

MEMORANDUM

July 14, 2015

TO: Board of Supervisors and Fort Bragg City Council

FROM: Mike Sweeney,
General Manager, Mendocino Solid Waste Management Authority
County Solid Waste Director

RE: Central Coast Transfer Station EIR Certification and Project Approval
& 1st Amendment to Caspar Joint Powers Agreement
(Joint meeting July 21, 2015, Fort Bragg)

Two proposed actions are before the Board of Supervisors and City Council.

1. EIR & Project Approval

For your consideration at this meeting are separate resolutions that certify the EIR, adopt Findings of Fact and a Mitigation Monitoring and Reporting Program, and approve the project. Approval by both bodies would constitute an action authorized under the Caspar Joints Powers Agreement.

The Central Coast Transfer Station is a project to protect the environment. This project was initiated by the County and City nine years ago to mitigate the environmental harm caused by the region's make-shift, fractured and inefficient system for waste disposal.

Unnecessary truck trips, double-handling of waste, and excessive releases of greenhouse gases have been the consequences of our lack of a single efficient transfer station in the central coast region. Action to eliminate this waste is a prime example of what Governor Brown demanded in his Executive Order of April 29, 2015 setting a statewide goal of cutting greenhouse gas emissions by 40 percent.

As documented in the EIR, the proposed project would eliminate 1,500 heavy-duty truck trips [Draft EIR Table 3.7-1] and save 140 metric tons of greenhouse gas emissions per year

[Draft EIR Table 3.7-2]. It would cut overall trash disposal costs in the region by about \$350,000 every year [Response to Comments p. 4-31].

The CEQA process has been followed meticulously for this project and it has accomplished exactly what CEQA was intended to do—it improved the project. As a result, the project enhances forest protection because of Mitigation Measure BIO-1a which would establish the 28.3-acre Caspar Pygmy Forest Preserve to protect in perpetuity 7 acres of extreme short pygmy forested seasonal wetland, 8.6 acres of transitional pygmy forest, 3.7 acres of tall pygmy species, and 5.76 acres of Bishop Pine forest [Response to Comments, Appendix A]. Unless preserved these acres would be open to development. The forest area that would be preserved is far greater than the forest area that would be removed to make room for the project—in the case of pygmy species, 30 times more is preserved than removed.

The Board and Council designated the Highway 20 project site as the preferred site in 2013 because they believed that it would accomplish the project objectives with no significant adverse environmental impacts. The 600-page draft EIR and the 200-page Response to Comments supplement provide answers to 45 written and verbal comments. The Final EIR concludes that there are no adverse significant environmental impacts after mitigation, and there are several important environmental benefits.

Numerous important features are incorporated into the project to ensure that it won't harm the environment and won't be a nuisance to residents on Highway 20. Principal among these is fully enclosing the transfer building so that noise, dust, and odors can be prevented from leaving the property.

Issue of controversy

Several comments and responses deserve to be highlighted for the Board and Council, as they are likely to be reiterated in further public comment:

- **Does the project harm pygmy forest?**

True pygmy forest is a rare ecosystem that results from shallow cemented hardpan soils where only certain trees can survive, principally Mendocino Cypress and Bolander's Pine. Our botanical consultant carefully mapped the 17-acre project site and identified 2.63 acres of "Extreme Pygmy Forest" with very stunted trees and 3.79 acres of "Transitional Pygmy Forest" with lesser

stunting of growth [Draft EIR Appendix D]. The Board and Council didn't designate the Highway 20 location as the preferred site in 2013 until it was confirmed that the transfer station could be designed to completely avoid these most-sensitive acres. These areas will remain untouched as part of the 12 acres on the eastern side of the site that will be completely undisturbed by the project.

The same pygmy species—Mendocino Cypress and Bolander's Pine—also thrive in better soils where they co-exist with other species such as Bishop Pine, and grow to normal heights up to 100 feet [Draft EIR Appendix D]. In these situations, the forest isn't "pygmy" as it is commonly understood, but the Mendocino Cypress and Bolander's Pine are nevertheless identified by the State as sensitive species. The project footprint would remove .58 acres of forest with these "tall" pygmy species, along with other individual Mendocino Cypress and Bolander's Pine that are mixed into a predominantly Bishop Pine forest of 4 acres.

The project fully mitigates for this minor impact on the Mendocino Cypress and Bolander's Pine by establishing the Caspar Pygmy Forest Preserve where 30 times as much pygmy habitat is preserved.

- **Is there a misclassification or significant impact on Bishop Pine Forest?**

The project footprint would require the removal of 4 acres of Bishop Pine Forest. The EIR states that the California Fish & Wildlife Department's CALVEG survey shows that the amount of Bishop Pine Forest in Mendocino County alone is 14,900 acres, along with stands in Sonoma, San Luis Obispo and Santa Barbara Counties, so that removal of 0.03% of the Mendocino population of this forest type isn't a significant impact [Draft EIR, p. 3.4-47].

