

**From:** Lisjan Nation <[cvltribe@gmail.com](mailto:cvltribe@gmail.com)>  
**Sent:** Thursday, May 16, 2024 11:50 AM  
**To:** Patel, Vatsal <[vpatel@brentwoodca.gov](mailto:vpatel@brentwoodca.gov)>  
**Subject:** Re: Notification of Consultation Opportunity pursuant to Public Resources

Hello,

Thank you for your email. The Tribe is requesting a copy of the CHRIS and EIR for this project, along with the SLF from Native American Heritage Commission and any additional archeological reports. Our physical address is: PO BOX 6487 Oakland CA 94603 or if you would prefer to send them electronically, please send them to this email address.

**'Uni (Respectfully),**  
***Francis Ranstead, Tribal Administrative Assistant***  
Confederated Villages of Lisjan Nation

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**From:** Lisjan Nation <[cvltribe@gmail.com](mailto:cvltribe@gmail.com)>  
**Sent:** Wednesday, August 7, 2024 12:57 PM  
**To:** Patel, Vatsal <[vpatel@brentwoodca.gov](mailto:vpatel@brentwoodca.gov)>  
**Subject:** Re: Notification of Consultation Opportunity pursuant to Public Resources

Hi Vatsal,

Thank you for your email. We could not access the CHRIS and SLF. It seems to just be an image of the Box logo. If you can resend a link, that would be great. Can you also please describe the extent of proposed ground disturbance? We have some concerns about the project because of its proximity to Marsh Creek and would like more information.

I am also attaching a list of the Tribe's standard mitigation measures. We only propose Tribal monitoring (measure 1) for certain projects, but we ask that measures 2 and 3 be incorporated into any project within Lisjan territory.

**'Uni (Respectfully),**  
***Lucy Gill, Cultural Resource Manager II***  
Confederated Villages of Lisjan Nation

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**From:** Lisjan Nation <[cvltribe@gmail.com](mailto:cvltribe@gmail.com)>  
**Sent:** Monday, August 12, 2024 7:21 PM  
**To:** Patel, Vatsal <[vpatel@brentwoodca.gov](mailto:vpatel@brentwoodca.gov)>  
**Cc:** Michelle Brown <[michelle@robertson-bryan.com](mailto:michelle@robertson-bryan.com)>; Wichert, Casey <[cwichert@brentwoodca.gov](mailto:cwichert@brentwoodca.gov)>  
**Subject:** Re: FW: Notification of Consultation Opportunity pursuant to Public Resources

Hi Vatsal,

Thank you very much for sending these along and working to incorporate our comments. We are happy with the second mitigation measure regarding human remains. Regarding the first mitigation measure, we still have a couple of concerns:

1) This measure sufficiently addresses the unanticipated discovery of cultural resources, but we are concerned that it does not fully address the unanticipated discovery of the separate category of Tribal Cultural Resources. Only Tribal representatives can assess whether a Tribal Cultural Resource is significant, whereas archaeologists can assess whether a cultural resource is significant. Therefore, we ask that the consulting Native American Tribes be notified as soon as an inadvertent discovery is made, so that they can also assess the significance of any Native American cultural resource as a Tribal Cultural Resource.

2) The Confederated Villages of Lisjan Nation does not typically see data recovery excavation as a culturally appropriate mitigation measure for Tribal Cultural Resources. Could you please remove this clause?

One other possibility, if this is preferable, would be to keep the language as it is currently (in the updated version) for unanticipated discovery of cultural resources and include these two additional provisions under a separate mitigation measure specifically for Tribal Cultural Resources.

Thank you so much for working with us to protect our Tribal Cultural Resources.

**'Uni (Respectfully),**  
**Lucy Gill, Cultural Resource Manager II**  
Confederated Villages of Lisjan Nation

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On Tue, Aug 13, 2024 at 2:21 PM Patel, Vatsal <[vpatel@brentwoodca.gov](mailto:vpatel@brentwoodca.gov)> wrote:

Lucy,

Please see our final draft of the mitigation measures.

We've revised the language as data recovery without including the word excavation. Unfortunately, this is the best we can do for this project.

We've also added the additional language about mitigation plan will be developed in consultation with the City and the consulting Native American Tribes as requested.

Thank you for your understanding.

Vatsal

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**From:** Lisjan Nation <[cvltribe@gmail.com](mailto:cvltribe@gmail.com)>

**Sent:** Tuesday, August 13, 2024 4:12 PM

**To:** Patel, Vatsal <[vpatel@brentwoodca.gov](mailto:vpatel@brentwoodca.gov)>

**Cc:** Michelle Brown <[michelle@robertson-bryan.com](mailto:michelle@robertson-bryan.com)>; Wichert, Casey <[cwichert@brentwoodca.gov](mailto:cwichert@brentwoodca.gov)>

**Subject:** Re: FW: Notification of Consultation Opportunity pursuant to Public Resources

Vatsal,

Thank you very much. The Tribe appreciates your work on this matter.

