

## Permitting & Assistance Branch Staff Report

New Solid Waste Facilities Permit for  
Commercial Waste & Recycling, LLC

SWIS No. 01-AA-0302

January 6, 2016

### **Background Information, Analysis, and Findings:**

This report was developed in response to the County of Alameda Environmental Health Department Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed new Solid Waste Facilities Permit (SWFP) for Commercial Waste & Recycling, LLC, SWIS No. 01-AA-0302, located in City of Oakland, and operated by Commercial Waste & Recycling, LLC and owned by Joshua 1:8 Holdings, LLC. A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on October 19, 2015. A new proposed permit was received on November 18, 2015. Action must be taken on this permit no later than January 17, 2016. If no action is taken by January 17, 2016, the Department will be deemed to have concurred with the issuance of the proposed new SWFP.

### **Proposed Project:**

The following are the key design parameters of the proposed project:

	Proposed SWFP
Name	Commercial Waste and Recycling, LLC
Operator	Commercial Waste & Recycling, LLC Joshua and Deborah Fookes
Owner	Joshua 1:8 Holdings, LLC
Facility Type	Large Volume Transfer Processing Facility
Permitted Hours/Days of Operation	Receipt of Waste: Monday – Friday 6:00 a.m. to 6:00 p.m. Saturday 7:30 a.m. to 4:30 p.m. Sunday Closed Transfer/Processing/Maintenance: 7 days a week, 2:00 a.m. to 11:59 p.m. Closed: New Year's Day, Memorial Day, July 4 <sup>th</sup> , Labor Day, Thanksgiving Day, Christmas Day
Permitted Tons Per Day	360 Tons Per Day
Permitted Traffic Volume	295 vehicles per day (see condition e) [Condition "e" in summary states: maximum vehicle trips per day is 275 incoming, 20 outgoing transfer trailers]
Permitted Area (in acres)	1.1
Design Capacity	360 Tons Per Day

**Background:**

The proposed project will combine the operations of the existing Commercial Waste & Recycling, Chipping and Grinding (C&G) Operation (SWIS No. 01-AA-0300) and Commercial Waste & Recycling, LLC, Medium Volume Construction Demolition Inert (CDI) Debris Processing Facility (SWIS No. 01-AA-0302) into one encompassing New Full SWFP as a Large Volume Transfer/Processing Facility. The C&G activity has been operating under an EA Notification since August 2009; the CDI processing facility was issued a Registration Permit by the LEA in August 2010. The EA Notification allows for up to 200 tons per day (TPD); and the Registration Permit allows for 160 TPD, which will be combined for a total of 360 TPD for the new SWFP maximum daily tonnage.

**Findings:**

Staff recommends concurrence in the issuance of the proposed new SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated September 18, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report is not required for a new SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on November 18, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on September 21, 2015, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Compliance Unit found the facility is identified in the Non-disposal Facility Element as described in the memorandum dated November 3, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
	requirements during an inspection conducted on November 20, 2015. See Compliance History below for details.	
21685(b)(9) LEA CEQA Finding	The LEA provided a finding on December 15, 2015, that the proposed permit is consistent with and supported by the existing CEQA documentation. See the Environmental Analysis below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on September 8, 2015. No written comments were received by LEA or Department staff. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed new SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

**Compliance History:**

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on November 20, 2015 and found the existing C&G operation in compliance with applicable state minimum standards; and the existing medium volume CDI debris processing facility in compliance with applicable state minimum standards and consistent with the Registration Permit.

In addition, Permitting & Assistance Branch staff have determined that the design and operations described in the submitted Transfer Processing Report, dated July 15, 2015, will allow the proposed facility to comply with state minimum standards.

Below are the details of the C&G operation and the medium volume CDI debris processing facility compliance history based on the LEA's inspection reports during the last five years:

Medium Volume CDI Debris Processing Facility

- 2015 (January through November) – No violations were noted.
- 2011 – 2014 – No violations were noted.
- 2010 (September through December) – One violation of 14 CCR Section 17383.6(e) – 48 Hour Residual Removal was noted in October.

The violation was corrected to the satisfaction of the LEA.

No violations have been cited by the LEA at the C&G operation since it started operations in 2009.

**Environmental Analysis:**

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must make a determination as to whether this new SWFP is categorically or statutorily exempt or additional CEQA analysis is necessary.

The proposed facility will be a Large Volume Transfer/Processing Facility (combining an existing Chipping and Grinding Operation and a Medium Volume CDI Debris Processing Facility); hours of operation for receipt of waste will be 6:00 a.m. to 6:00 p.m., Monday through Friday; 7:30 a.m. to 4:30 p.m. on Saturdays; and closed on Sundays; hours for transfer/processing/maintenance will be 2:00 a.m. to 11:59 p.m., 7 days a week; permitted maximum tonnage will be 360 tons per day (tpd); permitted traffic volume will be 295 vehicles per day [275 incoming and 20 outgoing transfer trailers]; and the permitted area will be 1.1 acres.

An Environmental Impact Report (EIR) for the 1998 General Plan Land Use and Transportation Element, State Clearinghouse No. 1997062089 was certified by the City of Oakland on June 23, 2002. On March 1, 2013, the City of Oakland Community and Economic Development Agency, Planning & Zoning Services Division made a determination that the proposed project increase in overall trip/load generation to 295 vehicles per day with queuing mitigations remains consistent with Section 17.10.586B (Recycling and Waste-Related Industrial Activities), and is compatible with the General Industrial Zone in which this Recycling and Waste-Related Industrial Activities currently operates.

The County of Alameda Environmental Health Department (LEA) has provided a finding that the proposed new SWFP is consistent with and supported by the cited environmental document. The LEA has determined that the proposed project is statutorily exempt from further CEQA pursuant to Public Resources Code (PRC), Section 21083.3(b) in that it is consistent with the 1998 General Plan EIR.

The LEA, acting as a Lead Agency under CEQA, and utilizing the 1998 General Plan EIR as prepared by the City of Oakland, prepared a Notice of Exemption (NOE), filed with the Alameda County Clerk on November 18, 2015, verifying that there are no grounds under CEQA for the LEA to prepare a subsequent or supplemental environmental document for its issuance of the proposed new SWFP.

Department staff has considered the traffic volume increase and find the proposed project is consistent with the 1998 General Plan EIR as amended, and re-certified in 2009. Department staff made the finding/determination that a Statutory Exemption, PRC Section 21083.3(b) – General Plan Consistency is adequate for the Department’s concurrence in this proposed new SWFP.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, prepare a NOE based on the Statutory Exemption (PRC Section 21083.3(b)) and CEQA

Guidelines Section 15183. After reviewing the project and the 1998 General Plan EIR, the Department finds that the proposed project is consistent with the 1998 General Plan EIR as amended. The NOE will be filed with the State Clearinghouse following the Department's concurrence in the new SWFP proposed by the LEA. There are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed new SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed new SWFP and all of its components and supporting documentation, this staff report, the Notice of Exemption, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed new SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

**Public Comments:**

The project document availability, and associated meeting were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on September 8, 2015, at Francesco's Restaurant, in the City of Oakland. One member of the public was in attendance. The member of the public commented on the proposed increase in traffic. The LEA answered by indicating that the traffic flow is regulated by the City of Oakland. No written comments were received by the LEA or Department staff.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on October 20, 2015, November 17, 2015 and December 15, 2015. No comments have been received by Department staff.