



County of San Diego

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California Energy Commission
Attn: Docket No. 08-AFC-4
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512

GREGORY CANYON LANDFILL MITIGATION

To Whom It May Concern:

The County of San Diego, Department of Environmental Health (DEH), Solid Waste Local Enforcement Agency (LEA) is the lead agency under the California Environmental Quality Act (CEQA) for the proposed Gregory Canyon Landfill. In that capacity, DEH enforces state regulatory requirements and issues state solid waste facility permits. The County also has other permitting authority over the landfill project, related to water course alteration permits, bridge permits, grading permits, and building permits. The Gregory Canyon Landfill project applicant is also required to coordinate with the LEA, the County, CDFG, and USFW on a Habitat Restoration and Resource Management Plan for this site.

The Orange Grove Project (OGP) includes a section of pipeline that passes through lands that were the site of the former Verboom Dairy within the Gregory Canyon Landfill site. This abandoned dairy farm has been proposed for use as mitigation lands for impacts resulting from the Gregory Canyon Landfill project. The staff report for the OGP currently indicates that OGP is proposing to mitigate for potential impacts to 2.2 acres of these future mitigation lands, as if those lands had already been restored, at a 2:1 ratio.

Wording included in the current draft staff report for the OGP includes CDFG, USFW and the County of San Diego as part of the approval process for the OGP mitigation plan. Some discussions with the County of San Diego Department of Public Works, related to Mitigation Planning have indicated that this County approval wording may be removed from the final version. This is not appropriate. We are cognizant that the Warren-Alquist Act limits the role of local governments in permitting certain energy facilities. However, the interactions between the Gregory Canyon Landfill project and the pipeline portion of the Orange Grove Project are unique, because some of the mitigation that the Orange Grove Project applicant has promised to undertake is in effect mitigation for the Gregory Canyon Landfill project.

The staff report should acknowledge that the LEA is the CEQA lead agency for the proposed Gregory Canyon Landfill project, and that the LEA is responsible for enforcing certain project features and mitigations, e.g., the preservation of open space, required by the voter initiative that authorized the Gregory Canyon project. (County of San Diego Proposition C, Election of 1994.) Because of these duties, the LEA has an interest in the impacts of and in mitigation for the impacts of this pipeline that goes beyond the pipeline project standing alone, and that is at least equal to the interests of the CDFG and USFW. The Warren-Alquist Act was only intended to limit local permitting for the energy project itself; it was not intended to disrupt or override the CEQA mitigation process for other projects. To ensure compliance with CEQA and Proposition C for the Gregory Canyon Landfill project, the LEA must review and approve any pipeline proposal and any mitigation associated with the pipeline, because some of that mitigation is in effect mitigation for the Gregory Canyon Landfill. It is our understanding that your applicant does not dispute that this mitigation is necessary or that the LEA must approve a specific pipeline proposal and associated mitigation. Therefore, the staff report should provide that LEA approval of pipeline plans and mitigation measures for the portion of the pipeline that will pass through the Gregory Canyon Landfill property is a requirement for the Orange Grove project.

In addition, there are County requirements other than biological mitigation that will be triggered by pipeline-related activity on the Gregory Canyon Landfill site and other lands under County jurisdiction. A primary example are requirements related to the County's trail network. The staff report should reflect that consultation with the County is required concerning these other requirements, and it should provide that a County certification to the CEC of compliance with County requirements is a necessary condition for approval of this project by the CEC.

If you have any questions, please contact either Jim Henderson, Environmental Health Specialist III at (858) 694-3607 or myself at (858) 694-2232.

Sincerely,



REBECCA LAFRENIERE, Supervising Environmental Health Specialist
Local Enforcement Agency

cc: Wesley E. Peltzer, Gregory Canyon Limited
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