



save MOUNT DIABLO

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AND DEVELOPMENT

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August 27, 2008

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Deidra Dingman, Project Planner
CCC Community Development Department
County Administration Building, 4th Floor
651 Pine Street
Martinez, CA 94553

Re: File #: LP08-2026
Tax Parcel #: 094-360-012
Applicant: Keller Canyon Landfill
Owner: Keller Canyon Landfill
Location: 901 Bailey Road, Pittsburg Area

Dear Ms. Dingman,

Save Mount Diablo appreciates being given the opportunity to make comments on the Keller Canyon Landfill Conditions of Approval amendment application.

Save Mount Diablo believes this application is an opportunity to re-evaluate the significant environmental impacts of the Keller Canyon Landfill given changes in the surrounding areas and to properly mitigate and apply appropriate conditions of approval to the project.

Save Mount Diablo's Position

Save Mount Diablo agrees with East Bay Regional Park District that a new Environmental Impact Report should be prepared for this project. The environmental conditions of East Contra Costa County and the lands surrounding the Keller Canyon Landfill have changed dramatically since the original Environmental Impact Report for the project was conducted in 1989. Expansive development has occurred throughout East County over the past 20 years, converting large open space areas into residential use and depleting the natural habitat and movement corridors for a variety of species. More development is planned in the Pittsburg Hills and the Concord Naval Weapons Station – both in close proximity to the landfill – that will further limit wildlife habitat in the area. As a result, impacts of the landfill on natural resources are more significant and preservation of lands surrounding the landfill is even more important.

Because conditions in the area have changed so dramatically, the 1989 EIR is not a sufficient document to analyze the impacts of a Condition of Approval amendment in today's environment. A new EIR should be prepared to study the impacts of the landfill with the current conditions.

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The EIR should evaluate whether any part of the area identified as a Buffer Area in the 1989 EIR has been dedicated to the County as a Conservation Easement to be preserved in perpetuity. Given the changing conditions of East Contra Costa County, the impacts of the landfill are likely to be more significant. As a result, the entire Buffer Area should be required to be dedicated to the county as conservation easements to mitigate for these significant impacts.

There are a number of issues which Save Mount Diablo believes should be studied in an updated EIR.

Issues for Study

1. Compliance with Conditions of Approval

The updated Environmental Impact Report should include an analysis of whether the applicants have complied with the Conditions of Approval required in the original project. We agree with East Bay Regional Park District that there should be a condition by condition checklist in which a description and date is provided for each of the most previous actions taken to satisfy the conditions.

Additionally, failure to comply with the Conditions of Approval would mean that impacts identified in the 1989 EIR have not been properly mitigated. If this is the case, the updated EIR should require further conditions and mitigations to properly address impacts that may have gone unmitigated.

2. Dedication of Easements to Provide a Buffer

The Project Description section of the 1989 EIR states that “1,036 acres would be reserved for open space and agricultural uses and would serve as a Special Buffer Area. An 82-acre portion of the primary project located west of Bailey Road would also serve as a buffer area.” (1989 EIR, Chapter 2, Pg. 2-1) The updated EIR should state whether any of the lands identified as a buffer area were dedicated to the County as conservation easements. If this has not taken place, how is open space protected?

The Conditions of Approval for the new EIR should be updated to require that all lands identified as the Buffer Area in the 1989 EIR be dedicated to the county as conservation easements and held in perpetuity.

3. Special Status Species

As was stated above, expansive development in East Contra Costa County has limited the amount of suitable habitat for special status species in the area. The 1989 EIR states that “other than the San Joaquin pocket mouse, no unusual species were observed during the surveys or expected to occur on site.” (1989 EIR, Appendix J)

We now know much better the full extent of species in the vicinity. According to the East Contra Costa Habitat Conservation Plan, a total of 69 special-status wildlife and 11 special-status fish species are known to occur or have the potential to occur within the inventory area (which includes the Keller landfill). Given habitat in the lands surrounding the Keller Canyon Landfill, there is a high likelihood that 17 of the special-species identified occur in the project area. The project site is part of a known wildlife corridor for San Joaquin kit fox. Below is a complete list of all 17 special status species that have a high likelihood of occurring on the site along with a habitat description for each.

Longhorn fairy shrimp - Small, clear pools in sandstone rock outcrops of clear to moderately turbid clay- or grass-bottomed pools

Vernal pool fairy shrimp - Common in vernal pools; also found in sandstone rock outcrop pools

Midvalley fairy shrimp - Small, short-lived vernal pools, seasonal wetlands and depressions

Vernal pool tadpole shrimp - Vernal pools and ephemeral stock ponds

California tiger salamander - Small ponds, lakes, or vernal pools in grass-lands and oak woodlands for larvae; rodent burrows, rock crevices, or fallen logs for cover for adults and for summer dormancy

California red-legged frog - Permanent and semipermanent aquatic habitats, such as creeks and cold water ponds, with emergent and submergent vegetation; may estivate in rodent burrows or cracks during dry periods.

Silvery legless lizard - Habitats with loose soil for burrowing or thick duff or leaf litter; often forages in leaf litter at plant bases; may be found on beaches, sandy washes, and in woodland, chaparral, and riparian areas.

Alameda whipsnake - Valleys, foothills, and low mountains associated with northern coastal scrub or chaparral habitat; requires rock outcrops for cover and foraging.

