

# MEMORANDUM

TO: Board of Supervisors & Fort Bragg City Council

FROM: Mike Sweeney, General Manager, Mendocino Solid Waste Management Authority  
Linda Ruffing, Fort Bragg City Manager

DATE: September 9, 2016

RE: Central Coast Transfer Station approvals, joint meeting September 19, 2016

## 1. EIR & Project Approval

For your consideration at this meeting is a resolution that certifies the EIR, adopts Findings of Fact, adopts the Mitigation Monitoring Program, and approves the project. Approval by both bodies would constitute an action under the Caspar Joints Powers Agreement.

The Central Coast Transfer Station is a project to enhance the efficiency of the solid waste disposal system for the central Mendocino Coast, which has benefits for both ratepayers and the environment. This project was initiated by the County and City ten years ago to mitigate the environmental harm and waste caused by the make-shift, fractured and inefficient system that is currently used for waste disposal in the central coast region.

Unnecessary truck trips, double-handling of waste, and excessive releases of greenhouse gases have been the consequences of the lack of a single efficient transfer station in the central coast region. Action to eliminate this waste would be 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 by the year 2030.

As documented in the EIR, the proposed project would eliminate 1,500 heavy-duty truck trips and save 140 metric tons of greenhouse gas emissions per year. It would cut overall trash disposal costs in the region by about \$350,000 every year.

The CEQA process has been followed meticulously for this project and it has accomplished exactly what CEQA was intended to do—it has informed the public and decision-makers of the environmental impacts and consequences of the project; and it has resulted in the identification of feasible mitigation measures to reduce the impacts of the project to a level of insignificance. Two notable mitigation measures in the EIR preserve, protect and restore Mendocino cypress habitat and Bishop pine forest at ratios well above those impacted by the project.

- 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. Unless preserved these acres would be open to development.

- Mitigation Measure BIO-2b to reestablish 1.01 acres and enhance 5.28 acres of new Bishop Pine forest on the Caspar Landfill property.

The acreage of forest that would be preserved is far greater than the forest that would be impacted by 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 Final EIR reaches the same conclusion: 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.

Every solid waste facility attracts controversy and this one is no exception. The two Response to Comments documents—June 2015 and September 2016—are a full exposition of the concerns that have been raised about the project and the Board and Council should review them carefully.

### **Issue of controversy**

Several comments and responses deserve to be highlighted for the Board and Council:

- **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. The Board and Council didn't designate the Highway 20 location as the preferred site until we confirmed that the transfer station could be designed to completely avoid these most-sensitive acres. They will remain untouched as part of the 12 acres on the eastern side of the site that will be 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. 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 a 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 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, so that 4 acres constitutes only 0.03% of its range in this county alone.

The EIR of February 2015 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 (See 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 it ignores the other environmental and public policy priorities that the Board and Council must weigh.

On the Bishop Pine issue, we have chosen to accept CDFW's claim that the Bishop Pine impact is "significant" for CEQA compliance purposes. Accordingly, the revised EIR so declares, and Mitigation Measures BIO-1a and BIO-2b provide a total of 12.05 acres of preserved, restored or enhanced Bishop Pine forest.

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

The EIR states that pollution from stormwater leaving the project would be prevented by the enclosed transfer building and the roof protecting certain recycling drop-off areas. Further, all stormwater would exit through bioswales that 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.

- **Can the project pollute the City's Summers Lane Reservoir?**

The claim that the transfer station could endanger the water supply has been an effective tool to alarm city residents, but it lacks any basis whatsoever in fact. The reservoir is one mile from the transfer station site. The reservoir is protected from surface runoff by a berm and from infiltration by an High Density Polyethylene (HDPE) liner. The water supply for the reservoir comes from Waterfall Gulch which is in a different watershed.

- **Will the "land swap" harm the 12.6 acres to be transferred from Russian Gulch State Park to Jackson Demonstration State Forest?**

Under AB 384, JDSF may be made whole for the loss of the Highway 20 transfer station site by the acquisition of 12.6 acres from the northeastern corner of Russian Gulch State Park. This is essentially an accounting measure that the State wanted so that JDSF wouldn't decline in asset value as a consequence of the project. It was the Superintendent of State Parks' Mendocino District, Marilyn Murphy, who suggested that the 12.6 acres be offered to JDSF. She pointed out that those acres were undeveloped and separated from the State Park by Road 409, and that few people were even aware that they belonged to the State Park and not to JDSF, which surrounds the site on three sides.

Last year, opponents of the project succeeded in getting State Parks to reverse its position on the land swap. Objections were raised that JDSF might cause a significant impact by some future logging on the 12.6 acres.

These concerns are answered by the revised Draft EIR which points out that:

- The 12.6 acres will become part of JDSF's Caspar Creek Watershed Study Area which allows timber harvests only sparingly and for research purposes.
- No timber harvesting is contemplated by JDSF for this Study Area that might affect the property for at least 15 years.
- Any timber harvest would be subject to a Timber Harvest Plan which is the functional equivalent of an EIR under CEQA, with the same mandate of avoiding or mitigating any significant environmental impact.
- The portion of the 12.6 acres close to Road 409 is protected from disturbance by JDSF's Road and Trail Corridor Policy, which preserves its scenic values.
- Marbled murrelet habitat has been documented on the 12.6 acres which is an effective protection against any disturbance that might affect this endangered species.

Therefore, no significant impact, or indeed any impact, on the 12.6 acres is reasonably foreseeable. However, State Parks certainly can seek whatever assurances or covenants may be appropriate from its sister department—CalFire--within the State Resources Agency.

- **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 states 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 and the Bishop Pine restoration work on the Caspar Landfill property.

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

The Board and Council have the unrestricted authority to choose the transfer station site, provided that alternatives are sufficiently analyzed. As all impacts of the project are

adequately addressed by the mitigation measures, the alternative sites including the site identified as the “Environmentally Superior Alternative” do not need to be rejected as infeasible.

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 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 explains that this alternative was passed over because it would worsen traffic congestion on Main Street in Fort Bragg, it 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 vegetation impacts. The EIR states that a basic siting goal was to minimize proximity to other land uses. A chart is provided in the Response to Comments document at 4-1 which shows that many more residences lie in the vicinity of Leisure Time RV Park and the Mendocino Parks & Recreation Property, compared to the project site.

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 and future steps**

Under CEQA, the Board and Council must exercise their independent judgment to decide whether the EIR has adequately analyzed the environmental issues, and certify the EIR as adequate if they believe it is.

Also under CEQA, Findings of Fact must be approved which identify the individual impacts and state that the mitigation measures are sufficient. And finally, a Mitigation Monitoring Plan must be adopted which identifies who is responsible for carrying out each mitigation and who is responsible for verifying compliance.

All these 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 (revised 2011) between the County and City provides that the JPA will be amended as necessary when a transfer station project is approved. The proposed First 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 the responses to the RFP.
- Negotiate 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 approval.

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.