



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

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Re: Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Newby Island Sanitary Landfill (landfill) and the Recyclery Rezoning.

This responds to the NOP for the proposal to expand the Newby Island Sanitary Landfill by increasing the permitted maximum height of the existing landfill from 150 feet above mean sea level (msl) to a maximum height of 245 feet msl. The proposed increase of 95 feet would result in the addition of approximately 15.12 million cubic yards to the capacity of the landfill. There is no proposal to extend the life of the landfill beyond the estimated closure date of 2025.

Project Purpose and Need: The NOP states, “Since 1990, disposal volumes received at NISL have dropped steadily to their current level due to increased recycling, beneficial uses, and other diversions and reduction efforts.” The NOP indicates that the quantities of waste disposed at the landfill have decreased since 1998 when the average tons of waste per day (tpd) was 2, 560 tpd. The average tpd for 2006 was 2,142.

The purpose and need for the proposed increase in landfill height is based upon the speculation that “...waste volumes may increase in the future as other landfills in the area close and more waste is directed to NISL.” The DEIR must demonstrate more than a speculative need for the proposed project – tpd has steadily decreased and the closure date of the landfill has not been extended. Where will the additional 15.12 million cubic yards of refuse be generated? Do the project proponents anticipate the import of refuse from beyond the immediate communities of San Jose, Milpitas, Santa Clara, Cupertino, Los Altos, and the Los Altos Hills? How realistic is import of refuse from outlying communities given the increasing environmental costs of transporting materials over long distances (e.g. energy required for transport, emissions of greenhouse gases, etc.)?

Project Description: The DEIR must provide descriptions of all proposed changes. For example, is night-lighting proposed? Is the pipeline conveying leachate to the adjacent San Jose Water Pollution Control Plant (San Jose WPCP)? If so, the DEIR should indicate the proposed location of the pipeline, the anticipated volume of leachate to be conveyed to the San Jose WPCP, and whether the plant has the capacity to handle the capacity now and in the future. The DEIR should also discuss whether there are any changes proposed to the hours of operation.

Land Use and Aesthetics: The DEIR must clearly delineate the existing and proposed land uses for the landfill and surrounding parcels and describe how the proposed project is compatible with the existing and future land uses of the surrounding parcels, e.g. the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) proposal to restore the south bay salt ponds, or the restoration and creation of wetlands and endangered species mitigation to the east of the landfill (King & Lyons Phase II mitigation area), etc.

The proposed increase in the maximum height of the landfill will have significant adverse impacts on the visual aesthetics of the south bay. The visual appearance of the site as viewed from off-site should include ground level views, and must also include an assessment of the impacts on the proposed Bay Trail alignment and the Refuge visitor's center in Alviso.

How will the issue of windblown refuse be prevented or mitigated?

Geology and Soils: The proposed project lies within an area identified as having "very high" liquefaction susceptibility. The DEIR must discuss the impact of the proposed increase in height and weight on slope stability in regards to very high liquefaction risk and shaking hazard. The DEIR must identify the risks to surrounding resources in the event of slope failure. The DEIR must assess the ability of the underlying soils to support the additional 15.12 million cubic yards of waste and cap materials. The DEIR must also assess the impacts of the substantial increase in height and weight on the integrity of the liner. Can the liner support the additional waste material? What impact would a seismic event have on slope integrity and on the integrity of the liner? What provisions would be made to review the integrity of the landfill liner following a seismic event? How will slope stability be maintained? Would the slope stability technique be vulnerable to flooding events?

The DEIR must identify and assess any problems that may arise in maintaining the landfill site at this increased height after the landfill is closed, i.e. the DEIR must not restrict its review of geologic or soil impacts to the active life of the landfill. This is a significant physical feature in terms of its mass and height, constructed on top of bay muds, in an area highly susceptible to liquefaction and earthquake hazards. Decision makers must be provided information regarding any future risk that is likely to result from increasing the height and weight of the landfill and what mitigation measures might be required to maintain slope stability and integrity after the landfill closes and as the site ages. The DEIR must also identify any settlement issues that might arise as the waste decays and the mitigation measures that would be required to address the issue of settlement.

Biological Resources: The DEIR must not restrict the review of the impacts of the proposed project to the project site and immediate vicinity of the project; rather it should look at the south bay ecosystem. Significant biological resources exist within the area surrounding the landfill and impacts resulting from the landfill operation can easily reach beyond the immediate vicinity of the project site.

Scavenger Species: Significant issues such as the introduction of increased numbers of scavengers (e.g. corvids, gulls, rodents, etc.) are unique to the landfill operation. It has been demonstrated that the corvid and gull populations have increased exponentially due to the predictable and ample food supply available at the landfill.

The proposal to allow "preliminary processing of food waste on the paved area west of the Recyclery" is of grave concern and will likely support yet another exponential increase in the scavenger species populations. Gulls that utilize the landfill have been identified as being responsible for significant negative impacts on the recruitment of shorebirds in the surrounding areas (including the Knapp parcel – Pond A6).

