



## MEMO

Date: January 15, 2019  
To: Honorable Mayor and City Council  
Steve Kroeger, City Manager  
CC: Shannon Chaffin, City Attorney  
From: Terrel Locke, Assistant to the City Manager  
Re: Item No. 5 – Recycling Industries Appeal

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Over the weekend Stop the Dump (STD) and Recycling Industries (RI) continued to meet and came to an agreement with updated Conditions of Approval (COA) for the City Council to consider.

Attached are the redline conditions of approval that the appellant, applicant and City staff will discuss at the Council meeting this evening. Copies of these documents will be available for the public at the City Council meeting this evening.



# Conditions of Project Approval

REDLINE

Attachment 2: Conditions of Project Approval  
(Adopted by Planning Commission November 28, 2018)

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## Indemnification:

1. The applicant, operator, and/or property owner ("Applicant" herein) is required to enter into an agreement with the City agreeing to indemnify, defend, and hold harmless the City of Yuba City, its officers, attorneys, agents, employees, departments, commissioners, authorized volunteers, and boards ("City" herein) against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, in any way arising from, the terms and provisions of this land use approval, including without limitation any California Environmental Quality Act (CEQA) approval or any related development approvals or conditions whether imposed by the City, or not, except for City's sole active negligence or willful misconduct. This indemnification condition does not prevent the Applicant from challenging any decision by the City related to this project and the obligations of this condition apply regardless of whether any other permits or entitlements are issued. The land use approval shall not become effective until Applicant executes a "Covenant to Indemnify."

- 1.a. Insurance – Applicant shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this use under this entitlement adequate insurance for the proposed project as deemed necessary by a third-party waste management field expert as chosen by the Applicant. Any fee incurred by the City to receive the third-party recommendation will be paid by Applicant within 30 days. Such policy or policies shall be without any deductible amount (except as may be expressly authorized by the City), and shall be issued by companies authorized to do business in the state of California shall specifically protect City by naming City as additional insureds on the policies. The Applicant shall forward to the City updated certificates of insurance and endorsement(s) when policies are renewed or changed. The insurance required shall not be interpreted to relieve the Applicant of any other obligations or conditions of approval. The Applicant shall remain fully liable for all deductibles and amounts in excess of the coverage actually realized.**
2. In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

## Materials:

3. The facility shall not receive more than 100 tons per day.
4. The facility shall only receive material generated within the Sutter and Yuba Counties.

**4.a. Applicant will maintain logs showing location of waste received and shipped and provide copies of such logs once every ninety days to City.**

5. Putrescible material: maximum of 10 percent of all material. Material shall be removed within 48 hours.
6. The facility shall not accept, store, or process:
  - a. Hazardous Material
  - b. Biohazardous Material
  - c. Medical Waste

If any of the above waste (hazardous, biohazardous or medical) is dumped illegally at the site, the operator shall take necessary steps to properly handle and dispose of such items listed.

7. Tires: Shall be stored in a bin no larger than 40 yards in size. A maximum of one tire bin shall be at the facility at any given time.
8. Green Waste:
  - a. No green waste shall be accepted via a packer truck, including side, front, or rear loaders.
  - b. Self-haul green waste may be accepted and processed.
  - c. **Green Waste s**hall be removed within 48 hours of being accepted.
9. Pallets: Shall not be stacked taller than 6 feet in height outdoors.

## Delivery of Material:

10. Except for source separated curbside recyclables, material may not be accepted via packer trucks. This includes side, front, or rear loaders.
11. Roll off bins of up to 50 yards may be accepted
12. The facility is closed Sunday. The facility is open from to refuse/waste from 7am – 5pm, Monday through Saturday with ancillary operations from 6am – 9pm, Monday through Saturday.

## Storage:

13. All utilized areas, including storage areas, shall be paved.
14. Bundled, packaged, and/or palletized material shall be stored on paved areas.

