

Permitting & Assistance Branch Staff Report
 New Standardized Nonhazardous Ash Solid Waste Facility Permit for the
 Ace Cogeneration Company
 SWIS No. 36-AA-0311
 November 2, 2011

Background Information, Analysis, and Findings:

This report was developed in response to the San Bernardino County Local Enforcement Agency (LEA) request for Department of Resources Recovery and Recycling (Department) concurrence on the issuance of a proposed New Standardized Nonhazardous Ash Solid Waste Facility Permit for the Ace Cogeneration Company, SWIS No. 36-AA-0311, located in San Bernardino County and owned and operated by Ace Cogeneration Company. A copy of the proposed permit is attached. The report contains Permitting and Assistance Branch (PAB) staff's analysis, findings, and recommendations.

The proposed permit was received on October 20, 2011. Action must be taken on this proposed permit no later than November 19, 2011. If no action is taken by November 19, 2011, the Department will be deemed to have concurred with the issuance of the proposed revised permit.

Proposed Changes

Following are the parameters of the proposed permit:

	Proposed Standardized Nonhazardous Ash Solid Waste Facility Permit (New)
Name of Facility	Ace Cogeneration Company
Facility Location	12801 Mariposa Street, Trona, CA 93562
Owner/Operator	Ace Cogeneration Company
Maximum Days and Hours of Operations	January 1 st through May 31 st : 4:00 am to 12 am, June 1 st through September 30 th : 12:00 am to 8:00 pm and October 1 st through December 31 st : 4:00 am to 12:00am
Permitted Maximum Tons per Operating Day	400 tons per day
Total Permitted Operating Area	65 acres
Daily Design Capacity	400 tons per day

Findings:

All of the submittals and findings required by Title 14, Section 18105.5 have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings are summarized in the table below. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained in the facility files maintained by the Department.

CCR Title 14 Sections	Findings	
18105.2 Solid Waste Facilities Permit	The LEA submitted a proposed New Standardized Nonhazardous Ash Solid Waste Facility Permit on October 20, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
18105.2 Consistency with Public Resources Code 50001	The LEA, in their permit submittal package received on October 20, 2011, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) in the Jurisdiction Product & Compliance Unit found the facility is identified in the Siting Facility Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated October 6, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
18105.5 Operations Consistent with State Minimum Standards	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 October 4, 2011. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
18105.2 LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on October 20, 2011 that the proposed permit is consistent with and supported by the existing CEQA documentation. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice, Comments	The LEA posted the public notice dated October 3, 2011 regarding the proposed new standardized permit. No oral or written comments were received by the LEA.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project, a proposed New Standardized Nonhazardous Ash Solid Waste Facility Permit. Permits staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed new permit. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

The facility was inspected by WEEB staff in the Inspections and Enforcement Agency Compliance Unit on October 4, 2011. No violations of State Minimum Standards were observed.

This facility currently operates under an exemption. The LEA determined that the facility is better regulated under a standardized permit.

Based on the LEA's monthly inspection reports, the existing exempted facility (36-AA-0311) has not received any State Minimum Standards violations during the last five years.

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed Standardized Nonhazardous Ash Solid Waste Facility Permit 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 San Bernardino County Land Use Services Department, 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 Ace Cogeneration Company's parent company burns coal to produce electricity at its power plant and disposes of the resulting coal ash at the company owned disposal facility. The power plant is regulated by the California Energy Commission. The coal ash has been classified nonhazardous and is tested annually to confirm this classification. Currently, Ace Cogeneration Company operates under a SWFP Exemption granted by the Local Enforcement Agency on October 1, 1993. The proposed New Standardized Nonhazardous Ash Solid Waste Facility Permit under consideration is to replace the existing SWFP Exemption.

The County of San Bernardino Department of Public Health, Division of Environmental Health Services (LEA) has provided a finding that the proposed Standardized Nonhazardous Ash Solid Waste Facility Permit is consistent and supported by 14 CCR, Section 15301 that fall under Categorical Exemption, Class 1 – Existing Facilities. This Categorical Exemption allows for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private facilities involving negligible or no expansion of use beyond that previously exists at the time of the lead agency's determination.

Department staff prepared a Preliminary Review to determine whether a Categorical Exemption is adequate for the Department's concurrence on this proposed Standardized Nonhazardous Ash Solid Waste Facility Permit. Department staff made the finding/determination that a Categorical Exemption, 14 CCR Section 15301 – Existing Facilities was adequate for the Department's concurrence in this proposed Standardized Nonhazardous Ash Solid Waste Facility Permit. Staff's finding is based on the fact that there is "negligible or no expansion of use beyond that existing at the time of the lead agency's determination" to grant the SWFP Exemption in 1993. There is no expansion of use or change to the operation in that the facility presently accepts nonhazardous ash only. The proposed permit will authorize the facility to accept a maximum of 400 tons per day, operated 365 days per year, and 20 hours per day.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, prepare a Notice of Exemption, based on the Categorical Exemption for existing facilities (Section 15301), to be filed with the State Clearinghouse after the Department's concurrence in the Standardized Nonhazardous Ash Solid Waste Facility Permit proposed by the LEA, in that the proposed permit is to be issued to an existing facility that will not expand or significantly change its operations from those authorized under the SWFP exemption granted in 1993. Further, there are no grounds under CEQA for the Department to prepare an environmental document or assume the role of Lead Agency for its consideration of the proposed Standardized Nonhazardous Ash Solid Waste Facility Permit.

Department staff further recommends the Categorical Exemption is adequate for the Branch Chief's environmental evaluation of the proposed project since 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 Standardized Nonhazardous Ash Solid Waste Facility Permit. Department staff has reviewed and considered the CEQA findings of the County of San Bernardino Local Enforcement Agency. Department staff recommends the Categorical CEQA Exemption, together with the CEQA finding, is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed New Standardized Nonhazardous Ash Solid Waste Facility Permit and all of its components and supporting documentation, this staff report, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed Standardized Nonhazardous Ash Solid Waste Facility Permit. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Local Issues:

The project document availability, hearings, and associated meetings were extensively noticed consistent with Standardized SWFP requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community (Census Tract 89.01). 2010 Census information indicates that the surrounding population is approximately 81.5% White, 3.4% African American, 3.3% American Indian and Alaska Native, 0.9% Asian, 0.3% Native Hawaiian & other Pacific Islander, 4.5 % some other race, and 6.1% two or more races. 15.6% of the total population described themselves as Hispanic or Latino. 2000 Census information indicates that 18.2% of the families are below the poverty level. Staff has not identified any environmental justice issues related to this item. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

Public Noticing and Comments:

On October 3, 2011, the LEA posted the public notice of the new proposed permit. The LEA did not receive any written comments from the public. No written or oral public comments have been received by Department staff.

Department Staff Actions:

Staff responded to questions from the LEA regarding the permit process. The Department provided an opportunity for public comment during the Monthly Public Meeting on November 15, 2011.