



DATE: March 27, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **ADOPTION OF A RESOLUTION AFFIRMING PLANNING COMMISSION RESOLUTION NO. 2013-P01 ADOPTING A MITIGATED NEGATIVE DECLARATION, AND PLANNING COMMISSION RESOLUTION NO. 2013-P02 APPROVING THE ESTABLISHMENT AND OPERATION OF A COMPRESSED NATURAL GAS (CNG) FUELING FACILITY AT 2141 OCEANSIDE BOULEVARD, WITHIN THE LOMA ALTA NEIGHBORHOOD – WASTE MANAGEMENT CNG FUELING FACILITY – APPLICANT: WASTE MANAGEMENT OF NORTH COUNTY– APPELLANT: NADINE SCOTT, FOLAC**

SYNOPSIS

Staff recommends that the City Council adopt a resolution upholding the Planning Commission's decision to adopt a Mitigated Negative Declaration and approving Development Plan D11-00007 and Conditional Use Permit CUP11-00013 to allow for the installation and operation of a Compressed Natural Gas (CNG) fueling facility on a fully developed 3.7-acre site located at 2141 Oceanside Boulevard.

BACKGROUND

In October of 1994, the Planning Commission approved Conditional Use Permit (C-5-94) allowing the relocation of Waste Management's recycling facility from 1440 South Pacific Street to its current location at 2880 Industry Street. The approval was for a one year period.

On October 23, 1995, the Planning Commission adopted PC Resolution No. 95-P51 conditionally approving Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The subject approval allowed for improvements and permitting of all three sites as denoted in the attached "Project Description and Justification." The three subject sites are referred to as follows: Site No. 1 "Administration and Maintenance Facility" located at 2141 Oceanside Boulevard, Site No. 2 "Waste Management System Pod and Storage Yard/Temporary Public Recycle Buy Back Area" located at 2403-B Industry Street, and Site No. 3 "Recycling Yard and Public Buy-Back Center" located at 2880 Industry Street.

On January 28, 2013, the Planning Commission adopted a Mitigated Negative Declaration (MND) for the project by a 4-3 vote and approved a Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) revising Development Plan (D-9-95) and Conditional Use Permit (C-24-95) for the project at site No.1 by a 6-1 vote. Following the Planning Commission hearing and prior to the end of the appeal period, an appeal of the Planning Commission's action to approve the subject project was received by the City Clerk. This report identifies and addresses the issues raised in the Appeal by Nadine Scott representing the Friends of Loma Alta Creek (FOLAC). Attached to this report is the Appeal document that outlines the specific issues and concerns related to the project.

The project site is located at 2141 Oceanside Boulevard and is a fully developed 3.7-acre site referred to as Site 1, which currently operates as the Waste Management of North County's Administration and Maintenance Facility. The project site is located on the south side of Oceanside Boulevard, north of Loma Alta Creek with the Sprinter Line Railroad Tracks just beyond to the south. Primary access to the site has been established directly off the terminus of Industry Street. The subject proposal is to make minor site modifications necessary to install a Compressed Natural Gas (CNG) Fueling Facility and convert their trash hauling fleet from diesel-fueled vehicles to CNG-fueled vehicles. No other modifications to the previously approved Development Plan (D-9-95) or Conditional Use Permit (C-24-95) are proposed as part of this application.

Project Description:

The project application is comprised of the following required entitlements:

Development Plan (D11-00007) represents a request for the following:

- (a) Addition of minor site improvements in the form of a new electrical transformer and gas compression equipment protected and screened via a 8'-0" black vinyl chain-link fence with black vinyl slats; as well as re-striping, enhanced landscaping along the perimeter of Industry Street and the eastern portion of the site, gas distribution piping below grade, and CNG time fill dispensers mounted on concrete K-rails or light post style bases. Minor interior modifications to the existing maintenance building are required to be implemented because of the use of CNG (i.e. electrical components, building ventilation, etc.).

Conditional Use Permit (CUP11-00013) represents a request for the following:

- (a) The installation of CNG improvements is necessary for converting the existing diesel trash hauling fleet to a CNG fleet. The Conditional Use Permit is necessary because the Waste Management operations are defined by the Oceanside Zoning Ordinance as a Major Utility land use and any modification to

the operational characteristics requires that a revision to the original CUP be conducted. No other operational components beyond fuel system conversions are proposed as part of this application for the Waste Management Facility at 2141 Oceanside Blvd.

The subject site is zoned IG (General Industrial) and has a General Plan Land Use Designation of GI (General Industrial). Major Utilities that involve refuse collection transfer, recycling or disposal facilities are permitted within the (General Industrial) zone district subject to approval of a Conditional Use Permit. The proposal to install a CNG fueling facility and make minor site improvements in order to accommodate said CNG piping and fueling equipment can be accommodated on the existing site, subject to approval of a revision to the Development Plan (D-9-95) and Conditional Use Permit (C-24-95).

Surrounding land uses adjacent to the site include fully developed industrial and some commercial type buildings and land uses to the north, east, and west, with Loma Alta Creek and the Sprinter Line to the south. Residential uses exist beyond the industrial and commercial corridor along Oceanside Blvd. to the north; as well as to the southeast.

The project is subject to the following Ordinances, City policies, and the State of California Public Resources Code:

1. General Plan
2. Zoning Ordinance
3. CEQA

Section 4605.c of the Zoning Ordinance provides that the City Council shall consider only the same application, plans, and related project materials that were the subject of the original decision and only the issue(s) raised by the appeal.

ANALYSIS

Pursuant to OZO 4605.c, the City Council may consider only the issues that were raised in the appeal. Nadine Scott representing FOLAC stated grounds for appealing the action to the City Council are as follows:

1. *The CEQA review for the project was inadequate, failed to identify all of the adverse impacts or to provide adequate mitigation. The findings from the initial study/analysis should have resulted in a complete Environmental Impact Report as the level of review.*

The application presented to the Planning Commission was a revision of a previously approved project for which a Negative Declaration was prepared and adopted. In accordance with CEQA Guidelines Article 11, Section 15162 (a) "When a Negative Declaration is adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light

of the whole record that substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.” Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. “Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (Public Resource Code, Section 21080, Subsection (e) (1)-(2).

FOLAC’s assertions did not provide any substantial evidence that would show the level of CEQA review was inadequate, failed to identify all of the adverse impacts, or that did not provide adequate mitigation. In retrospect, the Initial Study clearly analyzed the project and established adequate findings and mitigation measures relative to the project and correctly determined that, subject to mitigation measures, there would not be a significant impact to the environment with implementation of the project. Furthermore, the Draft MND was circulated for public review for 30 days, with only one state agency, “The Department of Toxic Substances” providing comments. The comments were not relative to the adequacy of the CEQA document, but rather standard comments that would need to be considered when the project is being constructed. The U.S. Fish and Wildlife Service, The San Diego Regional Water Quality Board, and The California Department of Fish and Game were mailed copies of the Draft MND and had no comments.

For these reasons, staff recommends that the City Council find that issue number one does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration (MND) for the subject project.

2. *Failed to make the required findings at the Planning Commission level and failed to take into account facts and evidence to the contrary.*

In reviewing the subject project for consistency with the City of Oceanside Zoning Ordinance Article 43, Section 4306 and Article 41, Section 4105 required findings for Development Plans and Conditional Use Permits, staff analyzed the project based upon the scope of the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The project review was for minor site improvements involving trenching and placement of gas lines along with the addition of CNG fill dispensers on K-rails or light post pedestals, new fencing and bollards for safety and security purposes, enhanced landscaping along the perimeter of the fully developed site, and the addition of a CNG compressor required to deliver the fuel to the trash hauling fleet. No intensification of the land use is proposed as part of the project and subsequent findings relative to the project were made and incorporated into Planning Commission Resolution 2013-P02.

FOLAC's assertions did not provide any substantial evidence or specific finding required to be made in order to approve the subject project. Furthermore, the Planning Commission was provided all project specific information prior to the public hearing and considered it along with public testimony prior to taking action to approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013).

For these reasons, staff recommends that the City Council find that FOLAC has not provided any basis to warrant the overturning of the Planning Commission action based on this issue.

3. *Numerous inadequacies in the environmental review included the following: failed to identify inconsistencies with the General Plan including the Land Use Element, Noise Element, and Oceanside Zoning Ordinance, Oceanside Boulevard Vision Plan, Oceanside Draft Subarea Plan, Endangered Species Act Oceanside Development Policies, City Policies, and the Loma Alta Watershed Management Plan.*

In reviewing the subject project for consistency with the with the City of Oceanside General Plan including the Land Use Element and Noise Element, as well as the Oceanside Zoning Ordinance, and CEQA, staff analyzed the project based upon the scope of the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The project review was for minor site improvements involving trenching and placement of gas lines along with the addition of CNG fill dispensers on K-rails or light post pedestals, new fencing and bollards for safety and security purposes, enhanced landscaping along the perimeter of the fully developed site, and the addition of a CNG compressor required to deliver the fuel to the trash hauling fleet. No intensification of the land use is proposed as part of the project and subsequent findings relative to the project were made and incorporated into Planning Commission Resolution 2013-P02. Technical studies and analysis of the proposed project submitted as part of the entitlement process revealed that the project would actually lower noise associated with the existing project and provide a more compatible operation with the adjacent residential neighborhood.

The following statements of facts support the actions by the Planning Commission to adopt an MND and approve the project:

- The Oceanside Boulevard Vision Plan was "accepted" by the City Council at a workshop, but was never formally adopted or approved by the City Council. The subject plan was tabled and no further action to implement has been brought forward to-date.
- During the environmental review of the project, the final MND contained a consistency analysis with the Draft Subarea Plan and clearly illustrated that the project would be consistent with that plan and is memorialized within Appendix D.

- Biological review and analysis of the site determined that the project, which includes only minor site improvements necessary to establish a CNG fueling facility subject to mitigation measures identified in the Initial Study, would not cause negative impacts to endangered species. Furthermore, all responsible agencies were sent copies of the Draft MND for review and comment and no comments or concerns were received by staff.

Previous letters submitted to the Planning Commission and City staff from FOLAC as part of the public record were directed toward the existing conditions and perceived site issues, not the effects of the project under consideration. Furthermore, the Planning Commission was provided all project specific information prior to the public hearing and rendered a decision which demonstrated that the project will reduce existing noise levels from the site, thus creating a benefit from the proposed project.

FOLAC asserts that the environmental document review failed to identify inadequacies with the Oceanside Boulevard Vision Plan, Oceanside Draft Subarea Plan, Endangered Species Act, California Endangered Species Act, Oceanside Development Policies, City Policies, and the Loma Alta Watershed Management Plan. FOLAC has not provided any substantial evidence or raised any specific inconsistencies between the project and the above mentioned plans and/or policies.

FOLAC has not substantiated its claims relative to the environmental review inconsistencies and therefore staff recommends that the City Council find that issue number 3 does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

4. Failed to identify adverse impacts associated with those inconsistencies.

FOLAC's assertions did not provide any substantial evidence or specific inconsistency for which the environmental document failed to address. Furthermore, the Planning Commission was provided all project specific information prior to the public hearing and considered it along with public testimony prior to taking action to approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013).

For these reasons, staff recommends that the City Council find that issue number 4 does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

5. Failed to mitigate for identified impacts to below a level of significance.

FOLAC's assertions that during the environmental review the CEQA process failed to mitigate identified impacts to below a level of significance is not supported by substantial evidence to refute that a specific project impact was not mitigated below a

level of significance. Contained within the Final Mitigated Negative Declaration (FMND) are mitigation measures that based upon substantial evidence will adequately reduce impacts to biological and hydrology impacts to less than significant.

For this reason, staff recommends that the City Council find that issue number five does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

6. Failed to demonstrate compliance with key provisions of local ordinances, particularly the Noise Ordinance, failed to identify all existing, new, and cumulative impacts of noise.

In reviewing the subject project for consistency with the with the City of Oceanside General Plan including the Land Use Element and Noise Element, as well as the Oceanside Zoning Ordinance, and CEQA, staff analyzed the project based upon the scope of the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). A Focused Environmental Noise Assessment was prepared and included within the FMND. The FMND noted that under existing conditions, the Noise Ordinance standard of a one-hour average of 65 dBA L_{eq} was exceeded during the 5:00 am and 6:00 am hours at the southern property boundary of Site No. 1. (FMND, Appendix C, p. 9) The CNG project will comply with the City's noise requirements and as substantiated in the project noise study. New CNG waste collection vehicles produce less noise than diesel collection vehicles (FMND, Appendix C, p. 12.). Moreover, the totality of the evidence in the record shows that the modifications to the project site (i.e. the use of quieter CNG fueled trucks and changes to the backup beepers), will result in a decrease in existing noise levels such that the project will not result in any new cumulatively considerable significant adverse noise impacts under CEQA. The FMND concludes on the basis of substantial evidence that the CNG project would not result in a significant noise impact. FOLAC has not presented any substantial evidence that any of the conditions set forth in the CEQA Guidelines Section 15162 apply.

FOLAC's argument is almost entirely premised on the existence of current exceedences of the City's noise standard at the southern boundary during early morning hours, which is disclosed in the FMND (FMND, Appendix C, p. 9). However, FOLAC presents no evidence refuting the technical analysis provided in the FMND or the conclusion that the project would be in compliance with the City's noise standard.

For the reasons cited above, staff recommends that the City Council find that issue number six does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

7. Failed to adequately evaluate floodway impacts considering current known flooding conditions.

In reviewing the subject project for consistency with the with the City of Oceanside General Plan including the Land Use Element and Noise Element, as well as the Oceanside Zoning Ordinance, and CEQA, staff analyzed the project based upon the scope of the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). Modifications to the existing site that will include minor trenching and placement of gas lines along with the addition of CNG fill dispensers on K-rails or light post pedestals, new fencing and bollards for safety and security purposes, enhanced landscaping along the perimeter of the fully developed site, and the addition of a CNG compressor required to deliver the fuel to the trash hauling fleet. The FMND discloses that encroachments will be placed in the floodway. However, that mere fact does not mean that it would impede or redirect flood flows in a way that would result in a significant impact. It should be noted that Conditions of Approval 29-33 of Planning Commission Resolution No. 2013-P02 for the CNG project requires compliance with the Oceanside Floodplain Management Ordinance and FEMA requirements, and further requires a detailed hydrology study as part of the project's final engineering. The proposed Conditions of Approval for the CNG project specifically require verification and certification that there is no increase in the base flood elevation from proposed improvements prior to authorization for any encroachment (Conditions of Approval 29-33 of PC Resolution 2013-P02).

FOLAC's assertion on adequacy of the evaluation of floodway impacts is a very broad statement that does not provide any substantial evidence of specific impacts that would occur with the project relative to the floodway. Furthermore, the project has been conditioned consistent with the Oceanside Floodplain Management Ordinance and FEMA requirements.

For the reasons cited above, staff recommends that the City Council find that this issue does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

8. Failed to identify or correct violations of the existing CUP for the site including landscape die-off that will result in biological and further cumulative impacts including noise, and floodway impacts.

Staff has analyzed the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The Planning Commission staff report, at page 2, describes the project as “[a]ddition of minor site improvements....because of the use of CNG” and “minor interior improvements.” The CNG project is a revision to the existing project approved in the 1995 CUP, not a new project. There is no change in use at Site No. 1 or a change in basic operating parameters, and the Conditions of Approval for this CNG project would not invalidate the 1995 Resolution of Approval or its conditions.

Staff has determined that the reason for die off of oleanders along the eastern boundary of Site No. 1 was due to plant disease and is not directly attributable to the failure to provide "normal care and irrigation of the landscaping." During the time this project has been on file, the oleanders were removed to limit spread of the disease. As noted, these were non-native species, and there was no potential for impact from their removal, which occurred outside any breeding season activity.

Furthermore, the CNG project provides for replacement of the oleanders, a non-native plant species, with native plant species at this location (FMND, P. 2-5).

FOLAC asserts that the adequacy of the evaluation to identify and correct violations of the existing CUP relative to landscape die-off which would lead to cumulative noise and floodway impacts has not been substantiated by FOLAC and for the reason cited above, staff recommends that the City Council find that issue number eight does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

9. Failed to provide adequate monitoring and enforcement required to assure current and future impacts are addressed for the life of the project.

Staff has analyzed the project as a revision to a previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The Planning Commission staff report, at page 2, describes the project as "[a]ddition of minor site improvements....because of the use of CNG" and "minor interior improvements." The CNG project is a revision to the existing project approved in the 1995 CUP, and not a new project. There is neither change in use nor basic operating parameters at Site No. 1. The Conditions of Approval for this CNG project would not invalidate the 1995 Resolution of Approval or its conditions. Furthermore, the Planning Commission was provided all project specific information prior to the public hearing and considered it along with public testimony prior to taking action to approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) by adopting PC Resolution No. 2012-P02 which included specific conditions of approval (numbers 15-18) that would establish the necessary means for the City to monitor and enforce compliance with the subject land use.

FOLAC asserts that the Planning Commissions action to approve the project failed to provide adequate monitoring and enforcement required to assure current and future impacts has not been substantiated by FOLAC and does not warrant overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

For the reason cited above, staff recommends that the City Council find that this issue does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

10. Failed to give adequate notice to various residents/homeowners in the notice area.

Pursuant to Article 41 of the Oceanside Zoning Ordinance, a Legal Notice is required to be mailed to all property owners of record and occupants within 300' radius. For this project, a Legal Notice was published in the North County Times and notices were sent to property owners of record and occupants within a 1,500-foot radius of the subject property, individuals and/or organizations requesting notification, applicant and other interested parties. The 1,500-foot radius notification was well above the City requirement to publically notice the project. It should be further noted for the record that a Notice of Application Submittal, Notice of Intent to Adopt a MND, and Notice of Public Hearing for the Planning Commission were mailed out to all property owners of record and occupants within a 1,500-foot radius.

For the reason cited above, staff recommends that the City Council find that this issue does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

11. Failed to review existing development plan annually (ZO Article 44).

FOLAC's assertion that Article 44 of the Oceanside Zoning Ordinance "Development Agreements" applies to this project is an incorrect assertion. The purpose of Article 44 is as follows: In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development, the Legislature of the State of California adopted Section 65864 et. seq. of the Government Code, authorizing local governments to enter into development agreements with applicants for development projects. The project under consideration does not include a Development Agreement, nor did the original project Development Plan (D-9-95) and Conditional Use Permit (C-24-95). Furthermore, the regulations for Development Plans are contained within Article 43 of the OZO, and there is no requirement for annual review of development plans.

For the reason cited above, staff recommends that the City Council find that this issue does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

12. Failed to adequately explain item 36 of the 2013 Planning Commission resolution that creates uncertainty about what will be built.

Condition 36 of Planning Commission Resolution 2012-P02 is a standard condition of approval placed upon all entitlement projects. The subject condition is included to clearly indicate that the conditions in the adopted resolution of approval govern in the event there is anything on the conceptual plans that may not match the conditions.

For the reason cited above, staff recommends that the City Council find that this issue does not warrant the overturning of the Planning Commission action to adopt a Mitigated Negative Declaration and approve the project.

SUMMARY

In summary, staff has comprehensively reviewed the issues raised in the appeal and maintains its position that the issues raised do not provide a sufficient basis, in light of the required findings set forth in the Zoning Ordinance, to overturn the Planning Commission's decision. Consequently, it is staff's recommendation that the City Council adopt the attached resolution affirming the Planning Commission's action adopting a Mitigated Negative Declaration and approving Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013).

FISCAL IMPACT

Applicable fees for the processing of the appeal were not paid, as FOLAC provided a petition for waiver of said fees in accordance with City policy.

COMMISSION OR COMMITTEE REPORT

The Planning Commission reviewed the project on January 28, 2013. After hearing testimony from the public as well as the applicant, the Commission took action to adopt the MND in a 4-3 vote and approved the project in a 6-1 vote.

CITY ATTORNEY'S ANALYSIS

The City Attorney's Office has reviewed the proposed resolution and approved it as to form.

In accordance with Section 4605 of the Zoning Ordinance, the City Council shall consider the same application, plans, and related project materials that were the subject of the original decision approving the project by the Planning Commission.

The City Council shall review the record of the decision and hear testimony from staff, the applicant, and/or any interested parties.

After the public hearing, the City Council shall affirm or reverse the Planning Commission's decision to adopt a MND and approve the subject project. If a decision is reversed, the City Council shall state the specific reasons for the reversal.

RECOMMENDATION

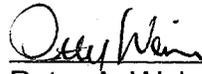
Staff recommends that the City Council adopt a resolution upholding the Planning Commission's decision to adopt a Mitigated Negative Declaration and approving Development Plan D11-00007 and Conditional Use Permit CUP11-00013 to allow for the installation and operation of a Compressed Natural Gas (CNG) fueling facility on a fully developed 3.7-acre site located at 2141 Oceanside Boulevard.

PREPARED BY:



Richard Greenbauer
Senior Planner

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

George Buell, Development Services Director

Marisa Lundstedt, City Planner



ATTACHMENTS:

1. City Council Resolution
2. Site Plans/Project Description and Justification
3. Planning Commission Staff Report dated January 28, 2013
4. Appeal

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE UPHOLDING PLANNING COMMISSION RESOLUTION NO.2013-P01 ADOPTING A MITIGATED NEGATIVE DECLARATION AND NO.2013-P02 APPROVING DEVELOPMENT PLAN (D11-00007) AND CONDITIONAL USE PERMIT (CUP11-00013) ALLOWING THE ESTABLISHMENT AND OPERATION OF CNG FUELING FACILITY AT 2141 OCEANSIDE BOULEVARD.

(Appellant: Nadine L Scott, FOLAC)

(Applicant: Waste Management of North County)

WHEREAS, an Applicant has filed an application for approval of a Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) for the establishment and operation of a compressed natural gas (CNG) fueling facility at the Waste Management of North County Administration and Fleet Maintenance Facility located at 2141 Oceanside Boulevard on certain real property more particularly described in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the application seeks to revise previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95); and

WHEREAS, the Planning Division has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has prepared an Initial Study in accordance with CEQA. Based upon the results of the Initial Study, the Environmental Resource Officer of the City of Oceanside has caused to be prepared a Mitigated Negative Declaration in accordance with CEQA and the state CEQA Guidelines; and

WHEREAS, the City's Environmental Resource Officer has determined that an Environmental Impact Report (EIR) is not required because there is no substantial evidence in light of the whole record that the project as mitigated may have a significant effect on the environment; and

1 WHEREAS, the Planning Commission, after giving the required notice, did on the 28th
2 day of January, 2013, conduct a duly-advertised public hearing as prescribed by law to consider
3 said application and after holding the public hearing took action to adopt Resolution No. 2013-
4 P01, adopting a Mitigated Negative Declaration and Resolution No.
5 2013-P02, approving said Development Plan (D11-00007) and Conditional Use Permit (CUP11-
6 00013); and

7 WHEREAS, an appeal of the Planning Commission's action was timely filed with the
8 City Clerk of the City of Oceanside to review the Planning Commission decision; and

9 WHEREAS, on March 27, 2013, the City Council of the City of Oceanside held a
10 duly-noticed public hearing and heard and considered evidence and testimony by all interested
11 parties concerning the appeal of the Planning Commission's adoption of a Mitigated Negative
12 Declaration and approval on the above-identified Development Plan and Conditional Use Permit;
13 and

14 WHEREAS, based on such evidence, testimony and staff reports, this Council makes the
15 findings of fact as set forth in Planning Commission Resolution No. 2013-P01 and 2013-P02 as
16 attached hereto as Exhibit "B" and "C", and incorporates them by reference as if fully set forth
17 herein;

18 WHEREAS, the City Council does hereby find that the Mitigation and Monitoring and
19 Reporting Program (MMRP) /Mitigated Negative Declaration has been prepared in accordance
20 with requirements of CEQA, the State CEQA Guidelines, and the Ordinance 04-OR300-1 of the
21 City of Oceanside adopting procedures and guidelines to implement CEQA, and hereby
22 confirms the adoption of a Mitigated Negative Declaration and the Mitigation, Monitoring and
23 Reporting Program for the project; and

24 WHEREAS, the City Council does hereby confirm that the Mitigated Negative
25 Declaration and Mitigation and Monitoring and Reporting Program (MMRP) have been
26 determined to be accurate and adequate documents, which reflect the independent judgment
27 and analysis of the City of Oceanside. On the basis of the entire record before it, the City
28 Council finds that there is no substantial evidence that the project, with implementation of the
29 mitigation measures proposed, will have a significant impact on the environment.

1 WHEREAS, based on such evidence and testimony, including but not limited to the
2 reports of the Planning Division Staff and records of the Planning Commission hearing, this
3 Council finds that the decisions of the Planning Commission properly address the concerns raised
4 in the Appeal by Nadine Scott representing FOLAC.

5 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

- 6 1. The City Council has independently reviewed and analyzed the Initial Study/Mitigated
7 Negative Declaration and other information and has considered the information contained
8 therein prior to approving the project; the Initial Study/Mitigated Negative Declaration has
9 been prepared in compliance with CEQA and the State Guidelines; and the Initial
10 Study/Mitigated Negative Declaration represents the independent judgment of the City of
11 Oceanside as lead agency for the Project.
- 12 2. The City Council finds that based upon the entire record of proceedings before it and all
13 information received, there is no substantial evidence that any of the conditions set forth in
14 CEQA Guidelines section 15162 applies requiring the preparation of a subsequent or
15 supplemental Environmental Impact Report. Further, there is no substantial evidence in
16 the record that the project will have a significant effect on the environment.
- 17 3. The City Council hereby adopts the Mitigated Negative Declaration and the related
18 Mitigation Monitoring and Reporting Program prepared for the project. The appeal of
19 Planning Commission Resolution No. 2013-P01 is denied.
- 20 4. The City Council hereby affirms the decision of the Planning Commission approving
21 Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013)
 - 22 a) The proposed location of the use is in accord with the objectives of the Zoning
23 Ordinance and the purposes of the district in which the site is located because the
24 development plan proposal for the installation of a compressed natural gas (CNG) fueling
25 facility that includes the addition of a new electrical transformer and gas compression
26 equipment protected and screened via a 8'-0" chain-link fence with vinyl slats, along
27 with gas distribution piping below grade and time fill dispensers mounted on concrete
28 K-rails or light post style bases is consistent with the intent of the General Plan General
29 Industrial (GI) Land Use Designation and General Industrial (IG) zoning designation. All
proposed improvements and on-site development will assist in providing a more

1 environmentally sensitive alternative to diesel vehicles and ultimately will provide lower
2 noise and cleaner air emissions while servicing the Citizens of the City of Oceanside.

3 b) The installation of a compressed natural gas (CNG) fueling facility to replace the
4 existing diesel fueling facility and the required compressor, gas lines, electrical
5 transformers, and fill dispensers necessary to fuel the CNG vehicles is consistent with
6 the Zoning Ordinance and the General Plan Land Use Element because the proposed site
7 modifications necessary to transition to CNG fuel for Waste Management and all the
8 related equipment has been designed in a manner that consistent with the existing built
9 environment. Furthermore, the project is compatible with adjacent industrial uses of
10 similar nature and the types of land uses envisioned for this General Industrial (IG)
11 zoned area.

12 c) The project design and its physical aspects pertaining to perimeter landscaping, site
13 planning, and equipment location placement meets or exceeds the applicable zoning
14 criteria and development standards, and have incorporated site layout designs which are
15 sensitive to the adjacent land uses to the north of south of the subject site.

16 d) That the area covered by the Development Plan can be adequately, reasonably and
17 conveniently served by existing and planned public services, utilities, and public facilities.
18 The project will connect to an existing SDG&E gas main located in Oceanside Blvd. that
19 will be extended down Industry Street to the site and will not require any additional
20 services or utilities beyond what exist as part of the overall development.

21 e) That the site plan and physical design of the project is consistent with the policies
22 contained within Section 1.24 and 1.25 of the Land Use Element of the General Plan, the
23 Development Guidelines for Hillside, and Section 3039 of the Oceanside Zoning
24 ordinance because the site is relatively flat and Hillside guidelines are not applicable to this
25 site. The proposed development would be compatible with the adjacent industrial land
26 uses and would provide a more sustainable, environmentally sensitive fuel system that
27 equates to better air quality and quieter trash hauling vehicles that are servicing the citizens
28 of the City of Oceanside.

29 f) That the proposed location of the Waste Management of North County
Administration and Fleet Maintenance Facility that proposes to convert their fleet from

1 diesel to CNG is in accord with the objectives of the Oceanside Zoning Ordinance, and the
2 purposes of the General Industrial (IG) zone district in which the site is located because the
3 Industrial area was originally envisioned to be developed with heavy industrial type land
4 uses and the conversion from diesel to CNG fuel for the Waste Management Fleet would
5 not increase the intensity of the existing use on site and would actually improve the
6 existing conditions of the site by providing a more environmentally sensitive vehicle fleet.

7 g) That the proposed location of the Conditional Use and the proposed conditions
8 under which it will be operated or maintained will be consistent with the General Plan and
9 will not be detrimental to the public health, safety, or welfare of persons residing or
10 working in or adjacent to the area of the proposed use; and will not be detrimental to
11 properties or improvements in the vicinity or to the general welfare of the City because the
12 proposed site design will provide additional perimeter landscaping and fencing around the
13 new CNG area to buffer the newly established equipment from adjacent industrial land
14 uses and that is consistent with the industrial uses originally envisioned when the General
15 Plan was last updated in 2002 and designated the site as a General Industrial area of the
16 City.

17 h) That the proposed Conditional Use will comply with the provisions of the
18 Oceanside Zoning Ordinance, including any specific condition required for the proposed
19 conditional use in the district in which it would be located.

20 5. The application for a Development Plan (D11-00007) and Conditional Use Permit
21 (CUP11-00013) and Planning Commission Resolution 2013-P02 are hereby approved,
22 subject to all of the findings set forth in and the conditions imposed by Planning
23 Commission Resolution No. 2013-P02.

