There is no way to capture all of the gas and burn it cleanly, because much escapes before trash is securely capped and the gas collection systems are in operation. Some research shows that 40-80% of the methane generated in the landfill escapes before it can be captured by gas collection systems.⁸ The escaped and leaked gas⁹ will continue to endanger life on planet earth. Reducing the landfill expansion would reduce methane production at the source rather than introducing maladaptive “solutions.”

d. The Project does not study the benefits of raising tipping fees. The John Smith Landfill has direct control over tipping fees. Higher tipping fees according to CalRecycle will improve diversion from the landfill perhaps eliminating the need for landfill expansion studied in this DEIR. CalRecycle’s report says landfills disposal fees “are too low essentially to incentivize disposal.”¹⁰ The report starts by saying “For California to reach the statewide goal of 75 percent recycling (source reduction, recycling, and composting), more waste must go to its highest and best use while minimizing greenhouse gas emissions. California must maximize source reduction, recycling, and composting while reducing disposal. Solid waste landfills compete for the same resources and wastes, so the cost of landfill disposal affects the flow of these materials.” The report concludes that “With some exceptions, the higher the tipping fee, the lower percentage of waste a region landfills... California’s low landfill tipping fees do little to drive materials to higher and better uses and may make it more difficult to reach the 75 percent statewide recycling goal by 2020” (pages 4 and 5). The DEIR is extremely deficient in not studying higher tipping fees as an alternative to expansion and is criminal in creating the

⁵ <https://www.epa.gov/lmop/basic-information-about-landfill-gas>

⁶ <https://calrecycle.ca.gov/climate/slcp/>

⁷ <https://www.popsci.com/environment/climate-change-maladaptation/>

⁸ <https://repository.tno.nl/islandora/object/uuid:732765f7-d16b-4675-b88f-66289029e89d>
http://www.scsengineers.com/Papers/FINAL_SWICS_GHG_White_Paper_07-11-08.pdf

⁹ <https://www.colorado.edu/ecenter/2021/04/15/hidden-damage-landfills>

¹⁰ <https://www2.calrecycle.ca.gov/Publications/Download/1145?opt=dln> Page 3.

conditions to not meet state goals for diversion, recycling, and greenhouse gas reduction from organics.

3. Air Quality

a. The EIR acknowledges that the landfill expansion will worsen air quality for sensitive receptors due to the landfill emissions and the dump truck traffic. However, air quality impacts should be considered in terms of cumulative emissions. Lower income workers in Santa Clara County are being displaced by rising rents into San Benito County resulting in long and costly commutes. As the EIR points out, the traffic impact on San Benito County residents is worsened by the prevailing wind pattern – a northwesterly air flow frequently transports pollutants into the San Benito Valley from the Santa Clara Valley. The DEIR is deficient by not accounting for Highway 101’s increasing pollutants which should be cumulative with the landfill’s operating pollutants.

b. The DEIR must consider cumulative impacts to air quality and sensitive receptors, especially accounting for increasing pesticide pollutants in addition to operating pollutants from the Project. Pesticide use adds to cumulative impacts in the air and water basin because the dominant economic activity in San Benito County is agriculture and agro-tourism according to Wikipedia and county reports.¹¹ UCLA reported¹² that California counties with a majority Latinx population use 906% more pesticides per square mile than counties with fewer than 24% Latinx residents. San Benito County is more than 60% Latinx according to the most recent census. In the eleven counties with a majority Latinx population, there were 22 pounds of pesticides used per person in 2018, or 2,373 pounds per square mile. By contrast, for the 25 counties with the lowest proportion of Latinx residents (fewer than 24% like Santa Clara County), pesticide use was just 2.4 pounds per person, or 262 pounds per square mile. Cancer, ADHD, autism, birth defects, and learning disabilities are impacts that result from pesticides in the air and water basin.¹³

4. Biological Resources

Burrowing owl population has declined in the region to a level that is close to extirpation.¹⁴