If the project proponents plan to seriously consider the implementation of processing food waste, then alternative locations for this component must be considered where the waste would not be available for

access by scavenger species. Or the DEIR must provide credible, feasible, and efficacious mitigation measures that would prevent this new and highly attractive food source from being utilized by scavengers.

Threatened, Endangered Species, and Other Species: Populations of the federally listed endangered salt marsh harvest mouse are immediately adjacent to the landfill, and a large mitigation site exists immediately adjacent to the project site. Western snowy plover nesting areas are in the vicinity of the project location. Primary California clapper rail habitat areas and primary California least tern staging areas are in the vicinity of the proposed project. The endangered Central California Coast steelhead trout may migrate through Coyote Creek during spawning season and juvenile fish may utilize the waters in the vicinity of the landfill during other portions of the year.

In addition to the listed species, black skimmer nesting locations, double-crested cormorant colonies, primary shorebird roost sites, Caspian tern and Forster's tern colonies, heron and egret colonies, and black-necked stilt and American avocet breeding concentrations are all located within a reasonable impact area. The DEIR must identify the adverse impacts of the proposed project on these species, discuss how impacts will be monitored and assessed, discuss the thresholds which would trigger implementation of a contingency measure, and what credible, feasible, and efficacious mitigation measures will be implemented to prevent negative impacts to these species.

Hydrology and Water Quality: The Newby Island Sanitary Landfill is located within the 100-year floodplain. The San Francisco Bay Conservation and Development Commission (BCDC) recently published sea level inundation maps based upon a conservative one meter sea level rise. The entirety of the Newby Island site is inundated on these maps. The DEIR must describe what flood protection measures exist for the site, identify what measures would need to be implemented in view of the reality of sea level rise, describe what measures would be implemented to prevent contaminated materials from entering bay waters during extraordinary flood events, etc. In addition, the DEIR must indicate whether the technology implemented to provide slope stability to the landfill is flood resistant.

What impact will the addition of 15.12 million cubic yards of waste material impact the volume of leachate produced? What monitoring protocol will be implemented to inspect for liner integrity? What contingency measures will be implemented if leaks in the liner are detected and how would the liner be repaired? How often would the proposed pipeline conveying leachate to the San Jose WPCP be monitored and inspected? What measures will be implemented to ensure any leakage of leachate will not reach the aquatic environment? Does the applicant propose to monitor water quality of the adjacent creeks and wetlands to ensure there are no adverse impacts associated with landfill operation? Have leaks been detected in the past? What were the measures undertaken to remedy the leakage? What changes in leachate volume are expected to occur as the landfill ages?

Transportation: Traffic congestion is a significant problem in the vicinity of the landfill. The DEIR should discuss the impacts of increased landfill traffic on current and future traffic congestion on local streets as well as Highway 880. The DEIR should also discuss the communities (and distances) from which it is anticipated waste materials would be transported to support the additional capacity of 15.12 million cubic yards.

Air Quality: The DEIR should address the issue of objectionable odors, especially in view of the proposal to allow preliminary processing of food wastes. Development is increasing in the area, some assessment of the size of population impacted by objectionable odors and the distances these odors will be detectable from the landfill should be discussed. In addition to considering the standard air quality issues, the DEIR must also assess the predicted contribution to greenhouse gas emissions (e.g. methane, carbon monoxide, etc.) that will be created by the proposal to expand the landfill operation, and how this will be mitigated.

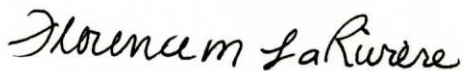
Noise: The DEIR should consider the impacts of the expanded operation on the experience of members of the public utilizing the proposed Bay Trail, the Refuge trails, and surrounding developments. The DEIR must identify if there will be a change in the hours in which noise is generated at the landfill site, if there will be an increase in the noise generated, and discuss the impacts of noise generated at the landfill site on wildlife use of the surrounding areas.

Hazardous Materials: Will the types of materials accepted at the landfill site change? Will there be an increase in the storage or creation of hazardous materials at the landfill site as a result of the proposed project? How will the surrounding natural resources be protected from these materials in the event of a disaster (seismic event, flooding, fire, etc.)? What contingency measures will be immediately available to prevent degradation of the surrounding natural resources?

Alternative Analysis: In addition to the “No Project Alternative” and the “Proposed Project” the DEIR should analyze alternatives in which the project components are located at separate locations, or certain project components are dropped (e.g. preliminary processing of food waste, pipeline to San Jose WPCP).

We appreciate the opportunity to provide comments. We would like to receive any and all notices pertaining to this proposal. We would like to receive a copy of the DEIR and final environmental impact report (FEIR).

Sincerely,



Florence M. LaRiviere
Chairperson

Cc: SFBRWQCB, Brian Wines
DESFBNWR, Mendel Stewart