The EIR states that Bishop Pine Forest is a "S3" species under the State's ranking, meaning it is a special-status species that is "vulnerable." The EIR provides exact references to the State's own vegetation database to justify the S3 designation [Response to Comments, p. 4-3]. Commenters from the California Department of Fish & Wildlife have disputed this finding, claiming that Bishop Pine is "S2," meaning "imperiled," citing contradictory vegetation identifications. These CDFW commenters feel generally that no special-status species should be disturbed anywhere, anytime. This narrow-focus is

commendable and necessary but the Board and Council must weigh other environmental and public policy priorities as well.

The conflicting assertions about whether Bishop Pine Forest is “S2” or “S3” are beside the point because the CEQA question is whether removal of 4 acres is a significant impact and the EIR independently documents that it isn’t.

In any case, the Caspar Pygmy Forest Preserve would protect 5.76 acres of Bishop Pine Forest [Response to Comments, Appendix A].

- **Will stormwater harm the surrounding forest?**

The EIR states that pollution of stormwater leaving the project would be prevented by the full enclosure of the transfer building and the roof protecting certain recycling drop-off areas. Further, all stormwater would be directed to bioswales that will filter any pollutants, and then enter one of two stormwater detention basins that would control the velocity of discharge flows in order to mimic the existing conditions. The stormwater basins would discharge into the same swales that presently drain the site. The extreme pygmy hardpan areas, which are sensitive to hydrological changes, would be completely avoided

[Response to Comments, p. 4-8].

- **Does the project conflict with the Mendocino County General Plan?**

The Mendocino County General Plan has policies that call for protection of special-status species. These policies, however, do not prevent the removal of special-status species if avoidance and replacement are pursued. The EIR demonstrates that the project complies with these General Plan policies because the project was carefully designed to minimize on-site impacts to special species, and fully mitigates the small impacts through the creation of the Caspar Pygmy Forest Preserve.

- **Why weren’t other alternative sites chosen?**

The Board and Council have the discretion to choose the transfer station site, provided that alternatives are sufficiently analyzed and objective reasons are given for their rejection.

Some project opponents say the transfer station should be built at the Caspar Landfill site. This alternative was analyzed in detail by the EIR which found that it was inferior to the proposed project (the Highway 20 site) in aesthetics, energy use, greenhouse gases and transportation safety.

Other project opponents say the transfer station should be placed on Empire Waste Management's property at 219 Pudding Creek Road. The EIR demonstrates that this alternative is also inferior to the proposed project because it would worsen traffic congestion on Main Street in Fort Bragg, is close to 62 residences, and because it isn't available for public ownership, which is a basic objective of the project.

Other project opponents say that the Leisure Time RV Park on Highway 20 or the Mendocino Parks & Recreation property on Highway 20 should have been chosen because they have sites that have already been stripped of vegetation so there would be no forest impacts. The EIR states that a basic siting goal was to minimize proximity to other land uses. For the Leisure Time RV site there are 36 residences within 1000 feet, and one as close as 20 feet to the property line, not including any long-term tenants of the RV park. The Mendocino Parks & Recreation site has 35 residences with 1000 feet, also with one as close as 20 feet to the property line. In addition, the Mendocino Parks & Recreation site hasn't been offered for sale at a price close to the appraised value which is the maximum that public agencies may pay under law.

Recommended action

Under CEQA, the Board and Council must exercise their independent judgment to decide whether the EIR has adequately analyzed the environmental issues, and certify that the EIR was prepared in accordance with CEQA if they believe it has.

Also under CEQA, after an EIR is certified a project can only be approved if specific Findings of Fact are made with respect to each of the project's potentially significant adverse impacts. Here, as demonstrated by the EIR and as discussed in the Findings of Fact document, each of the project's potentially significant impacts can be reduced to levels of insignificance by imposing the mitigation measures identified in the EIR on the project. And finally, a Mitigation Monitoring and Reporting Program must be adopted which not only lists all of the EIR's mitigation measures being imposed on the project,

but identifies who is responsible for carrying out each mitigation and who is responsible for verifying compliance.

All these actions and approvals, together with the general approval of the project, are encompassed in the resolution for your consideration.

2. Amend the Caspar JPA

The Caspar Joint Powers Agreement between the County and City (2011) provides that the JPA will be amended as necessary when a transfer station project is approved. The proposed 1st Amendment continues the close partnership between the County and City but simplifies administration of the transfer station project.

Under the amendment, the County would take ownership of the project site pursuant to AB 384. The County would take a series of additional steps with City consent at each step:

- Prepare and issue a Request for Proposals (RFP) for a qualified private corporation to design, build and operate the transfer station.
- Evaluate responses to the RFP.
- Negotiate and approve a long-term contract for design, construction and operation of the transfer station.

The County would serve as contract administrator. Any significant amendments to the contract would require City consent.

There are other provisions in the amendment concerning indemnification, insurance, liability, contract administration fee, solid waste flow covenant, conservation easement on the Caspar property, and the closure of the Caspar self-haul facility.

Recommended action: Adopt resolutions approving the 1st Amendment to the Caspar Joint Powers Agreement