## Vector Control:

15. Operator shall follow all controls listed in Section 5.5 of Transfer/Processing Report (TPR).

## Noise:

16. Operator shall contract with an independent acoustical engineer to measure noise being generated by the facility within 10 working days as requested by the City. Should noise levels exceed adopted **City** standards, said noise levels shall be reduced to acceptable levels within 24-hours. **Noise levels shall not exceed City standards as measured at the property line.**

## Odor Control:

17. Operator shall comply with all provisions listed in Section 5.4 of TPR
18. Trucks shall be washed weekly off-site or on-site where solids in water can be captured before entering the City stormwater system. **City-approved industrial cleaning facilities shall be specified as approved locations for washing, if such cleaning facilities are incorporated within City limits**

## Queuing:

19. All queuing of vehicles must be maintained on the Applicant's property. All employee vehicles must be parked on the Applicant's property.

There shall be no stacking and/or queuing of vehicles entering the facility and/or waiting to access the scale on the public right-of-way. "Public right of way" shall include Epley Drive, Garden Highway, Putman Avenue, Burns Drive, Hasset Avenue, and any alleys over which a public right of way has been retained.

- ~~19. Vehicles shall not be directed to leave the facility to avoid queuing; rather operational changes shall be implemented within 24 hours of notification by the City. There shall be no stacking and/or queuing of vehicles entering the facility and/or waiting to access the scale on the public right of way. Vehicles shall not be directed to leave the facility to avoid queuing; rather operational changes shall be implemented within 24 hours of notification by the City.~~

## Processing:

20. All processing, sorting, compacting, shredding, baling, crushing, etc. of solid waste destined to a landfill shall occur indoors.
21. All green waste shall be stored indoors unless contained in a roll-off container and covered.
22. Storage of roll off bins destined to be dumped and processed at the site shall be properly covered, unless stored indoors.
23. **During construction, contractor vehicles must be parked on Applicant's property, except to the extent to accommodate concrete, paving and asphalt work occurring on the property. Such work will be completed within 60 days, unless expressly approved by the Public Works director.** ~~Storage of construction vehicles/material is not allowed in the public right-of-way.~~

## Litter Control:

24. Litter control shall be implemented as described in section 4.11.2 of the TPR report.
25. The transfer station operator shall manage the facility in such a manner that confines litter to the work area, which prevents litter from accumulating on other parts of the site and which prevents litter from being blown off the site.
26. The transfer station operator shall implement a program requiring transfer station users to securely containerize their load to avoid littering. The program shall be subject to the approval of the City.

27. Under windy conditions, the transfer station operator shall cover the refuse with City approved cover materials as often as necessary to control blowing litter. Other options shall be considered as necessary, including the alignment of unloading areas away from the prevailing wind direction.
28. The transfer station operator shall install portable litter fencing in the work area to intercept wind-blown debris.
29. The transfer station operator shall remove litter from the litter fencing and planting screens at least once a day. On site access areas shall be policed at least daily. The City may require more frequent policing to control the accumulation of litter.
30. The transfer station operator shall provide weekly (or more frequent) litter clean up along City right-of-way to and from the facility. The City may modify the frequency of clean up and/or area of coverage. If wind-blown litter from the transfer station reaches other properties, the Public Works Director may require the transfer station operator to remove the litter and the Director may require the operator to institute additional measures to prevent recurrence of the problem.
31. Paved roadways proximate to the site shall be cleaned as necessary when soil material has been carried by patrons of the facility onto public roadways. If the operator fails to do so upon notice, the City may clean the roadway at the operator's expense.
32. The transfer station operator shall post signs, as determined necessary by the City, along access roads to the transfer station noting littering and illegal dumping laws. The operator ~~should~~ shall periodically publish these laws and operation hours in mailings **postings, pamphlets or any advertisement, electronic or otherwise.**
33. The transfer station operator shall post signs at the transfer station entrance noting the hours of operation.

## Posting of Signs:

34. The transfer station operator shall post signs, at their expense, notifying patrons of littering regulations and the need to properly tarp their vehicles to minimize debris from exiting the vehicle onto the roadway and/or neighboring sites.