24 6. Pursuant to CCP Section 1094.6 (f), notice is hereby given that the time within which
25 judicial review of the Conditional Use Permit and Development Plan must be sought on
26 this decision is governed by CCP Section 1094.6 as set forth in Oceanside City Code
27 Section 1.10. Judicial review of the adoption of the Mitigated Negative Declaration shall
28 be in accordance with Public Resources Code section 21167(b).
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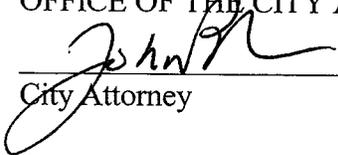
PASSED and ADOPTED by the City Council of the City of Oceanside, California this 27th day of March, 2013, by the following vote:

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

Mayor of the City of Oceanside

ATTEST:

City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY


City Attorney

EXHIBIT "A"

**WASTE MANAGEMENT OF NORTH COUNTY
OCEANSIDE COMPRESSED NATURAL GAS
(CNG) FUELING FACILITY**

Revision to Development Plan D-9-95 (D11-00007)
Revision to Conditional Use Permit C-24-95 (CUP11-00013)

LEGAL DESCRIPTION

(APN'S 149-370-07 & 10)

PARCELS 2 AND 5 OF PARCEL MAP NO. 5383, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 13, 1976 AS INSTRUMENT NO. 76-416153, OF OFFICIAL RECORDS.

EXHIBIT "B"

PLANNING COMMISSION
RESOLUTION NO. 2013-P01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE INSTALLATION OF A COMPRESSED NATURAL GAS FUELING FACILITY ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: D11-00007 and CUP11-00013 a revision to D-9-95 and C-24-95
APPLICANT: Waste Management of North County
LOCATION: 2141 Oceanside Blvd.

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Development Plan and Conditional Use Permit revision under the provisions of Articles 13, 30, 40, 41, and 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

installation of a compressed natural gas (CNG) fueling facility at the Waste Management of North County Administration and Fleet Maintenance Facility in order to allow for the conversion of the existing trash hauling fleet from diesel to CNG. Installation of the CNG fueling facility will require the addition of a new electrical transformer and gas compression equipment protected and screened via an 8'-0" black vinyl chain-link fence with black vinyl slats. The facility will also include gas distribution piping below grade with time fill dispensers mounted on concrete K-rails or light post style bases and located on a 3.7-acre site which is fully developed as a Trash Hauling Fleet Maintenance Facility. No modifications to the currently approved hours-of-operation are proposed as part of this application submittal;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 3rd day of December, 2012 took action to continue the public hearing to January 14, 2013 to consider said application.

1 WHEREAS, the Planning Commission, after giving the required notice, did on the 14th
2 day of January, 2013 take action to continue the public hearing to January 28, 2013 to consider
3 said application.

4 WHEREAS, the Planning Commission, after giving the required notice, did on the 28th
5 day of January, 2013 conduct a duly advertised public hearing as prescribed by law to consider the
6 content of the Mitigated Negative declaration and the Mitigation Monitoring and Reporting
7 program; and

8 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
9 Guidelines thereto, an Initial Study and Mitigated Negative Declaration have been prepared
10 stating that if the mitigation measures identified within the Initial Study are implemented there
11 will not be an adverse impact upon the environment;

12 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
13 the following facts:

FINDINGS:

- 14 1. The Mitigated Negative Declaration together with all comments received, and
15 Mitigation and Monitoring and Reporting Program (MMRP) incorporated into the
16 conditions of approval for the project, were presented to the Planning Commission, and
17 the Planning Commission reviewed and considered the information contained in these
18 documents prior to making a decision on the project.
- 19 2. The Mitigated Negative Declaration and Mitigation and Monitoring and Reporting
20 Program (MMRP) have been determined to be accurate and adequate documents,
21 which reflect the independent judgment and analysis of the Planning Commission. On
22 the basis of the entire record before it, the Planning Commission finds that there is no
23 substantial evidence that the project, with implementation of the mitigation measures
24 proposed, will have a significant impact on the environment.

25 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
26 adopt the Mitigated Negative Declaration and the mitigation measures provided therein and
27 incorporated as conditions of approval, as follows:

27 ///////////////
28 ///////////////
29 ///////////////

1 **Environmental:**

- 2 1. Removal of non-native oleander bushes shall occur outside of the bird breeding season
3 (February 1 through August 31). If it is not feasible to remove this ornamental
4 vegetation outside of the breeding season, a preconstruction nesting bird survey shall be
5 conducted by a qualified wildlife biologist no more than three days prior to removal
6 activity. If active nests are detected, removal of the bushes shall be postponed until the
7 young have fledged and the biologist determines that the nest(s) is/are no longer active.
8 The survey results shall be submitted to the Oceanside Planning Division.
- 9 2. Prior to grading, the applicant will obtain approval of a site-specific Erosion Control
10 Plan from the City Planning Division. This plan will include a list of best management
11 practices that the contractor will use to ensure that temporarily exposed soils do not
12 enter the on-site drainage system thereby ensuring existing water quality treatment
13 systems and standards applicable to the site remain intact throughout construction.

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1 3. During the construction period, standard BMPs such as proper storage, use and disposal
2 of construction material shall be applied to ensure that all hazardous materials (i.e.,
3 construction equipment fuels, oils, etc.) are stored properly and that no hazards occur
4 during this phase of the project. In addition, the project shall provide protection of all
5 storm drain inlets downstream of the construction site to eliminate entry of hazardous
6 substances off-site. Continual inspection and maintenance of all BMPs shall occur
7 throughout the duration of the construction phase.

8 PASSED AND ADOPTED Resolution No. 2013-P01 on January 28, 2013 by
9 the following vote, to wit:

10 AYES: Rosales, Neal, Balma and Ross

11 NAYS: Scrivener, Martinek, Troisi

12 ABSENT: None

13 ABSTAIN: None



14 Tom Rosales, Chairperson
15 Oceanside Planning Commission

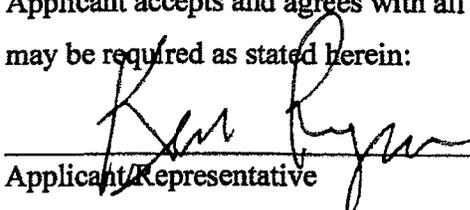
16 ATTEST:

17 
18 Marisa Lundstedt, Secretary

19 I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify
20 that this is a true and correct copy of Resolution No. 2013-P01.

21 Dated: January 30, 2013

22 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees
23 may be required as stated herein:

24 
25 Applicant/Representative

26 Date 1/30/13

EXHIBIT "c"

1 PLANNING COMMISSION
2 RESOLUTION NO. 2013-P02

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
4 OF OCEANSIDE, CALIFORNIA APPROVING A DEVELOPMENT
5 PLAN AND CONDITIONAL USE PERMIT ON CERTAIN REAL
6 PROPERTY IN THE CITY OF OCEANSIDE

6 APPLICATION NO: D11-00007 and CUP11-00013 a revision to D-9-95 and C-24-95
7 APPLICANT: Waste Management of North County
8 LOCATION: 2141 Oceanside Blvd.

9 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES
10 RESOLVE AS FOLLOWS:

11 WHEREAS, there was filed with this Commission a verified petition on the forms
12 prescribed by the Commission requesting a Development Plan and Conditional Use Permit
13 revision under the provisions of Articles 13, 30, 40, 41, and 43 of the Zoning Ordinance of the
14 City of Oceanside to permit the following:

15 installation of a compressed natural gas (CNG) fueling facility at the Waste
16 Management of North County Administration and Fleet Maintenance Facility in order
17 to allow for the conversion of the existing trash hauling fleet from diesel to CNG.
18 Installation of the CNG fueling facility will require the addition of a new electrical
19 transformer and gas compression equipment protected and screened via an 8'-0" black
20 vinyl chain-link fence with black vinyl slats. The facility will also include gas
21 distribution piping below grade with time fill dispensers mounted on concrete K-rails or
22 light post style bases and located on a 3.7-acre site which is fully developed as a Trash
23 Hauling Fleet Maintenance Facility. No modifications to the currently approved hours-
24 of-operation are proposed as part of this application submittal;

on certain real property described in the project description.

25 WHEREAS, the Planning Commission, after giving the required notice, did on the 3rd
26 day of December, 2012 took action to continue the public hearing to January 14, 2013 to consider
27 said application.
28
29

7/31/13

1 WHEREAS, the Planning Commission, after giving the required notice, did on the 14th
2 day of January, 2013 take action to continue the public hearing to January 28, 2013 to consider
3 said application.

4 WHEREAS, the Planning Commission, after giving the required notice, did on the 28th
5 day of January, 2013 conduct a duly advertised public hearing as prescribed by law to consider
6 the content of the Mitigated Negative declaration and the Mitigation Monitoring and Reporting
7 program; and

8 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
9 Guidelines thereto; a Mitigated Negative Declaration has been prepared stating that if the
10 mitigation measures are met there will not be an adverse impact upon the environment;

11 WHEREAS, the documents or other material which constitutes the record of proceedings
12 upon which the decision is based will be maintained by the City of Oceanside Planning Division,
13 300 North Coast Highway, Oceanside, California 92054.

14 WHEREAS, there is hereby imposed on the subject development projects certain fees,
15 dedications, reservations and other exactions pursuant to state law and city ordinance;

16 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that
17 the project is subject to certain fees, dedications, reservations and other exactions as provided
18 below:

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	Depends on area (range is \$2,843-\$15,964 per acre)
Public Facility Fee	Ordinance No. 91-09 Resolution No. 06-R0334-1	\$0.713 per square foot or \$713 per thousand square feet for non- residential uses
School Facilities	Ordinance No. 91-34	\$.42 per square foot non-
Mitigation Fee		residential for Oceanside
Traffic Signal Fee	Ordinance No. 87-19 Resolution No. 06-R0334-1	\$15.71 per vehicle trip

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
Thoroughfare Fee (For commercial and industrial please note the 75 percent discount)	Ordinance No. 83-01 Resolution No. 06-R0334-1	\$255 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 09-OR 0092-1	Fee based on water meter size. Non-residential is \$36,775 for a 2" meter. + \$430
Wastewater System Buy-in Fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 09-OR 0092-1	Based on capacity or water meter size. Non-residential is \$50,501 for a 2" meter.
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2005-03	Based on meter size. Non-residential is \$22,495 for a 2" meter. + \$863

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction

1 described in this resolution begins on the effective date of this resolution and any such protest
2 must be in a manner that complies with Section 66020;

3 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
4 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

5 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
6 the following facts:

7 FINDINGS:

8 For the Development Plan:

- 9 1. The proposed location of the use is in accord with the objectives of this ordinance and the
10 purposes of the district in which the site is located because the development plan proposal
11 for the installation of a compressed natural gas (CNG) fueling facility that includes the
12 addition of a new electrical transformer and gas compression equipment protected and
13 screened via a 8'-0" chain-link fence with vinyl slats, along with gas distribution piping
14 below grade and time fill dispensers mounted on concrete K-rails or light post style
15 bases is consistent with the intent of the General Plan General Industrial (GI) Land Use
16 Designation and General Industrial (IG) zoning designation in that all proposed
17 improvements and on-site development will assist in providing a more environmentally
18 sensitive alternative to diesel vehicles and ultimately will provide lower noise and cleaner
19 air emissions while servicing the Citizens of the City of Oceanside.
- 20 2. The installation of a compressed natural gas (CNG) fueling facility to replace the
21 existing diesel fueling facility and the required compressor, gas lines, electrical
22 transformers, and fill dispensers necessary to fuel the CNG vehicles is consistent with
23 the Zoning Ordinance and the General Plan Land Use Element, because the proposed
24 site modifications necessary to transition to CNG fuel for Waste Management and all
25 the related equipment has been designed in a manner that consistent with the existing
26 built environment and that will be compatible with adjacent industrial uses of similar
27 nature and the types of land uses envisioned for this General Industrial (IG) zoned area.
- 28 3. The project design and its physical aspects pertaining to perimeter landscaping, site
29 planning, and equipment location placement meets or exceeds the applicable zoning
criteria and development standards, and have incorporated site layout designs which are
sensitive to the adjacent land uses to the north of south of the subject site.

- 1 4. That the area covered by the Development Plan can be adequately, reasonably and
2 conveniently served by existing and planned public services, utilities, and public facilities.
3 The project will connect to an existing SDG&E gas main located in Oceanside Blvd. that
4 will be extended down Industry Street to the site and will not require any additional
5 services or utilities beyond what exist as part of the overall development.
- 6 5. That the site plan and physical design of the project is consistent with the policies
7 contained within Section 1.24 and 1.25 of the Land Use Element of the General Plan, the
8 Development Guidelines for Hillside, and Section 3039 of the Oceanside Zoning
9 ordinance, because the site is relatively flat and Hillside guidelines are not applicable to
10 this site. The proposed development would be compatible with the adjacent industrial
11 land uses and would provide a more sustainable, environmentally sensitive fuel system
12 that equates to better air quality and quieter trash hauling vehicles that are servicing the
13 Citizens of the City of Oceanside.

14 For the Conditional Use Permit:

- 15 1. That the proposed location of the Waste Management of North County Administration
16 and Fleet Maintenance Facility that proposes to convert their fleet from diesel to CNG is
17 in accord with the objectives of the Oceanside Zoning Ordinance, and the purposes of the
18 General Industrial (IG) zone district in which the site is located, because the Industrial
19 area was originally envisioned to be developed with heavy industrial type land uses and
20 the conversion from diesel to CNG fuel for the Waste Management Fleet would not
21 increase the intensity of the existing use on site and would actually improve the existing
22 conditions of the site by providing a more environmentally sensitive vehicle fleet.
- 23 2. That the proposed location of the Conditional Use and the proposed conditions under
24 which it would be operated or maintained will be consistent with the General Plan and
25 will not be detrimental to the public health, safety, or welfare of persons residing or
26 working in or adjacent to the area of the proposed use; and will not be detrimental to
27 properties or improvements in the vicinity or to the general welfare of the City because the
28 proposed site design will provide additional perimeter landscaping and fencing around the
29 new CNG area to buffer the newly established equipment from adjacent industrial land
uses and that is consistent with the industrial uses originally envisioned when the General
Plan was last updated in 2002 and designated the site as a General Industrial area of the

1 City.

- 2 3. That the proposed Conditional Use will comply with the provisions of the Oceanside
3 Zoning Ordinance, including any specific condition required for the proposed conditional
4 use in the district in which it would be located.

5 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
6 approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) subject
7 to the following conditions:

- 8 1. This Development Plan and Conditional Use Permit approves only the following:
9 installation of a compressed natural gas (CNG) fueling facility at the Waste Management
10 of North County Administration and Fleet Maintenance Facility in order to allow for the
11 conversion of the existing trash hauling fleet from diesel to CNG. Installation of the CNG
12 fueling facility will require the addition of a new electrical transformer and gas
13 compression equipment protected and screened via an 8'-0" black vinyl chain-link fence
14 with black vinyl slats. The facility will also include gas distribution piping below grade
15 with time fill dispensers mounted on concrete K-rails or light post style bases and minor
16 retrofits to the existing maintenance shop in order to be able to perform maintenance and
17 repair on CNG vehicles. Any substantial modification to the Development Plan or
18 Conditional Use Permit in the design, layout, or intensification of the use shall require a
19 revision to the Development Plan, a revision to the Conditional Use Permit, and/or a new
20 Development Plan, and/or Conditional Use Permit.

21 **Building:**

- 22 1. Construction shall comply with the 2010 edition of the California Codes.
23 2. Construction hours are limited to 7:00 a.m. to 6:00 p.m. Monday through Friday.
24 3. Exterior lighting must comply with Chapter 39 of the Oceanside Code of Ordinances
25 and Section 5.106.8 of the 2010 California Green Building Code. Provide a
26 photometric plan of the parking lot showing all lighting.
27 4. All equipment must be listed and labeled by an OSHA- accredited nationally
28 recognized testing lab. (NRTL)

29 **Fire:**

5. Plans shall be submitted to the Fire Prevention Bureau for plan check review and
approval prior to the issuance of building permits.

- 1 6. Fire Department final inspection and permit required prior to operation startup.
- 2 7. Compressed natural gas (CNG) motor vehicle fueling dispensing facilities must comply
- 3 with CFC 2208.
- 4 8. CNG compression, storage and dispensing equipment not located in vaults must be
- 5 installed as follows:
- 6 a) Not beneath power lines.
- 7 b) Ten feet or more from the nearest building or lot line that could be built on,
- 8 public street, sidewalk or source of ignition.
- 9 c) Twenty five feet or more from the nearest rail of any railroad track.
- 10 9. Repair garages for vehicles fueled by CNG must comply with CFC 2211.7.

11 **Planning:**

- 12 10. Development Plan (D11-00007) and Conditional Use Permit (C11-00013) shall expire on
- 13 January 30, 2015, unless implemented in accordance with the City of Oceanside Zoning
- 14 Ordinance or unless a time extension is granted by the Planning Commission.
- 15 11. The applicant, permittee, or any successor-in-interest shall defend, indemnify and hold
- 16 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
- 17 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
- 18 annul an approval of the City, concerning Development Plan (D11-00007) and
- 19 Conditional Use Permit (C11-00013). The City will promptly notify the applicant of any
- 20 such claim, action or proceeding against the City and will cooperate fully in the defense.
- 21 If the City fails to promptly notify the applicant of any such claim action or proceeding
- 22 or fails to cooperate fully in the defense, the applicant shall not, thereafter, be
- 23 responsible to defend, indemnify or hold harmless the City.
- 24 12. A letter of clearance from the affected school district in which the property is located
- 25 shall be provided as required by City policy at the time building permits are issued.
- 26 13. A covenant or other recordable document approved by the City Attorney shall be prepared
- 27 by the applicant and recorded prior to issuance of building permits. The covenant shall
- 28 provide that the property is subject to this resolution, and shall generally list the conditions
- 29 of approval.
14. Prior to the issuance of building permits, compliance with the applicable provisions of the
- City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be

1 reviewed and approved by the City Planner or their designee. These requirements,
2 including the obligation to remove or cover with matching paint all graffiti within 24
3 hours, shall be noted on the Landscape Plan and shall be recorded in the form of a
4 covenant affecting the subject property.

5 15. Prior to the transfer of ownership and/or operation of the site the owner shall provide a
6 written copy of the applications, staff report and resolutions for the project to the new
7 owner and or operator. This notification's provision shall run with the life of the project
8 and shall be recorded as a covenant on the property.

9 16. All mitigation measures identified in the approved Mitigated Negative Declaration shall
10 be complied with as stated in that document and associated Mitigation Monitoring and
11 Reporting Program.

12 17. All other Conditions of the original Approval contained in Planning Commission
13 Resolution No. 95-P51 remain in full force and effect. In a case where there is a
14 conflict between the Resolutions, the new Resolution 2013-P02 shall rule.

15 18. Failure to meet any conditions of approval for this development shall constitute a
16 violation of the Development Plan and Conditional Use Permit.

17 19. Unless expressly waived, all current zoning standards and City ordinances and policies in
18 effect at the time building permits are issued are required to be met by this project. The
19 approval of this project constitutes the applicant's agreement with all statements in the
20 Description and Justification, and other materials and information submitted with this
21 application, unless specifically waived by an adopted condition of approval.

22 20. All new mechanical roof-top and ground equipment shall be screened from public view
23 as required by the Zoning Ordinance. That is, on all four sides and top. The roof jacks,
24 mechanical equipment, screen and vents shall be painted with non-reflective paint to
25 match the roof. Air conditioning shall be installed and operated within the building.
26 This information shall be shown on the building plans.

27 21. Prior to issuance of any building permits for the project, a Final Waste Management of
28 North County Operation Management Plan shall be submitted to the City Planner for
29 review, and prior to issuance of any certificate of occupancy or final permit sign off, the
City Planner shall approve the final version of the Waste Management of North County
Operation Management Plan.

1 **Engineering:**

2 22. Prior to construction of the new gas line, an erosion control plan shall be submitted by the
3 owner/developer and approved by the City Engineer.

4 23. Design and construction of all improvements shall be in accordance with the City of
5 Oceanside Engineers Design and Processing Manual, City Ordinances, and standard
6 engineering and specifications of the City of Oceanside and subject to approval by the
7 City Engineer.

8 24. A Declaration of Covenants, Conditions and Restrictions (DCC&R) is required prior to
9 the issuance of any building permit, and will be reviewed and approved by the City
10 Attorney. The Declaration of Covenants, Conditions and Restrictions (DCC&R) shall be
11 recorded attesting to these improvement conditions prior to issuance of any building
12 permit.

13 25. It is the responsibility of the owner/developer to evaluate and determine that all soil
14 imported and exported as part of this development is free of hazardous and/or
15 contaminated material as defined by the City and the County of San Diego Department
16 of Environmental Health (DEH). Exported or imported soils shall be properly screened,
17 tested, and documented regarding hazardous contamination.

18 26. A traffic control plan shall be prepared according to the City traffic control guidelines
19 and approved to the satisfaction of the City Engineer prior to the start of work within
20 the public right-of-way on Industry Street and Oceanside Boulevard. Traffic control
21 during construction of Industry Street and Oceanside Boulevard that have been open to
22 public traffic shall be in accordance with construction signing, marking and other
23 protection as required by the Caltrans Traffic Manual and City Traffic Control
24 Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless
25 approved otherwise.

26 27. All new pavement sections for the driveway and parking areas shall be based upon
27 approved soil tests and traffic indices. The pavement design is to be prepared by the
28 owner/developer's soil engineer and must be in compliance with the City of Oceanside
29 Engineers Design and Processing Manual and be approved by the City Engineer, prior to
paving.

- 1 28. Any existing public pavement, concrete curb, gutter, driveways, pedestrian ramps and
2 sidewalk adjacent to the project boundary, within Industry Street, that are damaged during
3 construction of the project, shall be repaired or replaced as directed by the City Engineer.
- 4 29. No grading or disturbance shall be allowed within the existing 30' (feet) flood control
5 right-of-way along the southern boundary of this project.
- 6 30. The owner/developer shall comply with the current City of Oceanside Floodplain
7 Management Ordinance Regulations.
- 8 31. There shall be no floodway encroachments, including fill, new construction, substantial
9 improvement, or other new development unless certification by a registered
10 professional engineer is provided demonstrating that encroachments shall not result in
11 any increase in the base flood elevation during the occurrence of the base flood
12 discharge. Certification shall be reviewed and approved by City staff and/or FEMA
13 staff before any encroachment is authorized.
- 14 32. Prior to issuance of any building permit, the owner/developer shall provide a
15 commitment letter to the City of Oceanside agreeing to make reasonable efforts to move
16 all trucks, vehicles, containers and other objects from the site during any severe flood
17 event.
- 18 33. There shall be no flowage obstruction of any kind such as K-railing along the eastern,
19 western, southern and northern project boundary unless approved by Federal
20 Management Agency (FEMA). The final configuration and design of K-rail or
21 concrete light pole bases shall be shown on final engineering plans subject to final
22 review and approval by the City Planner.
- 23 34. Prior to issuance of any building permit, the owner/developer shall obtain any necessary
24 permits and clearances from all public agencies having jurisdiction over the project due to
25 its type, size, or location, including but not limited to the U. S. Army Corps of Engineers,
26 California Department of Fish & Game, Federal Emergency Management Agency
27 (FEMA), U. S. Fish and Wildlife Service and/or San Diego Regional Water Quality
28 Control Board (including NPDES), and San Diego County Health Department (DEH).
- 29 35. Unmitigated discharge of pollutants in urban runoff, to receiving water, is not
permissible. The project shall mitigate pollutant discharges from the CNG refueling
site by implementing permanent Source Control (Good Housekeeping) Best

1 Management Practices (BMPs) and Treatment Control BMPs. Source Control BMPs
2 shall be updated to be consistent with current City of Oceanside – Clean Water Program
3 – Commercial Urban Runoff Requirements Manual, the City of Oceanside – Standard
4 Urban Storm Water Mitigation Plan (SUSMP), and the California Stormwater Quality
5 Association (CASQA) Industrial and Commercial Handbook requirements and
6 practices. Source Control BMPs shall include, but not be limited to; personnel
7 education and training, mitigation of non-stormwater discharges, spill prevention, spill
8 control, and spill cleanup, waste handling and disposal management, storage area
9 maintenance and management. Source Control BMPs shall be implemented throughout
10 the life of the project. In addition, the CNG project shall mitigate pollutants in the
11 urban runoff, such as, but not limited to, sediment, grease, oil and trash, by the
12 continued operation, inspection, and maintenance of the onsite clarifier-type Treatment
13 Control BMP. To ensure uninterrupted and consistent operation of the Treatment
14 Control BMP, qualified Waste Management (WM) staff shall regularly inspect and
15 directly oversee maintenance of the BMP, consistent with Treatment Control BMP
16 inspection, maintenance, and operation requirements of the San Diego Regional Water
17 Quality Control Board (RWQCB) Municipal Permit, the City of Oceanside SUSMP,
18 and the CASQA Industrial and Commercial Handbook. The Treatment Control BMP
19 shall operate throughout the life of the project. Pollutants captured from urban runoff
20 shall be properly disposed of in accordance with local, state, and federal requirements.
21 Qualified WM staff shall maintain a list of Source Control BMPs implement on-site
22 and shall maintain records of Treatment Control BMP inspection, maintenance, and
23 operation activities. Source and Treatment Control BMP records shall be made
24 available, upon request, to City Storm Water, City Code Enforcement, or RWQCB
25 staff. The CNG refueling site is subject to City and/or RWQCB stormwater inspection
26 and maintenance verification, consistent with current and future state stormwater
27 regulations.

- 28 36. In the event that the conceptual plan does not match the conditions of approval, the
29 resolution of approval shall govern.

1 **Landscaping:**

2 37. Landscape plans, shall meet the criteria of the City of Oceanside Landscape Guidelines
3 and Specifications for Landscape Development (latest revision), Water Conservation
4 Ordinance No.(s) 91-15 and 10-Ordinance 0412, Engineering criteria, City code and
5 ordinances, including the maintenance of such landscaping, shall be reviewed and
6 approved by the City Engineer prior to the issuance of building permits. Landscaping
7 shall not be installed until bonds have been posted, fees paid, and plans signed for final
8 approval. A landscape pre-construction meeting shall be conducted by the landscape
9 architect of record, Public Works Inspector, developer or owner's representative and
10 landscape contractor prior to commencement of the landscape and irrigation
11 installation. The following landscaping requirements shall be required prior to plan
12 approval and certificate of occupancy:

- 13 a) Final landscape plans shall accurately show placement of all plant material such
14 as but not limited to trees, shrubs, and groundcovers.
- 15 b) Landscape Architect shall be aware of all utility, sewer, gas and storm drain
16 lines and utility easements and place planting locations accordingly to meet City
17 of Oceanside requirements.
- 18 c) All required landscape areas shall be maintained by owner (including public
19 rights-of-way). The landscape areas shall be maintained per City of Oceanside
20 requirements.
- 21 d) Proposed landscape species shall be native or naturalized to fit the site and meet
22 climate changes indicative to their planting location. The selection of plant
23 material shall also be based on cultural, aesthetic, and maintenance
24 considerations. In addition proposed landscape species shall be low water users
25 as well as meet all Fire Department requirements.
- 26 e) Landscape plans shall have proposed plant material, specifically large screening
27 shrubs, to be native/naturalized, non-invasive, and known to be resistant to the
28 disease strain of Xylella fastidiosa – leaf scorch.
- 29 f) All planting areas shall be prepared with appropriate soil amendments,
fertilizers, and appropriate supplements based upon a soils report from an
agricultural suitability soil sample taken from the site.

- 1 g) Ground covers or bark mulch shall fill in between the shrubs to shield the soil
2 from the sun, evapotranspiration and run-off. All the flower and shrub beds
3 shall be mulched to a 3" depth to help conserve water, lower the soil
4 temperature and reduce weed growth.
- 5 h) The shrubs shall be allowed to grow in their natural forms. All landscape
6 improvements shall follow the City of Oceanside Guidelines.
- 7 i) Root barriers shall be installed adjacent to all paving surfaces, where a paving
8 surface is located within 6 feet of a trees trunk on-site (private) and within 10
9 feet of a trees trunk in the right-of-way (public). Root barriers shall extend 5
10 feet in each direction from the centerline of the trunk, for a total distance of 10
11 feet. Root barriers shall be 24 inches in depth. Installing a root barrier around
12 the tree's root ball is unacceptable.
- 13 j) All fences, gates, walls, stone walls, retaining walls, and plantable walls shall
14 obtain Planning Division approval for these items in the conditions or
15 application stage prior to 1st submittal of working drawings.
- 16 k) For the planting and placement of trees and their distances from hardscape and
17 other utilities/structures the landscape plans shall follow the City of Oceanside's
18 (current) Tree Planting Distances and Spacing Standards.
- 19 l) An automatic irrigation system shall be installed to provide coverage for all
20 planting areas shown on the plan. Low volume equipment shall provide
21 sufficient water for plant growth with a minimum water loss due to water run-
22 off.
- 23 m) Irrigation systems shall use high quality, automatic control valves, controllers
24 and other necessary irrigation equipment. All components shall be of non-
25 corrosive material. All drip systems shall be adequately filtered and regulated
26 per the manufacturer's recommended design parameters.
- 27 n) All irrigation improvements shall follow the City of Oceanside Guidelines and
28 Water Conservation Ordinance.
- 29 o) The landscape plans shall match all plans affiliated with the project.

- 1 p) Landscape plans shall comply with Biological and/or Geotechnical reports, as
2 required, shall match the grading and improvement plans, comply with SWMP
3 Best Management Practices and meet the satisfaction of the City Engineer.
4 q) Existing landscaping on and adjacent to the site shall be protected in place and
5 supplemented or replaced to meet the satisfaction of the City Engineer.

