



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 01-10-11

Approved

Date

1/19/11

COUNCIL DISTRICT: City-Wide

**SUBJECT: APPROVAL OF THE NINTH AMENDMENT TO THE COUNTYWIDE
NONDISPOSAL FACILITY ELEMENT**

RECOMMENDATION

The City Council conduct a Public hearing and adopt a resolution approving the Ninth Amendment to the Countywide Nondisposal Facility Element to identify the following nondisposal facilities in San José: the Recology Silicon Valley Processing and Transfer Facility, 1675 Rogers Avenue; Zero Waste Energy Development Company Anaerobic Digestion Facility, 2100 Los Esteros Road; Green Earth Management LLC Kings Row Recycling Facility, 650 Kings Row; Environmental Resource Recovery Inc. (Valley Recycling) Medium Volume Construction Demolition Debris Facility, 1615 B South 7th Street; and Smurfit-Stone Recycling San Jose Facility, 205 East Alma Avenue.

OUTCOME

Approval of the resolution will enable the County of Santa Clara to consider final adoption of the Ninth Amendment to the Countywide Nondisposal Facility Element and to proceed with submittal of the Ninth Amendment to the other jurisdictions in the County and to the state. Approval of the Ninth Amendment by the City and the state will allow the Local Enforcement Agency in Planning, Building, and Code Enforcement to make a conformance finding when considering an application for a Solid Waste Facility Permit at any of the five identified locations.

BACKGROUND

As part of their County Integrated Waste Management Plans, California cities and counties are required to prepare and adopt Nondisposal Facility Elements (NDFE) identifying the nondisposal

facilities to be used to implement the jurisdictions' Source Reduction and Recycling Elements (SRRE). Nondisposal facilities are facilities other than disposal sites that are required to obtain a solid waste facility permit (SWFP), such as large composting sites and transfer/processing stations. (Curbside recycling facilities and both drop-off and buyback recycling centers may not require SWFPs if they only accept source-separated materials and have low enough residue levels.) When processing applications for SWFPs, state law requires that the Local Enforcement Agency (LEA) must first find that the proposed nondisposal facility is in conformance with the approved NDFE. All that is required for a conformance finding for a proposed facility is that the facility to be identified in the NDFE.

In 1994, a Countywide NDFE prepared by County staff was adopted by the County of Santa Clara, the City of San José, and 13 other cities and towns in the County. Palo Alto prepared its own NDFE. The County has previously prepared eight amendments to the Countywide NDFE to incorporate new facilities or to delete proposed facilities that were never developed, most recently in December 2009. Although not all NDFE amendments require action by all local jurisdictions, the jurisdiction that could be the site of a proposed facility must adopt an NDFE amendment identifying that facility in order for a SWFP to be processed. The City Council approved the Eighth Amendment on February 9, 2010. This amendment included the proposed GreenWaste Material Processing and Transfer Station in the City of Santa Clara and the GreenTeam of San José Material Recovery Facility and Transfer Station in San José, which had previously operated without a SWFP as a curbside recycling facility.

Approval of an NDFE is exempt from environmental review under the California Environmental Quality Act. (Public Resources Code § 41735)

ANALYSIS

Staff of the County Integrated Waste Management Program submitted proposed Ninth, Tenth, and Eleventh Countywide NDFE Amendments to the Santa Clara County Recycling and Waste Reduction Commission (Commission) for review and comment at three separate meetings, in August, October, and December 2010. The Commission's Technical Advisory Committee (TAC) reviewed the proposed amendments and requested additional information from some of the applicants and provided comments to County staff. All the proposed facilities are now included in the Ninth Amendment to the NDFE for Council consideration. The Commission did not object to the City conducting one hearing for all the facilities to be included in a single amendment. The proposed amendment would add the following five facilities to the Countywide NDFE: the Recology Silicon Valley Processing and Transfer Facility, 1675 Rogers Avenue; Zero Waste Energy Development Company Anaerobic Digestion Facility, 2100 Los Esteros Road; Green Earth Management LLC Kings Row Recycling Facility, 650 Kings Row; Environmental Resource Recovery Inc. (Valley Recycling) Medium Volume Construction Demolition Debris Facility, 1615 B South 7th Street; and Smurfit-Stone Recycling San Jose Facility, 205 East Alma Avenue.

The Commission reviewed the proposed Amendments and approved favorable comment letters regarding the five facilities in its statutory role as the Local Task Force. The comments were sent to the County and all cities in Santa Clara County and to the California Department of Resources Recycling and Recovery (CalRecycle). The Commission letters state, in part, that these facilities are “expected to assist the jurisdictions of Santa Clara County in their efforts to meet or exceed state mandated waste stream reduction goals.” The County staff reports and TAC comments related to the proposed Ninth Amendment are attached, along with the three comment letters signed by the chair of the Commission. Minutes of the Commission and TAC meetings where the proposed NDFE amendments were discussed are available for review at www.reducewaste.org.

The five additional facilities are described on pages numbered 49 through 59 of the proposed Ninth Amendment, and are included in the partial copy that is also attached. In addition to the Maps and Fact Sheets for the five additional facilities, the Ninth Amendment includes a revised introduction and table of contents to the NDFE. Except for the page headers, the remainder of the document is unchanged from the Eighth Amendment. A full copy of the proposed Ninth Amendment is available for review at www.sjrecycles.org.

Recology Silicon Valley Processing and Transfer Facility

The Recology Silicon Valley Processing and Transfer Facility is an existing medium-volume transfer station at 1675 Rogers Avenue, which is permitted to receive up to 99 tons per day of mixed waste (or about 31,000 tons per year based on a six-day week). The facility received a Registration-tier Solid Waste Facility Permit (43-AN-0025) in April 2010, which did not require conformance with the NDFE since it is a transfer station that diverts less than 5% of the volume received at the site. It is proposed to expand the facility to receive and process up to 600 tons per day of recyclable, organic, and other waste materials from the City of San Jose commercial recycling program and other sources, including other South Bay cities. The estimated overall diversion rate is above 60 percent. Recovered materials will be transported from the facility for further processing or to markets. Residual materials will be transported to a permitted disposal site.

Zero Waste Energy Development Company Anaerobic Digestion Facility

The Zero Waste Energy Development Company Anaerobic Digestion Facility is proposed to be located at the former Nine Par landfill at 2100 Los Esteros Road, adjacent to the existing Zanker processing and disposal facilities and across from the San José/Santa Clara Water Pollution Control Plant. Zero Waste Energy Development Co. (Zero Waste), a joint venture between GreenWaste Recovery, Inc. and its sister company Zanker Road Resource Management, proposes to develop a dry fermentation anaerobic digestion facility, which would be the first of its kind in the nation. The proposed facility would have a capacity of 150,000 tons per year, or about 500 tons per day. The facility would be developed in three phases, each capable of processing 50,000 tons per year of organic materials generated by San Jose and nearby municipalities, including source separated food waste and the organic fraction remaining after other wastes are processed at GreenWaste’s MRF. The two products would be a biogas, which

contains methane, and compost, with an estimated 80% diversion of green materials and compostable materials.

Green Earth Management LLC Kings Row Recycling Facility

The Green Earth Management LLC Kings Row Recycling Facility, at 650 Kings Row, is an existing Chipping and Grinding Operation permitted to handle up to 199 tons per day. The facility is not identified in the current NDFE and its permit did not require a conformance finding, since Chipping and Grinding Operations handling less than 200 tons per day require only a Notification-tier Permit. The proposer plans for the Kings Row Recycling Facility to eventually process up to 600 tons per day of green materials (approximately 75-80% by weight) and other compostable materials (approximately 20-25% by weight) prior to being transferred to a compost facility. Green Earth Management LLC states that it estimates that the facility will achieve 99% diversion of green materials and compostable materials and that the facility will service Santa Clara County and surrounding counties. The facility will be open to the public.