## Host Fee:

35. **Prior to use of the new building, the applicant will negotiate a "host Fee" with the City.** ~~Following State approval of the proposed expansion of the Large Volume Transfer Station, the applicant will negotiate a "host fee" with the City.~~ The Host Fee will be calculated based upon the amount of garbage that is ultimately transferred to the Landfill by the applicant.
  - a. Authorize the Community Development Director (or his designee) to approve minor **technical** amendments to the project Transfer Processing Report **that do not alter any Conditions of Approval**, as necessary to accommodate final approval from the State of California.
  - b. **Any requests for modifications must be submitted to City Council for approval, if consistent with City Ordinances then in effect. Authorize the Community Development Director (or his designee) to provide all necessary approvals, which do not modify the**



**conditions, required to obtain final approval from the State of California for the proposed Large Volume Transfer Station.**~~Authorize the Community Development Director (or his designee) to provide all necessary approvals required to obtain final approval from the State of California for the proposed Large Volume Transfer Station.~~

## Public Works:

36. To help contain fugitive dust, construction sites shall be watered down during the construction phase of the project or as directed by the Public Works Department.
37. The applicant, at their expense, shall be solely responsible for all quality control associated with the project. The quality control shall include, but is not limited to, the following: survey work, potholing existing utilities, all geotechnical testing, soil reports, concrete testing, asphalt testing, and any other required special testing/inspections. The City will only perform necessary testing to insure compliance.
38. Storage of construction vehicles/material is not allowed in the travel way.
39. The improvement plans for the development of the subject property shall include all measures required to ensure that no drainage runoff resulting from the development of the property flow onto the adjacent lands or impede the drainage from those properties. The rear yards and/or side yards of the parcel shall have the same finish grade elevation as those lots within tolerances as approved by the Public Works Department. If retaining walls are required they shall be constructed of concrete or masonry block.
40. The contractor shall obtain an Encroachment Permit from the City prior to performing any work within public rights of way.
41. The Developer shall place, within the property boundary, an in-line separator on the storm drain line prior to the point of connection to the storm drain line in the City right-of-way. Property owner shall be responsible for all maintenance of the system.
42. Required Improvement Plan Notes:
  - a. "Any excess materials shall be considered the property of the contractor/owner and shall be disposed of away from the job site in accordance with applicable local, state and federal regulations."
  - b. "During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. The Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler baffles. Failure to do so may result in the issuance of an order to stop work."
  - c. "If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sutter County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies."
  - d. "The Contractor(s) shall be required to maintain traffic flow on affected roadways during non-working hours, and to minimize traffic restriction during construction. The

Contractor shall be required to follow traffic safety measures in accordance with the CalTrans "Manual of Traffic Safety Controls for Construction and Maintenance Work Zones." The City of Yuba City emergency service providers shall be notified, at least two working days in advance, of proposed construction scheduled by the contractor(s)."

- e. "Soil shall not be treated with lime or other cementitious material without prior express permission by the Public Works Department."
43. Prior to paving, the Developer shall vacuum test all manholes to ensure no leakage will occur.
44. The curb, gutter, sidewalk, and lot drainage shall be inspected and approved by the City. Any curb, gutter and sidewalk which is not in accord with City standards or is damaged before or during construction, shall be replaced. All sidewalks along the City right-of-way shall be free of any non-control joint cracking. In addition, any concrete with cracks, chips, blemishes, and spalling greater than an inch in diameter shall be replaced from control joint to control joint.
45. The property shall petition for formation of a Zone of Benefit of the Yuba City Lighting Maintenance District for the purpose of maintaining the street lights. The Engineering Division shall be reimbursed actual costs associated with the formation of the district.
46. All public street lighting shall be dedicated to the City of Yuba City.
47. Cross easements over all property not occupied by buildings shall be reserved in deeds for all underground utilities, ingress and egress, parking, drainage, landscaping, and the maintenance thereof to the benefit of all parcels involved in the division.
48. Prior to the issuance of a building permit, the property owner shall merge the parcels in to one parcel, or shall relocate the property lines between the parcels so they do not bisect any buildings.
49. The project, including phased improvements, shall comply with the City's Storm water Management and Discharge Control Ordinance (Title 4, Chapter 21 of the Yuba City Municipal Code).
50. **Prior to the issuance of a building permit,** ~~the~~ the applicant shall provide evidence that a Notice of Intent has been submitted and received by the local Water Quality Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan shall be provided to the City.
51. **Prior to obtaining final occupancy approval,** ~~t~~he applicant shall provide, to the Public Works Director, the name and contact information of the individual(s) who will be responsible for cleaning any debris in the City right-of-way resulting from the transfer station's operations. ~~The individual(s) shall be available.~~
52. Applicant to contact the State Water Resources Control Board to determine industrial general permit compliance.