6 38. All landscaping, fences, walls, etc. on the site, in medians within the public right-of-
7 way and within any adjoining public parkways shall be permanently maintained by the
8 owner, his assigns or any successors-in-interest in the property. The maintenance
9 program shall include: a) normal care and irrigation of the landscaping b) repair and
10 replacement of plant materials (including interior trees and street trees) c) irrigation
11 systems as necessary d) general cleanup of the landscaped and open areas e) parking
12 lots and walkways, walls, fences, etc. f) pruning standards for street trees shall comply
13 with the International Society of Arboriculture (ISA) *Standard Practices for Tree Care*
14 *Operations – ANSI A300, Appendix G: Safety Standards, ANSI Z133; Appendix H; and*
15 *Tree Pruning Guidelines, Appendix F* (most current edition). Failure to maintain
16 landscaping shall result in the City taking all appropriate enforcement actions including
17 but not limited to citations. This maintenance program condition shall be recorded with
18 a covenant as required by this resolution.

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39. In the event that the conceptual landscape plan (CLP) does not match the conditions of approval, the resolution of approval shall govern.

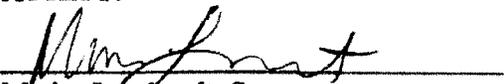
PASSED AND ADOPTED Resolution No. 2013-P02 on January 28, 2013 by the following vote, to wit:

- AYES: Rosales, Scrivener, Nael, Troisi, Balma and Ross
- NAYS: Martinek
- ABSENT: None
- ABSTAIN: None



Tom Rosales, Chairperson
Planning Commission

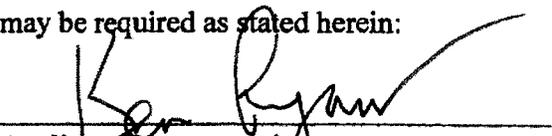
ATTEST:


Marisa Lundstedt, Secretary

I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2013-P02.

Dated: January 30, 2013

Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may be required as stated herein:


Applicant Representative

1/30/13
Date

1 39. In the event that the conceptual landscape plan (CLP) does not match the conditions of
2 approval, the resolution of approval shall govern.

3 PASSED AND ADOPTED Resolution No. 2013-P02 on January 28, 2013 by the
4 following vote, to wit:

5 AYES: Rosales, Scrivener, Nael, Troisi, Balma and Ross

6 NAYS: Martinek

7 ABSENT: None

8 ABSTAIN: None



9
10 Tom Rosales, Chairperson
11 Planning Commission

12 ATTEST:

13 
14 Marisa Lundstedt, Secretary

15 I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify
16 that this is a true and correct copy of Resolution No. 2013-P02.

17 Dated: January 30, 2013

18 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees
19 may be required as stated herein:
20

21 _____
22 Applicant/Representative

21 _____
22 Date



CONSULTANT:

CSA



CLIENT:

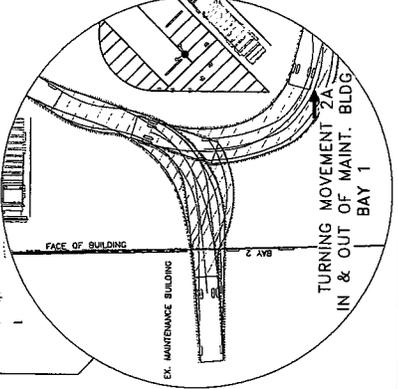
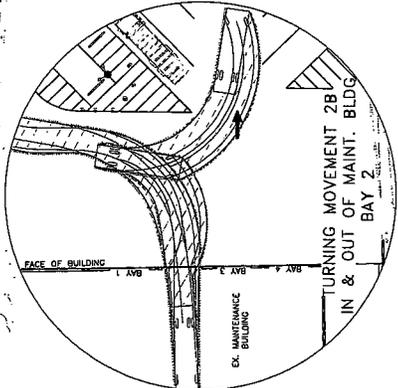
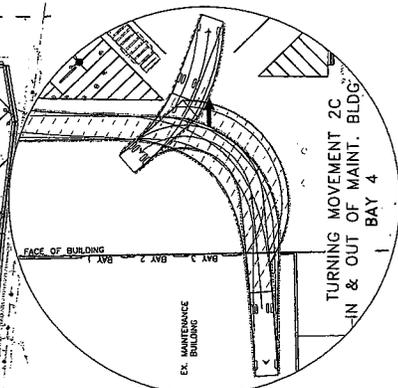
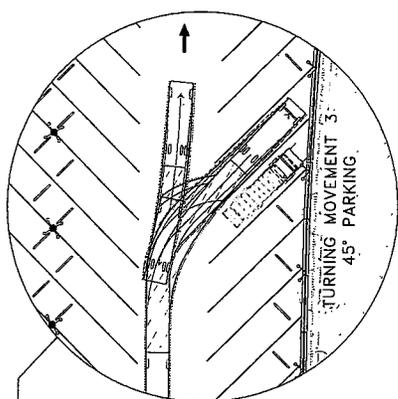
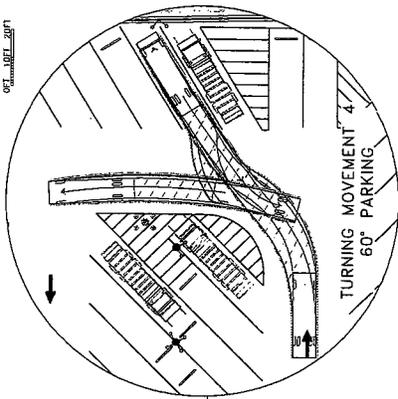
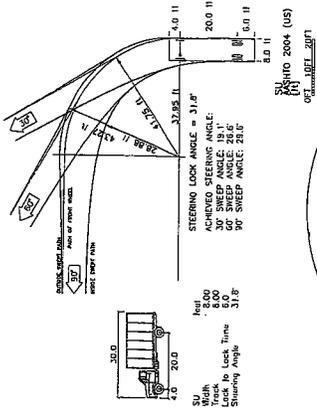
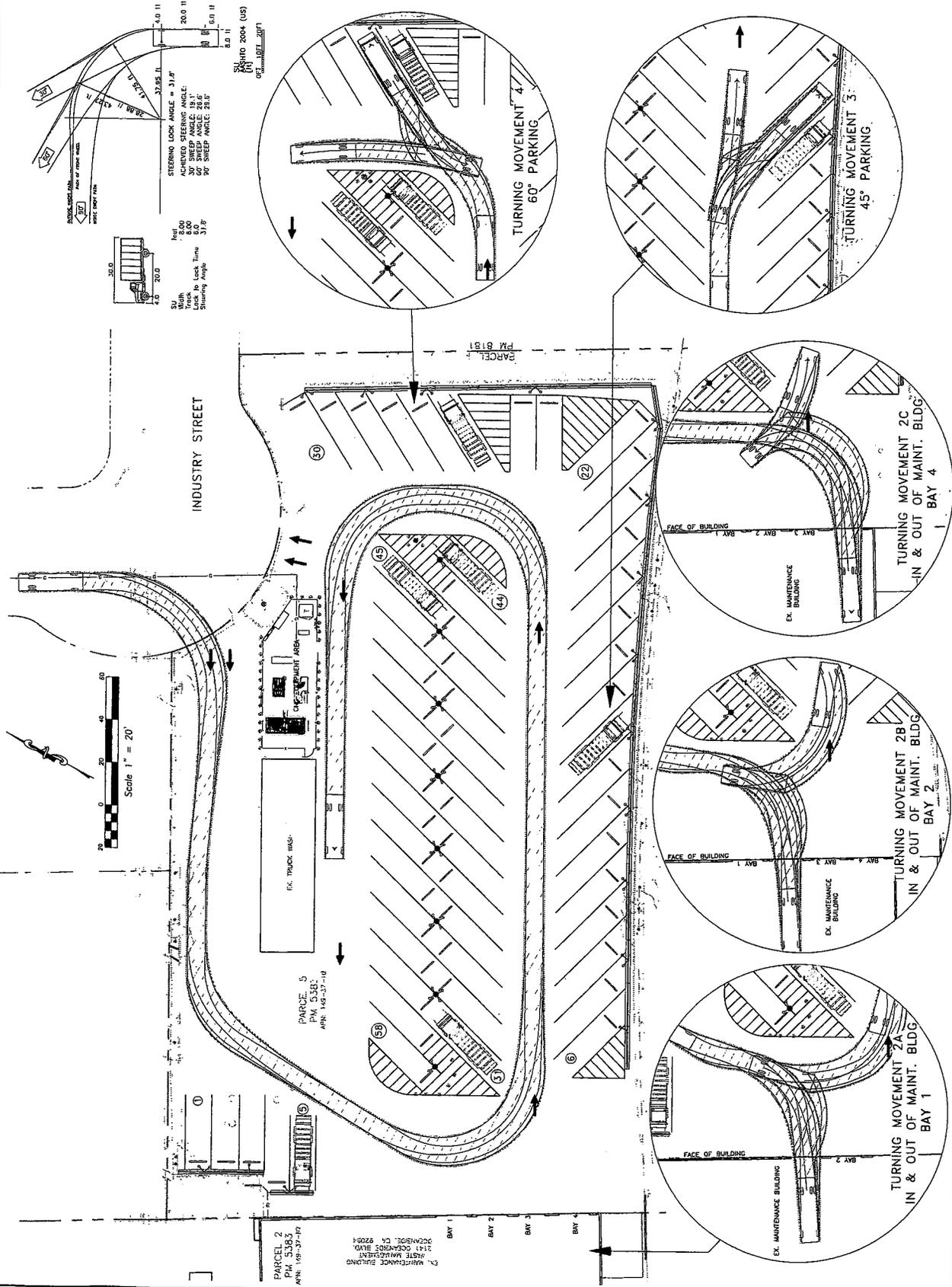


TRUCK TURNING ANALYSIS
OCEANSIDE CNG
WASTE MANAGEMENT NORTH COUNTY
2141 OCEANSIDE BLVD.
OCEANSIDE, CA 92054

REVISIONS:	DATE:
REVISED BY:	DATE:
DESIGNED BY:	DATE:
CHECKED BY:	DATE:
APPROVED BY:	DATE:

DATE: 07-21-2011
PROJECT: OCEANSIDE CNG
CHECKED BY: RAG
APPROVED BY: RAG

FC-3



PARCEL 2
 P.M. 5583
 APR. 149-27-10

EX. MAINTENANCE BUILDING

PARCEL 5
 P.M. 5583
 APR. 149-27-10

EX. TRUCK WASH

DEPARTMENT AREA

INDUSTRY STREET

PARCEL 1
 P.M. 5583
 APR. 149-27-10

EX. MAINTENANCE BUILDING

2141 OCEANSIDE BLVD.
 OCEANSIDE, CA 92054

ANN. 149-27-10

LANDSCAPE CONCEPT PLAN

Waste Management CNG Fueling

GENERAL NOTES: LANDSCAPE PLAN PLANS MATHEMATICALLY SHOW PLACEMENT OF PROPOSED PROJECT LANDSCAPING. FINAL LANDSCAPE PLANS SHALL ACCURATELY IDENTIFY AND SHOW PLACEMENT OF TREES, SHRUBS AND GROUND COVERS. THE ARCHITECT IS AWARE OF THE CITY OF OCEANSIDE POLICY WHICH PROHIBITS TREES AND SHRUBS FROM BEING PLANTED IN AREAS DESIGNATED AS UNDESIRABLE FOR THE PROJECT LANDSCAPE AND RESPECTIVE HARDSCAPE IN ACCORDANCE WITH THIS REQUIREMENT. ALL PERTINENT UTILITY EMBLEMENS ARE DELINEATED ON THE PRELIMINARY PLAN AND SHALL BE MAINTAINED THROUGHOUT THE FINAL LANDSCAPE PLAN. THE FINAL LANDSCAPE PLAN SHALL SHOW ALL EMBLEMENS THAT MAY BE REQUIRED FOR THE PROJECT. THE ARCHITECT HAS REVIEWED THE EMBLEMENS AND UTILITY INFORMATION RECEIVED FROM THE PROJECT ENGINEER AND ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER UNLESS NOTED OTHERWISE. LANDSCAPE AREAS SHALL BE MAINTAINED PER THE CITY OF OCEANSIDE REQUIREMENTS.

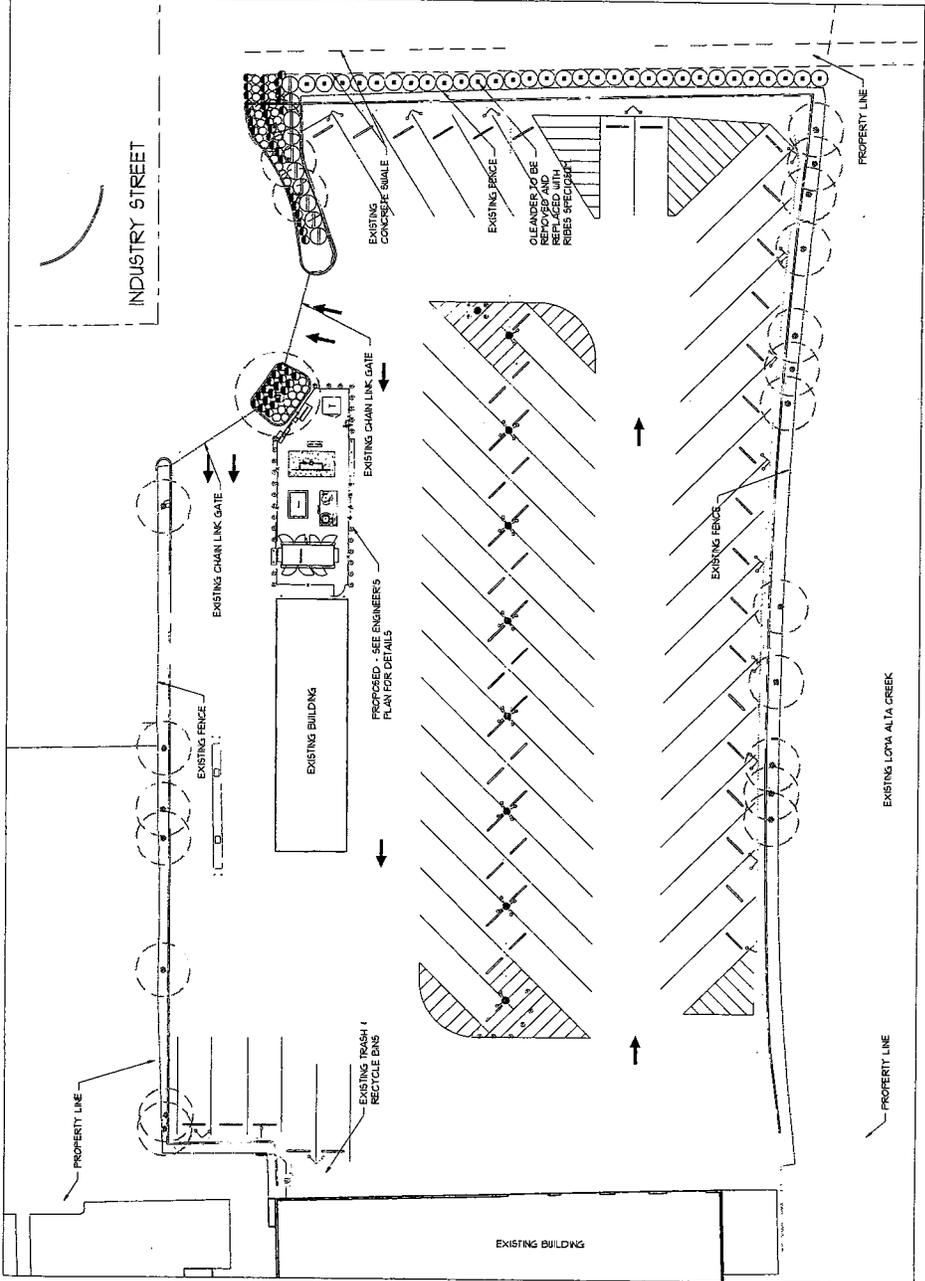
IRRIGATION NOTES: AN AUTOMATIC IRRIGATION SYSTEM SHALL BE INSTALLED AS REQUIRED TO MAINTAIN THE LANDSCAPE. THE SYSTEM SHALL BE DESIGNED TO PROVIDE SUFFICIENT WATER FOR PLANT GROWTH WITH A MINIMUM WATER LOSS DUE TO WATER RUN-OFF. IRRIGATION SYSTEMS SHALL USE HIGH QUALITY, AUTOMATIC CONTROLS. THE ARCHITECT HAS REVIEWED THE EMBLEMENS AND UTILITY INFORMATION RECEIVED FROM THE PROJECT ENGINEER AND ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER UNLESS NOTED OTHERWISE. LANDSCAPE AREAS SHALL BE MAINTAINED PER THE CITY OF OCEANSIDE REQUIREMENTS.

PLANTING NOTES: THE SELECTION OF PLANT MATERIAL IS BASED ON CULTURAL, AESTHETIC, ENVIRONMENTAL SENSITIVITY AND MAINTENANCE CONSIDERATIONS. ALL PLANTING AREAS SHALL BE PREPARED WITH APPROPRIATE SOIL AMENDMENTS, FERTILIZERS, AND SUPPLEMENTS FROM THE SITE. GROUND COVERS OR BARK MULCH SHALL BE PLACED UNDER THE SHRUBS TO PROTECT THE SOIL FROM EXCESSIVE SOLAR EXPOSURE, EVAPORATION, AND TO MAINTAIN SOIL MOISTURE. ALL PLANTING AREAS SHALL BE TILLED TO A DEPTH OF 3" TO 4" UNLESS OTHERWISE NOTED. ALL PLANTING SHALL BE ACCORDANT WITH THE CITY OF OCEANSIDE POLICY. UNLESS OTHERWISE NOTED, ALL PLANTING SHALL BE ACCORDANT WITH THE CITY OF OCEANSIDE POLICY. UNLESS OTHERWISE NOTED, ALL PLANTING SHALL BE ACCORDANT WITH THE CITY OF OCEANSIDE POLICY.

ALL PLANTING AREAS SHALL RECEIVE A 3" LAYER OF ORGANIC MULCH. NO NEW TREES ARE PROPOSED.

EMBLEMENS: THE ARCHITECT IS AWARE OF THE CITY OF OCEANSIDE POLICY WHICH PROHIBITS TREES AND SHRUBS FROM BEING PLANTED IN AREAS DESIGNATED AS UNDESIRABLE FOR THE PROJECT LANDSCAPE IN ACCORDANCE WITH THIS REQUIREMENT. BASED ON THE EMBLEMENS AND UTILITY INFORMATION RECEIVED FROM THE PROJECT ENGINEER OF WORK, THE PROJECT ARCHITECT HAS VERIFIED THAT THESE PLANS MEET THE REQUIREMENTS OF SAID POLICY.

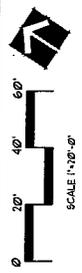
SYMBOL	DESCRIPTION	SIZE / QUANTITY
○	SHRUBS - AREAS TO RECEIVE 3" DEPTH ORGANIC MULCH	SIZE / QUANTITY
○	UNDESIRABLE TREE/SHRUB	164L / 7' OC.
○	FLORA RELOVIANA	5.6M / 4' OC.
○	NEPENTHES INFERNO	11.6M / 7' OC.
○	NEPENTHES INFERNO	9.6M / 4' OC.



THE LIGHTFOOT PLANNING GROUP
 PLANNING
 SITE DESIGN
 LANDSCAPE ARCHITECTURE
 510 JAWAHL BLVD
 OCEANSIDE, CA 92054
 TEL: 760.431.1111
 WWW.LIGHTFOOTPLANNING.COM

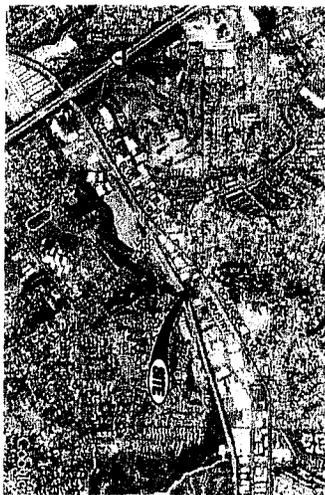
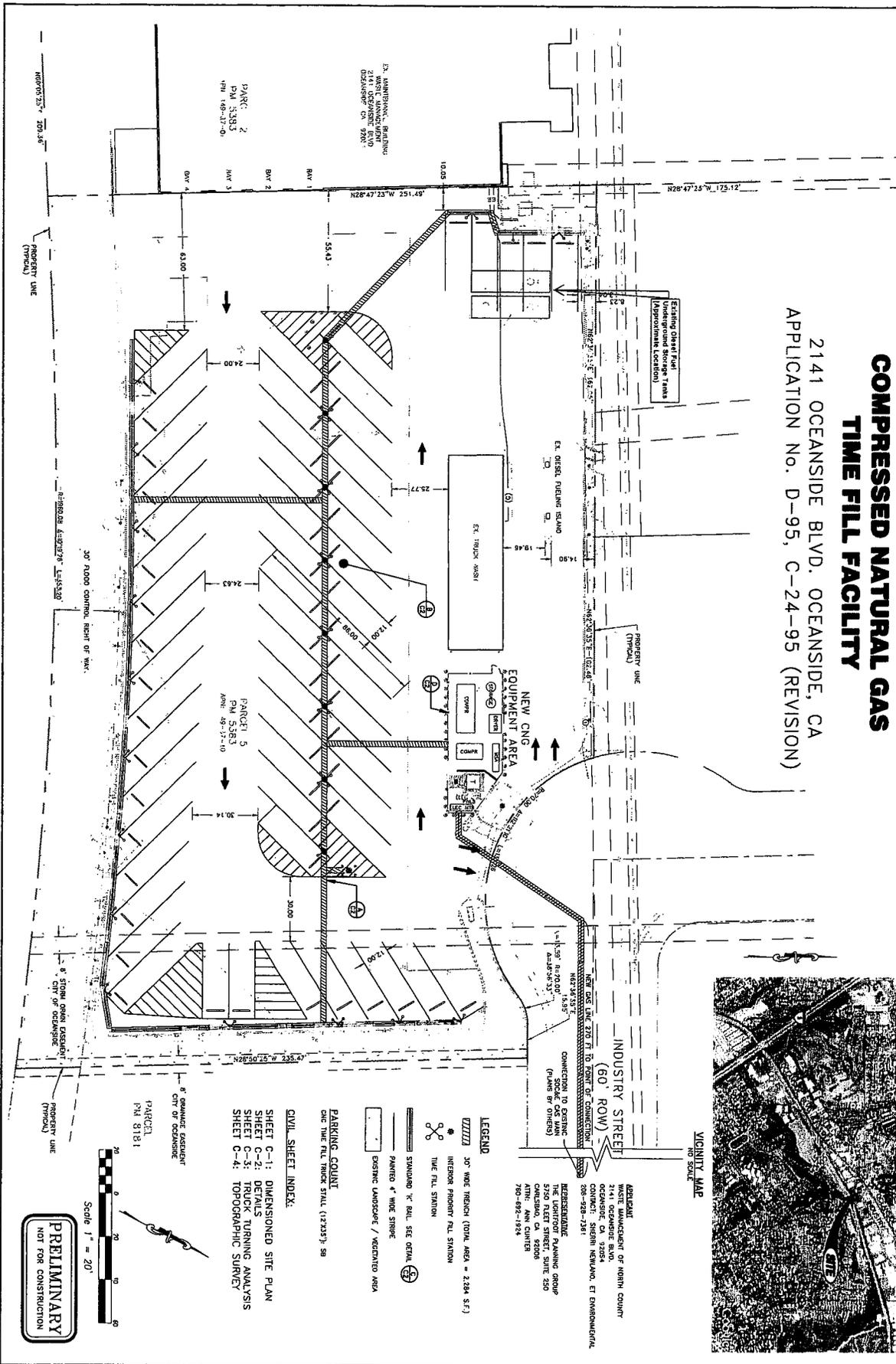
Waste Management CNG Fueling
 Oceanside, CA

DATE: 11/02/20
 DRAWN BY: JLD
 CHECKED BY: ET
 PROJECT: Waste Management CNG Fueling LCP
 Job # 801032
 Scale: 1"=30'-0"
 L-1



PRELIMINARY SITE PLANS FOR COMPRESSED NATURAL GAS TIME FILL FACILITY

2141 OCEANSIDE BLVD., OCEANSIDE, CA
APPLICATION No. D-95, C-24-95 (REVISION)



VICINITY MAP
NO SCALE

REGISTERED PROFESSIONAL ENGINEER
SHELDON H. BROWN
No. 61537
Exp. 6/30/13
CIVIL
1000 W. GARDEN ST.
OCEANSIDE, CA 92054

REGISTERED PROFESSIONAL ENGINEER
SHERI NEWLAND, ET ENVIRONMENTAL
CONSULTANT
3750 FLET STREET, SUITE 250
OCEANSIDE, CA 92008
760-482-1934

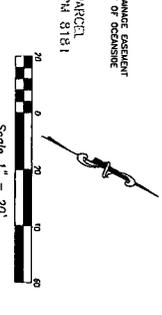
REGISTERED PROFESSIONAL ENGINEER
THE LIGHTHOUSE PLANNING GROUP
5750 FLET STREET, SUITE 250
OCEANSIDE, CA 92008
760-482-1934

REGISTERED PROFESSIONAL ENGINEER
WASTE MANAGEMENT OF NORTH COUNTY
2141 OCEANSIDE BLVD.
OCEANSIDE, CA 92054
CONTACT: SHERI NEWLAND, ET ENVIRONMENTAL
CONSULTANT
308-528-7381

- LEGEND**
- 30" WIDE TRENCH (TOTAL AREA = 2,284 S.F.)
 - INTERIOR PROPERTY FILL STATION
 - TIME FILL STATION
 - STANDARD "K" RAIL, SEE DETAIL
 - PAVED "W" WIDE STRIP
 - EXISTING LANDSCAPE / VEGETATED AREA
- PARKING COUNT**
ONE TIME FILL TRUCK STILL (12'x33') 58

CIVIL SHEET INDEX:

SHEET C-1: DIMENSIONED SITE PLAN
SHEET C-2: DETAILS TURNING ANALYSIS
SHEET C-3: TOPOGRAPHIC SURVEY
SHEET C-4: TOPOGRAPHIC SURVEY

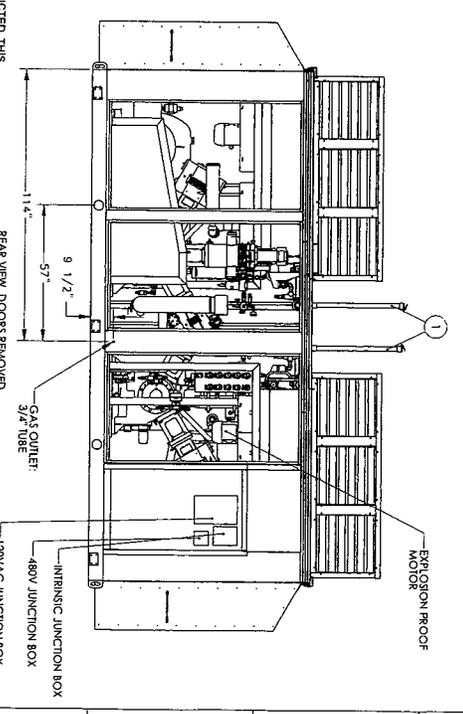
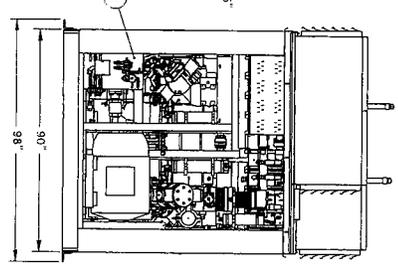
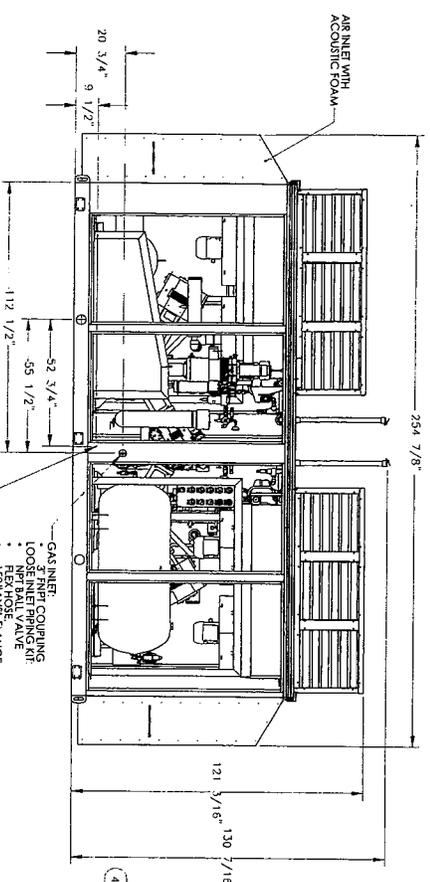
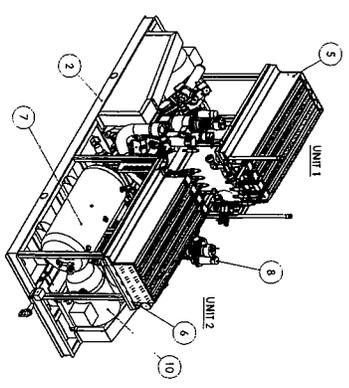
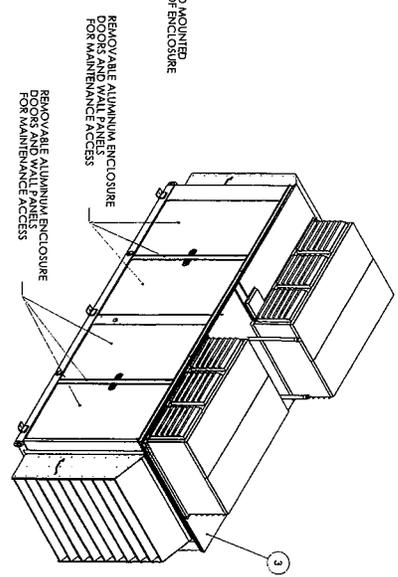
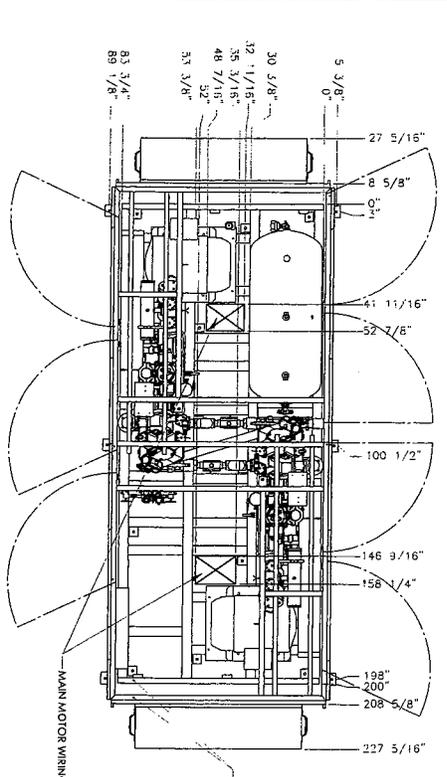