Golden eagle - Nest on cliffs and escarpments or in tall trees overlooking open country; forages in annual grasslands, chaparral, and oak woodlands with plentiful medium and large-sized mammals.

Swainson's hawk - Nests in oaks or cottonwoods in or near riparian habitats; forages in grasslands, irrigated pastures, and grain fields.

Western burrowing owl - Level, open, dry, heavily grazed or low stature grassland or desert vegetation with available burrows.

San Joaquin kit fox - Saltbush scrub, grassland, oak, savanna, and freshwater scrub.

California horned lizard - Grasslands, brushlands, woodlands, and open coniferous forest with sandy or loose soil; requires abundant ant colonies for foraging.

Northern harrier - Grasslands, meadows, marshes, and seasonal and agricultural wetlands.

White-tailed kite - Low foothills or valley areas with valley or live oaks, riparian areas, and marshes near open grasslands for foraging.

California horned lark - Common to abundant resident in a variety of open habitats, usually where large trees and shrubs are absent; grasslands and deserts to dwarf shrub habitats above tree line.

Loggerhead shrike - Prefers open habitats with scattered shrubs, trees, posts, fences, utility lines, or other perches.

The biotic analysis of the original EIR discusses the potential loss of habitat for the California tiger salamander and the Alameda whipsnake as an impact of the project. Both of these species are considered threatened and are impacted by the loss of grazing land in due to

residential development. As more grazing land is converted to residential uses in East Contra Costa County, the remaining open areas, such as those surrounding the Keller Canyon Landfill, have become more important as they provide increasingly precious habitat for these species and many others. The updated EIR should conduct new biotic studies in the area to determine the status of rare species on the project site and vicinity.

The Biotic Resources section of the 1989 EIR identified Lawlor Creek as a perennial creek which crosses the buffer area of the property but provided only limited habitat value because it was so degraded by cattle usage. However, as part of the mitigations for the project a 35-acre area was to be fenced to exclude cattle and 11.6 acres of the Lawlor Creek's riparian corridor was to be revegetated as part of a restoration plan. The Keller Canyon Landfill Project Mitigation Plan section of the 1989 EIR states that "in its present condition, the woodland provides limited habitat value, but would offer habitat of significantly greater value, if improved."

The updated EIR should pay special attention to the segment of Lawlor Creek that was the subject of this restoration plan. If the 1989 EIR is correct in stating that habitat value would be greatly improved by the restoration of the creek, then it is likely that a biotic study would discover more wildlife in the area than the 1989 biotic studies were able to find. With conditions of the creek improved and habitat value increased it is more likely that special status species, including the California red-legged frog, will be found on the property.

A biotic study to determine which species are present on the project site should be conducted, consultation with regulatory agencies undertaken, and mitigations prepared before the application is considered for approval.

4. Recreational Opportunities

A trail corridor stretching from the Concord Naval Weapons Station across the upper elevations of the landfill and toward Black Diamond Mines should be dedicated.

The open space corridor stretching across the Los Medanos hills from Suisun Bay and the Concord Naval Weapons Station to Black Diamond Mines Regional Preserve and Mount Diablo State Park offers a number of resources in addition to wildlife movement corridors and habitat. East Bay Regional Park District is close to completing a corridor of preserved land connecting Mount Diablo State Park to Black Diamond Mines Regional Preserve. The Park District has also applied for a public benefit conveyance to create a new regional park at the Concord Naval Weapons Station. The Keller Canyon Landfill is located adjacent to the Concord Naval Weapons Station and in between the Weapons Station and Black Diamond Mines Regional Preserve.

As Central and East Contra Costa County continue to develop towards one another, the open space corridor and potential recreational opportunities are increasingly threatened. If the buffer area of the Keller Canyon Landfill has been dedicated to the county as a scenic easement, it could be part of a preserved land corridor connecting the Weapons Station and Black Diamond Mines and on to Mount Diablo State Park. However, if the buffer areas have not been dedicated to the County as conservation easements, a potential connection between these preserved lands is less secure. Recreational trail easements providing connections between public lands should be required to be dedicated as mitigation for impacts on the public.

5. Cumulative Impacts

In addition to the expansive development that has already occurred in East Contra Costa County, current and future applications for development in the area present even greater threats to open space in the area. The City of Concord is currently considering the reuse project for the Concord Naval Weapons Station, which abuts the Keller Canyon Landfill. The Naval Weapons Station reuse project could result in as many as 13,000 new residential units and the loss of over 2,000 acres of open space. The City of Pittsburg has approved the development of thousands of homes in the southwest hills near the Keller Canyon Landfill. Pittsburg is also considering the creation of a Hillside Development Ordinance which would open even more land in the hills to potential development.

Smaller applications, such as the Corrie-Kirker Pass application, have been submitted to the County which could result in the loss of open space in the Kirker Pass area. The Corrie-Kirker Pass project (County File MS 070018) proposes a four unit subdivision of a 469-acre parcel, which crosses Kirker Pass Road and is adjacent to the Keller Canyon property.

A new EIR should be prepared for the Keller Canyon Landfill which evaluates the cumulative impacts of proposals in the vicinity of the landfill.

Thank you for including Save Mount Diablo on the contact list for this project and for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Bristol', with a stylized flourish at the end.

Troy Bristol
Save Mount Diablo