Environmental Resource Recovery Inc. (Valley Recycling)

The Environmental Resource Recovery Inc. (Valley Recycling) facility is an existing Medium Volume Construction Demolition Debris Facility (43-AN-0028), at 1615 B South 7th Street, permitted to handle up to 175 tons per day and 59,000 tons per year. The facility is not identified in the NDFE and its current permit did not require a conformance finding, since it is a transfer station that diverts less than 5% of the volume received at the site. The proposer has plans to increase tonnage and processing operations, within the limits of state and local permits, and to increase diversion up to or in excess of 75%. Valley Recycling states that it services the Bay Area.

Smurfit-Stone Recycling San Jose Facility

The Smurfit-Stone Recycling San Jose Facility, at 205 East Alma Avenue, is an existing recycling center processing commingled and source-separated recyclables. The facility's design capacity is 960 tons per day of recyclable commodities, including but not limited to cardboard, paper, and beverage containers. The facility is not identified in the current NDFE and does not have a Solid Waste Facility Permit, since neither is required for recycling centers handling recyclable materials with low residue levels. The proposer is seeking identification in the NDFE and a permit as a solid waste processing and transfer facility in anticipation of incoming recyclables that could be in excess of the ten percent residual limit. The anticipated diversion rate for the facility will be over 90 percent. The facility will serve the City of San Jose and other jurisdictions in Santa Clara County.

All five facilities are expected to assist local diversion efforts, and it is recommended that Council approve the proposed Ninth Amendment to the Countywide NDFE. Adoption by Council of the Amendment will allow the LEA to make conformance findings in order to continue processing the SWFP applications for the five facilities. Adoption of the proposed Amendment does not confer any rights or entitlements to the applicants. The applicants must

still comply with local land use provisions, and all applicable permit requirements including, but not limited to, conditions in permits to minimize any adverse impacts from facility operation. Finally, applicants must first conduct appropriate environmental review as a condition precedent for securing the SWFP.

EVALUATION AND FOLLOW-UP

The NDFE is subject to review whenever a new facility is proposed that must be included in order for a conformance finding to be made. It may also be reviewed during periodic reviews of the County Integrated Waste Management Plan. Any future amendment involving facilities in San José must be brought to Council for approval.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

None of the criteria apply. Notice of the public hearing on this item will be published in the San José Post Record three days or more in advance of Council action as required in 14 CCR 18766(b)(1). The proposed amendment was discussed at publicly noticed meetings of the Santa Clara County Recycling and Waste Reduction Commission on August 30, October 25, and December 13, 2010, and at meetings of its Technical Advisory Committee on August 12, October 14, and November 4, 2010. It will also be discussed at a public hearing of the Santa Clara County Board of Supervisors.

COORDINATION

This memorandum has been coordinated with the Planning, Building and Code Enforcement Department and the City Attorney's Office.

HONORABLE MAYOR AND CITY COUNCIL

01-10-11

Subject: Approval of the Ninth Amendment to the Countywide Nondisposal Facility Element

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COST IMPLICATIONS

There are no City costs associated with approval of the Ninth Amendment. .

CEQA

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Other Statutory Exemptions.

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557

Attachments

- A. Comment letters from the Recycling and Waste Reduction Commission of Santa Clara County, with staff reports and Technical Advisory Committee comments
- B. Ninth Amendment to the Countywide Nondisposal Facility Element (new and updated pages only; the full document is available for review at www.sjrecycles.org)

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

1553 Berger Drive, Building #1
San Jose, California 95112
(408) 282-3180 FAX (408) 282-3188
www.ReduceWaste.org



DATE: August 30, 2010
TO: Recycling and Waste Reduction Commission
FROM: Cynthia Palacio, Chair, Operations Subcommittee
SUBJECT: 9th Amendment to the NDFE

RECOMMENDED ACTION

1. Recommend the ninth amendment to the NDFE include: Recology Silicon Valley Processing & Transfer Facility and Zero Waste Energy Development Company's Anaerobic Digestion Facility. Direct TAC to request more information about scope of operations, processing methods, operating hours, source and destination of materials from Environmental Resources Recovery, Inc. doing business as Valley Recycling and Kings Row Transfer.
2. Request that city and County Planning Departments notify TAC when a facility applies for a permit.
3. Direct TAC via the Operations Subcommittee to establish a fee structure for the NDFE process.

REASON FOR RECOMMENDATION

Non-Disposal Facilities

A non-disposal facility (NDF) is any solid waste facility required to obtain a solid waste facility permit from CalRecycle. These facilities include fully permitted facilities such as the SMaRT Station but may also include smaller facilities with lower level permits which process a smaller volume or particular type of material for recycling or composting.

Amendments to Non-Disposal Facility Element

California Public Resources Code Sections 41730 et seq., requires cities and the County to prepare and adopt a Non-Disposal Facility Element (NDFE) to identify facilities which will be needed to implement local Source Reduction & Recycling Elements. These may be proposed as new facilities or expansion of existing facilities.

The countywide NDFE identifies transfer stations, material recovery (recycling) facilities, green waste composting facilities, and landfills that are necessary to implement local waste diversion goals. In order to apply for CalRecycle permits, facilities must first be listed in the Non-Disposal Facility Element of the County and the City where the facility is located.

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Jim Griffith, Rosemary Kamei, Evan Low, Cat Tucker, Kris Wang, Curtis Wright, Ken Yeager

Process for NDFE Amendments & CalRecycle Permits

As provided by State law, a proposed amendment is brought before the Local Task Force (LTF, in this case the RWRC) at a public hearing. This commences the 90-day public comment period. At the end of that period the LTF makes a recommendation to the host jurisdiction and the Board of Supervisors whether to adopt the amendment to the NDFE. At this time, the LTF also provides comments, concerns or conditions to the Board of Supervisors, the LEA and CalRecycle.

Once a facility is listed in the NDFE, the operator may apply to CalRecycle for a solid waste facility permit via the Local Enforcement Agency (LEA). The LEA reviews the permit for a conformance finding. If it meets the criteria, the LEA approves the permit and forwards to CalRecycle for their concurrence before it is issued. Lower-level permits are automatically issued in 30 days if the LEA fails to process them within that time.

Concerns, Comments & Conditions

For the purpose of streamlining the permitting process, lower-level facilities are minimally regulated by the State and are not required to have local land use approval before the LEA/CalRecycle issues the solid waste permit. This sometimes places the LEA in the awkward position of having to oversee a State-approved solid waste site with inadequate or no local land use approval, and subsequently referring the matter to code enforcement.

The LEA enforces State regulations covering tonnage limits, traffic volume, dust and other health and safety concerns, but may not address Local Task Force concerns unless the State solid waste permit is the type that allows conditions. For example, lower-level permits are written on a template form which does not provide for conditions. Therefore, a facility may operate despite problems even if a land use permit was not obtained or a condition was omitted in the land use permit. Legislative changes may be needed to address the State's permit process. Also, a model ordinance with conditions specific to solid waste facilities could prove helpful to all.

The Technical Advisory Committee is advisory to the RWRC and provides input. In July, the draft NDFE ninth amendment came before TAC and was referred to the Operations Subcommittee for review because of concerns that had been raised by TAC.

Concerns of the Operations Subcommittee include:

- Land use issues including unpaved storage lots without buildings or sorting equipment, and/or situated on properties with legal, nonconforming land use status with the same condition.
- Code enforcement concerns.
- Applications for high-volume processing facilities on small parcels.

Some examples include a hauler that was cited for draining a bottle and can recycling compactor over a storm drain on a public street because their low-level permitted facility did not have sanitary sewer connections. In another case, a non-franchised hauler brought a full compactor from a franchised jurisdiction (illegal hauling) to an unpaved storage lot for debris boxes where it was stored for a week before being transferred to an unknown location. Compactors are open at one end making them accessible to rodent and other vector and fluids can drain onto the ground. The storage site is connected to an adjacent low-level permitted facility. The LEA was unable to determine if a violation had occurred because the permit did not contain assessor's parcel information and the street address applied to three different parcels.

These issues are associated with low-level solid waste facility permits that are minimally regulated by State law. These types of permits are meant to encourage the siting of diversion facilities to help a community reach its recycling goals. Previously there had been few notable concerns but the number of incidents has been increasing because it is easier to site low-level facilities than fully permitted facilities.