PRELIMINARY
NOT FOR CONSTRUCTION

			DIMENSIONED SITE PLAN OCEANSIDE CNG WASTE MANAGEMENT NORTH COUNTY 2141 OCEANSIDE BLVD. OCEANSIDE, CA 92054	
			DATE: 07-01-2011 DRAWN BY: [Name] CHECKED BY: [Name] APPROVED BY: [Name]	SHEET NO. C-1 TOTAL SHEETS: 4

REV	DATE	BY	CHK	DESC	REFERENCE
A	20/06/14	JSI	ERC	N/A	INITIAL RELEASE

REVISION HISTORY		REFERENCE
INITIAL RELEASE		



ITEM/OT PART NUMBER	DESCRIPTION
1 2 20339206	KIT ASSEMBLY - IMW50 & ALPHA 3
2 1 206121	KIT WELDMENT
3 1 206125	ENGINEER DRAWING IMW50 20M WIDE
4 1 206123	CONTROL PANEL, ATEX C102 REQ. 600P616
5 1 210528	COOLER SUBASSEMBLY 45IG IMW LU
6 1 210529	COOLER SUBASSEMBLY 45IG IMW LU
7 1 210538	RECT TANK SUBASSEMBLY 200CAL 200P616
8 2 210540	CBA SUBASSEMBLY
9 1 210583	INLET PIPING IMW LU 3.0 - 3.05F
10 2	MOTOR 445F & SLIDE BASE

- NOTES:
1. THE LOCATION OF THIS EQUIPMENT IS NOT NECESSARILY AS DEPICTED. THIS DRAWING IS FOR INFORMATION ONLY.
 2. THE LOCATIONS GIVEN FOR THE ELECTRICAL AND GAS CONNECTIONS ARE APPROXIMATE ONLY.
 3. THE EQUIPMENT IS TO BE LOCATED ON A FLAT AND LEVEL CONCRETE FOUNDATION AS SPECIFIED IN THE INSTALLATION SECTION OF THE USER MANUAL.
 4. ANCHOR BRACKETS ARE PROVIDED TO SECURE THE SKID TO ITS FOUNDATIONS. IMW ALSO RECOMMENDS THE USE OF "HILTI" ANCHORS. SEALS WHICH WILL BE PROVIDED UPON REQUEST. IMW DOES NOT ACCEPT ANY LIABILITY FOR ALTERNATIVE REMOVE LIFTING PINS BEFORE PUTTING DOWN SKID AND CHIEF AND SMALL SUPPLIER ANCHOR BRACKETS.
 5. THE SKID SHOULD BE CLOSER THAN TEN FEET FROM THE AIR INLETS OR OUTLETS INSIDE THE ENCLOSURE UP TO 15 FEET IS CLASS 1, DIV 2, GROUP D.
 6. THE SKID SHOULD BE CLOSER THAN TEN FEET FROM THE AIR INLETS OR OUTLETS OUTSIDE THE ENCLOSURE UP TO 15 FEET IS CLASS 1, DIV 2, GROUP D.
 - 7.
 - 8.

TWIN IMW50-80000DA-150-4500-4AC	
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WASTE MANAGEMENT OF NORTH COUNTY

OCEANSIDE COMPRESSED NATURAL GAS FUELING FACILITY

Description and Justification



Rev. October 2012

Project Contact: Sherri Newland, P.E.

Project Representative: Ann Gunter

**WASTE MANAGEMENT OF NORTH COUNTY
OCEANSIDE COMPRESSED NATURAL GAS
(CNG) FUELING FACILITY**

Development Plan Revision (D11-00007)
and
Conditional Use Permit Revision (C11-00013)

Description and Justification
Rev. October 2012

Introduction

This application is for revision to the existing Development Plan and Conditional Use Permit for the Waste Management of North County Administration and Fleet Maintenance Facility located at 2141 Oceanside Boulevard, for installation of a compressed natural gas (CNG) fueling facility. The existing fleet is fueled using an on-site diesel fueling facility. Conversion to CNG is consistent with existing operations at the site.

The site is located on the south side of Oceanside Boulevard, with primary access into the operations yard from Industry Street. The subject property is a 3.7-acre leased property including assessor's parcels 149-370-10 (1.8 ac) and 149-370-07 (1.9 ac). The property has a General Plan land use designation of General Industrial (GI) and a corresponding zone of General Industrial (IG). A variety of industrial and commercial uses are located east, west and north of the site, with Loma Alta Creek on the southern site boundary. Residential uses are located at higher elevations beyond the industrial/commercial corridor that largely parallels Oceanside Boulevard.

The existing site is comprised of a combination of asphalt and concrete paving in the fleet maneuvering and storage areas. The yard operations area includes a truck wash and diesel fuel islands. There is also a shop/maintenance building and Waste Management Administrative offices on site. Landscaping on the site was approved and installed in conjunction with the original site plan. This is one of three separate Waste Management sites in the immediate area, which had operational changes and building modifications approved in 1995 as part of D-9-95, C-24-95 (Resolution No. 95-P51). Site 1 is the Administration and Maintenance Facility, Site 2 is the pod transfer and box storage yard, and Site 3 is the recycling yard and public buy-back center. This revision is to make minor site alterations at Site 1 to accommodate the CNG fueling operations needed to upgrade the Collection Fleet in accordance with the current contract. There will be no changes at the other site facilities.

General CNG Description

At a typical CNG fueling facility, natural gas is conveyed from a public utility gas main to an on-site equipment compound where the gas is compressed then distributed to trucks. The compressed gas is buffered in steel storage containers, typically cylindrical or spherical shapes, and routed via piping systems to fuel the entire CNG fleet. The types of fill systems typically provided are described below:

- Internal Priority Fill – CNG from the public gas utility main in the street is compressed into storage tanks, which can then be discharged quickly into a vehicle fuel tank in a fashion similar to a conventional gas station. This type of fill is also referred to as a fast fill system.
- Time Fill – fleet vehicles parked overnight are filled via a network of pipes and dispensers, which are connected to the CNG compression equipment. Time fill systems are typically sized to fill the entire fleet through individual dispensers for each vehicle as shown in the example photographs “CNG Time Fill for Fleet Staging.” A CNG time fill fuel system can fill a collection truck in 10-12 hours, and is also referred to as a slow fill system.

CNG is an environmentally clean and economical alternative to diesel fuel. The use of CNG vehicles significantly reduces the emissions associated with solid waste collection in the community. New collection vehicles equipped with CNG engines are cleaner than diesel engines, reducing smog-causing constituents, as well as greenhouse gases. In addition to being cleaner, the CNG trucks are also significantly quieter than standard diesel fleet vehicles.

Waste Management (WM) has made a commitment to commence the conversion of collection fleets nationwide from diesel fuel based operations to Compressed Natural Gas fuel based operations. Switching WM’s fleet to CNG will provide significant environmental benefit. Conversion requires acquisition of CNG vehicles and construction or modification of infrastructure to accommodate parking, fueling and maintenance of CNG vehicles.

CNG Fueling and Site Upgrades

In order to upgrade the existing Oceanside fleet to CNG fuel, it is necessary to add new infrastructure to the site. Natural gas and electrical service will be provided from existing SDG&E lines. The natural gas utility is located in Oceanside Boulevard and will extend down Industry Street. The electrical utility is located near the facility on Industry Street. A new electrical transformer and gas compression equipment will be installed on site. A new structural concrete pad for the CNG equipment will be constructed. The equipment area will be surrounded by bollards for safety/security and 7-ft tall chain link fencing. The CNG equipment area will be located within the existing fleet operations area and visually screened from the public right-of-way. Slats will be utilized for screening around the CNG equipment area. Gas distribution piping will run from the compressors, below grade through truck driving lane locations. From there, gas piping and time fill dispensers will be mounted on concrete safety barriers (K-rail or concrete light pole bases) for safety, maintenance, and protection of gas piping. Each truck will be connected to a dispenser hose and fueled overnight (time fill fueling).

The existing truck parking area will be restriped to accommodate a new onsite traffic pattern and the additional space required to accommodate the CNG distribution piping and dispensers. The project will provide time fill fueling for 58 CNG fleet parking stalls at full build-out.

Schedule for CNG conversion

The use of CNG trucks will be phased in at this site, which will replace the existing diesel trucks one for one. It is anticipated initially there will be 15-20 new CNG trucks at the site, with 5-20 per year until the full fleet is replaced.

Proposed Shop Upgrades

Minor retrofits to the existing maintenance shop will be required in order for indoor CNG vehicle maintenance and repair. In the event of a gas detection, emergency ventilation will be provided by new roof-mounted fans in order to exhaust gases which are lighter than air. Intake air will be provided by configuring the overhead doors to open and an emergency back-up generator will be available to operate this emergency system in the event of a power failure.

In repair garages for CNG vehicles, the area within 18-inches of the ceiling is designated as a classified location because CNG is a lighter than air gas. Electrical conduit and wiring in the ceiling of the existing maintenance building will be relocated (lowered) outside of the 18-inch classified zone.

Operations

Hours

Fueling CNG vehicles will use a time fill/slow fill process. Time fill systems allow trucks to fuel overnight. The fueling window will range from 10-12 hours for all trucks. There will also be one internal fast fill/quick fill post provided at the site. This allows for better fleet management (example: a vehicle which is being maintained in the evening hours can be returned to service in the morning even if there is not sufficient time for the standard slow fill).

Typically, the fleet vehicles depart the yard between 5:30 am and 7 am, and return to the yard between 2 pm and 7 pm. The existing CUP allows for maintenance work to occur until midnight. These schedules would remain unchanged with the conversion to CNG.

Employees/Employee Access

The CNG conversion will not add additional employees. Personal vehicles are parked in the existing lots north and west of the existing Maintenance Building. Employees access the fleet operations area through the Maintenance Building. Sidewalk access is available from Oceanside Boulevard onto the site, and is not required on Industry Street.

Traffic

The CNG phase-in will be one diesel truck for one CNG truck swap. The CNG fueling will not be adding additional traffic to the site. Operationally, truck departure and return are staggered based on route length and route locations.

Access, Circulation and Parking

Fleet access to the site is from Industry Street, just south of Oceanside Boulevard, and the existing driveway entry/exits will remain. Onsite circulation and the new parking layout will be defined by restriping, and K-rail or concrete light pole bases supporting the CNG dispensing locations. The size of the CNG trucks is equivalent to the existing diesel trucks, so the new striping will accommodate both types of trucks during the conversion. Internal site circulation has been evaluated using the appropriate vehicle template to design adequate circulation within the site.

Site Landscape

In conjunction with the site improvements, the existing landscape areas adjacent to Industry Street will be enhanced with shrubs and ground plantings beneath the existing mature eucalyptus trees. The existing ailing oleander bushes outside the fenceline and along the eastern site boundary will be removed and replaced with native shrubs.

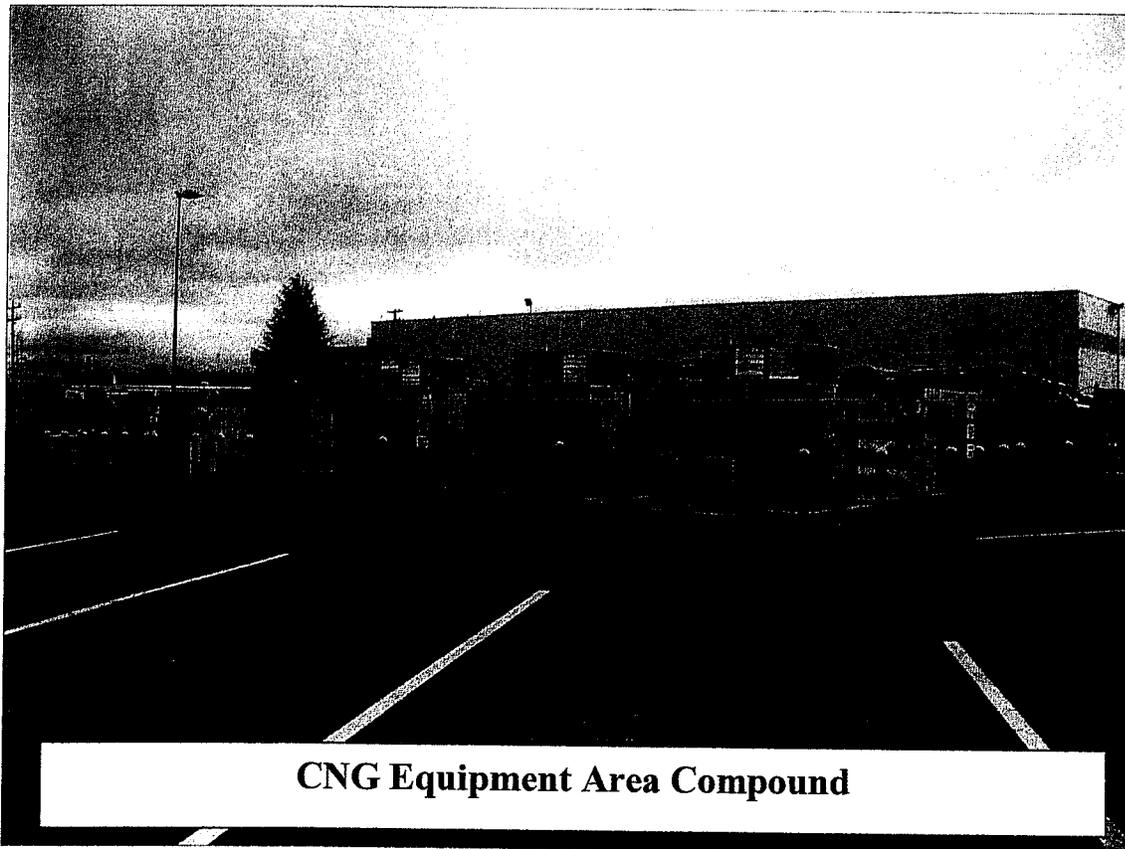
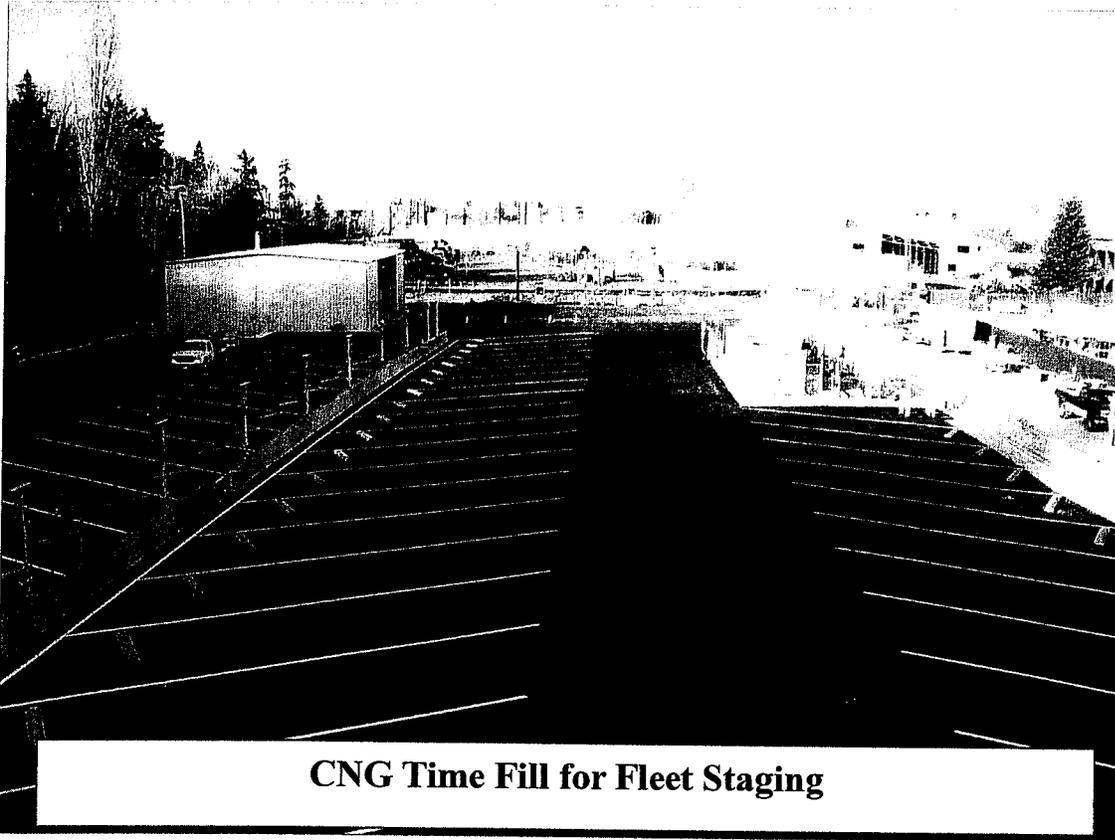
Ground Disturbing Activities

CNG equipment will be installed on a structural concrete pad on surface grade. Site grading will not occur. There will be limited pavement restoration necessary at utility trench locations. Ground disturbance will be less than 2500 sq ft.

Conclusion

The proposed project will provide the infrastructure necessary to support the conversion of the Waste Management fleet from diesel fuel to CNG, and will be consistent with the existing zoning, and land use regulations. Waste Management is adapting the site to incorporate new fueling technologies. The new CNG equipment and facilities can be integrated at the existing site and provide continued service to the community as the fleet conversion is implemented.

CNG EXAMPLE PHOTOGRAPHS





CNG Time Fill Dispensers

REQUIRED FINDINGS - DEVELOPMENT PLAN

The City of Oceanside Zoning Ordinance stipulates that five specific findings must be made before a Development Plan can be approved. This proposal meets them as follows:

1. **That the site plan and physical design of the project as proposed is consistent with the purposes of the Zoning Ordinance.**

The layout and design of the CNG fueling facility improvements is consistent and in compliance with the Zoning Ordinance. The project has been designed to complement the existing uses on the site. This project is also consistent with the purposes of the General Industrial District in providing the continuation of an appropriate use on industrial land.

2. **That the Development Plan as proposed conforms to the General Plan of the City.**

The proposed project is for improvements to an existing industrial use and meets the goals and objectives of the General Industrial land use category and the applicable elements of the General Plan.

3. **That the area covered by the Development Plan can be adequately, reasonably and conveniently served by existing and planned public services, utilities and public facilities.**

A general industrial use on this site is in compliance with the City's designated zoning and land use for this property. Adequate utilities and services currently serve the existing industrial use on the site and are available to serve the proposed use. The natural gas service needed for the CNG fueling is available in Oceanside Boulevard and will be extended down Industry Street into the site.

4. **That the project as proposed is compatible with existing and potential development on adjoining properties or in the surrounding neighborhood.**

The project has been designed to use existing improvements at the site, such as existing driveway entries so that traffic patterns do not change, and install the CNG facilities with minimal changes to the existing site in order to minimize its impact on the surroundings. The site is zoned for general industrial uses and is currently developed as such.

5. **That the site plan and physical design of the project is consistent with the policies contained within Section 1.24 and 1.25 of the Land Use Element of the General Plan, the Development Guidelines for Hillside, and Section 3039 of this ordinance.**

The subject site does not contain undevelopable land or qualifying slopes, and is not subject to provisions of the Land Use Element or the Development Guidelines for Hillside in Section 3039 of the Zoning Ordinance.

REQUIRED FINDINGS - CONDITIONAL USE PERMIT

The City of Oceanside Zoning Ordinance stipulates that three specific findings must be made before a Conditional Use Permit can be approved. This proposal meets them as follows:

1. **That the proposed location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.**

The proposed CNG equipment and piping are necessary for converting from the existing diesel fleet in accordance with the recent waste hauling contract with the City. The location of the facility within the existing fleet maintenance compound is consistent and in compliance with the Zoning Ordinance and the Industrial General Zone.

2. **That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.**

The installation of the CNG improvements in conjunction with the permitted industrial use will be compatible with and not have a negative impact on the surrounding industrial uses. The CNG compressors and equipment are required to meet stringent design and safety standards per the National Fire Protection Association, International Fire Code, and International Mechanical Codes. Compression and storage equipment and time fill dispensers are protected from vehicle impact by pipe bollards, K-rail, and/or wheel stops. Physical damage and vandalism are minimized by use of security cameras, fencing, breakaway coupling on fuel hoses, and manual and automatic shut off valves. The project is consistent with the General Plan in that it will not be detrimental to the public health, safety, or welfare of persons residing or working in the surrounding areas.

3. **That the proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district which it would be located.**

The proposed CNG fueling facility is ancillary to the existing site use, providing an alternative fuel for the waste hauling fleet and there are no specific conditions required by the Zoning Ordinance provisions in the General Industrial district for this proposed site modification.

AGENDA NO. 5

PLANNING COMMISSION



STAFF REPORT

ATTACHMENT 3

DATE: January 28, 2013 (Continued from the January 14, 2013 Planning Commission meeting)

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A DEVELOPMENT PLAN (D11-00007) AND CONDITIONAL USE PERMIT (CUP11-00013) TO ALLOW A REVISION TO AN EXISTING DEVELOPMENT PLAN (D-9-95), AND CONDITIONAL USE PERMIT (C-24-95) FOR THE INSTALLATION OF A COMPRESSED NATURAL GAS (CNG) FUELING FACILITY. THE 3.7-ACRE SITE IS LOCATED AT 2141 OCEANSIDE BOULEVARD, AND IS SITUATED WITHIN THE LOMA ALTA NEIGHBORHOOD – WASTE MANAGEMENT CNG FUELING FACILITY – APPLICANT: WASTE MANAGEMENT OF NORTH COUNTY**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Adopt a Mitigated Negative Declaration, with associated findings and a mitigation monitoring and reporting program for the Waste Management of North County CNG Fueling Facility, in light of the whole record that the project will not have a significant effect on the environment by adopting Planning Commission Resolution No. 2013-P01.
- (2) Approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) by adopting Planning Commission Resolution No. 2013-P02 with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: On October 23, 1995 the Planning Commission adopted PC Resolution No. 95-P51 conditionally approving Development Plan (D-9-95) and Conditional Use Permit (C-24-95). The subject approval allowed for improvements and permitting of all three sites as denoted in the attached "Project Description and Justification." The three

subject sites are referred to as follows: Site No. 1 "Administration and Maintenance Facility" located at 2141 Oceanside Blvd., Site No. 2 "Waste Management System Pod and Storage Yard/Temporary Public Recycle Buy Back Area" located at 2403-B Industry St., and Site No. 3 "Recycling Yard and Public Buy-Back Center" located at 2880 Industry St.

In October of 1994, the Planning Commission approved Conditional Use Permit (C-5-94) allowing the relocation of Waste Management's recycling facility from 1440 S. Pacific Street to its current location at 2880 Industry Street. The approval was for a one year period.

Site Review: The subject 3.7-acre site is referred to as Site 1 and is currently operated as the Waste Management of North County Administration and Maintenance Facility. The project site is located on the south side of Oceanside Blvd., north of Loma Alta Creek with the Sprinter Line Railroad Tracks just beyond to the south. Primary access to the site has been established directly off the terminus of Industry Street. The site is fully developed as an Administration and Fleet Maintenance Facility, and the subject proposal is to make minor site modifications necessary to install a Compressed Natural Gas Fueling Facility and convert their trash hauling fleet from diesel fueled vehicles to CNG fueled vehicles. No other modifications to the previously approved Development Plan or Conditional Use Permit are proposed as part of this application.

The subject site is zoned IG (General Industrial) and has a General Plan Land Use Designation of GI (General Industrial). Major Utilities that involve refuse collection, transfer, recycling or disposal facilities are permitted within the (General Industrial) zone district subject to approval of a Conditional Use Permit. The proposal to install a CNG fueling facility and make minor site improvements in order to accommodate said CNG piping and fueling equipment can be accommodated on the existing site, subject to approval of a revision to the Development Plan (D-9-95) and Conditional Use Permit (C-24-95).

Surrounding land uses adjacent to the site include fully developed Industrial and some commercial type buildings and land uses to the north, east, and west, with Loma Alta Creek and the Sprinter Line to the south. Residential uses exist beyond the industrial and commercial corridor along Oceanside Blvd. to the north; as well as, to the south east.

Project Description: The application consists of a Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) as follows:

Development Plan (D11-00007) represents a request for the following:

- (a) Addition of minor site improvements in the form of a new electrical transformer and gas compression equipment protected and screened via a 8'-0" black vinyl chain-link fence with black vinyl slats; as well as, re-striping, enhanced landscaping along the perimeter of Industry Street and the eastern portion of the

site, gas distribution piping below grade, and CNG time fill dispensers mounted on concrete K-rails or light post style bases. Minor interior modifications to the existing maintenance building are required to be implemented because of the use of CNG (i.e. Electrical Components, Building Ventilation, etc.)

Conditional Use Permit (CUP11-00013) represents a request for the following:

- (a) The installation of CNG improvements necessary for converting the existing diesel trash hauling fleet to a CNG fleet. The Conditional Use Permit is necessary because the Waste Management operations are defined by the Oceanside Zoning Ordinance as a Major Utility Land Use and any modification to the operational characteristics requires that a revision to the original CUP be conducted. No other operational components beyond fuel system conversions are proposed as part of this application for the Waste Management Facility at 2141 Oceanside Blvd.

The project is subject to the following Ordinances and City policies:

1. General Plan
2. Zoning Ordinance
3. Land Use Compatibility
4. California Environmental Quality Act (CEQA)

ANALYSIS

KEY PLANNING ISSUES

1. General Plan conformance

The General Plan Land Use Map designation on the subject property is GI (General Industrial). The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element I

Goal 1.12 Land Use Compatibility

Objective: To minimize conflicts with adjacent or related land uses.

Policy B: The use of land shall not create a negative visual impact to surrounding land uses.

Policy C: The use of land shall not subject people to potential sources of objectionable noise, light, odors, and other emissions nor to exposure of toxic, radioactive, or other dangerous materials.

The proposed project for the installation of a Compressed Natural Gas (CNG) fueling facility in order to allow Waste Management of North County's trash hauling fleet to be converted from diesel fueled vehicles to cleaner CNG fueled vehicles within an existing General Industrial (IG) park is consistent with the intent of General Plan Land Use designation to allow heavy industrial type land uses in this area. The subject land use is classified as a Major Utility, which includes refuse collection, transfer, recycling or disposal facilities. Due to the fact that the existing facilities site improvements are being modified, revisions to the previously approved Development Plan (D-9-95) and Conditional Use Permit (C-24-95) are required.

In order to allow for the conversion from diesel to CNG, Waste Management will be required to bring natural gas to the site. SDG&E maintains a gas main below grade within Oceanside Blvd. and minor trenching to tie into said gas main will require new gas line be extended south in Industry Street to the project site. Extension of a gas line below grade will not introduce any new hazard to the general public beyond what exist in the area to date. Furthermore, all Federal, State, and County regulations relative to CNG will be applicable for the facility to function as a CNG Fueling Facility. The site is a secured site and perimeter fencing, along with enhanced landscaping along the east and northerly portions of the property will further eliminate any conflicts with persons working or transiting in the area. Additional safety precautions to be implemented include the addition of metal bollards and an 8'-0" high black vinyl coated chain link fence with black vinyl slats around the perimeter of the new CNG equipment area.

The proposed project site is surrounded by industrial and commercial type land uses and is not immediately adjacent to any residential uses or other sensitive receptor type land uses. In order to further ensure that the fueling facility change out from diesel to CNG does not conflict with adjacent land uses, the overall project design is proposing to install new state of the art CNG compressors situated within a self-contained, weatherproof compressor enclosure. The subject enclosure will also incorporate inlet and discharge silencers; as well as, the fan discharge to the top to further attenuate sound.

Staff has determined that the proposal to install a CNG fuel facility in order to convert the existing trash hauling fleet from diesel to CNG will further enhance the ongoing operations through the introduction of a cleaner more environmentally friendly fuel system. Ultimately, the transition to CNG will result in the lowering of vehicle emissions throughout the City of Oceanside and the North San Diego County region.

B. Land Use Element II

Objective 2.1 Industrial Development: To promote industries which are consistent with community enhancement and provide stable tax bases and a balance of employment opportunities.

Policy A: Industrially designated lands shall be devoted to industrial uses for the preservation of the City's economic future, employment opportunities, and general welfare.

Policy C: Ancillary commercial, office, and recreational uses may be permitted when clearly oriented to support the industrial development and serve its population.

