

Permitting & Assistance Branch Staff Report  
Solid Waste Facilities Permit Revision for the Billy Wright Disposal Site  
SWIS No. 24-AA-0002  
June 6, 2011

**Background Information, Analysis, and Findings:**

This report was developed in response to the Merced County Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery's (Department) concurrence on the issuance of a proposed Solid Waste Facilities Permit revision for the Billy Wright Disposal Site, SWIS No. 24-AA-0002, located in Los Banos and owned by the Merced County Regional Waste Management Authority and operated by Merced County Public Works Department. A copy of the proposed permit is attached. This report contains the Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was received on March 1, 2011 and changed proposed permits were received on March 21, 2011, and another version on April 11, 2011. Action must be taken on this proposed permit no later than June 10, 2011. If no action is taken by June 10, 2011, the Department will be deemed to have concurred with the issuance of the proposed modified permit.

The operator obtained a permit to operate a transfer station at the landfill in the event the landfill reached capacity prior to receiving approval for expansion. The transfer station was never built and operated and that permit was surrendered by the operator on May 23, 2011.

**Proposed Changes**

The following changes to the permit are being proposed:

	Current Permit (2001 SWFP)	Proposed Permit
Permitted Boundary Area	172.7 acres	172.7 acres
Permitted Disposal Area	39.8 acres	101.8 acres
Permitted Tonnage	800	1,500
Permitted Vehicles	125	550
Permitted Capacity	3,650,000 cubic yards	14,800,000 cubic yards
Estimated Closure Date	2010 (See Compliance History)	2054
Owner	Merced County	Merced County Regional Waste Management Authority
13. Findings	<p>a. This permit is consistent with the County Solid Waste Management Plan (CIWMP) PRC Section 50001.</p> <p>b. This permit is consistent with the standards adopted by the CIWMB, pursuant to PRC 4 4010.</p>	<p>a. This permit is consistent with the Merced County Integrated Waste Management Plan, which was approved by the CIWMB in March of 1994. The location of the facility is identified in the Countywide Siting Element, pursuant to Public Resource</p>

	<p>c. The design and operation of the facility is consistent with the State Minimum Standards for Solid Waste handling and Disposal as determined by the LEA.</p> <p>d. The following local fire protection district has determined that the facility is in conformance with applicable fire standards as required in PRC Section 44151. Merced County fire Department 9-14-94.</p> <p>e. An environmental determination (i.e. Notice of Determination) is filed with the State Clearinghouse for all facilities which are not exempt from CEQA and documents pursuant to PRC Section 21081.6 #99081008.</p> <p>f. A County-wide Integrated Waste Management Plan has been approved by the CIWMB.</p> <p>g. The following local governing body has made a written finding that surrounding land use is compatible with the facility operation, as required in Public Resource Code, Section 5000.5(b). Merced County Board of Supervisors 6/6/00.</p>	<p>Code (PRC), Section 50001.</p> <p>b. This permit is consistent with the standards adopted by CalRecycle, pursuant to PRC 44010.</p> <p>c. The design and operation of the facility is consistent with the State Minimum Standards for Solid Waste Handling and Disposal as determined by the enforcement agency pursuant to PRC 44009.</p> <p>d. CalFire Fire Department has determined that the facility is in conformance with applicable fire standards as required by Public Resource Code, Section 44151.</p> <p>e. An Environmental Impact Report was filed with the State Clearinghouse (SCH# 200301096) and a Notice of Determination filed on May 18, 2009. The Environmental Impact Report describes and supports the design and operation which will be authorized by the issuance of this permit.</p>
<p>14. Prohibitions</p>	<p>The permittee is prohibited from accepting any liquid waste sludge, non-hazardous waste requiring special handling, designated waste, or hazardous waste unless such waste is specifically listed below, and unless the acceptance of such waste is authorized by all applicable permits: The permittee is additionally prohibited from the following: Non Friable Asbestos and autoclaved medical waste including sharps.</p> <p>The permittee is additionally prohibited from the following items: (1) Open burning (2) Scavenging. (3) Disposal of infectious or medical waste, auto bodies, junked farming equipment, cogeneration ash, and large animal carcasses.</p>	<p>The permittee is prohibited from excepting the following wastes: Hazardous, radioactive, untreated medical (as defined in Chapter 6.1, Division 20 of the Health and Safety Code), liquid waste (including slurries and septic tank pumpings), designated, waste, incinerator ash, sludge and large dead animals (except for non-incidentual dead animals), or other waste requiring special treatment or handling except as identified in the Joint Technical Document and approved amendments hereto. The EA may not approve the acceptance of such other waste until the operator has provided in a form reasonably acceptable to the EA, evidence from all other federal, state, and local agencies having jurisdiction that the acceptance of such wastes is authorized.</p>