ATTACHMENT A

TAC also noted that the scope of operation described in the NDFE application is often far different than the local land use permit or LEA/CalRecycle permit. For example, one of the NDFE applications stated that they would be processing 500-600 tons of material per day on less than one acre. This operation is similar to others in the County that are on 5-10 acres. The applicant did not mention they were going to grind yard trimmings and food waste with a 1200 horsepower diesel grinder on an industrial site near a freeway. The applicant was already in process of obtaining a land use permit at the time they applied for the NDFE amendment. The land use permit for the grinder was granted about 2 weeks after the NDFE amendment was submitted.

Finally, NDFE amendments are often filed at the last minute and are time-consuming to process. TAC will be proposing a reasonable time and fee schedule to efficiently manage this process without negatively affecting applicants. California Public Resources Code permits assessing fees for the administrative process relative to amendments to the NDFE. TAC will be pursuing other process improvements and provide updates to the RWRC as they occur.

It is important that the RWRC, acting in the capacity as the Local Task Force, exercise their authority under State law to provide the host jurisdiction and the County with comments, concerns or conditions that may not have been considered during a local land use planning process.

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

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www.ReduceWaste.org



August 30, 2010

Elizabeth Constantino, Program Manager
Integrated Waste Management Division
County of Santa Clara
1553 Berger Drive, Building #1
San Jose, CA 95112

Dear Ms. Constantino:

The Recycling and Waste Reduction Commission of Santa Clara County, acting as the County Local Task Force (LTF) under AB939, has reviewed the Ninth Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (NDFE), as required by Public Resources Code Section 41734 (a) and (b). LTF review and comment focuses on potential regional impacts of the NDFE.

Two nondisposal facilities are described in the Ninth Amendment to the NDFE:

1. Recology Silicon Valley Processing and Transfer Facility in the City of San Jose;
2. Zero Waste Energy Development Company's Anaerobic Digestion Facility in the City of San Jose;

These facilities are expected to assist the jurisdictions of Santa Clara County in their efforts to meet or exceed state mandated waste stream reduction goals. The Commission believes that the facilities included in the amended NDFE will positively impact the region.

Additionally, two facilities have submitted documents to be included in the Countywide NDFE but have been found to be deficient in information. The following two facilities will need to provide some ancillary information as requested by RWRC and TAC:

1. Environmental Resources Recovery Inc. dba Valley Recycling in the City of San Jose;
2. Kings Row Recycling Facility in the City of San Jose.

Sincerely,

Jamie McLeod, Chair
Recycling and Waste Reduction Commission of Santa Clara County

cc: Cities of Santa Clara County
CalRecycle Office of Local Assistance

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Jim Griffith, Rosemary Kamei, Evan Low, Cat Tucker, Kris Wang, Curtis Wright, Ken Yeager

County of Santa Clara

Department of Agriculture and Environmental Management
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DATE: October 18, 2010

TO: Recycling and Waste Reduction Commission

FROM: Clifton Chew, Management Analyst

SUBJECT: TENTH AMENDMENT TO THE COUNTY OF SANTA CLARA COUNTYWIDE NONDISPOSAL FACILITY ELEMENT

RECOMMENDATION

Acting as the Local Task Force (LTF) under AB939, review the attached Tenth Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (Amendment) submitted for your review and comments.

Modify the attached draft comment letter as desired and approve issuance of the final comment letter.

BACKGROUND

The Countywide Nondisposal Facility Element (NDFE) identifies transfer stations, material recovery facilities, and yard waste compost facilities necessary to implement local waste diversion goals.

According to California Public Resources Code (PRC), Section 41734, LTF review and comment is required for any amendment to the NDFE of facilities processing large tonnage or certain materials, and that review must include an assessment of the regional impact of potential diversion facilities. LTF comments must be submitted to the host jurisdiction and the County within 90 days of the LTF's receipt of the Amendment for review and comment. After adoption by the host jurisdiction and the County, CalRecycle has 30 days to determine completeness of application and 60 days to approve the Amendment.

In June 2010, Green Earth Management, LLC requested that the County initiate the process to amend the Santa Clara County Countywide Nondisposal Facility Element to include the Kings Row Recycling Facility. The applicant desires to process up to 600 tons per day of green materials and compostable materials on .91 acres prior to being transferred to a compost facility. The facility will be located at 650 Kings Row, San Jose 95112, near the intersection of Gish Road and Highway 880.

In order to operate at this tonnage level, the facility must first be identified in the NDFE. City of San Jose staff confirmed that the facility in their jurisdiction is expected to assist the City in meeting its diversion goals.

There was a concern that amending the NDFE to include a request from the applicant to process up to 600 tons per day was inconsistent with a previously approved City of San Jose land use permit to process 199 tons per day on a .91 acre parcel.

Based on the 199 tonnage level, the facility does not need to be listed in the NDFE and qualifies for the Notification tier of the State solid waste facility permit. Upon the filing of a Notification, the applicant may proceed to operate if all other requirements with the host jurisdiction and other agencies have been met.

The applicant has confirmed he desires to process up to 600 tons per day on a .91 acre parcel, which qualifies for the Registration tier of the State permit, and must first be listed in the NDFE. It is unknown whether the 600 tons per day also requires a revised local land use permit, but such use permit would likely address concerns about traffic or other impacts from processing a high volume of material on a small parcel.

The RWRC may recommend the facility be listed in the NDFE at the 600 tons per day level. The RWRC may also choose to provide comments about processing a high volume of material on a small parcel and the inconsistency with the City of San Jose's use permit for a lower volume.

The attached information will comprise the Tenth Amendment to the Countywide NDFE.

The City of San Jose's Planning Department is the lead agency for environmental review and is the Local Enforcement Agency (LEA) for the Facility. A description of the facility and a map showing the location are attached.

A draft comment letter is attached for consideration by the Commission. Comments and changes may be made to County staff and/or provided at the April meeting.

STEPS FOLLOWING LTF REVIEW

1. The Commission chair will execute the LTF comment letter addressed to the County.
2. As required by CalRecycle regulations, staff will forward copies of the LTF comment letter to local jurisdictions and CalRecycle.
3. Adoption of an amendment to a jurisdiction's NDFE requires consideration at a public hearing, with 3 days notice. Adoption of the Amendment does not require environmental review (Public Resources Code, Section 41735). Jurisdictions wishing to adopt the Amendment must schedule a public hearing to receive testimony and to consider adoption of the Amendment. Only those jurisdictions in which a facility is located must amend their NDFE; in this case, the City of San Jose will be asked to take action on the amendment. However, the amendment packet will be sent to all local jurisdictions; other jurisdictions may decide to take action on the amendment as desired.
4. City staff will schedule a public hearing before the host jurisdiction's City Council. Once the public hearing has been added to the City Council agenda, County staff will schedule a public hearing before the Board of Supervisors and will submit the Amendment for adoption.
5. After the Amendment is adopted by resolution, each adopting jurisdiction shall forward copies of the public notice and signed resolution to the County Integrated Waste Management Division (IWM).
6. County IWM will forward copies of the Amendment, LTF comments, public notices, and adoption resolutions to CalRecycle.
7. After adoption by the host jurisdiction and the County, CalRecycle has 30 days to determine completeness of application and 60 days to approve or disapprove the Amendment.

County of Santa Clara

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Integrated Waste Management Division

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October 25, 2010

Elizabeth Constantino, Program Manager
Integrated Waste Management Division
County of Santa Clara
1553 Berger Drive, Building #1
San Jose, CA 95112

Dear Ms. Constantino:

The Recycling and Waste Reduction Commission of Santa Clara County, acting as the County Local Task Force (LTF) under AB939, has reviewed the Tenth Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (NDFE), as required by Public Resources Code Section 41734 (a) and (b). LTF review and comment focuses on potential regional impacts of the NDFE but may include other comments.

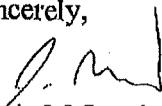
One nondisposal facility is described in the Tenth Amendment to the NDFE:

King's Row Recycling Facility
650 Kings Row
San Jose, CA 95112

The Commission believes that the facility is expected to assist the jurisdictions of Santa Clara County in their efforts to meet or exceed state mandated waste stream reduction goals. It is noted that the Technical Advisory Committee (TAC) has a concern about the feasibility of processing up to 600 tons of material on .91 acres. Additionally there was a conflict between the local land use permit to process up to 199 tons per day and the applicant's proposal to amend the countywide NDFE to process up to 600 tons per day.