**'Uni (Respectfully),**  
***Lucy Gill, Cultural Resource Manager II***  
Confederated Villages of Lisjan Nation

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## Central Valley Regional Water Quality Control Board

6 September 2024

Casey Wichert  
City of Brentwood  
2201 Elkins Way  
Brentwood, CA 94513  
[cwichert@brentwoodca.gov](mailto:cwichert@brentwoodca.gov)

### **COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, SOLID WASTE ORGANICS DIVERSION PROJECT, SCH#2024080229, CONTRA COSTA COUNTY**

Pursuant to the State Clearinghouse's 6 August 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Solid Waste Organics Diversion Project, located in Contra Costa County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

#### **I. Regulatory Setting**

##### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

### **Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr\\_2018\\_05.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf)

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

*This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.*

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

## **II. Permitting Requirements**

### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

**Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

**Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

**Waste Discharge Requirements – Discharges to Waters of the State**

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: [https://www.waterboards.ca.gov/centralvalley/water\\_issues/waste\\_to\\_surface\\_water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

### **Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0003.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf)

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/waivers/r5-2018-0085.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf)

### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2016-0076-01.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf)

### **NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

A handwritten signature in blue ink that reads "Peter G. Minkel".

Peter G. Minkel  
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,  
Sacramento





September 13, 2024

Casey Wichert  
City of Brentwood, Director of Public Works  
2201 Elkins Way  
Brentwood, CA 94513

**Subject: SCH No. 2024080229** – Initial Study and Mitigated Negative Declaration for the Solid Waste Organics Diversion Project – City of Brentwood

Dear Mr. Wichert:

Thank you for allowing the Department of Resources Recycling and Recovery (CalRecycle) staff to provide comments on the proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

### **Project Description**

The City of Brentwood Public Works Department, acting as Lead Agency, has prepared and circulated a Draft Initial Study (IS) and Mitigated Negative Declaration (MND) in order to comply with CEQA and to provide information to, and solicit consultation with, Responsible Agencies in the approval of the proposed project.

The proposed Solid Waste Organics Diversion Project is located at the City of Brentwood Wastewater Treatment Plant (WWTP) at 2251 Elkins Way, the city's Solid Waste Transfer Station (Brentwood Transfer Station; CalRecycle Solid Waste Information System (SWIS) No. 07-AA-0068) at 2301 Elkins Way, and on City-owned land adjacent to and east of the WWTP, in Contra Costa County. The project site is approximately 12 acres, and the project area is currently zoned for Public Facilities and Parks.

The proposed project would expand the Solid Waste Transfer Station to accommodate new equipment to separate and prepare organic waste for a new anaerobic digester; install an anaerobic digester and associated infrastructure; install centrifuges, biosolids dryers, and pyrolysis units to process material from the anaerobic digester; install pipelines and an interconnector station to convey renewable natural gas generated by the anaerobic digester to a Pacific Gas & Electric main line; construct ancillary facilities related to above project components; realign a paved pedestrian path from Sunset Park to the Marsh Creek trail; and conduct tree removal to accommodate new facilities and pedestrian path realignment.

Per the Brentwood Transfer Station's Solid Waste Facility Permit (SWFP), the maximum permitted tonnage is up to 400 tons per day. The permitted hours of operation are Monday through Friday from 4:00 a.m. to 7:00 p.m., Saturday and Sunday from 7:00 a.m. to 6:00 p.m., and for Public Clean-Up Days (10 per calendar year), 7:00 a.m. to 6:00 p.m., Saturday or Sunday. The maximum permitted traffic volume is 225 incoming refuse and hauling vehicles (includes outgoing transfer trucks) and on Public Clean-Up Days, up to 700 vehicles/day. The permitted acreage is 5.7 acres.

### **Comments**

CalRecycle staff's comments on the proposed project are listed below. Where a specific location in the document is noted for the comment, please ensure the comment is addressed throughout all sections of the Draft IS/MND, in addition to the specific location noted.

#### **IS, Page No. 2, Chapter 1.4**

It is stated that the California Integrated Waste Management Board may have jurisdiction over elements of the project.

The California Integrated Waste Management Board is now CalRecycle.

#### **IS, Page No. 5, Chapter 2.4.1**

It is stated the City operates the transfer station under Solid Waste Facility Permit No. 07-AA-0068 issued by the Contra Costa Environmental Health Division on February 14, 2014, and concurred by the California Integrated Waste Management Board.

Currently, CalRecycle acts as the Enforcement Agency (EA) for the City of Brentwood. The most current SWFP was issued by CalRecycle on August 7, 2019.

#### **IS, Page No. 7-9, Chapter 2.5.1**

It is stated that the Solid Waste Transfer Station would be expanded to provide space for new equipment required to extract the organic waste to be processed by the anaerobic digester. The existing transfer station building is approximately 20,800 square feet. A new pre-engineered metal building, approximately 20,000 square feet in size, would be added west of and adjacent to the existing building, at the current location of the yard waste pad. It is further stated that a new yard waste pad would be constructed. This yard waste pad would be a concrete pad with an area of approximately 10,000 square feet, located just south of the existing transfer station fence line.