The proposed Major Utility land use and proposed CNG fueling facility is consistent with the uses originally envisioned under the City's General Plan. The subject fueling facility will operate consistent with the project originally approved hours-of-operation and will maintain the current job base associated with the Waste Management Operations. It is anticipated that the proposed change over to CNG will benefit the City of Oceanside through lower fuel costs and ultimately cost savings to the residents of Oceanside.

2. Zoning Ordinance Compliance

Article 13, Section 1320 and 1330

Section 1320 of the Oceanside Zoning Ordinance permits the establishment and operation of a Major Utility, which includes refuse collection, transfer, recycling or disposal facilities in the underlying General Industrial (IG) zoning district, subject to approval of a conditional use permit. As conditioned, the project site will be in substantial compliance with the development standards set forth in Section 1330 of the zoning ordinance, including but not limited to parking, screening, and landscaping provisions. No variances are required as part of the proposed project. Perimeter fencing is allowed as per the OZO Article 30 Section 3040 "Fences and Walls" up to a maximum height of 8'-0". In order to minimize visual impacts of the chain link fencing, the project will implement a black vinyl coated chain link fence with black vinyl slats woven within the fence material. To further screen the perimeter fencing and soften the appearance of the existing facility, the applicant is proposing to plant vegetation along the easterly property fence. Immediately adjacent to Industry Street, the applicant is also proposing a plant palette of Pineapple Guava, Day Lilly, and Red Kangaroo Paw (Common Name).

Subject to implementation of an Operations Management Plan (contained within the projects Description and Justification) for the site and in accordance with the approved hours of operation established through Conditional Use Permit (C-24-95), the proposed fuel facility conversion from diesel to CNG will not have any adverse direct impacts to adjacent businesses or persons working or transiting in the area for other goods and services. Furthermore, conversion of the existing trash hauling fleet from diesel to CNG and the use of more efficient modern type engines will further reduce noise and air quality impacts typically associated with larger diesel engines. In conclusion, not only will the proposed project provide a more sustainable and environmentally sensitive fueled fleet, but will further enhance the quality of life of all residents through better air quality and reduced noise levels as trash hauling services are provided throughout the community.

3. Land Use Compatibility with surrounding developments

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Industrial General (IG)	General Industrial (IG)	Waste Management Maintenance Facility (Major Utility)
North of Subject Property	Industrial General (IG)	General Industrial (IG)	Social Service Offices
East of Subject Property:	Industrial General (IG)	General Industrial (IG)	Machinery Shop
South of Subject Property:	Industrial General (IG)	General Industrial (IG)	Loma Alta Creek/ Sprinter Line With Residential Upslope and Beyond
West of Subject Property:	Light Industrial (LI)	Limited Industrial (IL)	Self Storage Facility

DISCUSSION

Issue: Project Compatibility with the Existing Developed Areas:

The conversion from diesel fuel to CNG fuel that involves only minor site modifications necessary to bring CNG on-site and develop fill stations is compatible with the goals and objectives of the General Plan for land use compatibility and the original vision for General Industrial land uses along Industry St. and Oceanside Blvd. The subject site is located within the City's designated heavy industrial area and surrounding properties are established with similar industrial and commercial type developments and land uses. The fuel facility conversion from diesel to CNG is minor in nature and coupled with enhanced perimeter fencing and landscaping, conflicts between the general public and the maintenance/ fueling site operations would be significantly reduced.

The proposed project would be an important part of the City's ability to provide trash hauling and recycling services for the residents of Oceanside at a reasonable cost. The subject conversion to CNG would not add jobs, but would maintain the current level of job opportunities for residents of the City of Oceanside.

Recommendation: Staff finds that the overall design of the project is compatible with the existing developed area and would be consistent with the original intent of the General Industrial land use vision of the City's General Plan. Approximately 3 persons contacted staff voicing concerns or opposition to the project. Staff supports the project as submitted by the applicant, subject to conditions of approval contained within the draft resolution and as originally conditioned through Planning Commission Resolution No. 95-P51.

ENVIRONMENTAL DETERMINATION

A Mitigated Negative Declaration (MND) has been prepared stating that if the mitigation measures identified in the Mitigation Monitoring and Reporting Program are implemented, there will not be a significant adverse impact upon the environment. Under the provisions of the California Environmental Quality Act, the Planning Commission will consider the Mitigated Negative Declaration during its hearing on the project.

The original draft MND was circulated for public review from March 29, 2012 to April 30, 2012. Two comment letters were received during the MND public review period (1) from The Friend of Loma Alta Creek and (2) from The Department of Toxic Substance Control. All comments received on the document have been included in the Final MND with appropriate responses to those comments being provided as well.

Staff is recommending that the Planning Commission move to adopt the Final MND, subject to implementation of Mitigation Measures identified within the Initial Study.

PUBLIC NOTIFICATION

Pursuant to Article 41 of the Oceanside Zoning Ordinance, a Legal notice was published in the North County Times and notices were sent to property owners of record within a 1,500-foot radius of the subject property, individuals and/or organizations requesting notification, applicant and other interested parties. Copies of this agenda item have been mailed to the applicant and their representatives. The 1,500-foot radius notification was maintained and not lowered to a 300' radius because the application was originally submitted and noticed based upon previously established notification requirements.

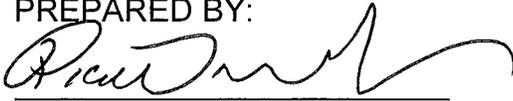
SUMMARY

The proposed Development Plan (D11-00007) and Conditional Use Permit (CUP11-0028), as designed and conditioned, are consistent with the requirements of the Zoning Ordinance, and the land use policies of the General Plan. The project has been designed and conditioned to meet or exceed all applicable development standards. As such, staff recommends that the Planning Commission approve the project based on the findings and subject to the conditions contained in the attached resolution. Staff recommends that the Planning Commission:

- (1) Adopt a Mitigated Negative Declaration, with associated findings and a mitigation monitoring and reporting program for the Waste Management of North County CNG Fueling Facility, in light of the whole record that the project will not have a significant effect on the environment by adopting Planning Commission Resolution No. 2013-P01.

- (2) Approve Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) by adopting Planning Commission Resolution No. 2013-P02 with findings and conditions of approval attached herein.

PREPARED BY:



Richard Greenbauer
Senior Planner

SUBMITTED BY:



Marisa Lundstedt
City Planner

ML/RG/fil

Attachments:

1. Site Plan and Elevations
2. Planning Commission Resolution No. 2013-P01
3. Planning Commission Resolution No. 2013-P02
4. Planning Commission Resolution No. 95-P51
5. CNG Compressor Specification Sheets
6. E-Mail Comment Dated 1/9/13 from FOLAC and City's Response to Comments
7. USD Law Clinic Comments Dated 1/11/13 and City's Response to Comments
8. Eilar Noise Monitoring for FOLAC Dated Received 1/11/13 and the Applicant's Evaluation and Response to the Noise Monitoring Report

WASTE MANAGEMENT OF NORTH COUNTY

OCEANSIDE COMPRESSED NATURAL GAS FUELING FACILITY

Description and Justification



Rev. October 2012

Project Contact: Sherri Newland, P.E.

Project Representative: Ann Gunter

**WASTE MANAGEMENT OF NORTH COUNTY
OCEANSIDE COMPRESSED NATURAL GAS
(CNG) FUELING FACILITY**

Development Plan Revision (D11-00007)
and
Conditional Use Permit Revision (C11-00013)

Description and Justification
Rev. October 2012

Introduction

This application is for revision to the existing Development Plan and Conditional Use Permit for the Waste Management of North County Administration and Fleet Maintenance Facility located at 2141 Oceanside Boulevard, for installation of a compressed natural gas (CNG) fueling facility. The existing fleet is fueled using an on-site diesel fueling facility. Conversion to CNG is consistent with existing operations at the site.

The site is located on the south side of Oceanside Boulevard, with primary access into the operations yard from Industry Street. The subject property is a 3.7-acre leased property including assessor's parcels 149-370-10 (1.8 ac) and 149-370-07 (1.9 ac). The property has a General Plan land use designation of General Industrial (GI) and a corresponding zone of General Industrial (IG). A variety of industrial and commercial uses are located east, west and north of the site, with Loma Alta Creek on the southern site boundary. Residential uses are located at higher elevations beyond the industrial/commercial corridor that largely parallels Oceanside Boulevard.

The existing site is comprised of a combination of asphalt and concrete paving in the fleet maneuvering and storage areas. The yard operations area includes a truck wash and diesel fuel islands. There is also a shop/maintenance building and Waste Management Administrative offices on site. Landscaping on the site was approved and installed in conjunction with the original site plan. This is one of three separate Waste Management sites in the immediate area, which had operational changes and building modifications approved in 1995 as part of D-9-95, C-24-95 (Resolution No. 95-P51). Site 1 is the Administration and Maintenance Facility, Site 2 is the pod transfer and box storage yard, and Site 3 is the recycling yard and public buy-back center. This revision is to make minor site alterations at Site 1 to accommodate the CNG fueling operations needed to upgrade the Collection Fleet in accordance with the current contract. There will be no changes at the other site facilities.

General CNG Description

At a typical CNG fueling facility, natural gas is conveyed from a public utility gas main to an on-site equipment compound where the gas is compressed then distributed to trucks. The compressed gas is buffered in steel storage containers, typically cylindrical or spherical shapes, and routed via piping systems to fuel the entire CNG fleet. The types of fill systems typically provided are described below:

- Internal Priority Fill – CNG from the public gas utility main in the street is compressed into storage tanks, which can then be discharged quickly into a vehicle fuel tank in a fashion similar to a conventional gas station. This type of fill is also referred to as a fast fill system.
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The existing truck parking area will be restriped to accommodate a new onsite traffic pattern and the additional space required to accommodate the CNG distribution piping and dispensers. The project will provide time fill fueling for 58 CNG fleet parking stalls at full build-out.

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The use of CNG trucks will be phased in at this site, which will replace the existing diesel trucks one for one. It is anticipated initially there will be 15-20 new CNG trucks at the site, with 5-20 per year until the full fleet is replaced.

Proposed Shop Upgrades

Minor retrofits to the existing maintenance shop will be required in order for indoor CNG vehicle maintenance and repair. In the event of a gas detection, emergency ventilation will be provided by new roof-mounted fans in order to exhaust gases which are lighter than air. Intake air will be provided by configuring the overhead doors to open and an emergency back-up generator will be available to operate this emergency system in the event of a power failure.

In repair garages for CNG vehicles, the area within 18-inches of the ceiling is designated as a classified location because CNG is a lighter than air gas. Electrical conduit and wiring in the ceiling of the existing maintenance building will be relocated (lowered) outside of the 18-inch classified zone.

Operations

Hours

Fueling CNG vehicles will use a time fill/slow fill process. Time fill systems allow trucks to fuel overnight. The fueling window will range from 10-12 hours for all trucks. There will also be one internal fast fill/quick fill post provided at the site. This allows for better fleet management (example: a vehicle which is being maintained in the evening hours can be returned to service in the morning even if there is not sufficient time for the standard slow fill).

Typically, the fleet vehicles depart the yard between 5:30 am and 7 am, and return to the yard between 2 pm and 7 pm. The existing CUP allows for maintenance work to occur until midnight. These schedules would remain unchanged with the conversion to CNG.

Employees/Employee Access

The CNG conversion will not add additional employees. Personal vehicles are parked in the existing lots north and west of the existing Maintenance Building. Employees access the fleet operations area through the Maintenance Building. Sidewalk access is available from Oceanside Boulevard onto the site, and is not required on Industry Street.

Traffic

The CNG phase-in will be one diesel truck for one CNG truck swap. The CNG fueling will not be adding additional traffic to the site. Operationally, truck departure and return are staggered based on route length and route locations.

Access, Circulation and Parking

Fleet access to the site is from Industry Street, just south of Oceanside Boulevard, and the existing driveway entry/exits will remain. Onsite circulation and the new parking layout will be defined by restriping, and K-rail or concrete light pole bases supporting the CNG dispensing locations. The size of the CNG trucks is equivalent to the existing diesel trucks, so the new striping will accommodate both types of trucks during the conversion. Internal site circulation has been evaluated using the appropriate vehicle template to design adequate circulation within the site.

Site Landscape

In conjunction with the site improvements, the existing landscape areas adjacent to Industry Street will be enhanced with shrubs and ground plantings beneath the existing mature eucalyptus trees. The existing ailing oleander bushes outside the fenceline and along the eastern site boundary will be removed and replaced with native shrubs.

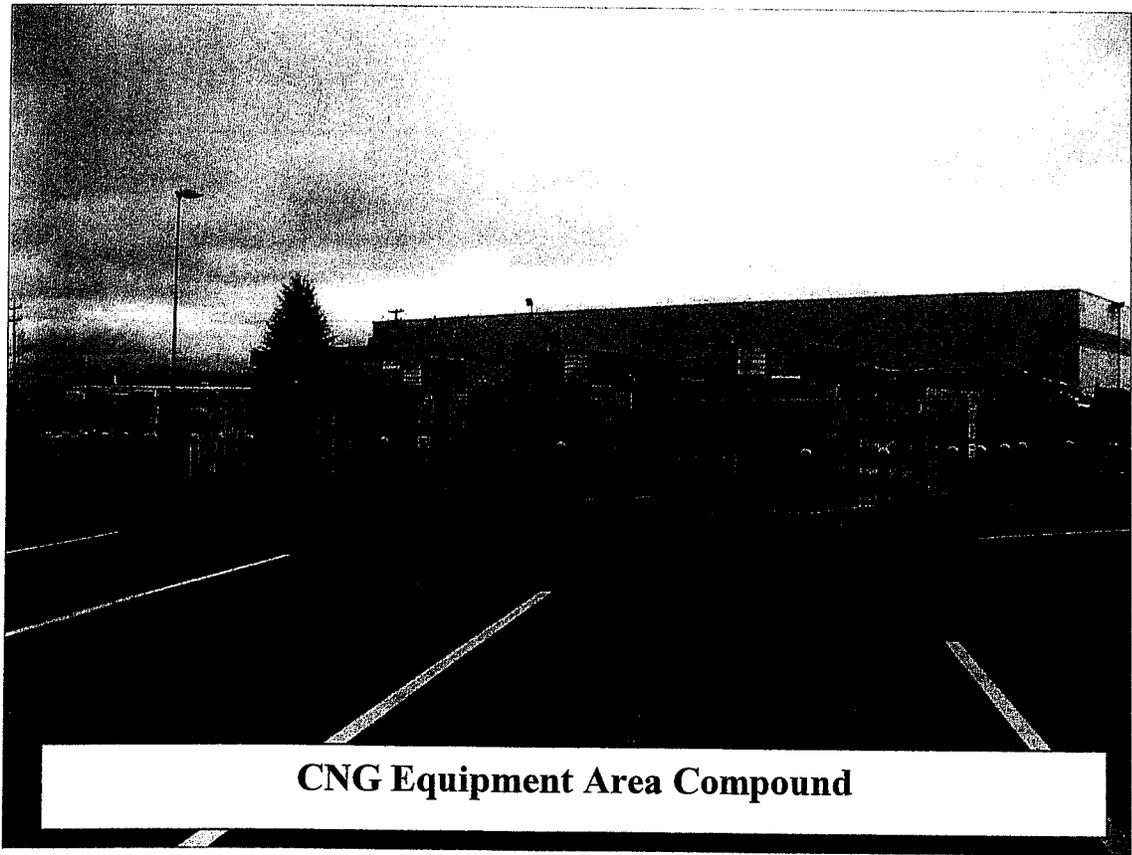
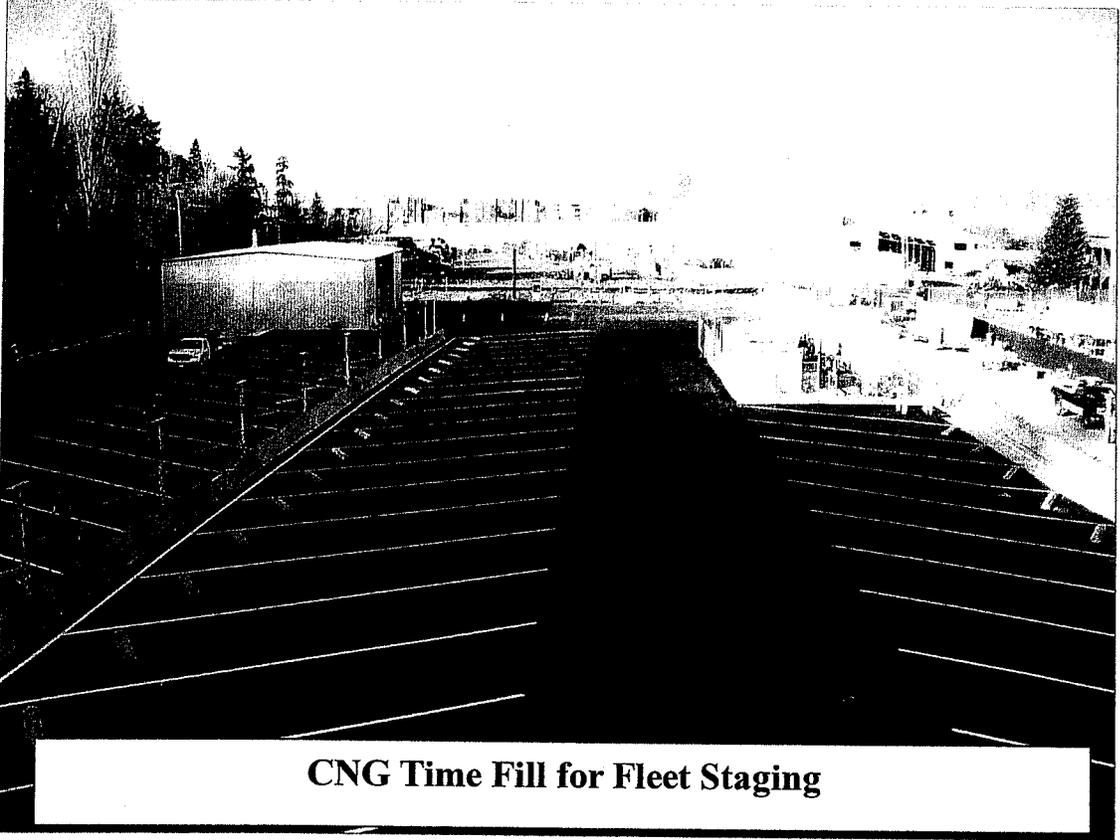
Ground Disturbing Activities

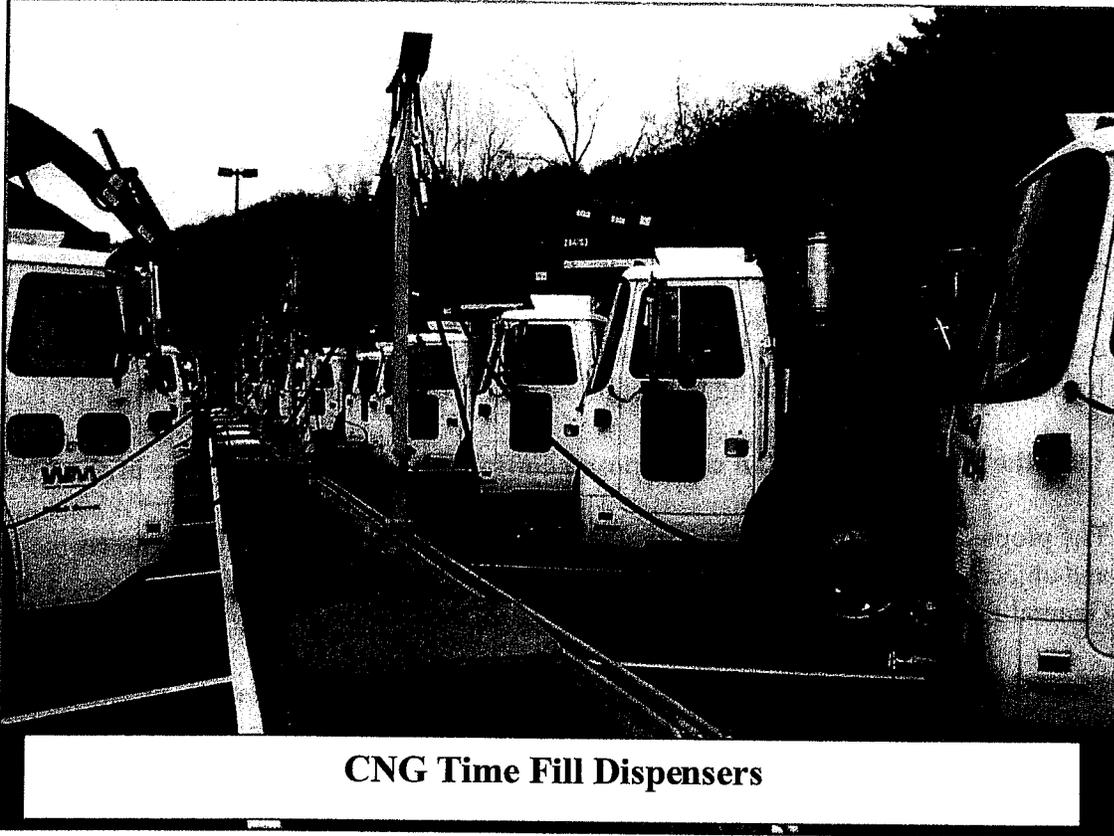
CNG equipment will be installed on a structural concrete pad on surface grade. Site grading will not occur. There will be limited pavement restoration necessary at utility trench locations. Ground disturbance will be less than 2500 sq ft.

Conclusion

The proposed project will provide the infrastructure necessary to support the conversion of the Waste Management fleet from diesel fuel to CNG, and will be consistent with the existing zoning, and land use regulations. Waste Management is adapting the site to incorporate new fueling technologies. The new CNG equipment and facilities can be integrated at the existing site and provide continued service to the community as the fleet conversion is implemented.

CNG EXAMPLE PHOTOGRAPHS





REQUIRED FINDINGS - DEVELOPMENT PLAN

The City of Oceanside Zoning Ordinance stipulates that five specific findings must be made before a Development Plan can be approved. This proposal meets them as follows:

1. **That the site plan and physical design of the project as proposed is consistent with the purposes of the Zoning Ordinance.**

The layout and design of the CNG fueling facility improvements is consistent and in compliance with the Zoning Ordinance. The project has been designed to complement the existing uses on the site. This project is also consistent with the purposes of the General Industrial District in providing the continuation of an appropriate use on industrial land.

2. **That the Development Plan as proposed conforms to the General Plan of the City.**

The proposed project is for improvements to an existing industrial use and meets the goals and objectives of the General Industrial land use category and the applicable elements of the General Plan.

3. **That the area covered by the Development Plan can be adequately, reasonably and conveniently served by existing and planned public services, utilities and public facilities.**

A general industrial use on this site is in compliance with the City's designated zoning and land use for this property. Adequate utilities and services currently serve the existing industrial use on the site and are available to serve the proposed use. The natural gas service needed for the CNG fueling is available in Oceanside Boulevard and will be extended down Industry Street into the site.

4. **That the project as proposed is compatible with existing and potential development on adjoining properties or in the surrounding neighborhood.**

The project has been designed to use existing improvements at the site, such as existing driveway entries so that traffic patterns do not change, and install the CNG facilities with minimal changes to the existing site in order to minimize its impact on the surroundings. The site is zoned for general industrial uses and is currently developed as such.

5. **That the site plan and physical design of the project is consistent with the policies contained within Section 1.24 and 1.25 of the Land Use Element of the General Plan, the Development Guidelines for Hillsides, and Section 3039 of this ordinance.**

The subject site does not contain undevelopable land or qualifying slopes, and is not subject to provisions of the Land Use Element or the Development Guidelines for Hillsides in Section 3039 of the Zoning Ordinance.

REQUIRED FINDINGS - CONDITIONAL USE PERMIT

The City of Oceanside Zoning Ordinance stipulates that three specific findings must be made before a Conditional Use Permit can be approved. This proposal meets them as follows:

1. **That the proposed location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.**

The proposed CNG equipment and piping are necessary for converting from the existing diesel fleet in accordance with the recent waste hauling contract with the City. The location of the facility within the existing fleet maintenance compound is consistent and in compliance with the Zoning Ordinance and the Industrial General Zone.

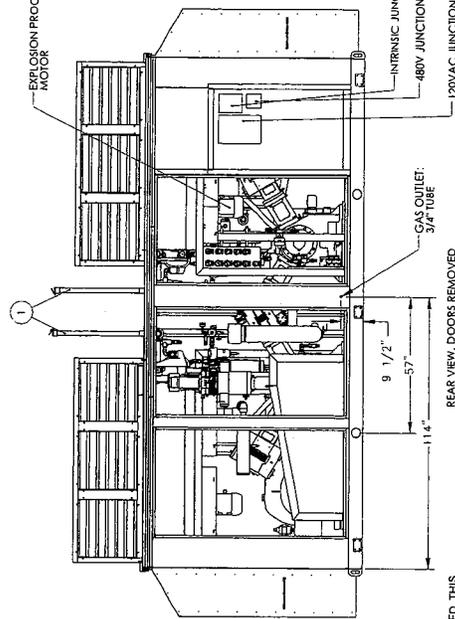
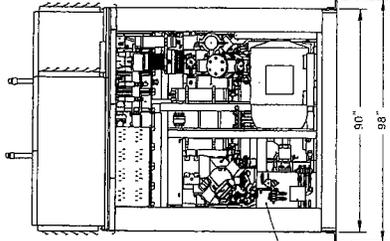
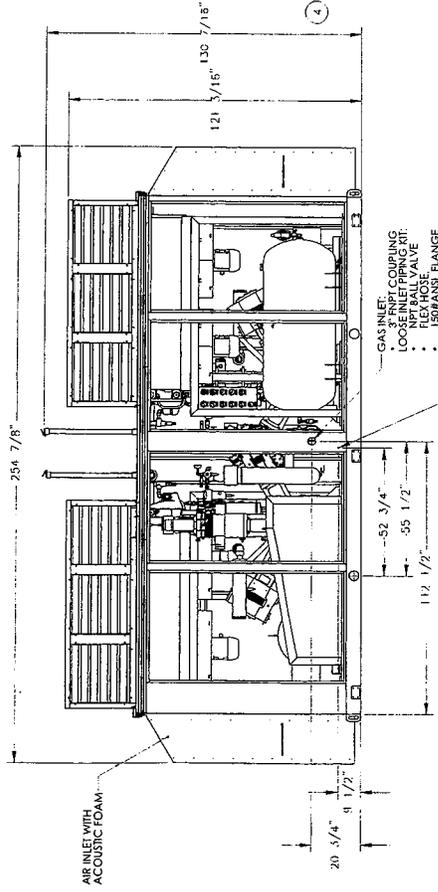
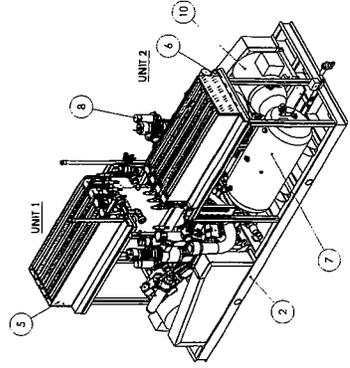
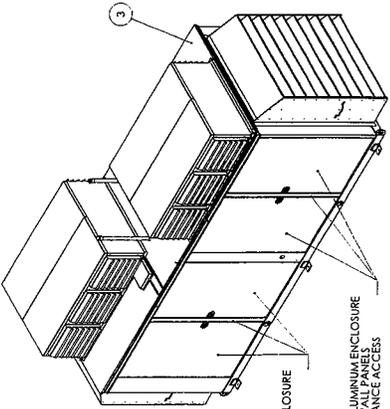
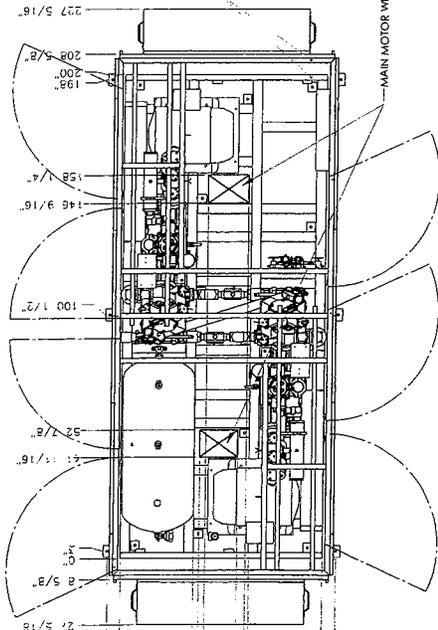
2. **That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.**

The installation of the CNG improvements in conjunction with the permitted industrial use will be compatible with and not have a negative impact on the surrounding industrial uses. The CNG compressors and equipment are required to meet stringent design and safety standards per the National Fire Protection Association, International Fire Code, and International Mechanical Codes. Compression and storage equipment and time fill dispensers are protected from vehicle impact by pipe bollards, K-rail, and/or wheel stops. Physical damage and vandalism are minimized by use of security cameras, fencing, breakaway coupling on fuel hoses, and manual and automatic shut off valves. The project is consistent with the General Plan in that it will not be detrimental to the public health, safety, or welfare of persons residing or working in the surrounding areas.

3. **That the proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district which it would be located.**

The proposed CNG fueling facility is ancillary to the existing site use, providing an alternative fuel for the waste hauling fleet and there are no specific conditions required by the Zoning Ordinance provisions in the General Industrial district for this proposed site modification.