It is the Commission's intent to amend the NDFE to include this facility for planning purposes.

Sincerely,


Jamie McLeod, Chair
Recycling and Waste Reduction Commission of Santa Clara County

cc: Cities of Santa Clara County
CalRecycle Office of Local Assistance

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Jim Griffith, Rosemary Kamei, Evan Low, Cat Tucker, Kris Wang, Curtis Wright, Ken Yeager

County of Santa Clara

Department of Agriculture and Environmental Management
Integrated Waste Management Division



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December 13, 2010

TO: Recycling and Waste Reduction Commission
FROM: Clifton Chew, Management Analyst
SUBJECT: **ELEVENTH AMENDMENT TO THE COUNTY OF SANTA CLARA
COUNTYWIDE NONDISPOSAL FACILITY ELEMENT**

RECOMMENDATION

Acting as the Local Task Force (LTF) under AB939, review the attached Eleventh Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (Amendment) submitted for your review and comments.

Modify the attached draft comment letter as desired and approve issuance of the final comment letter.

BACKGROUND

The Countywide Nondisposal Facility Element (NDFE) identifies transfer stations, material recovery facilities, and yard waste compost facilities necessary to implement local waste diversion goals.

According to Public Resources Code (PRC), Section 41734, LTF review and comment is required for any amendment to the NDFE, and that review must include an assessment of the regional impact of potential diversion facilities. LTF comments must be submitted to the host jurisdiction, the county, and the California Integrated Waste Management Board (CIWMB) within 90 days of the LTF's receipt of the Amendment for review and comment.

Environmental Resource Recovery Inc. and Smurfit-Stone requested that the County initiate the process to amend the Santa Clara County Countywide Nondisposal Facility Element to include the respective facilities:

1. Environmental Resource Recovery Inc., (Valley Recycling)
2. Smurfit-Stone Recycling San Jose Facility

The facility must be identified in the NDFE in order for the facility to be in conformance with state requirements, and for a facility's permit application to be accepted as complete. The attached information will comprise the Tenth Amendment to the Countywide NDFE.

Valley Recycling is seeking a solid waste facility permit from the CalRecycle to allow for future expansion to include processing. The facility is located at 1615 B South 7th Street in the City of San Jose. The City of San Jose's Planning Department is the lead agency for environmental review and the Local Enforcement Agency (LEA) for the facility. A description of the facility and a map showing the location are attached.

Smurfit-Stone is seeking to obtain a Solid Waste Facility Permit from CalRecycle in as a precaution against feedstock that could raise their residual levels above 10%. The facility is located at 205 East Alma Avenue in the City of San Jose. The City of San Jose's Planning Department is the lead agency for environmental review and the Local Enforcement Agency (LEA) for the Facility. A description of the facility and a map showing the location are attached.

A draft comment letter is attached for consideration by the Commission. Comments and changes may be made to County staff and/or provided at the December meeting.

STEPS FOLLOWING LTF REVIEW

1. The Commission chair will execute the LTF comment letter addressed to the County.
2. As required by CIWMB regulations, staff will forward copies of the LTF comment letter to local jurisdictions and the CIWMB.
3. Adoption of an amendment to a jurisdiction's NDFE requires consideration at a public hearing, with 3 days notice. Adoption of the Amendment does not require environmental review (Public Resources Code, Section 41735). Jurisdictions wishing to adopt the Amendment must schedule a public hearing to receive testimony and to consider adoption of the Amendment. Only those jurisdictions in which a facility is located must amend their NDFE; in this case, the City of San Jose will be asked to take action on the amendment. However, the amendment packet will be sent to all local jurisdictions; other jurisdictions may decide to take action on the amendment as desired.
4. County staff will schedule a public hearing before the Board of Supervisors and will submit the Amendment for adoption. City staff will take similar actions in their respective jurisdictions.
5. After the Amendment is adopted by resolution, each adopting jurisdiction shall forward copies of the public notice and signed resolution to the County Integrated Waste Management Division (IWM).
6. County IWM will forward copies of the Amendment, LTF comments, public notices, and adoption resolutions to the CIWMB.
7. The CIWMB has 60 days to approve or disapprove the Amendment.

November 4, 2010 Approved TAC Minutes Item #4
11th Amendment NDFE

Larry Sweetser with Sweetser & Associates provided a brief overview of Smurfit's operation. He noted that Smurfit has been in operation for some time and only handles separated recyclables. There is currently no intention to change that, however, the marketplace is evolving and as a cautionary move, they are seeking a solid waste facility permit. There is a correction to the factsheet, under **Jurisdictions Served**: in addition to the jurisdictions in Santa Clara County; some material will come from San Mateo County.

A question was asked about the kind of materials Smurfit is receiving. They stated that they receive a varietal mix from walking floors, mixed, segregated, commercial mix, single stream, etc.

Maryann Harmon from Valley Recycling said they receive C&D and inert materials that come in as both source separated and mixed commodities. They have bunkers to hold the materials and they take the materials to Guadalupe Landfill for further separation.

A question was asked about their operations and if they just unload and transfer materials. They stated that this is correct and that they also do some container service. Additional questions concerned the layout of the facility. Maryann replied that part of the parcel was subleased to DRS which they are not affiliated with. The APN # will be added and will help identify who is operating where.

Regarding the Smurfit-Stone Recycling Facility, Larry Sweetser confirmed Smurfit operations occur inside the building; the building is sprinklered; and the outside areas are paved. It was noted from reviewing the aerial pictures that the property appears to be very neat and clean.

Regarding the Valley Recycling C&D facility, Skip Lacaze asked about their location referring to an aerial photograph showing three parcels all with the same address of 1615B Seventh Street. Maryann Harmon of Valley confirmed that their operation unloads and transfers materials on the southernmost parcel (APN 477-08-020). Maryann and Valley uses an adjacent parcel to the north (APN 477-08-018) for parking and empty container storage, but the area of that parcel fronting on Seventh Street is not affiliated with Valley and they do not know who is operating there. Both parcels share the driveway entrance from Seventh St.

Cynthia Palacio asked questions about another business, DRS, storing full and empty solid waste compactors on the same parcel as Valley (APN 477-08-180), and expressed concern that the parcel is unpaved. Maryann advised that DRS subleases from Valley a portion of the unpaved parcel but it is for vehicle parking only and there is no operation going on as far as debris or construction materials. She advised that Valley is not connected or affiliated with DRS except through the sublease for parking only. Cynthia Palacio asked that the APN numbers be added to the document to help verify where Valley Recycling is operating or storing empty containers. Anthony Eulo suggested that parcel numbers should be requested of all future applicants to help clarify location. Cynthia Palacio agreed although APNs are not required by the State for permits, but such identification is helpful in case of code enforcement issues and determining the responsible party.

A motion was made by Tony Eulo to recommend that the RWRC recommends the host jurisdictions and Board of Supervisors adopt the 11th Amendment to the NDFE. The motion was seconded by Stan Chau. All present voted to approve.

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division



1553 Berger Drive, Building #1
San Jose, California 95112
(408) 282-3180 FAX (408) 282-3188
www.ReduceWaste.org

December 13, 2010

Elizabeth Constantino, Program Manager
Integrated Waste Management Division
County of Santa Clara
1553 Berger Drive, Building #1
San Jose, CA 95112

Dear Ms. Constantino:

The Recycling and Waste Reduction Commission of Santa Clara County, acting as the County Local Task Force (LTF) under AB939, has reviewed the Eleventh Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (NDFE), as required by Public Resources Code Section 41734 (a) and (b). LTF review and comment focuses on potential regional impacts of the NDFE.

Two nondisposal facilities are described in the Eleventh Amendment to the NDFE:

1. Environmental Resource Recovery Inc., in the City of San Jose;
2. Smurfit-Stone Recycling San Jose Facility in the City of San Jose;

It is anticipated that these facilities will assist the jurisdictions of Santa Clara County in their efforts to meet or exceed state mandated waste stream reduction goals.