Will any of this new construction require an increase in the permitted acreage of 5.7 acres and/or a change to the SWFP boundary of the Transfer Station? If so, please provide the updated acreage and boundary lines.

#### **IS, Page No. 7, Chapter 2.5.1**

It is stated that the municipal solid waste coming into the Transfer Station would be sorted and processed using the newly installed equipment to create multiple products to

increase recycling volume for the city and produce an organic waste slurry for the anaerobic digester.

Confirming the slurry will be produced at the transfer station and sent off site to the WWTP for anaerobic digestion?

**IS, Page No. 9, Chapter 2.5.2**

It is stated that the City would construct an approximate 2-million gallon anaerobic digester to process WWTP biosolids, organic material from municipal solid waste, some yard waste, and high strength waste. The anaerobic digester would be constructed on City-owned land adjacent to and east of the transfer station and WWTP.

Will the anaerobic digester and subsequent processing equipment be located within the boundaries of the WWTP? If so, Title 14 of the California Code of Regulations (14 CCR) Section [17896.6](#) (a)(1) states that there are In-Vessel Digestion exclusions (from solid waste permitting requirements) for Publicly Owned Treatment Works Treatment Plants (POTWs). Will the WWTP meet this exclusion? If not, the anaerobic digestion activity could be subject to solid waste permitting requirements. What is the maximum daily tonnage that will be received, proposed hours of operation, maximum traffic volume (vehicles per day) and acreage? Please reach out to the EA contact to discuss possible permitting requirements.

**IS, Page No. 10, Chapter 2.5.3**

It is stated that the biosolids dryer and pyrolysis system (BDPS) would process digested biosolids (digestate) from the anaerobic digester into biochar; the pyrolysis system would convert approximately half of the volatile organic material to biochar. It is also stated that the location for the additional centrifuges, biosolids dryers, and pyrolysis units under the project overlaps with the location proposed for the WWTP Phase II Expansion Project resulting in overlapping construction areas.

Confirming that the BDPS would be located within the boundaries of the WWTP? Per Public Resources Code (PRC) Section [40201](#), "Transformation" means incineration, pyrolysis, distillation, or biological conversion other than composting. The pyrolysis activity could be subject to solid waste permitting requirements as a Transformation activity. Here is a link to the CalRecycle website for more information: <https://calrecycle.ca.gov/swfacilities/permitting/permittype/fullpermit/>. What is the maximum daily tonnage that will be received, proposed hours of operation, maximum traffic volume (vehicles per day) and acreage? Please reach out to the EA contact to discuss possible permitting requirements.

**IS, Page No. 18, Chapter 2.7.2, Table 2**

Table 2 describes operational truck and workforce traffic for both the Transfer Station and WWTP.

It appears that traffic could be potentially increased to implement the project, but it is not clear how the Transfer Station could specifically be impacted. The Transfer Station is currently permitted for 225 vehicles per day. Would this number need to be changed and if so, to what? Will any of the other SWFP parameters, as described in the Project Description section of this comment letter, need to be changed? If so, which parameters and what would be the changes?

### **Additional Information**

The following is a link to CalRecycle's CEQA homepage which may assist the Lead Agency in preparing the Final MND:

<https://calrecycle.ca.gov/swfacilities/permitting/ceqa/>.

### **Solid Waste Regulatory Oversight**

CalRecycle is the EA for the City of Brentwood and responsible for providing regulatory oversight of solid waste handling activities, including permitting and inspections. Please contact me, Cody Oquendo, to discuss any regulatory requirements for the proposed project.

### **Conclusion**

CalRecycle staff thanks the Lead Agency for the opportunity to review and comment on the environmental document and hopes that this comment letter will be useful to the Lead Agency preparing the Final MND and in carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of any subsequent environmental documents, copies of public notices and any Notices of Determination for this proposed project.

If the environmental document is adopted during a public hearing, CalRecycle staff requests 10 days advance notice of this hearing. If the document is adopted without a public hearing, CalRecycle staff requests 10 days advance notification of the date of the adoption and proposed project approval by the decision-making body.

If you have any questions regarding these comments, please contact me at 916.341.6719 or by e-mail at [Cody.Oquendo@calrecycle.ca.gov](mailto:Cody.Oquendo@calrecycle.ca.gov).

Sincerely,



Cody Oquendo, Environmental Scientist  
Permitting & Assistance Branch – South Unit  
Waste Permitting, Compliance & Mitigation Division  
CalRecycle

IS/MND for the Solid Waste Organics Diversion Project

September 13, 2024

Page 5 of 5

cc: Benjamin Escotto, CalRecycle  
Jeff Hackett, CalRecycle  
Alexenia Aldape, CalRecycle  
Randy Friedlander, CalRecycle  
Jon Carlson, City of Brentwood