¹¹ <https://www.cosb.us/Home/ShowDocument?id=6203>

¹² <https://www.thecalifornian.com/story/news/2019/03/20/ucla-pesticides-study-finds-california-counties-not-doing-enough/3223011002/>

¹³ <https://www.pesticidereform.org/pesticide-use-in-california-remains-at-record-high-new-data-show/>

¹⁴ Santa Clara Valley Habitat Plan 2021 Burrowing Owl Breeding Season Survey Report, December 2021.

a. Areas of controversy specified in the DEIR include "The valley and hills proposed to accommodate the proposed landfill expansion include areas that are home to birds of prey that already have limited resources." (Pages 2-5 – 2-6)

b. The Project will impact 387.7 acres of grassland and the DEIR states that the site provides suitable habitat for burrowing owls. (Pages 4.6-5 – 4.6-6)

c. The California Natural Diversity Database (CNDDDB) identifies 10 occurrences of burrowing owls within a 9-quadrangle search, including 2 within 5 miles of the Project. (Page 4.6-14)

d. The DEIR states that Western burrowing owls have been observed one and two miles from the project site, and states burrowing owls have the potential to occur on the project site. (Page 4.6-20)

e. Overall, this Project constitutes a large removal of prime burrowing owl nesting and foraging habitat with California ground squirrels present and burrowing owls observed within 1-2 miles of the project footprint. Burrowing owls can forage up to 2 miles per night, and this site is located within range of those previous owl sightings. The number of burrows available on the site should be quantified to further establish habitat quality.

f. The DEIR specifies no mitigation for loss of nesting or more importantly foraging habitat for burrowing owls and other grassland species that will lose approximately 387 acres. The only mitigation for burrowing owls is eviction procedures, which only result in the ultimate decline of the species as a whole. **The impact to burrowing owls should be recognized as significant and unavoidable.**

5. Hazards – Vector Nuisances

a. The DEIR mentions nuisance vectors (page 4.10-1), but Impact (page 4.10-5) discusses only mosquitoes. On page 4.10-2 the EIR provides, "Based on a review of CalRecycle records for the past two years, the only vectors that have been identified at the site have been birds, including gulls that come inland during storm periods and crows at other times. However, due to limited sources of water in the area and lack of roosting sites, birds are generally not attracted to the site."

b. This analysis is inadequate, because the expansion of the landfill has the potential to attract birds from a great distance, especially American crows and California gulls. In addition, the expansion includes new uncovered retention basins that will create a water feature attraction for birds and other wildlife. The expansion of the landfill is likely to be discovered, and the trash utilized, by the ever-increasing populations of these nuisance birds in the region.

c. Please provide a nuisance bird abatement plan that includes a monitoring program for crows and gulls.

6. Public Services, Utilities and Energy Impacts – Water Supply

The water supply analysis for the Project is insufficient given climate change and cumulative impacts on water demand in San Benito County, as follows.

a. With climate change and aridification, the Project will depend on outside water sources more frequently than 2 out of 12 years due to the increased occurrence of drought. In fact, California and San Benito County have been in drought at least 6 of the past 12 years. A more conservative estimate assuming reduced local and imported water supplies is warranted. The analysis needs to be updated accordingly.

b. Relying on groundwater from an agricultural user is risky given new requirements for sustainable groundwater management. Precisely in extended droughts when the project needs more supplemental water, there may be restrictions on groundwater pumping. The local Groundwater Management Agency should be consulted and should provide a letter verifying long term availability of this supply, and Conditions of Approval are needed to limit pumping to 22 acre-feet/year.

c. The DEIR says the increase in demand from Sunnyslope County Water District could be up to 22.4 acre-feet/year during drought years when onsite sources are not sufficient. However, no information is provided to verify that the Water District will be able to provide this additional water. More information is needed to verify that this water supply will be available. The Water District should be consulted and should provide a letter verifying long term availability of this supply, and Conditions of Approval are needed to limit supply from the District to 22.4 acre-feet/year.

Thank you for your sincere consideration of these comments. Please do not hesitate to contact us if you have questions.

Respectfully,



Gladwyn d'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter