



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: November 1, 2016

Subject: Permit Review of Keller Canyon Landfill's Land Use Permit

RECOMMENDATION(S):

1. OPEN the public hearing, RECEIVE testimony, and CLOSE the public hearing.
2. ACCEPT the permit review report pertaining to the Keller Canyon Landfill land use permit conditions of approval, which concludes that there is no need to add or modify the existing permit conditions (Exhibit B), as recommended by the County Planning Commission (Exhibit A).
3. DIRECT Department of Conservation and Development staff to schedule the third annual permit review for consideration by the County Planning Commission in October 2017, to satisfy the requirement that permit reviews be completed annually for three years, and thereafter reviews are to occur once every three years in accordance with Condition 11.1 of the existing Keller Canyon Landfill land use permit.

FISCAL IMPACT:

The land use permit (LUP) review itself has no impact to the County General Fund. Keller Canyon Landfill Company, the landfill operator, is responsible for providing reimbursement for the County's staff costs associated with the permit review process.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/01/2016** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 1, 2016

Contact: David
Brockbank, 925-674-7794

David Twa, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc:

BACKGROUND:

This is the second permit review of the Keller Canyon Landfill (KCL) LUP conditions of approval. The staff report to the County Planning Commission (CPC) was prepared in accordance with LUP condition 11.1 and the Permit Review Criteria (Exhibit C), approved by the Board in 1995. Condition 11.1 affords the Board of Supervisors the opportunity to approve new and/or modified conditions of approval to improve public health, safety, and welfare. It also provides for approval of new or modified conditions to address inconsistencies resulting from court decisions or regulatory changes made since the permit was approved or was most recently amended/modified. As a result of the second permit review detailed in the report reviewed by the CPC on October 11, 2016 (Exhibit B), it was concluded that there is no need to recommend approval of any new or modified conditions of approval for the existing KCL LUP. (i.e. no changes recommended to the modified permit conditions approved by the Board last year)

KCL PERMIT REVIEW: OCTOBER 2014 - SEPTEMBER 2015

The first permit review process began in 2014 and was fully concluded in September 2015. In accordance with the approved Permit Review Criteria (Exhibit C), the Board added five new conditions and modified 82 of the existing conditions due to the approvals granted in response to the initial permit review process. The modifications to the LUP conditions better reflect the established landfill operations in the context of present day environmental and regulatory settings. The first permit review process began similarly to this permit review, with staff compiling information called for in Part I of the Permit Review Criteria in order to prepare the permit review staff report presented to the CPC in October 2014. That report provided substantive information about the 22 year operational and regulatory history since the landfill opened in 1992, as well as other information called for in the Criteria. It was accompanied by a Compliance Status Table exhibit that addressed each of the existing conditions of approval.

The Board of Supervisors heard the first LUP review report from the CPC on December 16, 2014. Following a lengthy discussion at this meeting, the Board unanimously approved modifications recommended for three conditions of approval (20.3, 25.4, and 31.5). These three conditions were modified to explicitly allow for certain materials being used as alternative daily cover (ADC) at the landfill. The permit review was continued to March 3, 2015, as an open public hearing because the Board directed staff to provide additional information they wanted to consider before acting on the remaining recommended modifications. Staff was directed to research and report back on several additional, separate but related items pertaining to on-site material recovery, the City of Pittsburg proposal to take over as the Local Enforcement Agency (LEA), potential County fee/surcharge revenue impacts expected to result if the optional direct haul restrictions were approved, and any California Environmental Quality Act (CEQA) implications resulting from approving either version of new and modified conditions of approval.

In response to Board direction, staff prepared a detailed report on the KCL permit review for the March 3, 2015 meeting. That open public hearing was continued to March 31, 2015, and then again to July 21, 2015, at the request of the District V Supervisor. At that meeting, Department of Conservation and Development (DCD) staff recommended that the Board of Supervisors (Board) continue the item once more to September 22, 2015, so that the District V Supervisor could participate in the decision making process. Staff's report to the Board in September 2015 presented detailed explanations on the additional topics mentioned above. At that time the Board was presented with two options for new and modified conditions to consider. The primary difference between the two options were the proposed new conditions, where one version allowed loads of mixed construction and demolition (C&D) material suitable for recovery at local transfer stations to be direct hauled to the landfill contingent upon the implementation of certain on-site waste recovery, and the other option required those loads go through a transfer station first. The Board approved the option that limited the direct haul of materials that would be potentially recovered if first delivered to a transfer station in accordance with previously approved Board policy that had not been formerly integrated into the LUP. However, the Board approval allowed a grace period of 18 months for the four new direct haul conditions to take effect following the September 22, 2015 hearing.

PERMIT REVIEW HEARING - COUNTY PLANNING COMMISSION: OCTOBER 2016

A public hearing was held before the CPC on Tuesday, October 11, 2016, to review the existing conditions of approval for KCL's LUP, as modified in September 2015. Condition 11.1 affords the Board of Supervisors the opportunity to review the conditions and determine if any new or modified conditions are needed to improve public health, safety, and welfare. The condition also makes clear the County is not precluded from addressing emergency situations, or new requirements imposed by legislation or the courts. Staff concluded that no new or modified conditions needed to be recommended for the existing KCL LUP as a result of this second permit review process which is documented in the attached report presented to the CPC, in accordance with the Board approved Permit Review Criteria.

A substantive amount of time was dedicated to researching and compiling information, as well as working with the landfill operator and other governmental agencies to prepare the report and associated exhibits presented to the CPC (Exhibits B and D). At the October 11, 2016 hearing, the CPC opened the public hearing and took testimony from three speakers: a concerned resident living near the landfill, a permit engineer in the solid waste industry, and a representative of a local Teamsters Union. The speakers supported staff's recommendation to the CPC. All three speakers also spoke favorably of the four new conditions of approval related to the direct haul of C&D material, which were added in the previous permit review approved in 2015. As noted previously, the Board granted an 18 month grace period for the direct haul conditions to go into effect, so they will become effective in late March 2017. Staff expects the landfill operator to begin developing documentation and implementing the tasks necessary to comply with the new

conditions by the time they take effect next Spring. The County Planning Commission then closed the public hearing and voted to recommend that the Board of Supervisors accept the Permit Review Report (Exhibit B) and direct DCD staff to schedule the next permit review in one year.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not accept the report on the second KCL land use permit, the existing conditions of approval would still remain in effect and continue to govern the use of the landfill site.

CLERK'S ADDENDUM

Speakers: Don E. Garcia, Teamsters 315; Lisa Della Rocca, resident of Pittsburg (handout attached); Laura Wright, City of Pittsburg; EVan xxxxx; Dana Dean, representing Evan Edgar and Monica White; Greg Osorio, Garrett Evans;

CLOSED the public hearing; ACCEPTED the permit review report pertaining to the Keller Canyon Landfill land use permit conditions of approval, which concludes that there is no need to add or modify the existing permit conditions; and DIRECTED Department of Conservation and Development staff to schedule the third annual permit review for consideration by the County Planning Commission in October 2017, in accordance with Condition 11.1 of the existing Keller Canyon Landfill land use permit.

ATTACHMENTS

Exhibit A: CPC Resolution - October 2016

Exhibit B: Permit Review Staff Report / Existing LUP Conditions of Approval / Maps - October 2016

Exhibit C: Permit Review Criteria - June 1995

Exhibit D: Compliance Status Table - September 2016