<p>15. Documents</p>	<p>Report of Facility Information 6/00</p> <p>Waste Discharge Requirements 3/17/00</p> <p>APCD Permit to Operate N/A</p> <p>Negative Declaration 9/28/99</p> <p>Lease Agreements Owner &amp; Operator 3/1/93</p> <p>Preliminary Closure/Postclosure Plan 1/15/93</p> <p>Closure Financial Responsibility Documentation 4/21/93</p> <p>Operating Liability 5/3/00</p>	<p>Joint Technical Document Expansion Project Dec 2010</p> <p>Waste Discharge Requirements. Order No. March 2000</p> <p>APCD Permit to Operate N/A</p> <p>Solid Waste Disposal Transfer Options Draft EIR SCH#2003101096</p> <p>Landfill Gas Monitoring &amp; Control Program Sept. 2008</p> <p>Preliminary Closure and Postclosure Maintenance Plan Dec 2010</p> <p>Closure Financial Assurance Documentation June 2010</p> <p>Operating Liability Certification Feb. 2010</p> <p>Response to Comments Solid Waste Disposal /Transfer Options Final EIR SCH# 2003101096</p>
<p>16. Self Monitoring</p>	<p>1. Leachate Monitoring <u>Parameter/Constituents</u> Refer to WDR Order #5-00-052 for list of constituents</p> <p>2. Groundwater Monitoring <u>Parameter/Constituents</u> Refer to WDR Order #5-00-052 for list of constituents</p> <p>3. Landfill Gas Monitoring <u>Parameter/Constituents</u> Methane Gas</p> <p>4. Results of Hazardous Waste Screening Program</p> <p>5. Tonnage Records of Waste Received</p> <p>6. Log of Special Occurrences</p> <p>7. An employee training log with dates of training, course description etc shall be maintained and kept current.</p>	<p>a. The types and quantities (in tons) of waste, including separated or commingled recyclables entering the facility per day.</p> <p>b. The number and types of vehicles using the facility per day.</p> <p>c. Results of the hazardous waste loadchecking.</p> <p>d. Copies of all written complaints regarding this facility and the operator's actions taken to resolve those complaints.</p> <p>e. Special Occurrences: A summary of special occurrences including but not limited to, fires, explosions, the discharge and disposition of hazardous waste, and significant injuries, accidents or property damage.</p> <p>f. Employee training log with dates of training and topics discussed shall be</p>

	<p>8. Summary of all complaints received regarding this facility and the operator's action taken to resolve those complaints.</p> <p>9. Results of on site industrial hygiene and area monitoring.</p>	<p>maintained and kept current.</p> <p>g. Mitigation Monitoring &amp; Reporting Program</p>
<p>17. EA Conditions</p>	<p>1. The operator shall comply with all Federal, State and local requirements.</p> <p>2. This facility shall comply with all provisions mandated under the State Minimum Standards for Solid Waste Handling and Disposal.</p> <p>3. The operator shall maintain a copy of this permit at the facility, so it will be available at all times to facility personnel and to enforcement agency's personnel.</p> <p>4. The operator shall notify the LEA, in writing of any proposed change in the routine operation of the facility or of any change in facility design during the planning stages. In no case shall the operator undertake any change unless the operator first submits to the Local Enforcement Agency a notice of the change(s) at least 150 days prior to the changes(s) taking place. Any significant change as determined by the Local Enforcement Agency would require a revision of the Solid Waste Facilities Permit.</p> <p>5. The operator shall comply with all of the requirements of all applicable laws pertaining to employee health and safety. The operator shall ensure that comprehensive site safety evaluations are conducted at this facility and shall maintain a written employee injury and illness prevention program (HIPP) on site that meets all provisions of the California Code of Regulations, Title 8, Section 3202 and must make it available to all facility personnel, LEA and other regulatory agencies.</p> <p>6. Records of employee training for health and safety, operation and maintenance of the site shall be maintained on the site and be available</p>	<p>a. The operator shall comply with all State Minimum Standards for solid waste handling and disposal as specified in Title 27 California Code of Regulations.</p> <p>b. The operator shall maintain a log of special/unusual occurrences. This log shall include, but is not limited to fires, explosions, the discharge or disposition of hazardous or unpermitted wastes, and significant injuries accidents or property damage. Each log entry shall be accompanied by a summary of any actions taken by the operator to mitigate the occurrence. The log shall be available to site personnel and the EA at all times.</p> <p>c. Additional information concerning the design and operation of the facility shall be furnished upon request and within the timeframe specified by the LEA.</p> <p>d. The maximum permitted daily tonnage for this facility is 1500* tons per day and shall not receive more than this amount without a revision of this permit. <u>*Additional daily tonnages and peak traffic volume is addressed per JTD Vol. 1 page A.2-2 and included as part of this permit.</u></p> <p>e. This permit is subject to review by the EA and may be suspended, revoked, or revised at any time for sufficient cause.</p> <p>f. The EA reserves the right to suspend or modify waste receiving and handling operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.</p>