REVISION HISTORY		REFERENCE					
REV	DATE	BY	CHK	DCRM	EKL	N/A	INITIAL RELEASE
A	20120604	JSI					



- NOTES:
1. THE LOCATION OF THIS EQUIPMENT IS NOT NECESSARILY AS SHOWN. THIS DRAWING IS NOT AN EXACT SPECIFICATION TO THOSE ASSUMING NO CHANGE. THE LOCATIONS GIVEN FOR THE ELECTRICAL AND GAS CONNECTIONS ARE APPROXIMATE.
 2. COMPRESSOR MUST BE LOCATED ON A FLAT AND LEVEL CONCRETE FOUNDATION AS SPECIFIED IN THE INSTALLATION SECTION OF THE USER MANUAL.
 3. ANCHOR BRACKETS ARE PROVIDED TO SECURE SKID TO ITS FOUNDATIONS. INWW ALSO RECOMMENDS THE USE OF "HILT" ANCHORS, DETAILS OF WHICH WILL BE PROVIDED UPON REQUEST. INWW DOES NOT ACCEPT ANY LIABILITY FOR ALTERNATIVE REMOVE LIFTING PINS BEFORE BOLTING DOWN SKID AND ENCLOSURE AND INSTALL SUPPLIED ANCHOR BRACKETS.
 4. THE ENCLOSURE SHOULD BE ASSEMBLED. NO WALL SHOULD BE CLOSER THAN TEN FEET FROM THE AIR INLETS OR OUTLETS SHOWN.
 5. ELECTRICAL CLASSIFICATION INSIDE THE ENCLOSURE IS CLASS 1, DIV 2, GROUP D.
 6. ELECTRICAL CLASSIFICATION OUTSIDE THE ENCLOSURE UP TO 18 FEET IS CLASS 1, DIV 2, GROUP D.

ITEM QTY	PART NUMBER	DESCRIPTION
1	203395-00	VENT ASSEMBLY - INW50 & ALPHA
2	20121	SKID WELDMENT
2	20122	ENCLOSURE CASE WITH LAMPS 90W W/IDE
3	20123	CONTROL ASSEMBLY ALEX-1022 EDCI, 480V/50G
4	20124	COOLER SUB ASSEMBLY
5	20125	COOLER SUB ASSEMBLY 450G INW LU
6	21033A	REC TANK SUBASSEMBLY 200PSIG
7	21033B	REC TANK SUBASSEMBLY 200PSIG
8	21034	GAS SUBASSEMBLY
9	21035	INLET PIPING WITHIN 3.0, 3.05F
10	21036	MOTOR 4.5T & SLIDE BASE

TWIN INW50-8000DA-150-4500-4AC							
REV	DATE	BY	CHK	DCRM	EKL	N/A	INITIAL RELEASE
A	240387	JSI					

1 PLANNING COMMISSION
2 RESOLUTION NO. 95-P51

3 A RESOLUTION OF THE PLANNING COMMISSION OF
4 THE CITY OF OCEANSIDE, CALIFORNIA APPROVING
5 A DEVELOPMENT PLAN AND CONDITIONAL USE
6 PERMIT ON CERTAIN REAL PROPERTY IN THE CITY
7 OF OCEANSIDE

8 APPLICATION NO: D-9-95, C-24-95
9 APPLICANT: Waste Management of North County
10 LOCATION: 2141 Oceanside Boulevard (Site No. 1)
11 2403 B Industry Street (Site No. 2)
12 2880 Industry Street (Site No. 3)

13 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA
14 DOES RESOLVE AS FOLLOWS:

15 WHEREAS, there was filed with this Commission a verified
16 petition on the forms prescribed by the Commission requesting a
17 Development Plan under the provisions of Article 43 of the
18 Zoning Ordinance of the City of Oceanside to permit the
19 following:

20 to permit improvements and operation modifications at three
21 existing Waste Management of North County facilities;

22 on certain real property legally described as shown on EXHIBIT
23 "A" attached hereto and incorporated herein by reference
24 thereto.

25 WHEREAS, the Planning Commission, after giving the required
26 notice, did on the 23th day of October, 1995, conduct a duly
27 advertised public hearing as prescribed by law to consider said
28 application.

WHEREAS, studies and investigations made by this Commission
and in its behalf reveal the following facts:

For the Development Plan:

1. Redistribution and coordination of Waste Management of North County activities at the three sites is consistent with Industrial district purposes expressed in the Zoning Ordinance. Strengthening the city's economic base and providing the opportunity for jobs to city residents, ensuring the appearance of the project is consistent and in harmony with the character of the area in which it is located and requiring that site development meets specific performance standards to minimize potential environmental impacts are purposes of the industrial district with which the project is consistent.

- 1
- 2 2. The Development Plan conforms to policies of the General
3 Plan. These include proposing a use that is primarily
4 packaging, processing and distribution in nature, all
5 listed as General Industrial uses, maintaining landscaping
6 in all setback areas and along all fences, screening all
7 outdoor storage aspects, visually separating the proposed
8 uses from nearby non-industrial land uses by natural
9 topographic features.
- 10 3. Utility infrastructure exists to serve the project.
11 Additional improvements or fair-share funding which are
12 necessary to off-set development impacts are attached as
13 conditions of approval.

14 For the Conditional Use Permit:

- 15 1. The project sites are located along an Industrial Corridor
16 (Oceanside Boulevard). The proposed uses are consistent
17 with the objectives of the Zoning Ordinance and the
18 purposes of the IG (Industrial General) Zone.
- 19 2. The project is consistent with the following General Plan
20 policies: the use is primarily packaging, processing and
21 distribution in nature, all listed as General Industrial
22 uses; landscaping will be maintained in all setback areas
23 and along all fences; all outdoor storage aspects will be
24 screened as required by the Zoning Ordinance; this use is
25 visually separated from nearby non-industrial land uses by
26 natural topographic features. The project has been
27 conditioned or is designed in such a manner as to not cause
28 detriment to persons residing or working in or adjacent to
the neighborhood of such use.
3. The project through the attached conditions of approval
will comply with the requirements of the IG (Industrial
General) zone.

WHEREAS, the Planning Commission finds a Negative
Declaration has been prepared stating that there will not be
significant adverse impact upon the environment resulting from
the proposed site modifications and additions.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission
does hereby APPROVE Development Plan (D-9-95) and Conditional
Use Permit (C-24-95) subject to the following conditions:

Building:

1. Applicable Building Codes and Ordinances shall be based on
the date of submittal for Building Department plan check.

- 1 2. The granting of approval under this action shall in no way
2 relieve the applicant/project from compliance with all
3 State and local building codes.
- 4 3. Site development, parking, access into buildings and
5 building interiors shall comply with C.C.R., Title 24, Part
6 2 (Disabled Access - Nonresidential buildings - D.S.A.).
- 7 4. All electrical, communication, CATV, etc. service lines,
8 within the exterior lines of the property shall be
9 underground (City Code Sec. 6.30).
- 10 5. Application for Building Permit will not be accepted for
11 this project until plans indicate that they have been
12 prepared by a licensed design professional (Architect or
13 Engineer). The design professional's name, address, phone
14 number, State license number and expiration date shall be
15 printed in the title block of the plans.
- 16 6. All outdoor lighting shall conform to the Oceanside City
17 Code, Chapter 39 - Light Pollution Ordinance.
- 18 7. City records show existing building as a B-2 occupancy;
19 expanded truck maintenance/repair area represents a change
20 in use from B-2 to H-4. Architect or engineer shall
21 prepare plans to bring existing building into compliance
22 with the current code requirements for the new expanded
23 use.

24 Environmental:

- 25 8. All studies and analyses required as conditions of approval
26 or mitigation measures shall be completed before grading
27 and/or building permits are applied for.

28 Engineering:

- 29 9. Property line returns, knuckles, and all other street
30 right-of-way alignments and widths shall be dedicated and
31 improved as required by the City Engineer.
- 32 10. Prior to approval of the plans, all improvement
33 requirements shall be covered by an agreement, secured with
34 sufficient improvement securities guaranteeing performance,
35 payment for labor and materials, setting of monuments, and
36 warranty against defective materials and workmanship.
- 37 11. Where proposed off-site improvements including but not
38 limited to slopes, public utility facilities, and drainage
39 facilities are to be constructed, the applicant shall, at
40 his own expense, obtain all necessary easements or other
41 interests in real property and shall dedicate the same to

1 the City as required. The applicant shall provide
2 documentary proof satisfactory to the City that such
3 easements or other interest in real property have been
4 obtained prior to the approval of the plans. Additionally,
5 the City, may at its sole discretion, require that the
6 applicant obtain at his sole expense a title policy
insuring the necessary title for the easement or other
interest in real property to have vested with the City of
Oceanside or the applicant, as applicable.

7 12. Improvements shall be required at the time of development;
8 a covenant, reviewed and approved by the City Attorney,
shall be recorded attesting to this condition.

9 13. All streets shall be improved, as directed by the City
10 Engineer, with concrete curbs and gutters, street lights,
11 5 foot wide sidewalks and pavement, providing a parkway
width of at least 10 feet, except where turnouts are
provided unless altered by the City Engineer.

12 14. All street dedications, alignments, widths, and exact
geometrics shall be as approved by the City Engineer.

13 15. The developer shall provide public street dedication as
14 required to serve the property.

15 16. The exact alignment, width and design of all median
16 islands, turning lanes, travel lanes, driveways, striping,
and all other traffic control devices and measures,
including turnouts, bike lanes, and width transitions,
17 shall be approved by the City Engineer.

18 17. Pavement sections for all streets, alleys, driveways and
19 parking areas shall be based upon soil tests and traffic
index. The pavement design to be prepared by the
20 subdivider's soil engineer must be approved by the City
Engineer.

21 18. All traffic signal contributions, highway thoroughfare
22 fees, park fees, reimbursements, and other applicable
charges, fees and deposits shall be paid prior to the
issuing of any building permits in accordance with City
23 policies. The subdivider or developer shall also be
required to join into, contribute, or participate in any
24 improvement, lighting, or other special district affecting
or affected by this project. Approval of the project shall
25 constitute the developer's approval of such payments, and
his agreement to pay for any other similar assessments or
26 charges in effect at the time any increment is submitted
for final map or building permit approval, and to join,
27 contribute, or participate in such districts.

- 1 19. Design and construction of all improvements shall be in
2 accordance with standard plans, specifications of the City
3 of Oceanside and subject to approval by the City Engineer.
4 Parking lot striping shall be shown on precise
grading/private improvement plans for parking lots.
- 5 20. The developer shall pay traffic signal fees as required by
6 the City's Traffic Signal Fee Ordinance.
- 7 21. The developer shall pay thoroughfare fees as required by
8 the City's Thoroughfare Fee Ordinance.
- 9 22. Sight distance requirements at all street intersections
10 shall conform to the intersectional sight distance criteria
11 as provided by the California Department of Transportation
12 Highway Design Manual.
- 13 23. Landscaping plans for trees, bushes and shrubs, or plans
14 for the construction of walls, fences or other structures
15 at or near intersections must conform to sight distance
16 requirements and must be submitted to and approved by the
17 City Engineer prior to the issuance of building permits and
18 prior to the implementation of any landscape improvements.
- 19 24. Sediment, silt and grease traps shall be included in
20 drainage improvements. All site drainage into the creek
21 must be collected into appropriate oil/water separators.
22 A berm shall be constructed along the property line
23 adjacent to Loma Alta Creek to direct drainage away from
24 the creek into the separators. A recirculation system for
25 drainage water may be constructed in lieu of the proposed
26 separators. All site grading, drainage and improvements
27 must meet NPDES requirements, the City's Flood Control and
28 Grading Ordinances, and be approved by both the City
Engineer and Planning Director prior to the approval of the
grading permit.
- 25 25. Grading and drainage facilities shall be designed to
adequately accommodate the local storm water runoff and
shall be in accordance with standard plans and
specifications of the City of Oceanside and subject to the
approval of the City Engineer.
- 26 26. Development shall be in accordance with City Floodplain
Management Regulations.
- 27 27. This project is subject to payment of Master Plan of
Drainage acreage fees, to be paid prior to approval of the
building permit. All storm drains and appurtenances shall
be designed and installed to the satisfaction of the City
Engineer. On and off-site drains shall be shown on City
standard plans and profile sheets. Storm drain easements
shall be dedicated where required.

- 1 28. Storm drain facilities shall be designed and located such
2 that the inside travel lanes on Oceanside Boulevard shall
3 be passable during conditions of a 100-year frequency
4 storm.
- 5 29. Storm drain easements shall be dedicated when required.
6 The subdivider or developer shall be responsible for
7 obtaining any off-site easements for storm drainage
8 facilities.
- 9 30. All drainage picked up in an underground system shall
10 remain in underground system until outlet into an approved
11 channel.
- 12 31. On-site grading design and construction shall be in
13 accordance with the City's current Grading Ordinance.
- 14 32. The applicant shall obtain the appropriate permits and
15 clearances from the U. S. Army Corps of Engineers and/or U.
16 S. Fish and Wildlife Service and/or California Department
17 of Fish and Game and all appropriate NPDES clearances and
18 permits prior to the issuance of grading permits.
- 19 33. Prior to any grading of any part of the tract or project,
20 a comprehensive soils and geologic investigation shall be
21 conducted of the soils, slopes, and formations in the
22 tracts or projects. All necessary measures shall be taken
23 and implemented to assure slope stability, erosion control,
24 and soil integrity. No grading shall occur until a
25 detailed grading plan, to be prepared in accordance with
26 the Grading Ordinance and Zoning Ordinance, is approved by
27 the City Engineer.
- 28 34. The applicant shall provide adequate erosion control
devices for the sites during the construction of all
grading, hardscape and landscape improvements. This shall
include landscaping and temporary irrigation systems on
exposed slopes to be approved by the Engineering
Department.
35. The entire project shall be served with a water system
adequate enough for fire protection and domestic supply,
with hydrants and other appurtenances as needed. The main
lines shall be dedicated to the City, and appropriate
easements shall be provided. The sewer system to serve the
project shall be designed and constructed to City
standards. All other utilities to serve the project,
including electrical, telephone, and cable T.V., shall be
constructed underground.

1 36. All existing continuous overhead utility lines and all new
2 extension services for the development of the project,
3 including electrical and telephone, shall be constructed
underground.

4 37. The undergrounding of the existing overhead utilities may
5 be deferred. The developer shall make an in-lieu payment
6 based upon the linear foot of utilities to be deferred at
7 the rate then in effect as established and published by the
8 City Engineer. The limits shall be across the property
9 frontage.

10 38. After approval of the first final map, a phasing plan for
11 the construction of public and private improvements shall
12 be reviewed and approved by the City Engineer.

13 39. The developer shall comply with all the provisions of the
14 City's cable television ordinances including those relating
15 to notification as required by the City Engineer.

16 40. Any broken concrete curb, gutter or sidewalk shall be
17 repaired or replaced as required by the City Engineer.

18 41. The developer shall install 3 inch P.V.C. conduit and 1/4
19 inch pull rope on the frontage of the project on all
20 arterials and above, for signal interconnect cable. Pull
21 boxes shall be spaced 200 feet apart.

22 42. Precise grading and private improvement plans shall be
23 reviewed and approved for each site by the City Engineer
24 prior to the start of any improvements. All public
25 improvements shall be as directed by the City Engineer with
26 the appropriate improvement plans reviewed and approved
27 prior to the issuance of grading permit. It will be the
28 applicant's responsibility to secure all necessary state
and federal approvals (including NPDES) prior to the
issuance of grading permits. Plan submittal must be
accompanied by the submittal and approval of
hydrological/hydraulic calculations that meet the
requirements of the Engineer's Manual and all other
applicable ordinances and regulations, whether state,
federal or local. The direct or indirect discharge of any
pollutants or non-storm water discharges into Loma Alta
Creek shall be prohibited.

43. Drainage easements for Loma Alta Creek shall be dedicated
to the City prior to the issuance of building permits.
Easement dimensions shall be as required by the City
Engineer.

1
2 44. Prior to issuance of a grading permit, a Notice of Intent
3 (NOI) shall be submitted to the State Water Resources
4 Control Board (SWRCB) and a Storm Water Pollution
5 Prevention Plan (SWPPP) shall be developed and implemented
6 on-site in compliance with the California General
7 Construction Activity Storm Water Permit, as required by
8 NPDES regulations. The NPDES permit requires the applicant
9 to eliminate or reduce non-point source storm water
10 discharges through implementation of Best Management
11 Practices (BMPs). The SWPPP shall at a minimum include the
12 following:

13 (a) Material and waste management BMPs during site grading
14 and construction.

15 (b) Permanent structural BMPs (i.e., physical improvement
16 or devices) such as infiltration trenches, French
17 drains, detention basins, filters and vegetative
18 controls to reduce the amount of pollutants in site
19 runoff prior to its release into Loam Alta Creek and
20 the City's storm drain system.

21 (c) Permanent grease/oil traps and other filtration
22 systems shall be installed and maintained at all
23 appropriate storm drain inlets within the proposed
24 parking areas.

25 (d) The following non-structural post-construction BMPs
26 (i.e., routine procedures or practices) to reduce the
27 amount of pollutants available for transport by the
28 typical rainfall/runoff process:

(1) A material use control program for materials with
a potential to contaminate storm water including
guidelines such as proper storage and disposal
practices for potential pollutants (e.g., motor
oils and antifreeze); prohibiting storage of
uncovered hazardous substances in outdoor areas;
prohibiting the use of pesticides and herbicides
listed by the Environmental Protection Agency;
and spill prevention/response and
shipping/receiving practices;

(2) A housekeeping policy that prohibits the use of
water for cleaning sidewalks, outside structures
and parking areas, except in designated and
approved wash areas;

1 (3) A landscape management plan that includes
2 herbicide/pesticide management practices designed
3 to minimize storm water contaminants from
4 landscaping applications and provisions to
5 minimize irrigation runoff;

6 (4) A street sweeping and cleaning program.

7 (e) A monitoring program involving inspection of all BMPs
8 and pollution prevention measures during grading and
9 construction shall be required. As part of the
10 monitoring program, inspection and maintenance
11 procedures shall be developed and implemented for all
12 post-construction storm water pollution control
13 measures to ensure that they continue to function
14 properly. As an example, drainage inlet filters in
15 the parking areas shall be inspected and maintained at
16 a frequency appropriate to the type of filter system
17 used; storm drain stencils shall be replaced when they
18 are no longer clearly legible; records of paved area
19 sweeping shall be maintained; landscaping sprinkler
20 systems shall be maintained to prevent excess runoff
21 due to leaking or broken sprinkler heads; and drainage
22 facilities shall be routinely inspected and repaired
23 as needed.

24 All provisions of the NPDES permit must be maintained on-
25 site at all times. A copy of the NOI and SWPPP shall be
26 reviewed and approved by the City Engineer and Planning
27 Director prior to issuance of a grading permit.

28 Fire:

45. Fire flow shall be determined at the time of building
application.

46. Fire hydrants shall be located as indicated on a map filed
in the Fire Prevention Bureau.

47. Any security gates shall have a Knox-box override.

48. Plans shall be submitted to the Fire Prevention Bureau for
plan check review and approval prior to the issuance of
building permits.

49. Show all existing fire hydrants within 400 feet of the
project on the plot plan.

50. All required fire lanes shall be a minimum of 28 feet wide.

1
2 Planning:

3 51. This Development Plan and Conditional Use Permit shall
4 expire on October 23, 1997 unless implemented as required
5 by the Zoning Ordinance.

6 52. A public facilities fee shall be paid as required by City
7 policy at the time building permits are issued.

8 53. Landscape plans, meeting the criteria of the City's
9 Landscape Guidelines and Water Conservation Ordinance No.
10 91-15, including the maintenance of such landscaping, shall
11 be reviewed and approved by the City Engineer and Planning
12 Director prior to the issuance of building permits. Landscaping shall not be installed until bonds have been
13 posted, fees paid, and plans signed for final approval.
14 The following special landscaping requirements shall be
15 met:

16 (a) Landscape buffering along the southern and northern
17 boundaries of sites 1 and 2 shall be in the form of
18 shrubs, trees and vines consistent with those as found
19 in the Loma Alta Creek channel. Plant varieties shall
20 be chosen based on rate of growth and consistency with
21 principles identified in the City's Landscape
22 Guidelines and Water Conservation Ordinance. Along
23 the south property line of site 1, landscaping shall
24 be continued to the western property boundary.

25 (b) Landscape buffering along the northern boundary of
26 sites 1 and 2, and southern boundary of site 3, shall
27 be in the form of shrubs, trees and vines consistent
28 with those as found in the Alta Creek channel. Plant
varieties shall be chosen based on rate of growth and
consistency with principles identified in the City's
Landscape Guidelines and Water Conservation Ordinance.

(c) Landscape buffering, in the form of vines, shall be
provided in the following areas:

(1) Site #1 - Along the western site boundary from
the setback line along Oceanside Boulevard (10
feet from the front property line) to the
southern site boundary.

(2) Site #2 - Along the eastern and western site
boundaries from the setback line along Industry
Street (10 feet from the front property line) to
the southern site boundary.

1
2 3. Site #3 - Along the eastern and western site
3 boundaries from the setback line along Industry
4 Street (10 feet from the front property line) to
5 the northern site boundary.

6 Vines shall be chosen based on rate of growth and
7 consistency with principles identified in the City's
8 Landscape Guidelines and Water Conservation Ordinance.

9 (d) Landscape areas adjacent to the Loma Alta Creek
10 channel shall utilize plant materials which are found
11 to be appropriate as a riparian buffer to provide
12 compliance with the Regional Growth Management
13 Strategy. Plant type is subject to the review and
14 approval of the Planning Director and City Engineer.

15 54. Prior to the transfer of ownership and/or operation of the
16 site the owner shall provide a written copy of the
17 applications, staff report and resolutions for the project
18 to the new owner and or operator. This notification's
19 provision shall run with the life of the project.

20 55. Failure to meet any conditions of approval for this
21 development shall constitute a violation of the Conditional
22 Use Permit and Development Plan.

23 56. Unless expressly waived, all current zoning standards and
24 City ordinances and policies in effect at the time building
25 permits are issued are required to be met by this project.
26 The approval of this project constitutes the applicant's
27 agreement with all statements in the Description and
28 Justification, Management Plan and other materials and
information submitted with this application, unless
specifically waived by an adopted condition of approval.

57. This Conditional Use Permit shall be called for review by
the Planning Commission if complaints are filed and
verified as valid by the Code Enforcement Office concerning
the violation of any of the approved conditions or
assumptions made by the application.

58. The applicant shall be responsible for trash abatement on
the site, and shall keep the site free of litter, trash and
other nuisances. This project is subject to compliance
with Section 3024, Performance Standards, of the Zoning
Ordinance.

59. All proposed fencing shall be eight feet in height with
wood slats for screening. Wood screening slats shall be
placed in all existing fencing. Fencing shall be shown on
the landscape plan and improvement or grading plans. All
damaged wood slates are to be replaced within 24 hours of
occurrence.

- 1
2
3 60. Elevations, siding materials, colors, roofing materials and
4 floor plans shall be substantially the same as those
5 approved by the Planning Commission. These shall be shown
6 on plans submitted to the Building Department and Planning
7 Department.
8
9 61. A covenant or other recordable document approved by the
10 City Attorney shall be prepared by the applicant
11 (developer, subdivider) and recorded prior to the approval
12 of the final map (or prior to issuance of building permits
13 where no final map is required). The covenant shall
14 provide that the property is subject to this Resolution,
15 and shall generally list the conditions of approval.
16
17 62. All landscaping, fences, walls, etc. on the site, in
18 medians in the public right-of-way and in any adjoining
19 public parkways shall be permanently maintained by the
20 owner, his assigns or any successors in interest in the
21 property. The maintenance program shall include normal
22 care and irrigation of the landscaping; repair and
23 replacement of plant materials; irrigation systems as
24 necessary; and general cleanup of the landscaped and open
25 areas, parking lots and walkways, walls, fences, etc.
26 Failure to maintain landscaping and the site in general may
27 result in the setting of a public hearing to revoke the
28 approval. This condition shall be recorded with the
covenant required by this Resolution.
63. This Development Plan and Conditional Use approves only the
following: Waste Management of Oceanside improvements at
three sites, including; truck wash operation, bin wash
operation and canopy, recycling processing building and
public buy back area. Any substantial modification in the
design or layout shall require a revision to the
Development Plan and Conditional Use Permit or a new
Development Plan and Conditional Use Permit.
64. All mechanical roof-top and ground equipment shall be
screened from public view as required by the Zoning
Ordinance. That is, on all four sides and top. The roof
jacks, mechanical equipment, screen and vents shall be
painted with non-reflective paint to match the roof. This
information shall be shown on the building plans.
65. The hours of operation for Site No. 1 shall be from 3:30
a.m. until 12:00 a.m. Monday through Friday, and Saturday
and Sunday from 5:00 a.m. until 4:00 p.m. The hours of
operation for Site No. 2 shall be from 6:00 a.m. until 6:00
p.m. Monday through Friday, and Saturday from 5:30 a.m.
until 3:00 p.m. The hours of operation for Site No. 3
shall be from 6:00 a.m. until 11:00 p.m. Monday through
Friday, and Saturday from 6:00 a.m. until 11:00 p.m.

1 66. Prior to the issuance of building permits, compliance with
2 the applicable provisions of the City's anti-graffiti
3 ordinance (Ordinance No. 93-19, Section 20.25 of the City
4 Code) shall be reviewed and approved by the Planning
5 Department. These requirements, including the obligation
6 to remove all graffiti within 24 hours, shall be recorded
7 in the form of a covenant affecting the subject property.

8 67. All trucks, trash bins, pods, and roll-off bins shall be
9 parked in designated parking areas as identified on the
10 site plan. All trucks, bins, pods and roll-offs shall be
11 uniformly and orderly parked at all times. A dust control
12 program shall be developed for Site No. 2.

13 Water Utilities:

14 68. All public water and/or sewer facilities not located within
15 the public right-of-way, shall be provided with adequate
16 sized easements. Size of new easements to be determined by
17 the Water Utilities Department.

18 69. The developer shall be responsible for developing all water
19 and sewer facilities necessary to this property. Any
20 relocation of water or sewer lines are the responsibility
21 of the developer.

22 70. This project is subject to the development restrictions
23 identified in the City's Water Conservation Ordinance No.
24 91-15.

25 71. This project is subject to the requirements of the City's
26 Water Conservation Ordinance No. 91-15, specifically, dual
27 water lines shall be provided on-site in order to
28 facilitate the present and future use of reclaimed water.

72. All lots with a finish pad elevation located below the
elevation of the next upstream manhole cover of the public
sewer shall be protected from backflow of sewage by
installing an approved type backwater valve, per Section
409 of the Uniform Plumbing Code.

73. The existing water meter service at Site No. 1 (2141
Oceanside Boulevard) shall be protected by a R.P.P.
backflow prevention assembly.

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74. Each and every new water meter service provided at Sites 1, 2, or 3 shall be protected by a R.P.P. backflow prevention assembly.

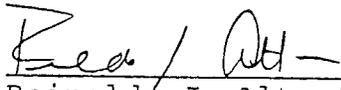
PASSED and ADOPTED on October 23, 1995, by the following vote, to wit:

AYES: Altamirano, Caballero, Frazier, Price, Schaffer, Messinger

NAYES: None

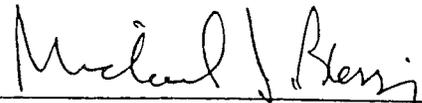
ABSENT: None

ABSTAIN: Bockman



Reinaldo J. Altamirano, Chairman

ATTEST:



Michael J. Blessing, Secretary

I, MICHAEL J. BLESSING, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 95-P51.