## Fire Department:

53. Obtain necessary permits from the Yuba City Fire Department.

## CalRecycle:

54. Comply with letter November 5, 2018 and subsequent correspondence between CalRecycle and Larry Miner.

## Feather River Air Quality Management District:

55. Comply with letter dated November 6, 2018 and subsequent correspondence between the FRAQMD and Larry Miner.

## Sutter-Yuba Local Enforcement Agency:

56. Comply with letter dated November 5, 2018 and subsequent correspondence between the LEA and Larry Miner.

## Central Valley Regional Water Quality Control Board:

57. Comply with letter dated October 30, 2018

## Planning Commission Meeting Condition:

58. The mitigation measures identified in the initial study and mitigated negative declaration, which also include Appendix A of the Transfer Processing Report Assessment, shall be included as mitigation measures.

## Additional Conditions

59. **PROJECT DEADLINES:** To prove good faith in completing this project in a timely manner, and to acknowledge that time is of the essence, the applicant must commence construction by March 31, 2020, and be substantially complete within 18 months of commencement. Failure to comply with either deadline will void modification of this Use Permit. Substantially complete is defined by City Code.
60. **FUTURE USE PERMIT MODIFICATIONS AND EXTENSIONS:**
  - a. Given the repeated extensions of Use Permit 12-01, the City advises the Applicant future attempted modifications of this Use Permit will be, if consistent with City Ordinances then in effect, submitted to the City Council for review.
  - b. Additionally, if the Applicant fails to meet project deadlines outlined in Condition 59, the previous Use Permit 12-01 will not be eligible for extension and will expire if not effectuated.
  - c. City staff must notify Stop the Dump of the receipt of any applications for modification of this Use Permit when received and afford STD a minimum of 20 days to respond and request the opportunity to reply. Notice is presumed to have been properly provided to STD if mailed, emailed, faxed, or personally delivered to:

**Bridgit Barnes, Esq.**  
**Brigit S. Barnes & Associates, Inc.**

**3262 Penryn Road, Suite 200**  
**Loomis, CA 95650**  
**Tel: 916-660-9555**  
**Fax: 916-660-9554**  
**Email: [bsbarnes@landlawbybarnes.com](mailto:bsbarnes@landlawbybarnes.com)**

## **Revised Conditions of Approval**

## Revised Conditions of Approval

- 1.a: Insurance – Applicant shall, at a minimum, provide, pay for, and maintain in force at all times during the term of use under this entitlement adequate insurance for the proposed project as deemed necessary by a third-party waste management field expert as chosen by the Applicant. Any fee incurred by the City to receive the third-party recommendation will be paid by Applicant within 30 days. Such policy or policies shall be without any deductible amount (except as may be expressly authorized by the City), and shall be issued by companies authorized to do business in the state of California shall specifically protect City by naming City as additional insureds on the policies. The Applicant shall forward to the City updated certificates of insurance and endorsement(s) when policies are renewed or changed. The insurance required shall not be interpreted to relieve the Applicant of any other obligations or conditions of approval. The Applicant shall remain fully liable for all deductibles and amounts in excess of the coverage actually realized.
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