	<p>to inspection by the LEA and/or duly authorized regulatory agency.</p> <p>7. Any change in the owner/operator of this facility would require a notification to the LEA and CIWMB 45 days prior to the anticipated transfer.</p> <p>8. The operator will maintain a log of special/unusual occurrences. The operator shall maintain this log at the station so as to be available at all times to site personnel and to enforcement agency's personnel.</p> <p>9. Any complaints about the facility received by its operator shall be forwarded to the local enforcement agency within three working days.</p> <p>10. This permit is subject to review by the Local Enforcement Agency and may be suspended and/or revoked at any time for sufficient cause.</p> <p>11. The Local Enforcement Agency reserves the right to suspend waste receiving operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.</p> <p>12. The Local Enforcement Agency reserves the right to request and receive from the owner/operators any information that it deems necessary to conduct an inspection or to review and/or write a Solid Waste Facility Permit.</p> <p>13. The Facility is permitted to receive nonhazardous solid waste. The facility may process separated and or/co-mingled recyclables.</p>	<p>g. Any change that would cause the design or operation of the facility not to conform to the terms and condition of this permit is prohibited. Such a change may be considered a significant change, requiring a permit revision. In no case shall the operator implement any change without first submitting a written notice of the proposed change in the form of an RFI amendment, to the EA at least 180 days in advance of the change.</p> <p>h. A copy of this permit shall be maintained at the facility.</p> <p>i. This facility is only permitted to receive the following types of non-hazardous solid waste: mixed municipal, residential, commercial, industrial, construction and demolition debris, green and wood waste, metal salvage, double bagged non-friable asbestos, agricultural wastes, and tires.</p> <p>j. The permittee shall notify the LEA in writing, at least 150 days in advance of any proposed significant changes in the design/operation of the facility to allow for early consultation, completion of all required environmental documents and their due process review/filing and the attaining of all other required documents or permits.</p> <p>k. The LEA reserves the right to suspend or modify waste receiving and handling operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.</p> <p>l. Additional information concerning the design and operation of the facility shall be furnished upon request and within the time frame specified by the LEA.</p> <p>m. The active disposal area shall be at all times sufficiently surrounded by litter-control fencing and supported with sufficient litter picking personnel to preclude significant amounts of litter from accumulating off-site. On-</p>
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**Findings:**

Staff recommends concurrence with the issuance of the proposed revised permit. All of the submittals and findings required by Title 27, Section 21685 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 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 retained in the facility files maintained by the Division.

CCR Title 27 Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct	The LEA provided the required certification on March 15, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

CCR Title 27 Sections	Findings	
Report of Facility Information		
21685(b)(2) LEA Five Year Permit Review	The LEA completed a Five Year Permit Review on March 14, 2011, and provided a copy to the Department on March 21, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facilities Permit	The LEA submitted a proposed solid waste facilities permit on March 1, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on March 1, 2011, provided a finding that the facility is consistent with PRC 50001 and 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 March 30, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(5) Preliminary or Final Closure/ Postclosure Maintenance Plans Consistency with State Minimum Standards	Engineering Support Branch staff in the Closure and Facility Engineering Unit found the Preliminary Closure/ Postclosure Maintenance Plan is consistent with State Minimum Standards as described in their memorandum dated April 7, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b) (7) (A) Financial Assurances Documentation Compliance	Permitting & Assistance Branch staff in the Financial Assurances Unit found the Financial Assurances Documentation in compliance as described in their memorandum dated March 16, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(7)(B) Operating Liability Compliance	The Permitting & Assistance Branch staff in the Financial Assurances Unit found the Operating Liability in compliance.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) 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 March 22, 2011. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on, 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 and or Meeting, Comments	The LEA conducted a public information meeting on February 10, 2011 regarding the proposed revised permit. No members of the public attended and no oral or written comments have been received by the LEA or Department staff.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible	The Department is a responsible agency under CEQA with respect to this project, a proposed revised Solid	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

CCR Title 27 Sections	Findings	
Agency's Findings	Waste Facilities Permit. Permits staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised permit.	

**Compliance History:**

The facility was inspected on March 22, 2011, by WEEB staff in the Inspections and Enforcement Agency Compliance Unit and Permitting and Assistance staff. No violations of State Minimum Standards or of the current permit were noted.

Neither the LEA nor CalRecycle staff have documented any violations of State Minimum Standards or permit terms and conditions during the past five years.