Sincerely,

Jamie McLeod, Chair
Recycling and Waste Reduction Commission of Santa Clara County

cc: Cities of Santa Clara County
CalRecycle Office of Local Assistance

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Susan Garner, Jim Griffith, Patrick Kwok, Evan Low, Cat Tucker, Kris Wang, Ken Yeager

Attachment B

County of Santa Clara

**Ninth Amendment
to the
Countywide
Nondisposal Facility
Element**

February 2010

Local Public Hearings & Adoption

City of San José: February 1, 2010

County of Santa Clara:

CalRecycle Review & Approval

Submitted:

Approved:

**NINTH AMENDMENT TO THE COUNTY OF SANTA CLARA
COUNTYWIDE NONDISPOSAL FACILITY ELEMENT**

The Countywide Nondisposal Facility Element (NDFE) was originally adopted by the Board of Supervisors on December 13, 1994. The First Amendment was adopted on June 3, 1997, replacing and superseding the original document. The Second Amendment was adopted on August 5, 1997, and it replaced and superseded the NDFE and the First Amendment. On September 15, 1998, on December 7, 1999, on May 9, 2000, on December 13, 2003, on August 25, 2009, on February 23, 2010, the Third, Fourth, Fifth, Sixth, Seventh, and Eighth Amendments were adopted. The Ninth Amendment supersedes and replaces the County of Santa Clara Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Amendments to the Countywide Nondisposal Facility Element as the NDFE for the County of Santa Clara Unincorporated Area and for the City of San José. It may be adopted by other jurisdictions.

All facilities listed below were included in the Second Amendment, with the exception of those that are noted.

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**NINTH AMENDMENT TO THE
COUNTY OF SANTA CLARA
COUNTYWIDE NONDISPOSAL FACILITY ELEMENT**

Introduction

California Public Resources Code (PRC) Sections 41730 et seq., require California cities and counties to prepare and adopt a Nondisposal Facility Element (NDFE) for all existing or proposed nondisposal facilities which will be needed to implement local Source Reduction and Recycling Elements. A nondisposal facility is any solid waste facility required to obtain a solid waste facility permit except a disposal facility or transformation facility (PRC Section 40151).

In 1994, the County of Santa Clara's Integrated Waste Management Program prepared the Countywide NDFE for adoption by the cities of: Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga, and Sunnyvale; the towns of Los Altos Hills and Los Gatos; and the County of Santa Clara Unincorporated Area. The City of Palo Alto prepared and adopted its own NDFE. In March 1997, the First Amendment to the Countywide NDFE was prepared by the IWM Program for use by jurisdictions as necessary. The Second Amendment was approved in July 1997; the Third in June 1998; the Fourth in December 1999; the Fifth in May 2000; the Sixth in December 2003; and the Seventh in August 2009. In February 2010, the Eighth Amendment was approved by the San José City Council and the Board of Supervisors, replacing and superseding all previous versions as the NDFE for the County of Santa Clara Unincorporated Area and for the City of San José.

The Countywide NDFE identifies transfer stations, material recovery facilities, yard waste composting facilities, and landfills necessary to implement local waste diversion goals. .

The Ninth Amendment to the Countywide NDFE

Five operators of existing or planned facilities, Recology Silicon Valley, Zero Waste Energy Development Company, Green Earth Management LLC, Environmental Resource Recovery, Inc., and Smurfit-Stone Recycling San Jose have begun the process to apply for new or revised solid waste facility permits from the San José Local Enforcement Agency (LEA) or have indicated that they may do so in the future. This Ninth Amendment to the Countywide NDFE (Amendment) is necessary in order for the LEA to find the proposed facilities in conformance and for the permit applications to be accepted as complete.

Maps and fact sheets for these facilities are attached as pages 49 – 59 of the amended NDFE.

This Amendment was submitted to the Recycling and Waste Reduction Commission of Santa Clara County, acting as the County Local Task Force, for review and comment regarding the regional impacts of the additional facilities being identified in the Amendment, in accordance with the requirements of PRC Sections 41734 (a) and (b). As indicated by PRC Section 41735 (a), adoption of the Amendment is not subject to environmental review under the California Environmental Quality Act (CEQA). The Amendment supersedes and replaces the Eighth Amendment as the NDFE for the County of Santa Clara Unincorporated Area and for the City of San José. It may be adopted by other jurisdictions.

Fact Sheet #24
Recology Silicon Valley Processing and Transfer Facility
San Jose, California

TYPE OF FACILITY:

The Recology Silicon Valley Processing and Transfer Facility is an existing medium-volume transfer station that is permitted to receive up to 99 tons per day of mixed mixed waste materials including organic material, residential and commercial refuse and inert material. It is proposed to expand the facility to receive and process recyclable, organic and waste materials from the City of San Jose commercial recycling program and other sources.

FACILITY CAPACITY:

The facility is currently permitted to receive up to 99 tons per day. The facility expansion will be designed to handle up to 600 tons per day of residential and commercial recyclable, organic and waste materials.

ESTIMATED DIVERSION:

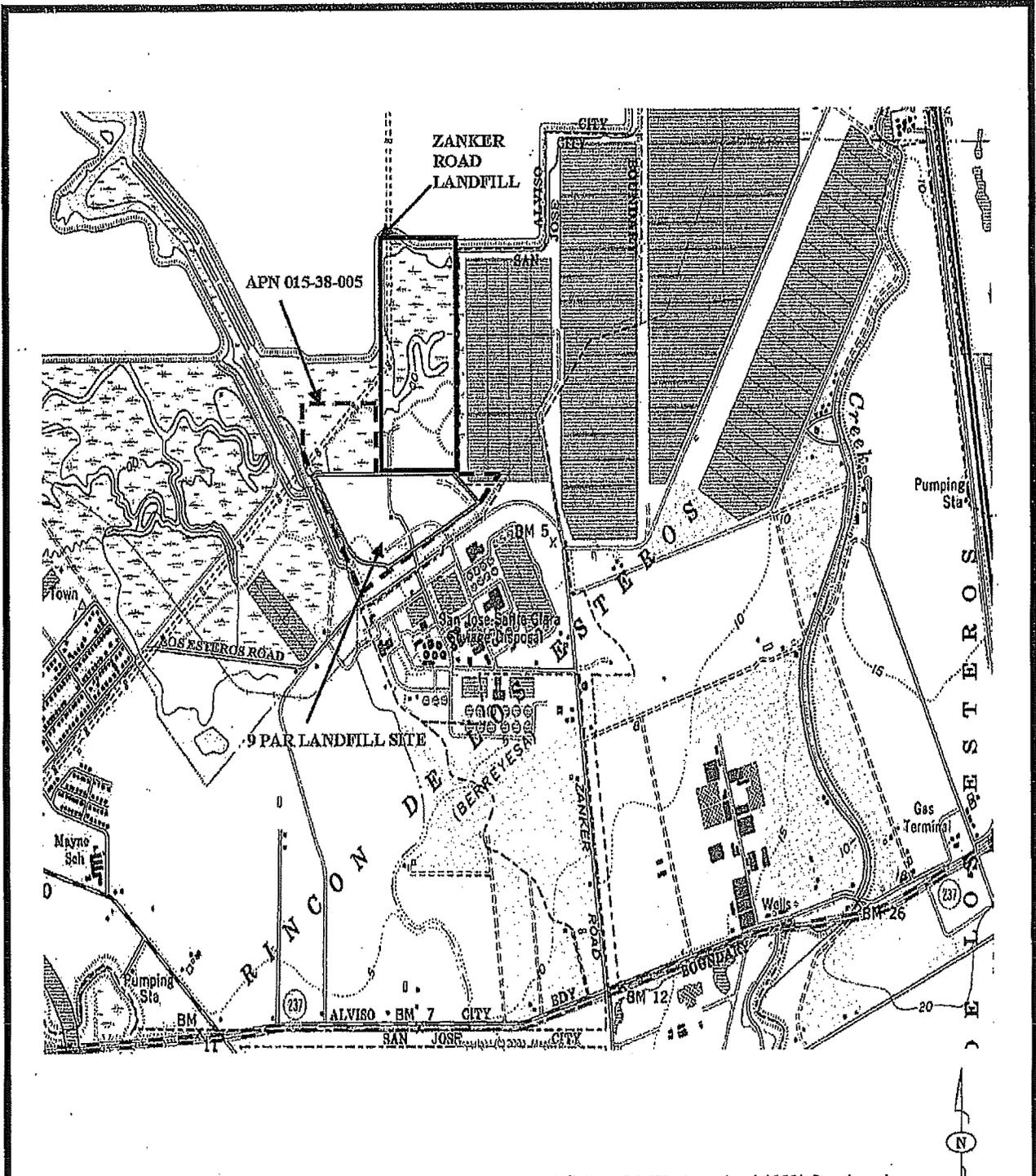
Processing and transfer will occur at the facility. The estimated overall diversion rate is above 60 percent. Recovered materials will be transported from the facility for further processing or to markets. Residual materials will be transported to a permitted disposal site.