Dated: Oct 23 '95

MICHAEL J. BLESSING, Secretary
OCEANSIDE PLANNING COMMISSION



oil-free natural gas

TWIN IMW50-8000DA-150HP-4500-4AC

QTY 1

SUCTION PRESSURE: 13 - 15 PSIG @40°/80°F INLET/-20/105°F AMBIENT
(REGULATED)
DISCHARGE PRESSURE: 4500 PSIG
FLOW CAPACITY/COMPRESSOR: 245 SCFM/143 HP@ 13 PSIG INLET PRESSURE
264 SCFM/150 HP@ 15 PSIG INLET PRESSURE
POWER REQUIRED: 150 HP, TEFC ELECTRIC MOTOR (CL1 DIV 2)
SPEED: 668 RPM
NO. STAGES: FOUR (4)
COOLING METHOD: AIR COOLED
LUBRICATION METHOD: FORCE-FED CRANK/ROD BEARINGS & CROSSHEAD

COMPRESSOR FEATURES:

TYPICAL

- "W" STYLE RADIAL COMPRESSOR CONFIGURATION
 - BALANCED RECIPROCATING DESIGN FOR LOW VIBRATION AND LOW NOISE
 - 25 YEAR MINIMUM SERVICE LIFE ON COMPRESSOR FRAME WHEN MAINTAINED ACCORDING TO THE MANUFACTURE'S RECOMMENDED MAINTENANCE SCHEDULE
- NON-LUBRICATED CYLINDERS, PISTONS AND VALVES
 - SELF-LUBRICATING TEFLON® COMPOSITE, "PEEK" RINGS ON PISTON RINGS AND ROD PACKING
 - 6000 ~ 8000 HOUR TYPICAL SERVICE LIFE OF VALVES, RINGS, AND PACKING, WHEN MAINTAINED ACCORDING TO THE MANUFACTURE'S RECOMMENDED MAINTENANCE SCHEDULE
 - OIL CONTENT IN DISCHARGE GAS \leq 5 PPM
- HIGH-EFFICIENCY HEAT EXCHANGER FOR INTER-STAGE AND DISCHARGE GAS COOLING
 - PRESSURE DESIGN CODE, PER ASME SEC VIII, DIV1
 - OUTLET GAS TEMPERATURE \leq 20 °F ABOVE AMBIENT TEMP.
 - MOUNTED FOR VERTICAL DISCHARGE
- ELECTRIC MOTORS (CLASS 1 DIV2 GROUP D)
 - ELECTRICAL MOTOR PRIME MOVER
 - ELECTRIC MOTOR (DESIGNED FOR 480 V 60 HZ 3 PH)
 - SOFT START SYSTEM TO REDUCE STARTING VOLTAGE
- COMPRESSOR SKID DESIGNED FOR EASY SERVICE/MAINTENANCE ACCESS
- SKID FABRICATION TO MOUNT TWO COMPRESSORS & RELATED EQUIPMENT
- INSTRUMENT PANEL DISPLAY SYSTEM STATUS, TEMPERATURES AND PRESSURES
- ELECTRICAL CONTROL (PLC/MCC) PANEL WITH ALARM STATUS INDICATORS
- INLET FILTER (10.0 MICRON) AND DISCHARGE FILTER (0.3 MICRON) AT 99.95% EFFICIENCY
- CHECK VALVE AND MANUAL ISOLATION VALVE AT INLET & DISCHARGE
- AUTOMATIC UNLOADING OF COMPRESSOR INTO RECOVERY TANK AT END OF CYCLE
- NO COMPRESSOR GAS VENTED TO ATMOSPHERE DURING SHUTDOWN
- BLOCK HEATERS
- RE-CIRCULATION SYSTEM
- INTER-STAGE PULSATION DAMPENER/SCRUBBER VESSELS WITH CONDENSATE DRAINS
- ALL TUBE FITTINGS ARE DOUBLE-FERRULE COMPRESSION TYPE

www.imw.ca

IMW Industries, Inc. 1465 Slater Road, Ferndale, WA, USA 98248 Tel: 360-306-5306 info@imw.ca



oil-free natural gas

TYPICAL DOUBLE COMPRESSOR ENCLOSURE

QTY 1

- FREE-STANDING, SELF-CONTAINED, WEATHERPROOF COMPRESSOR ENCLOSURE
- DESIGNED TO HOUSE TWO IMW COMPRESSOR SYSTEMS AND ACCESSORIES
- INLET AND DISCHARGE SILENCERS TO REDUCE OUTSIDE NOISE LEVELS
- SOUND ATTENUATION AT 80 dBA AT 3 M, IN FREE FIELD CONDITIONS
- FAN DISCHARGE TO TOP TO REDUCE SOUND LEVELS
- ALUMINUM SWING OUT DOORS FOR SERVICE ACCESS TO EQUIPMENT
- HEAVY-DUTY SKID AND ENCLOSURE FRAME
- STRUCTURAL STEEL FLOOR FRAME CONSTRUCTION
- HEAVY-DUTY LIFTING POINTS (FOR CRANE)
- OVERHEAD LIGHTING SUITABLE FOR HAZARDOUS LOCATION
- GAS DETECTOR INTERLOCKED LOCKED WITH EXHAUST FAN
- EXTERIOR-MOUNTED ESD PUSHBUTTON
- APPROXIMATE DIMENSIONS 9' WIDE 10' HIGH X 25' LONG
- FINISH: ALUMINUM DOORS AND STRUCTURAL FRAMES ARE PAINTED

NOTE: THE COMPRESSION EQUIPMENT IS HOUSED IN AN ENCLOSURE MOUNTED ON A REINFORCED STEEL SKID. IT ENCOMPASSES THE COMPRESSOR SKID, INCLUDING THE COMPRESSOR, MOTORS, CAPTIVE RECOVERY SYSTEM, INSTRUMENT PANELS, AND HEAT EXCHANGERS. LARGE DOORWAYS AND PANELS PROVIDE GENEROUS ACCESS TO EQUIPMENT. ENCLOSURE IS NOT NECESSARILY BUILT TO A "BUILDING" STANDARD BUT IT IS AN EQUIPMENT ENCLOSURE.

PRIORITY/ESD/TIME FILL PANEL

QTY 1

- DESIGNED FOR MAXIMUM FLOW RATE OF TWO COMPRESSORS
- 310 BAR (4500 PSIG) DESIGN PRESSURE
- THREE-BANK ELECTRONIC PRIORITY CONTROL
- PNEUMATIC ACTUATED BALL VALVES
- THREE-BANK ESD CONTROL (FAIL-SAFE ACTUATED ESD BALL VALVES)
- PRIORITY ORDER:
 - 1ST - FAST FILL DISPENSER
 - 2ND - TIME FILL POSTS
 - 3RD - FAST FILL POST
 - 4TH - VESSEL STORAGE ASSEMBLY
- PRESSURE GAUGE PER OUTLET LINE
- STAINLESS STEEL PRESSURE TRANSMITTERS ON ALL THREE BANKS & TIME FILL
- MANUAL ¾" ISOLATION BALL VALVE ON INLET LINE
- S/S DOUBLE-FERRULE COMPRESSION ¾" FITTINGS WITH ASME SA213 TP316SS TUBE
- ELECTRICAL CONTROL FROM COMPRESSOR PLC
- ALL COMPONENTS ARE MOUNTED ON NEMA PANEL FOR OUTDOOR LOCATION

From: Nadine [<mailto:deannie550@sbcglobal.net>]
Sent: Wednesday, January 09, 2013 7:20 PM
To: Zack Beck; Marisa Lundstedt; Bob Neal; Claudia Troisi; Dennis Martinek; Louise Balma; Tom Rosales; Jay Schrivner; Robert Ross; City Clerk
Subject: Waste Management CNG item: Oppose January 14, 2013 Planning Commission Hearing

To Whom it May Concern, (City Clerk - please ensure this is in the official record for this project)

Friends of Loma Alta Creek (FOLAC) opposes the Waste Management (WM) CNG project. While this seems like a good 'green' project, once again as in the Robertson's concrete plan project, it is in the wrong place for such a project. In addition, the level of environmental review was incorrect as will be detailed below. There are also several existing problems with the current

↓
D-1

operation and the Planning Commission should act on those as a matter of right to reopen the CUP upon validated complaints. FOLAC has a noise study showing continued violations of the City's Noise Ordinance and the City documents noise complaints since 1995, when Waste Management changed their operation location to its current site with entrance off Industry St.. WM's own noise study shows violations of the noise ordinance as well. A summary of reasons to turn down this project and Mitigated Negative Dec is stated below and shall be incorporated into the official record.

D-1
Cont.

After doing multiple detailed Public Records Act requests and examining the documentation for the current application, FOLAC raises the following issues.

D-2

D-3

D-4

D-5

D-6

D-7

D-8

1. WM proposes a gas station & high pressure gas lines (5000psi) mostly in the floodway & also some construction in floodplain and buffer, plus excavation in floodway to install underground high pressure gas lines-this is not allowed; (survey map attached in WM file, not in Mitigated Negative Declaration [MND] and latest FEMA floodway map attached)
2. Numerous, continuing and existing noise complaints since 1995 have gone unaddressed by the City or WM; violations of noise ordinance before 6:59 am are amply demonstrated in 2 sound studies- one prepared by WM's own consultant shows violations and one prepared for USD by Eihler also shows violations of the City's Noise Ordinance; Existing noise continues to violate the City's Noise Ordinance and no adequate noise mitigations have been proposed to reduce the noise level to accepted, legal noise levels in the industrial, Loma Alta Creek Sub-Area Plan gnatcatcher habitat area or the adjoining residential district Loma Alta neighborhood. The City disingenuously confuses the matter of law (Noise Ordinance and noise prohibitions) with operating hours. As a matter of law, WM cannot violate the Noise Ordinance no matter what operating hours they have been granted- Waste Management's own legal counsel, John Newell, stated this to FOLAC at a face-to-face meeting last year in October;
3. Inadequate or disallowed noise mitigations proposed- As proposed, the city's CNG/Diesel truck replacement plan constitutes an improper deferral of mitigation measures. Formulation of mitigation measures should not be deferred until some future time, as is the case here. Guidelines § 15126.4(a)(1)(B) <http://www.lexis.com/research/buttonTFLink?_m=51476959d2e3e0374b54264e542aff63&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b199%20Cal.%20App.%204th%2048%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=406&_butInline=1&_butInfo=CCR%2014%2015126.4&_fmtstr=FULL&_docnum=1&_startdoc=1&_wchp=dGLbVzt-zSkAz&_md5=74bedb5bf79d9424d2df815ae1cd5adc>; Communities for a Better Environment v. City of Richmond, 184 Cal. App. 4th 70, 92-96 (Cal. App. 1st Dist. 2010);
4. Noise from two huge new compressors(industry specs say no building to dampen noise can be built) has not been mitigated. These massive compressors will be outdoors, on a concrete slab, in metal shed-type structure with direct sight/noise line into Loma Alta neighborhood.
5. Noise currently exceeds and will continue to exceed 60db allowable for habitat species plan/gnatcatcher corridor immediately adjacent to the WM facility and violates the Endangered Species Act Section 9 which forbids any direct or indirect harm for species such as Gnatcatcher which have been document in the Loma Alta Creek Gnatcatcher corridor;
6. The entire CUP must be reopened as a matter of law to address noise issues from the existing fueling, maintenance and storage yard, the noise from the pod yard, excess vehicles, pod storage yard also has more equipment noise/backup beepers/dumpsters explosive noise and lack of living landscape screening as required in the original CUP;
7. There is no mitigation proposed for abandonment of huge, 24,000 gallon diesel tank which is in the floodway/floodplain,,,'will do when no longer needed' (which will be never if they fuel one item);
8. Cumulative, substantial noise issues were not dealt with at all in the MND and must be done:

Cumulative noise consists of construction, existing noise, future noise, compressors noise (80db at 15 meters), fan noise, maintenance noise including air hammers/loud and prohibited noises during the nighttime, backup beepers on all vehicles, dropping of pods and metal dumpsters (sounds like explosions),etc.;

9.The City's own Topographic map (number 100 incorporated herein for reference) shows the canyon-like nature of the surrounding Loma Alta Neighborhood; sound travels UP and into the neighborhood at a very high dB during the nighttime hours (10pm to 6:59am); nighttime hours are 45dB in residential areas and WM exceeds that and will continue to exceed that based on cumulative noise of the project (Eihler's noise study);

10. The Planning Commission should revoke the CUP for WM due to violation of conditions including landscape, noise/harm to human health/nuisance and exceeding authorized number of vehicles, pods, dumpsters, etc. allowed in the original CUP/Development Plan.;

11. The Planning Commission should immediately change the operating hours, whether the project goes forward or not, from the current 3am to midnight to the required 7am to 10pm to comply with the City's noise ordinance; the violations of the Noise Ordinance are prohibiting residents in Loma Alta neighborhood from the quiet enjoyment of their homes, devaluing property values, and is causing and contributing to various health issues including sleeplessness, heart palpitations, etc..and the violations (over 60dB) must not occur in the special Gnatcatcher/habitat corridor immediately adjacent to the WM properties;

12. An Operational Management Plan appears to be proposed as some sort of mitigation but is not available for public review. This is an impermissible and must be present for public scrutiny. For these reasons, FOLAC has determined this project and the MND must be denied. In addition FOLAC has determined the proper environmental review was not done and WM should have prepared an EIR for this project. There is substantial evidence in the record that demonstrates significant adverse environmental effects as outlined above. Inadequate or no mitigations have been proposed for noise. ; Last, the existing CUP must be modified to curtail noisy nighttime operating hours that violate the Oceanside Noise Ordinance, with a revocation considered for violations of the existing CUP/Development Plan and Noise Ordinance.

A more detailed letter is being prepared and will have the Eihlers' sound study attached. (due to restrictions on email size.) FOLAC will also discuss why the current CUP is subject to review or revocation, why this project does not comply with the Sub-Area plan (all projects the last few years are required to comply, the General Plan, Land Use Element, Noise Element and Environmental Resource Element.

Thank you for your attention to these very important issues. Please call if you have any questions about the material below or if you wish any further documentation at this time.

I am appreciative of your consideration.

Nadine L. Scott, co-founder

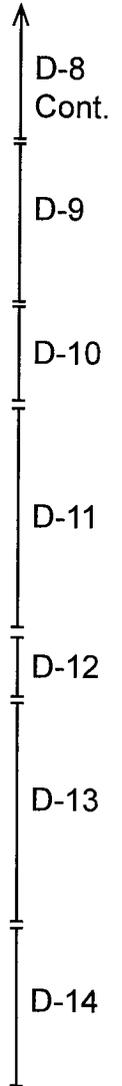
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Friends of Loma Alta Creek

550 Hoover St.

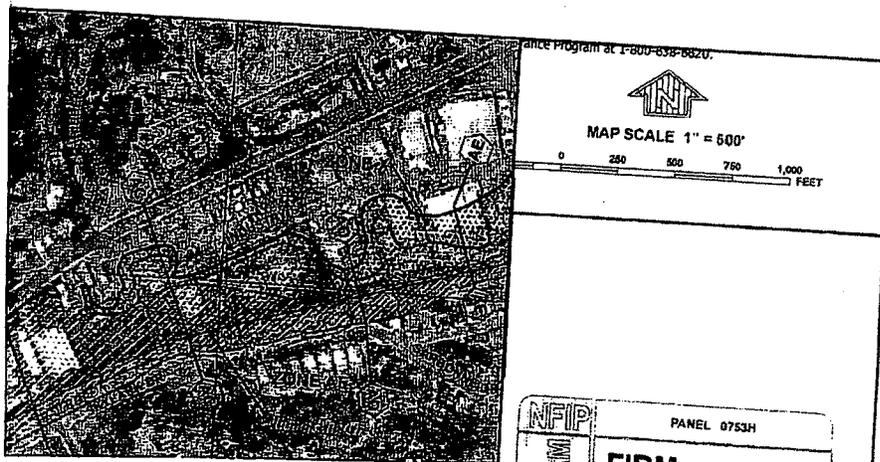
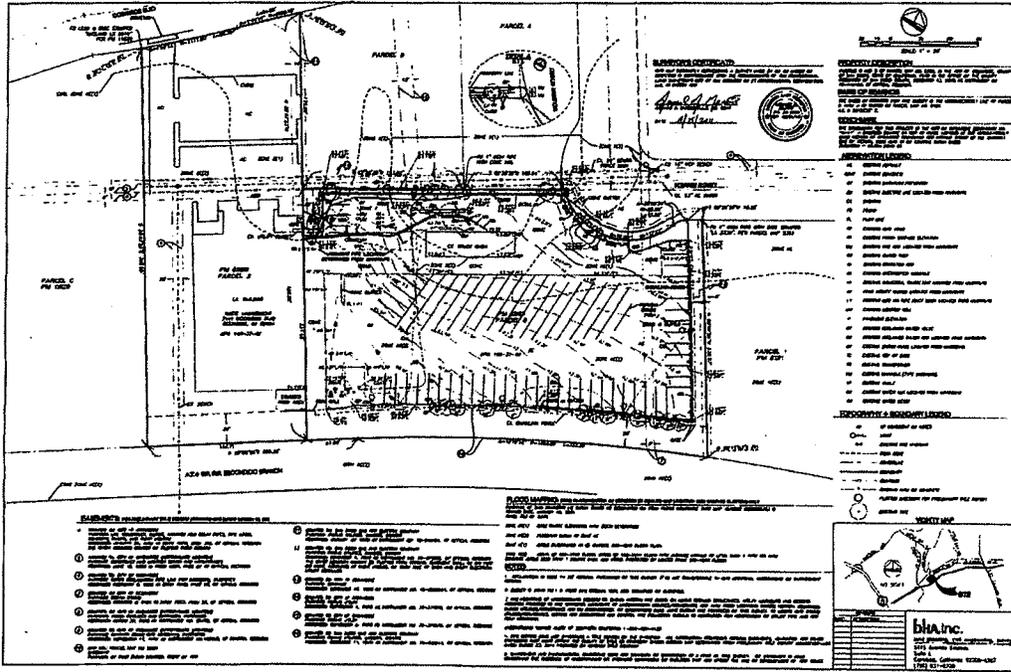
Oceanside CA 92054

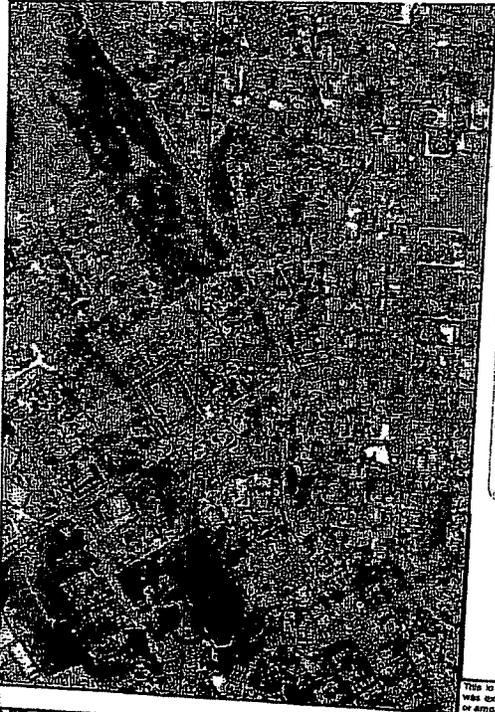
760-803-6813



Oceanside CA 92054
760-803-6813

Madro Slett





NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP
SAN DIEGO COUNTY,
CALIFORNIA
AND INCORPORATED AREAS

PANEL 753 OF 2375
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

COMMUNITY
CORONADO CITY, CA

SUBRECS	PANEL	SHEET
00000	0753	14

Note to User: The map number shown above should be used when making map orders. The Community Number shown above should be used for insurance applications for the subject community.



MAP NUMBER
06073C0753H
MAP REVISED
MAY 16, 2012

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using FIRM OnLine. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps, check the FEMA Flood Map Store at www.fema.gov

Response to Comment Letter D

Nadine Scott

Received January 9, 2013

The comment email from Nadine Scott of the Friends of Loma Alta Creek (FOLAC) was received by the City on January 9, 2013, substantially after the close of the public comment period on April 28, 2012. Although not required, the City staff have nonetheless prepared the following responses out of an abundance of caution and to assure that the Planning Commission is fully informed.

D-1 The City acknowledges Ms. Scott's views on the CNG project, and receipt of the Eilar noise study. Please refer to Responses to Comments E-24 and E-33 for additional discussion regarding noise issues.

The matter before the Planning Commission is approval of the CNG project. The procedures for addressing purported violations of the 1995 CUP are discussed in Response to Comment E-2.

All responsive records located in the City's files were provided in accordance with requests made under the Public Records Act.

D-2 Please refer to Responses to Comments C-6, E-22 and E-32 for discussion of hydrology issues.

D-3 Please refer to Responses to Comments E-24 and E-33 for discussion of noise issues and the City's noise ordinance. Appendix D of the FMND provides a technical memorandum documenting the CNG's project's consistency with the Draft Oceanside Subarea Plan. Please refer to Responses to Comments C-11 and C-23 for discussion of operating hours.

D-4 Please refer to Response to Comment E-39 for discussion on the issue of deferral of mitigation. Please refer to Responses to Comments E-33 and E-37 for discussion regarding noise from the compressor.

D-5 Please refer to Response to Comment E-37 for discussion on the issue of noise impact to species.

D-6 Please refer to Response to Comment C-5 for discussion of the scope of the matter before the Planning Commission, which is the review of the proposed CNG project.

D-7 The removal of the existing diesel fuel tanks is not proposed as part of the CNG project; thus, this action was not required to be considered in the MND or required as mitigation.

D-8 Please refer to Response to Comment E-37 for discussion on the issue of cumulative noise impacts. Since the CNG project results in a reduction in noise, it could not, by its very nature, contribute to a cumulative noise impact.

D-9 Please refer to Response to Comment E-24 for discussion of noise impacts on neighborhoods north of the facility. Unlike the actual noise measurements taken by the applicant near the Scott residence (FMND, Appendix C to Appendix C), the Eilar noise study expressly did not consider any factor other than distance in estimating noise at this location. However, both applicant's report and the Eilar study support the conclusion that following implementation of the CNG project noise levels near the Scott residence would be below the City's nighttime 45 dBA noise level standard, if it were applicable.

D-10 Please refer to Responses to Comments E-21 through E-27 for a discussion of this issue.

D-11 Please refer to Responses to Comments C-11 and C-23 for discussion of operating hours, Response to Comment E-24 for discussion of noise impacts on neighborhoods north of the facility, and Response to Comment E-37 for discussion on the issue of noise impact to species.

D-12 The Operations Management Plan is not a mitigation measure. This type of document is typically conditioned by the City to be completed following receipt of all project approvals, to compile the design and operational characteristics in one document solely for the purpose of facilitating administration by the City. As a reference document, it will not impose any conditions or mitigation measures that are not otherwise already provided. Since nothing new is provided that would be a change in the project, no public review is warranted or required.

D-13 The City acknowledges Ms. Scott's views regarding the CNG project and the facility. No new information is presented, and this comment simply refers to other comments. Please refer to the responses to those comments for more detailed information.

D-14 The City acknowledges receipt of a more detailed comment letter, which has been designated as Comment Letter E, and the Eilar noise study. Responses to both have been prepared. Appendix D of the FMND provides a technical memorandum documenting the CNG's project's consistency with the Draft Oceanside Subarea Plan. Please refer to Response to Comment E-14 and the staff report for this matter, at pp. 3-6, for a discussion of consistency with the Oceanside General Plan and the City's zoning ordinance.

RECEIVED
JAN 11 2013
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

TO: City of Oceanside Planning Commission
FROM: USD Environmental Law Clinic
RE: WM Refueling Facility: Conditional Use Permit & Development Plan
CUP11-00013 and D11-00007

FMND ISSUES

- 1. Whether the City should revoke the CUP and Development Plan for failure to satisfy conditions.
- 2. Whether the City of Oceanside (City) proceeded in a manner required by law in not requiring an Environmental Impact Report (EIR) for the Waste Management (WM) Project.
- 3. Whether the findings in the Mitigated Negative Declaration (FMND) are supported by substantial evidence.

E-1

SHORT ANSWERS

- 1. WM is violating multiple conditions of the Development Plan/CUP. Under City Law, the City should revoke WM's permission to operate until conditions are met.
- 2. The City failed to proceed in a manner required by law because there was substantial evidence in the record to indicate substantial environmental impacts caused by the project. Because a "fair argument" may be made that such impacts will be present after the proposed mitigation measures are implemented, an EIR must be prepared.
- 3. Several findings in the FMND are not supported by substantial evidence.

E-2
E-3

STATEMENT OF FACTS

Background:

The application before the Planning Commission requests the addition of a fueling facility (gas station) at WM's maintenance yard. The bulk of the site is in the floodway zone and partially in the floodplain zone AE. Additionally, the site is immediately adjacent to sensitive habitat area of Loma Alta Creek, adjacent to Fire Mountain and Loma Alta neighborhoods, and adjacent to Oceanside Boulevard.

This major WM project will include new gas and electrical service, a new transformer, a new CNG equipment compound, and a new CNG distribution and dispensing system. The equipment compound will consist of the following major components (list is not exhaustive):

- Natural gas utility meter assembly; PBS dryer; Twin-compressor assembly self-contained in a weather-proof enclosure (equipped with silencers and insulation to provide attenuation at 80 db at 3 meters); priority panel; 67

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cubic foot storage until for CNG; electrical utility transformer and switch gear; gas distribution piping and time fill dispensers; a new structural concrete pad upon which all CNG equipment will be located; new underground natural gas line (installed, owned, and operated by SDG&E) from Oceanside Boulevard, under Industry Street, to the CNG equipment compound; new underground electrical power service to the CNG equipment compound.

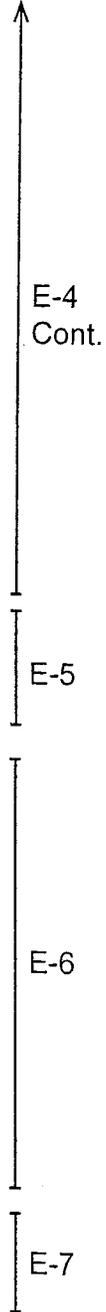
The CNG compressors (2) will be 9 feet wide, 10 feet high and 25 feet long and placed at the current driveway entry for the maintenance yard. They will be run by 150HP (horsepower) motors, installed on a concrete pad and according to the FMND cannot be housed in a building. Their location is closest to the Loma Alta neighborhood and Industry Avenue.

Fueling will take place relative to the number of trucks and their return to the yard via 'time-fill' terminals by each vehicle. There will be only one rapid-fill terminal. "Compression of the gas and fueling of the fleet begins and continues over 10-12 hours." (Final FMND p. 2-5) Trucks will return to the site as late as 5:30pm allowing fueling to continue overnight until 5:30am Monday through Saturday, thus creating a 24-hour operation with associated noise of the compressors turning on and off etc.

The FMND states the CNG fuel line will be built from Oceanside Boulevard (p. 2-8) but the Preliminary Site Plan indicates it will be located 270 feet away from Site 1 easterly on Industry Avenue. This necessitates, among other major construction activity, trenching, soil removal, and asphalt/street displacement.

Throughout the project, Friends of Loma Alta Creek (FOLAC) and FOLAC co-founder Nadine Scott, have expressed concerns about the level of environmental review, noise, landscaping, road damage, and construction issues. In an email to the City in March, 2011, FOLAC wrote about concerns with this project and its environmental impacts. Written comments on the Draft FMND were sent by FOLAC to the City on April 30, 2012. Previously, noise and other environmental complaints were made by Nadine Scott regarding WM's operations. A public records act request (PRA) document confirms these complaints since 1995. In a face-to-face meeting August 30, 2012 with city staff and others, David Manley from Code Enforcement confirmed that multiple noise complaints were filed 'over the years'. In May and June 2012, Scott met with WM's manager, Bill Bixler, and subsequently expressed concerns in two face-to-face meetings, one in April 2012 and one in June 2012 at her home. Over the years Scott met with Ken Ryan, another manager for WM, and expressed concerns about the operations as recently as September, 2012. Scott has discussed the noise issues with Lead Counsel for WM John Newell on October 12th, 2012.

The project was originally scheduled before the Planning Commission on October 22, 2012 but was delayed until a hearing date of December 3, 2012. That hearing has been further delayed until January 14, 2013.



Original CUP Background:

In 1994 WM requested a Development Plan and Conditional Use Permit ("CUP") [D-9-95 and C-24-95] "to permit improvements and operation modifications at three existing Waste Management of North County facilities." Notice of the project was given to persons within a 300 foot radius, excluding the great majority of adjacent residences in the Fire Mountain and Loma Alta neighborhoods.

On October 23, 1995, the Planning Commission of the City conducted a public hearing and approved Resolution No. 95-P51 (Resolution) for all three sites to be operated by Waste Management of North County ("WM") based on a Negative Declaration stating no negative environmental effect would occur. The three WM sites are identified as follows: 2141 Oceanside Boulevard (Site No.1 administration/maintenance, etc.), 2403 B Industry Street (Site No.2 Pod/Dumpster storage), and 2880 Industry Street (Site No.3 recycling center), respectively. Site No. 1 is the subject of the development plan and CUP.

The 1995 CUP and Development Plan substantially changed the use of Site 1 which was originally an administrative office, an indoor bin maintenance building, and truck parking storage yard. It added other items including moving the bin maintenance/washing outdoors, moved collection vehicles to that site and relocated their access point from Oceanside Boulevard to Industry Avenue. (That address is currently still known as 2141 Oceanside Boulevard or Site 1.)

The planner Graff made a finding of no environmental effects or a Negative Declaration (8/25/95) stating "there is no substantial evidence...which indicates the potential for significant environment impacts." Thus, no environmental studies were ever prepared including soils, noise, traffic, hydrology, wildlife, biological, or other impacts prior to the Planning Commission hearing. The development consisted of new 24,000 gallon underground diesel fuel tanks, a fueling station, a large truck maintenance area including painting area, parking area for an unknown number of vehicles, truck and bin wash areas, and bin maintenance facility. Truck fueling, washing and maintenance were previously done at Site 3 that is farther East on Industry Street where it is surrounded by other industrial business and not close to or within sight line of adjacent homes.

A Storm Water Pollution Protection Plan (SWPPP) was prepared in April, 1996 and did not disclose the underground fuel tanks or the presence of any hydraulic fluid, lubricants or other hazardous chemicals that were being used daily and still are for vehicle repairs. The SWPPP says for each of those items, "Vehicles Will Provide On-Site Service" on the Materials Inventory disclosure page (p.6) indicating that none of the substances would be on site. The SWPPP also states that "The State Permit requires updates to the SWPPP whenever there is a change in construction and/or operations..." (p.18) yet the SWPPP has never been updated to reflect actual conditions as outlined immediately above. The approval required an update to the SWPPP if any changes to the site or operations were made. No documents were provided after numerous PRAs that indicate a new SWPPP was ever prepared.

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E-9

E-10

Further the site was graded and the floodway was filled at the South end of the site adjacent to the creek "increasing the elevation of the building to allow the addition of truck maintenance". (Description & Justification p.1) No wildlife agency, FEMA, Army Corps or water board permits were applied for or approved to allow fill on this site. It is also unknown if WM has complied with regulations for their underground fuel tanks or the SWPPP. Again, no records were made available after multiple PRA requests to the City.

E-11

During the 1995 Planning Commission hearing Commissioner Frazier asked about flooding and the facility's "being right near a creek...one of the most vulnerable creeks in the City" and was told there was "an issue at the rear of the facility if the flood waters got up that high". Planner Blessing said, "I do not see a direct condition on this project." An Associate Civil Engineer Lowell later stated that "If water flows through a building in this type of use, that containment must be provided." City staff (Eslambochi meeting with Scott & others, November 5, 2012) indicates there is no stormwater detention basin on site and no new FEMA maps have been approved changing the flood lines for this site. No containment appears evident on the current Preliminary Site Plan or the bha, Inc. Survey Map dated 4/15/2011. The Survey Map and city staff indicate all flows go off the site into the Loma Alta Creek.