In 2008 the LEA and CIWMB (now CalRecycle) recognized that the 2010 closure date was an estimate and a closure plan was not requested. On April 6, 2010, the operator provided calculations estimating a remaining capacity of 198,000 cubic yards that would allow operations to continue until July 2012. The operator also obtained a permit to operate a transfer station at the landfill which would manage the waste in the event a landfill permit revision for an expansion could not be obtained, or could not be obtained before the landfill reached capacity. A preliminary closure plan has been submitted with the current permit revision package.

**Environmental Analysis:**

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed revised SWFP 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 Merced County Waste Management Authority, 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 Merced County Waste Management Authority, acting as Lead Agency, prepared an Environmental Impact Report (EIR), State Clearinghouse No. 2003101096, which was circulated for a 60-day review period from April 4, 2006, through June 5, 2006. The EIR was certified by the Merced County Board of Supervisors on May 17, 2007. It analyzed, at an equal level of detail, six options designed to meet the projected waste disposal needs of western Merced County to the year 2023; the solid waste options were analyzed in a detailed, site-specific project-level manner. Options 1A; Expansion of the Billy Wright Landfill within the current property boundary and 2A; Closure of the Billy Wright Landfill and operation of a transfer/processing facility at the landfill, were the options approved. The Alternatives section of the EIR evaluated phasing these options and concluded that phasing does not result in any new significant impacts.

When the Merced County Regional Waste Management Authority certified the Final EIR, they found, despite the implementation of all feasible mitigation measures, significant and unavoidable impacts to air quality remained. Impacts from on-road vehicular traffic and on-site equipment to ozone precursors (ROG and NOx), while individually less than significant, are

cumulatively considerable when considered with various development projects in Los Banos and Merced County.

The Merced County Regional Waste Management Authority Board of Directors, on May 17, 2007, adopted a Statement of Overriding Considerations (see attachment) for the significant impacts to Air Quality.

The Board of Directors found that the following economic, legal, social, technological and other benefits of the project override and outweigh the significant impacts to air quality.

- The project will promote economic growth in western Merced County by providing adequate long term solid waste disposal capacity, which will enable continued urban development, consistent with their General Plan policies.
- Adopting the No-Project Alternative, closing the Billy Wright Landfill, would require the County of Merced to haul waste to the Highway 59 Landfill. Trips to the Highway 59 Landfill would be approximately 28 miles longer. Longer average truck trips could result in increased air quality impacts that could be potentially greater than the potentially significant and unavoidable impact to air quality impacts from the project.
- When compared with the project options, the No-Project Alternative would result in substantially higher levels of criteria pollutant emissions and toxic air contaminant emissions (e.g., diesel particulate). Shorter truck trips are also economically beneficial and more cost effective in terms of fuel and travel time.

Before concurring on this permit, the Department must adopt a Statement of Overriding Considerations that indicates its reasons for overriding the adverse environmental effects caused by the proposed project. It is Department staff's recommendation that the Department adopt as its own the Statement of Overriding Considerations as adopted by the Merced County Regional Waste Management Authority Board of Directors to the extent the unavoidable significant environmental effects of the Project identified in the Statement of Overriding Considerations relate to environmental effects caused by the Department's exercise of its Statutory Authority.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the environmental document prepared by the Lead Agency in that 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 Permit.

Department staff further recommends the Final EIR with the inclusion of the Statement of Overriding Considerations, is adequate for the Department'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 SWFP and all of its components and supporting documentation, this staff report, the Joint Document (Continuing Environmental Review Statement) adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed SWFP. 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 the SWFP requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community (Census Tract 21). The 2005-2009 American Community Survey indicates that the surrounding population is approximately 83.7 % white, 1.9% black or African American, 12.8% identified as some other race, and 1.6% identified being two or more races. Of the total population 60.8% described themselves as Hispanic or Latino and 18.5% of the families in the Census Tract were below the poverty level. 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 Comments:**

The operator provided open hearing opportunities to the public to learn about the project and submit comments on August 10, 2006, and on May 17, 2007, and by circulating the EIR for 60 days. The LEA did not receive any comments from the posted public notice nor did any representative citizens attend the public information meeting on February 10, 2011. No oral or written public comments have been received by the Department or LEA staff.

**Department Staff Actions:**

Staff responded to questions from the LEA regarding the permit process timelines and requirements, provided direction on the permit contents (which resulted in the LEA making several changes to the permit) and the process for providing supporting information, provided assistance with the permit review report and attended the pre-permit inspection. Staff also identified issues with the landfill expansion and duplicative entitlements associated with the Billy Wright Transfer Station resulting in the operator's decision to surrender the transfer station permit. The Department provided an opportunity for public comment during the Monthly Public Meetings held on March 15, 2011, April 12, 2011, and May 17, 2011.