JURISDICTIONS SERVED:

The facility will serve San Jose and other South Bay cities.

LOCATION:

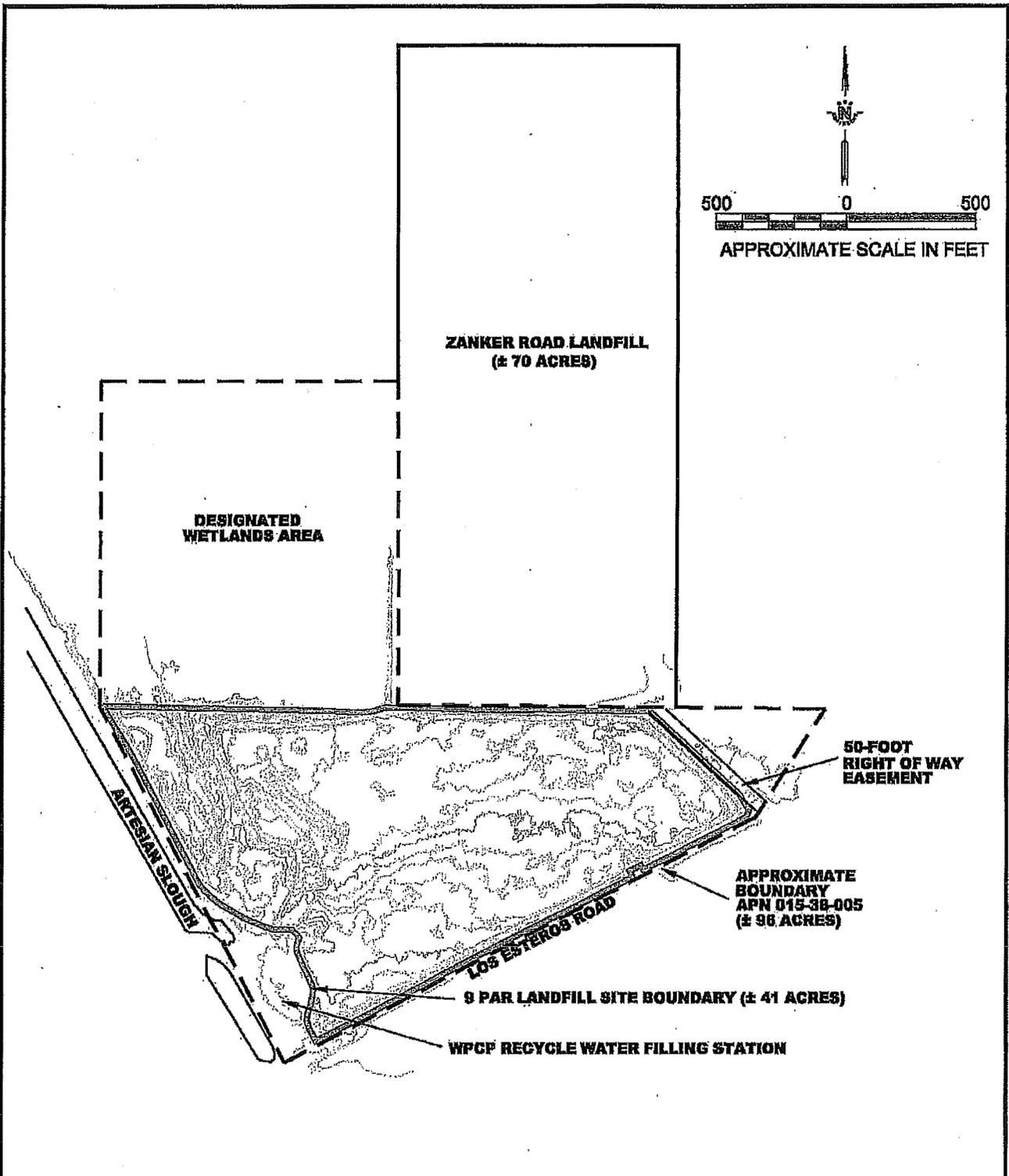
The facility is located at 1675 Rogers Avenue, San Jose. Refer to attached Site Location Map.



Adapted from USGS Map, California 7.5 Minute Series, Milpitas, CA (Photo revised 1980) Quadrangle.

SCS ENGINEERS 6601 Koll Center Parkway, Suite 140 Pleasanton, CA 94566 Ph: (925) 426-0080 Fax: (925) 426-0707		CHECKED BY: JJM
		APPROVED BY: JJM
PROJECT NO: 01206142.00	SCALE: NTS	FILE:
DESIGNED BY: HLG	DATE: 3/07	
DRAWN BY: HLG		

FIGURE 1
SITE LOCATION
9 PAR LANDFILL SITE
SAN JOSE, CALIFORNIA



BASE TOPOGRAPHY - 2004 (CITY OF SAN JOSE)

SCS ENGINEERS ENVIRONMENTAL CONSULTANTS 8801 KOLL CENTER PARKWAY, SUITE 140 PLEASANTON, CALIFORNIA 94668 PHONE: (925) 428-0080 FAX: (925) 428-0707	SITE VICINITY MAP	SCALE: AS SHOWN	FIGURE NO. 2
	9 PAR LANDFILL SITE SAN JOSE, CALIFORNIA	PROJECT NO. 01208142.00	
		DATE: 4-8-07	

Fact Sheet #25
Zero Waste Energy Development Company Anaerobic Digestion Facility
San Jose, California

TYPE OF FACILITY:

Zero Waste Energy Development Company (Zero Waste), a joint venture between GreenWaste Recovery, Inc. and its sister company Zanker Road Resource Management (Zanker), is developing the first of its kind in the nation dry fermentation anaerobic digestion facility. Although anaerobic digestion is common in the United States, all the existing processes employ wet feedstock. While the dry-fermentation technology that will be deployed has been commercially demonstrated in Europe for agricultural feedstocks and some MSW feedstocks, there are currently no dry-fermentation anaerobic digestion projects operating in the United States.

FACILITY CAPACITY:

This 150,000 tons per year facility will be developed in three phases; each of the three phases will be capable of processing 50,000 tons per year of organic materials.

FEEDSTOCK:

The facility will process and recover energy from source separated food waste and the organic fraction remaining after materials including municipal solid waste (MSW) are processed at GreenWaste's MRF and create two products: a biogas containing methane and compost. We anticipate phase I of the project will produce 13 million kilowatt hours of electricity per year – enough to power approximately 1,300 homes.

ESTIMATED DIVERSION:

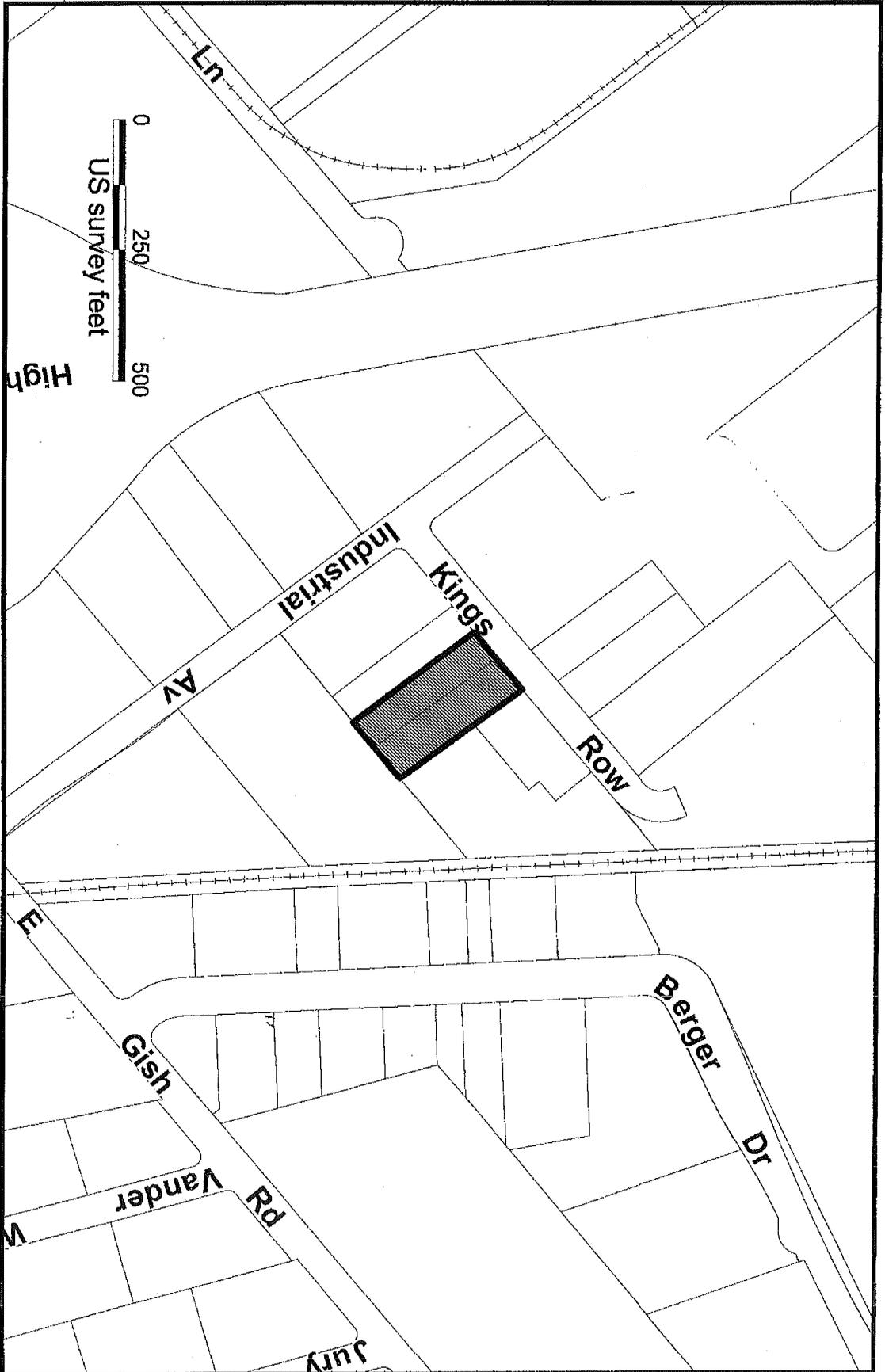
GreenWaste is estimating 80% diversion of green materials and compostable materials.

JURISDICTIONS SERVED:

This facility has been designed to accommodate the current and growing stream of organic waste generated by San Jose and nearby municipalities.

LOCATION:

The proposed site for this facility is located at the former Nine Par landfill at 2100 Los Esteros Road, in the City of San Jose, adjacent to the existing Zanker processing facilities. Refer to attached Site Location Map.



05/08/2009

Noticing Radius: 500 feet

File No: SP09-026

District: 4

Quad No: 51

650 Kings Row

**Fact Sheet #26
Green Earth Management LLC Kings Row Recycling Facility
San Jose, California**

TYPE OF FACILITY:

The Green Earth Management LLC Kings Row Recycling Facility is an existing Chipping and Grinding Operation on 0.91 acres of leased property permitted to handle up to 199 tons per day of green materials. Green Earth Management LLC. is planning to expand their material processing and transfer facility in the future. The Kings Row Recycling Facility currently chips and grinds green material for transfer to biomass energy facilities. The planned expanded facility's primary function will be to process green and compostable materials prior to being transferred to compost or energy facilities.

FACILITY CAPACITY:

The facility is currently permitted to handle up to 199 tons per day. A maximum of 600 tons per day of green materials (approximately 75-80% by weight) and compostable materials (approximately 20-25% by weight) is planned in the future.

ESTIMATED DIVERSION:

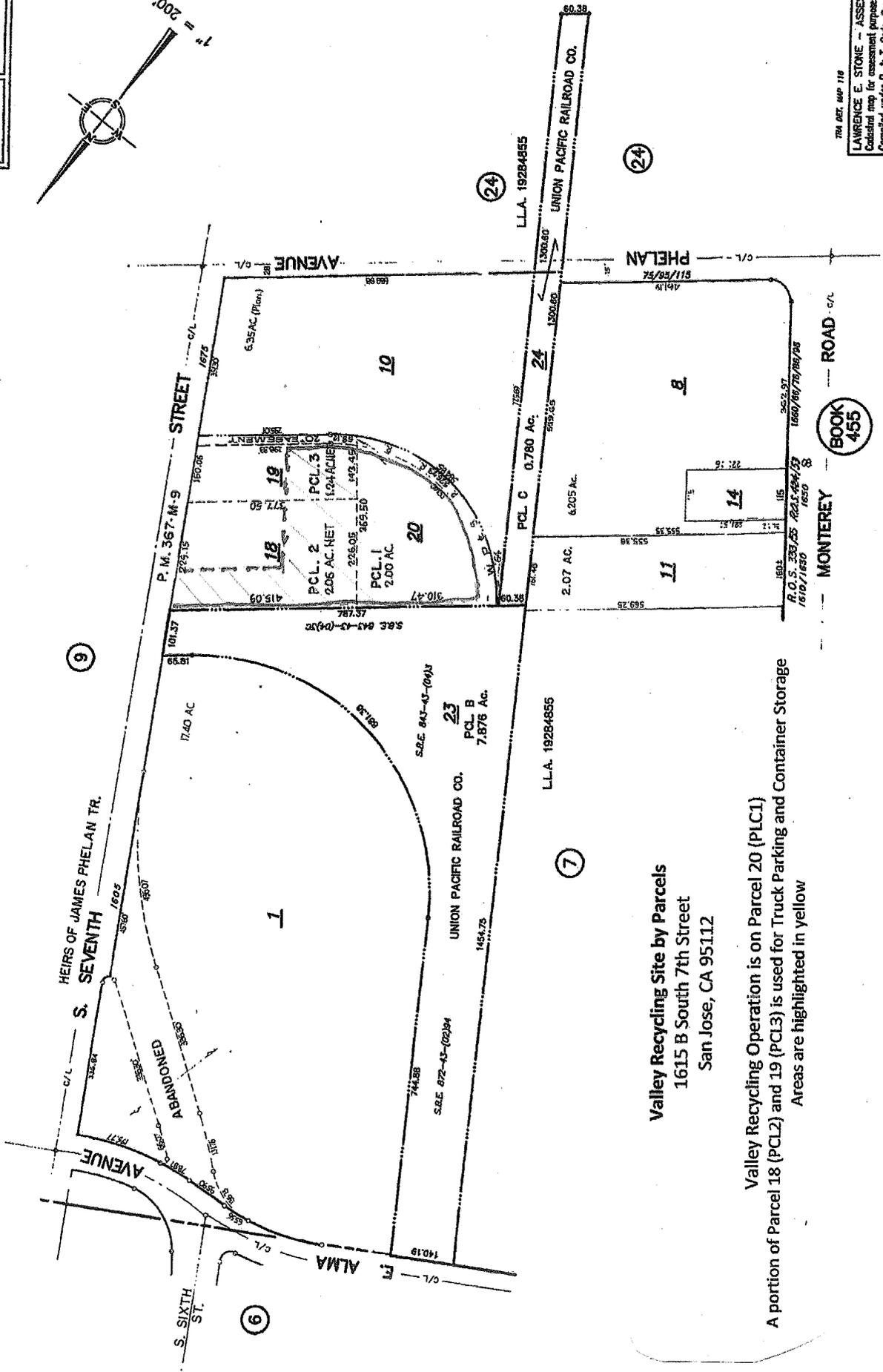
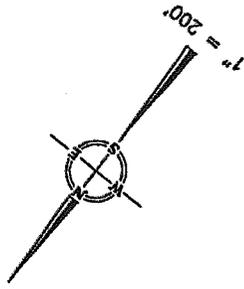
Kings Row Recycling Facility is estimating 99% diversion of green materials and compostable materials.

JURISDICTIONS SERVED:

The Kings Row Recycling Facility will service Santa Clara County and surrounding counties. The facility will be open to the public.

LOCATION:

The facility is located in the Enterprise Zone of the City of San Jose at 650 Kings Row. Refer to attached site location map.



Valley Recycling Site by Parcels
 1615 B South 7th Street
 San Jose, CA 95112

Valley Recycling Operation is on Parcel 20 (PLC1)
 A portion of Parcel 18 (PCL2) and 19 (PCL3) is used for Truck Parking and Container Storage
 Areas are highlighted in yellow

BOOK 455

7th Ed. Map 119
 LAWRENCE E. STONE - ASSESSOR
 Cadastre map for assessment purposes only.
 Compiled under R. & T. Code, Sec. 327.
 Effective Roll Year 2009-2009

Fact Sheet #27
Environmental Resources Recovery Inc. (Valley Recycling)
San Jose, California

TYPE OF FACILITY:

Environmental Resource Recovery Inc. (Valley Recycling) is currently permitted as a Medium Volume Construction Demolition Debris Facility. Valley Recycling has been in business since 1986 on property leased from a private party. This facility is currently operating under state and local limits of 175 tons per day. This facility is currently seeking to move a higher state permit "Tier" to implement future plans to process and increase tonnage as a fully permitted solid waste facility, within allowable limits of state and local permit entitlements. The existing medium volume C&D facility has storage bunkers, assorted sizes of dumpster and parking for the roll-off vehicles, and related trucks with compactor-loads.

FACILITY CAPACITY:

A maximum of 175 tons per day of Construction, Demolition and assorted Debris.

ESTIMATED DIVERSION:

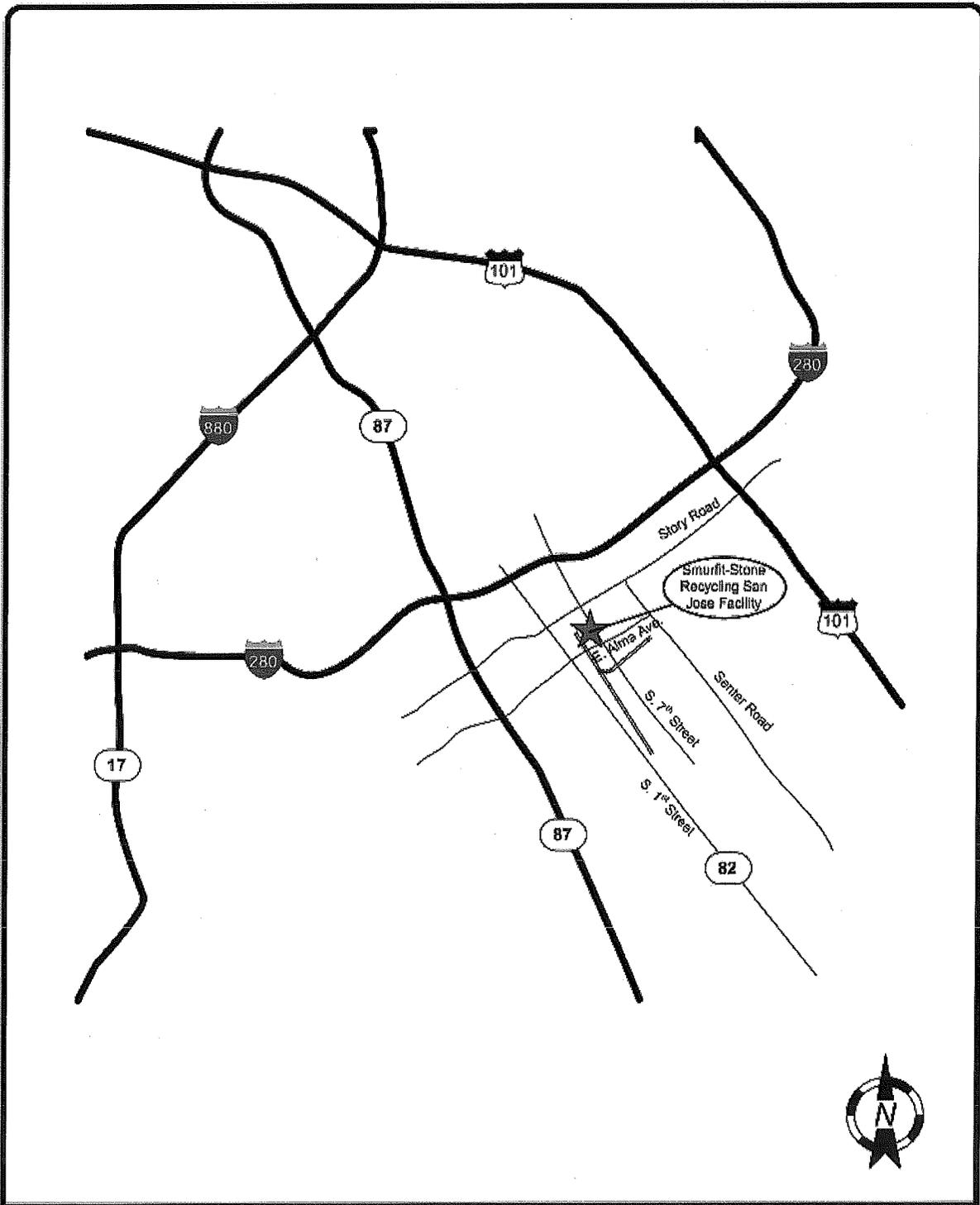
The existing facility recycles less than 5% of the volume received at this time. As new state and local permit entitlements are approved, future operations may increase processing and recycling levels. Their stated goal in the future is to maximize the diversion that may allow up to or in excess of 75% diversion. They are in the early stages with LEA to go to the next "Tier" up and at this time it is uncertain what will be required.

JURISDICTIONS SERVED:

Valley Recycling services the Bay Area and will be looking to expand in the future.

LOCATION:

The facility is located at 1615 B South 7th Street in San Jose. Site Map Attached.



Smurfit-Stone Recycling San Jose Facility Location Map
205 East Alma Avenue, San Jose, CA 95112-5902

**Fact Sheet #28
Smurfit-Stone Recycling San Jose Facility
San Jose, California**

TYPE OF FACILITY:

The Smurfit-Stone Recycling San Jose Facility is a recycling processing and transfer facility receiving commingled and source separated recyclables operated by Smurfit-Stone Recycling and Waste Services. The facility, which is 5.17 acres, began operations in 1982 as a recycling center. This facility is seeking a permit as a solid waste processing and transfer facility in anticipation of incoming recyclables that could be in excess of the state mandated ten percent residual limit. All sorting operations occur within the building. Sorted materials are sent for processing and marketing at other locations. Residual wastes are sent for disposal at permitted landfills. Other activities at this site include: administrative offices and employee parking.

FACILITY CAPACITY:

The Facility's design capacity is 960 tons per day of recyclable commodities including but not limited to cardboard, paper, and beverage containers. Residual solid waste from the operation will be sent on to an authorized facility. Hazardous and other prohibited wastes will be sent to approved recycling, treatment, or disposal facilities.

ESTIMATED DIVERSION:

The anticipated diversion rate for the facility will be over 90 percent.

JURISDICTIONS SERVED:

The Facility will serve the City of San Jose and other jurisdictions in Santa Clara County.

LOCATION:

The facility is located at 205 East Alma Avenue in San Jose. Access to the facility is from East Alma Avenue. Site Map Attached.