E-12

Commissioner Bockman asked about operating hours, "Are those hours pretty much the ones that you have in operation now?" and Ken Thompson answered, "Yes." The operating hours at Site 1 were Monday through Friday, 4:30 am to 6:00 pm, Saturday/Sunday from 5 am to 1:00 pm. The development plan made substantial revisions to the hours, changing them to Monday through Friday 3:30 am to 12:00 am (midnight) and Saturday/Sunday from 5:00 am to 4:00 pm.

E-13

The CUP and the Development plan were approved even though the development substantially takes place in the floodway and floodplain. The floodway was filled, substantial new noise was created, substantial changes in operating hours were implemented, new underground diesel fuel tanks were installed, and WM began storing hazardous materials on site. It is impossible to know exactly how WM was permitted to operate this facility at any location prior to 1995. According to the City in response to a public records request dated November 13, 2012, there is no documentation for WM's operations at any site prior to 1995.

E-14

Current Events:

Since the project was approved in 1995 there have been many changes to the legal and regulatory landscape in Oceanside when new projects and CUPs are applied for: new storm water regulations have been adopted by the Regional Water Quality Control Board (updated 2011) and Oceanside (2002) including secondary containment, retrofits to contain runoff from receiving waters, vehicle washing, and fueling requirements (no new SWPPP was prepared for the Final FMND); there are new compliance programs for underground fuel tanks and on-site materials; there are new laws and regulations regarding waste disposal and recycling; the City's development of the final Sub Area Multiple Habitat Conservation Plan (MHCP) that maps sensitive animal and plant species

E-15

has designated wildlife corridors immediately adjacent to Sites 1 and 2; numerous flooding events have occurred on Industry Avenue and environmental buffers are now required; multiple noise and other environmental compliance complaints have been filed regarding WM's operation at Sites 1 and 2.

E-15
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The facility is currently a diesel-refueling site for approximately 58 fleet refuse and other additional unspecified vehicles Monday - Saturday per the FMND.

On June 30, 2011 WM applied for a new Development Plan and modification of the CUP (Project) as follows:

E-16

Revision to existing Development Plan (D-9-95) and Conditional Use Permit (C-24-95) for installation of compressed natural gas (CNG) fueling facility to the Waste Management of North County Administration and Fleet Maintenance Facility to allow conversion of existing fleet from diesel to CNG.

The City determined that a Mitigated Negative Declaration was the appropriate environmental review for this project (no dated copy could be located) and no wildlife agencies, San Diego County Department of Environmental Health, Army Corps or the regional water quality control board were directly consulted with. A draft FMND was prepared sometime prior to March 28, 2012 and a Final FMND was prepared on October 29th 2012. Subsequent to comments received, a "focused noise assessment", greenhouse gas emissions calculations, air quality emissions calculations, and a memo called "Relationship to Revised Final Oceanside Subarea Plan" were added to the FMND.

E-17

E-18

No amended SWPPP was prepared for this project prior to release of the Final FMND or prior to December, 2012.

E-19

Under the proposed modification, the number of fleet vehicles specified in the FMND at 58 will remain the same. But earlier documentation prepared for the 1995 hearing, "Operation and truck traffic analysis", indicates the site was approved for approximately 22 pod/refuse vehicles.

E-20

DISCUSSION

I. **Pursuant to Oceanside Zoning Ordinance §4108(E) Revocation: Violations of Existing Development Permit & CUP, Waste Management's CUP should be revoked.**

E-21

Oceanside Zoning Ordinance §4108(E) *Revocation* states: "A use permit or variance exercised in violation of a condition of approval or a provision of this ordinance may be revoked, as provided in Section 4706 [hearing requirements]". The project is required to meet all zoning and other ordinances and policies in effect at the time of building. (Condition 56). WM has violated numerous conditions of approval of the CUP granted in

1995 including number of vehicles allowed, landscape requirements, noise ordinance violations, filling a floodway, etc.

↑ E-21
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Floodway/Floodzone:

The WM facility in question is in violation of Engineering Conditions of Approval sections 24 and 26 of the Resolution. The facility is located in part in an established AE floodway, deemed a Special Flood Hazard area by FEMA, in violation of FEMA and Oceanside Article IX Floodplain Management Regulations because WM failed to obtain necessary permits allowing encroachment, fill and development on the floodway.

Condition of Approval 24 under Engineering requires that, "All site grading, drainage and improvements must meet... the City's Flood Control and Grading Ordinances." Condition of Approval 26 requires that, "Development shall be in accordance with the City Floodplain Management Regulations. Section §6.42.3 of the Oceanside Code *Compliance* mandates that, "No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations." (6.22.3). Per §6.42.2 Oceanside Code of Ordinances, areas of special flood hazard are identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency in the Federal Insurance Study (FIS) of 1987. All provisions of FEMA are adopted by reference. (6.42.2).

E-22

Special Flood Hazard Areas (SFHA) in Zone AE, as identified by FEMA, must be, "... kept free of encroachments so that the 1% annual chance flood can be carried without substantial increases in flood heights." (FEMA legend). "Encroachment" is defined in §6.41 *Definitions* as, "the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain." Section §6.43.1 *Establishment of development* permit requires that, "A development permit be obtained before any construction or other development begins within any area of special flood hazard established in section 6.42.2." (6.43.1). Oceanside Code clearly requires a Development Permit for any construction in a flood zone to ensure that the all construction complies with FEMA. According to the FMND filed in conjunction with the CUP and Development Plan, the project will not result in alterations to the course or flow of floodwaters (Section 3.c. Water Negative Declaration 1995) even though the CNG line will be place on top of new concrete barrier in the floodway that will alter the flow of stormwater and flooding

Floodway/Sensitive Receptors:

The WM Facility in question is in violation of Condition of Approval 32: "The applicant shall obtain the appropriate permits and clearances from the U.S. Army Corps of Engineers and/or U.S. Fish and Wildlife Service and/or California Department of Fish and Game and all appropriate NPDES clearances and permits prior to the issuance of grading permits." Multiple Public Records Requests have not yielded any evidence that WM consulted with any of the necessary agencies, a violation of the Conditional Use Permit.

E-23

Noise:

The WM Facility in question is in violation of Condition of Approval 57: "This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified by the Code Enforcement Office concerning the violations of any of the approved conditions or assumptions made by the application." Noise complaints alleging violation of the City of Oceanside Noise Code have been filed on a regular basis since 2001 with some as early as 1995, but have gone unaddressed. Residents in the neighborhood just north of the WM facility have requested inspection by the Code Enforcement Office to no avail. The Final FMND dated July 2012 frankly demonstrates and admits that the facility is in violation of the City Municipal Noise Ordinance.

E-24

Landscaping:

The WM Facility in question is in violation of Condition of Approval 62: "All landscaping, fences, walls, etc. on the site, in the medians in the public right of way and in any adjoining public parkways shall be permanently maintained by the owner... The maintenance program shall include normal care and irrigation of landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of landscaped and open areas." The sites were also to be landscaped with "fast-growing screen trees with foliage to the ground and vines on the fence." (Staff report, page 3). At the date of preparation of this memo, there is substantial die-off of the landscaping, no vines present, and few trees are alive and offering visual screening. Those that do exist are in need of trimming to comply with the development plan.

E-25

Page 2-5 of the Final Negative Mitigated Declaration dated June 2012 (FMND) acknowledges that, "...the existing oleander bushes outside the fence line and along the eastern site boundary are in poor condition," (FNMD 2-5). While the new project proposes to replace these bushes, WM admits that they have failed to maintain the landscaping, a condition of approval.

Modifications to Operations:

The WM Facility in question is in violation of Condition of Approval 63: "Any substantial modification in the design or layout shall require revision to the Development Plan and Conditional Use Permit or a new Development Plan and Conditional Use Permit."

Over the years WM continued to add vehicles to this site adding environmental impacts. A document titled "Operation and Truck traffic analysis" prepared for the 1995 hearing and received though a PRA indicates that approximately 25 refuse pod trucks would be onsite; today there are 58 as outlined in the FMND plus additional undisclosed types of vehicles. No reapplication for the increased number of vehicles was made by WM.

E-26

- A. **Pursuant to Oceanside Zoning Ordinance §4105: Required Findings, Waste Management's failure to comply with the CUP also constitutes a public nuisance, which further justifies revoking the CUP.**

E-27

Oceanside Zoning ordinance §4105 *Required Findings* mandates that the proposed location of the conditional use and its conditions will not, "be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use." In this case, documented noise complaints date back to 1995. Further the FMND and the November, 2012 noise study for USD, along with the numerous noise complaints received by the City all indicate constant, continuous violations of the nighttime noise levels allowable in the City of Oceanside. It does not matter, as a matter of law that WM has been granted longer than usual operating hours. They must comply with the City's ordinances and rules.

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II. The City Failed to Proceed in a Manner Required by Law in Allowing the FMND

A. There is Substantial Evidence in the Record From Which it Can be Fairly Argued that the Project May Have Significant Environmental Impacts

Under California Public Resources Code § 21151, the California Environmental Quality Act ("CEQA") requires the preparation of an environmental impact report ("EIR") whenever "it can be *fairly argued* on the basis of substantial evidence that a project may have a significant environmental impact." *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1316 (Cal. Ct. App. 1992) (citing *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 75 (Cal. 1974)) (Emphasis added). A "significant" effect on the environment means "a substantial, or potentially substantial, adverse change in the environment." *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.*, 6 Cal. 4th 1112, 1123-1126 (Cal. 1993).

E-28

If there is substantial evidence of a significant environment impact, contrary evidence is not adequate to support a decision to dispense with an EIR. *Sierra Club*, 6 Cal.App.4th at 1316. For example, a disagreement among experts over the significance of an effect means the agency must treat the effect as significant and prepare an EIR. *Id.* at 1317 (citing *Friends of "B" Street v. City of Hayward*, 106 Cal.App.3d 988, 1000-1001 (Cal. Ct. App. 1980)). The low threshold requirement for initial preparation of an EIR "reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted." *Id.* at 1316-17.

In the case at bar, there is substantial evidence in the record that the WM project would have significant environmental impacts. At the very least, a "fair argument" can be made that such impacts would take place, and therefore an EIR must be prepared. See *Sierra Club*, 6 Cal.App.4th at 1316.

E-29

Biological Resources:

There is substantial evidence in the record that the project may have significant environmental impacts on biological resources. According to the FMND, non-native oleander bushes exist along the eastern property line. The project will involve removal of the non-native oleander bushes along the eastern property line.

E-30

Natural vegetation associated with Loma Alta Creek is also located south of the property line. This vegetation consists of a mixture of freshwater marsh and southern willow scrub and may support special-status birds, including the federally listed endangered least Bell's vireo (*Vireo bellii pusillus*). Loma Alta Creek and adjacent hillsides south of the creek are also known to support the federally listed threatened coastal California gnatcatcher (*Polioptila californica californica*).

The proposed project may have significant impacts on special status birds protected by the Endangered Species Act and the federal Migratory Bird Treaty Act. The bell's Vireo and the coastal California gnatcatcher are known to live in the Loma Alta Creek adjacent to the project site. Both are federally protected species. This evidence demonstrates a "fair argument" of significant environmental impacts on biological resources that require an EIR to be prepared.

Hazards and Hazardous Materials:

There is substantial evidence in the record that the project may have significant environmental impacts resulting from hazards and hazardous materials. According to the Negative Declaration filed August 22, 1995, the proposal will not result in:

A risk of explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions. (ND 5 II.10).

This Project is a change in the use of the site from diesel to CNG and associated operations. Per the San Diego County Department of Environmental Health (DEH), the property owner must contact the Department of Environmental Health's SAM Division for an evaluation of the site. No documents have been produced indicating an evaluation by DEH. There is nothing in the FMND providing for the presence of various personnel, firefighting equipment, etc. in order to comply with safety procedures, potential spills or accidents.

The Final Mitigated Declaration states that there will be a less than significant impact or no impact in regards to hazards and hazardous materials. (4-22). Compressed natural gas facilities generate two types of waste product: water-based effluent from a gas dryer that is entrained with mercaptan, and compressor-lube oil that may also be entrained with mercaptan.

The water-based dier effluent is generated from condensation that results from the periodic regeneration of the dryer. The substance occurs when water that is evaporated off the saturated desiccant material in the dryer's main vessel is circulated to the condenser/cooler where the water falls out and is collected in a closed condensed pot. The water has been exposed to natural gas and is entrained with mercaptan; it is the presence of mercaptan that renders the water waste hazardous. Mercaptan is the sulfur/hydrocarbon that gives natural gas its odor, and its concentration varies from a conservative estimate of 50-150 parts per million.

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E-31

The oil-based effluent is mostly derived as waste recovered during scheduled lube-oil changes of the CNG trucks. The effluent may also be drained from the blowdown-recovery vessels on each compressor skid, and from CNG-storage vessels that are part of the fats-fill system.

Prior to operation, WM will be required to prepare an update to the on-site Environmental Business Plan, which will entail a description of the two effluents generated at the facility and the storage and disposal procedures proposed to ensure health and safety of on-site workers and the on-site and adjacent natural environment. The updated Environmental Business Plan will be filed with the County Department of Environmental Health. The FMND claims that due to these procedures, the presence of mercaptan-based oil and water effluent will result in a less-than-significant impact on the environment.

The CNG tanks on the new trucks will be equipped with pressure relief devices to allow blow-off and prevent an explosion. There is a fire hazard if CNG is released, but it will diffuse into the air and would not ignite unless an ignition source is present. Usually, any fire would be localized, whereas diesel fuel has a potential to flow from a ruptured fuel tank and impact water quality and public health. The FMND claims that the transport of CNG within the fleet vehicles will reduce potential fire risks associated with vehicle collisions.

The water-based dryer effluent, a hazardous material, falls out of the trucks as a function of the vehicles' cooling system. There is evidence that this material could cause a hazard to soils if it is not properly contained, a significant environmental impact. Similarly, mismanagement of the oil-based effluent could cause a significant environmental impact.

The FMND claims that there is a fire hazard if the CNG is released, but that this risk is not significant because the CNG will dissipate into the air unless a source of ignition is present. The conclusion that there exists no ignition source is not supported by evidence. There will be continued welding and spray paint activities that could precipitate an explosion. No mitigations to avoid this have been offered in the FMND. Further, the FMND states that usually, a CNG fire would be localized whereas a diesel fire would be more dangerous. This is irrelevant since both fire sources, diesel and CNG, will be present on site if the project is approved. The FMND concludes that because the risk is less with CNG trucks than with diesel trucks, the impact is less than significant however both types of trucks may be used on site for at least 10-12 years, thereby significantly increasing potential environmental impacts.

The FMND states that the onsite diesel fuel storage tanks are not located in areas proposed for establishment of CNG facilities, and that no known hazards or previously hazardous conditions that may affect soil quality exist on site. Neither of these conclusions is supported by substantial evidence in the record. First, according to the Preliminary Site Plan for Compressed Natural Gas Time Fill Facility (dated 07-01-11), the location of the existing underground diesel fuel tanks are located within 20 feet of a portion of the proposed CNG fuel lines. Further, the location of the diesel fuel tanks is listed as "approximate" indicating that they could pose a greater risk of release of hazardous

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materials both during the fracking and during normal operations. These underground fuel tanks pose the risk of affecting soil quality, a potentially significant environmental impact.

The FMND also acknowledges that there is a risk of accidental release of hazardous materials, such as hydraulic fluid or diesel fuel, but that because the volume of materials would be small and of low concentration, the risk is not significant. This conclusion is not supported by evidence in the record. Even small amounts of diesel fuel and hydraulic fluid, along with other substances, could have a significant effect on soil quality and the sensitive species residing in the adjacent Loma Alta Creek. The assertion that the contractor will use standard construction controls and safety procedures does not render the risk to soil quality and wildlife insignificant.

The FMND asserts that there is a Less than Significant Impact for the project in exposing people or structures to increased danger of wildland fire. The claimed existence of water systems and wetlands near the southern boundary of the project is not a fact support by the record. While Loma Alta Creek does have water running through it at some times during the year, this is not true year round. The area is currently experiencing drought, and wildland fire is a serious danger, especially given the abundance of residences located at the top of the hill to the south of the proposed project. Further, because the facility is working with may be released Considering the presence of hazardous materials on the project site (highly flammable materials including diesel fuel and hydraulic fluids) both from the proposed project and possibly from past projects, there is a "fair argument" of significant environmental impacts. These potential impacts require an EIR to be prepared.

Hydrology and Water Quality:

There is evidence in the record from which it can fairly be argued that there may be significant environmental impacts to hydrology and water quality. The project requires a fueling station and large dual compressors be built in the floodway/floodplain and vehicles will be fueled in the floodway/floodplain from CNG lines placed on top of concrete barriers, which are prohibited encroachments. "Encroachment" is defined in FIS §6.41 *Definitions* as, "the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain."

Further, the project construction requires directional drilling, which would temporarily expose spoil soil, which could result in runoff contamination (4-30). Additionally, hazardous substances will be used during construction, and if released, could cause an accidental toxic chemical exposure to the neighboring environment.

Also, there is evidence from the FMND from which it can fairly be argued that construction will alter the existing drainage pattern of the site or area (4-31). Although no changes are proposed to the existing water, wastewater, or storm drain systems, a project of this scale, with infrastructure construction, a new natural gas line 30 inches below ground, gas lines above ground concrete barriers and changes in landscaping and irrigation will likely have an impact on the entire drainage system, especially with Loma

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E-32

Alta Creek nearby. Additionally, there is evidence in the FMND from which it can fairly be argued that the project may impede or redirect flood flows. The project will result in new structures within a 100-year floodway (4-32). . The FMND proposes no mitigation measures to control changes to the current drainage system or potential impacts to flood flows, and therefore the proposed mitigation measures are inadequate. No hydrology study was prepared for the FMND.

There is evidence in the FMND from which it can fairly be argued that the project will exacerbate already existing sensitive conditions. The Loma Alta Creek is an environmentally sensitive freshwater creek and wetland area. Drainage is currently treated on site through a coalescing oil/water separator before discharge into the Creek, and no change would be made to the system (4-33FMND. The proposed mitigation measures of implementing best management practices for erosion control and hazardous material storage during the construction phase, and it is not clear from the record that these measures will reduce the impacts to a level of insignificance.

Further, this area has demonstrably high groundwater occurrence since it is in the floodway and floodplain. Public information that indicates flooding in this area, as well as the hydrology test drilling for the proposed Robertson's project .also demonstrate a high potential for groundwater and flooding in the Industry Street Area as well as a high risk for liquefaction. The FMND does not address this environmental impact at all nor does it offer any mitigations if groundwater or liquefaction are found during construction. It does not offer any mitigations should flooding occur on the site such as removing vehicles that leak hydraulic fluid, diesel fuel, or other such hazardous substances that will flow into Loma Alta Creek. Indeed it is unclear where the actual construction of the CNG line will take place. Because this evidence presents a "fair argument" of significant impact, an EIR must be prepared.

Noise:

There is substantial evidence in the record that the project may have significant environmental impacts on noise. A Focused Environmental Noise Assessment (FENA) was conducted for the proposed project and determined the site was in violation of the City of Oceanside Municipal Code, Noise Control, between the hours of 5:30 a.m. – 7:00 a.m. along the southern property line. (FMND Noise Assessment 4.)

At the request of USD Environmental Law Clinic an independent noise study was under taken. The Eihler's noise study (Eihler) indicates multiple violations of the Oceanside Noise Ordinance. The Eihler study measured noise ordinance violations in the early morning or so-called 'nighttime hours' over a period of three days. This study shows exceedences of the industrial limit, for adjacent residential areas and the sensitive habitat creek areas.

Additionally, many of the standard operating procedures currently in effect will change once the facility is converted to CNG and only exacerbate the existing noise ordinance violations. A major change is the trucks, which currently have the fill source in

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the back of the trucks, mandates they back into the fueling stalls upon returning the to the facility at night. With the CNG trucks, the fill source is in the front of the trucks, meaning that they will pull into the fueling stalls at night and back up in the early morning hours. This requires a change to the layout of the facility, as confirmed by the FMND and creates more noise. Further the addition of two huge compressors will create additional noise (they cannot be house in a building) along with other operational changes that will make this a 24 hour gas station. This will create additional and continuing violations of the Oceanside Municipal Noise Ordinance, violates the Land Use Element Noise Policy and Oceanside's zoning ordinance. Such operations must occur primarily indoors or else 'all environmental impacts ...be mitigated in accordance with the California Environmental Quality Act" (p30-35) and must not exceed the ordinance early in the morning or at any time with prohibited equipment such as air hammers or other highly objectionable noises. It is well documented that such violations are constantly occurring as evidence by complaints from Scott and others.

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This evidence of noise within the proximity of residential areas presents a "fair argument" of significant environmental impacts which must be addressed in an EIR.

Transportation:

There is substantial evidence in the record that the project may have significant environmental impacts due to traffic caused by construction and operation of the project. During construction, traffic will be affected from construction vehicles and crewmembers accessing the site, and due to a closure of parts of Oceanside Boulevard (or Industry Street - the record is not clear on this) while drilling the natural gas line (4-45). The partial closure of a main street in Oceanside, while access of vehicles to the site is increased, demonstrates that there will be in impact on traffic congestion and access of emergency vehicles. This evidence presents a "fair argument" that increased traffic in the relatively small city of Oceanside will cause a significant environmental impact that requires an EIR to be prepared.

E-34

Conclusion:

Based on the substantial evidence cited above, there is at least a "fair argument" that the project may cause significant environmental impacts. Therefore, CEQA requires an EIR, not an MND, to be prepared. Because the City only required preparation of a FMND when there was a fair argument of significant environmental impacts, it failed to proceed in a manner required by law.

E-35

B. There is Substantial Evidence in the Record that the Proposed Mitigation Measures Are Inadequate and the Project Would Still Have Significant Environmental Impacts,

There are two situations in which an EIR need not be prepared. If there is no substantial evidence that the project may have a significant environmental impact, CEQA allows a negative declaration to be prepared. *San Bernardino Valley Audubon Society v.*

E-36

Metro Water Dist., 71 Cal. App. 4th 383, 389-90 (Cal. Ct. App. 1999). If the initial study does identify potentially significant environmental effects but revisions in the project plans would avoid the effects or mitigate the effect to a point where (1) "clearly no significant effect on the environment would occur" and (2) there is "no substantial evidence that the revised project may have a significant effect on the environment," a mitigated negative declaration ("MND") may be prepared. *Id.* at 390 (citing Pub. Res. Code § 21064.5). Therefore, upon the issuance of an FMND, the project opponent must demonstrate by substantial evidence that (1) the proposed mitigation measures are inadequate, and (2) the project as revised and/or mitigated may have a significant adverse effect on the environment. *Id.*

E-36
Cont.

Many of the mitigation measures identified by WM and the City are inadequate to remedy the significant environmental impacts posed by the project. Accordingly, the project as revised would still have significant environmental impacts. Therefore, an EIR should have been prepared to address all potential mitigation measures.

Biological Resources

The FMND says that direct impacts to special-status species will not occur as a result of installation of the CNG fueling facility or the modifications to the maintenance building but concedes that removal of the non-native oleander bushes may result in impacts to nesting birds that are protected by the federal Migratory Bird Treaty Act. The FMND claims that in order to avoid this potential impact, mitigation will be provided. FOLAC suggested a species specific plant replacement, *Artemisia californica*. The City and WM has refused to mitigate with this species appropriate plant.

The FMND asserts that direct impacts to sensitive vegetation and any species that may be using this habitat for breeding, fledging, or foraging will not occur. WM alleges less noise will be associated with the proposed project compared to the existing condition (see Section 14.12, Noise), thereby reducing noise levels that any potential sensitive species is currently being subjected to in off-site areas. Therefore, significant indirect impacts to special-status species located off site, south of the project, will not occur. However, the cumulative noise impacts will occur and further impact these species. There is evidence in the record to suggest that there may be a significant impact on the biological resources adjacent to the WM site.

E-37

The FMND also asserts that there will be less noise associated with the project so the species will not be affected by noise. There is evidence in the record to suggest that this is not true. Under the current design of the site, trucks back into their stalls in the evening to cut down on the use of back up beepers in the morning hours. When the site is converted to CNG, the trucks pull forward into their stalls upon returning to the site in the evening, and will back up out of the stalls, activating the back-up beepers that sound at 85 dB, between the hours of 5-7 AM. This and the addition of huge compressors and other fans may have a significant impact on both federally protected species and it is not addressed in the FMND.

Hydrology and Water Quality:

The FMND outlined two mitigation measures to reduce the impacts to a level of insignificance although no mitigations are present regarding the floodway/floodplain encroachments. WM states that they will obtain approve of a site-specific Erosion Control Plan from the City Engineering Department in the future, which will include a list of "best practices" for the contractor to use. There are no facts to elaborate on what these practices entail, the feasibility of these practices to this project specifically, whether the contractor is capable of implementing these practices, or the likelihood of the City approving such a plan. This is not enough evidence that practices are sufficient and will be used, and therefore this mitigation measure is not enough to reduce impacts to a level of insignificance. Second, during the construction period, WM will apply standard best management practices such as proper storage, use, and disposal of construction materials, and will provide protection of all storm drain inlets downstream of the construction site. Again, this mitigation measure is vague, as there is no mention of what proper methods should be, and whether it is in fact feasible by the designated contractors.

E-38

Noise

FMND proposed noise mitigation measures would not reduce the project noise to a level of insignificance. Maintenance efforts create loud noises during nighttime hours (11:01 pm to 6:59 am). The evidence shows that WM does not perform all their maintenance operations indoors as required, they use prohibited noise producing tools during nighttime hours, they are in violation of the Noise Ordinance between 6 and 7am (FMND noise studies and Eihler noise study), plus they are adding two huge compressors that will generate additional noise 24 hours a day. Further, their proposed mitigation measures to replace diesel trucks with CNG trucks, which could take as long as 12 years, is not a reasonable mitigation measure nor will it put them in compliance with the noise ordinance levels required for sensitive species to the south, the industrial noise limits, or the residential noise limits. As proposed, the city's CNG/Diesel truck replacement plan also constitutes an improper deferral of mitigation measures. Formulation of mitigation measures should not be deferred until some future time, as is the case here. Guidelines § 15126.4(a)(1)(B); *Communities for a Better Environment v. City of Richmond*, 184 Cal. App. 4th 70, 92-96 (Cal. App. 1st Dist. 2010). Also, WM project and proposed project is in violation of the Noise Ordinance, the Land Use Element and the Zoning Ordinance.

E-39

There is no evidence in the record that the mitigation measures proposed by the FMND to reduce noise levels from the project site during and post- construction would reduce the impact to a level of insignificance. The mitigation measures proposed to reduce loud noises during construction are that "Waste Management makes best efforts to move any loud operations inside the shop after late night hours, and tries to avoid the use of loud equipment to the extent possible" (4-41). This mitigation measure is not specific enough in its methods, and does not commit the employees to any methods to reduce their noise pollution while working. The most certain term used is that any efforts will be made after late night hours, which excludes any mitigation measures employed during the majority of

each day. Accordingly, there is evidence in the FMND from which it can be argued that the environmental impacts have not been mitigated to a level of insignificance. All the additional noise sources as described above add cumulative environmental impacts that have not been addressed in the FMND at all.

E-39
Contd.

Transportation

There is no evidence in the record that the mitigation measure proposed, the implementation of a "traffic control plan" will be sufficient to reduce the level of traffic. The plan has not been outlined with any detail in the FMND, and it is therefore uncertain whether the mitigation will be effective. There is reference to the plan as outlined in Table 2-1, but Table 2-1 is a summary of the project and outlines no traffic plan. Table 2-2, on the other hand, states that the plan shall outline procedures for notifying the Police and Fire Departments of the road closures, so that they may notify "other public service providers" (2-9). There is no mention of any action for emergency services to follow other than notification, and provides no help for the level of traffic congestion projected. Furthermore, the plan is stated as mitigating the problem of emergency access to the site, and not of relieving traffic congestion on Oceanside Boulevard, which is of a much different scale. Accordingly, the mitigation measures that the FMND relies on are not sufficient to show that the impacts have been mitigated to a level of insignificance

E-40

Conclusion:

Because the mitigation measures proposed by WM do not address all potentially significant environmental impacts, an EIR must be prepared to address all potential impacts and all possible mitigation measures. Only then can the City of Oceanside determine whether there is still a "fair argument" that those environmental impacts exist.

E-41

III. The Findings in the FMND are Not Supported by Substantial Evidence

Pursuant to CEQA's code § 15070, the conclusions set forth in an FMND must be supported by "substantial evidence, in light of the whole record before the agency..." WM has failed to base their conclusions on substantial evidence concerning the levels of impact to the stated areas above. For this reason, the MND is invalid.

E-42

Response to Comment Letter E

USD Environmental Law Clinic

Undated; received January 11, 2013

The undated comment letter from the University of San Diego Environmental Law Clinic (USD) was received by the City on January 11, 2013, substantially after the close of the public comment period on April 28, 2012. In accordance with CEQA Guidelines Section 15074(b)(1), the following responses to comments are nevertheless provided for the Planning Commission's consideration and for the record of proceedings should one need to be prepared.

E-1 Comment noted. These are the issues raised by the commenter. A response to substantive comments related to these issues will be provided in these responses.

E-2 The City disagrees that revocation of the current CUP is warranted or appropriate, and will respond to the specific allegations in its responses to comments E-31 through E-39. In addition, the only matter before the Planning Commission at the January 28, 2013 hearing is to hear and decide on the proposed CNG project. As of this time, no determination has been made by the City Planner of reasonable grounds for revocation, and notice of a public hearing has not been provided. Oceanside Zoning Ordinance, Section 4704.

E-3 The City disagrees with these conclusions, and will respond to the specific allegations in responses to comments E-28 through E-42.

E-4 The background information in this comment was derived from the FMND, and no new information was provided. The City disagrees with the commenter's characterization of this project as a "major" project. The City staff report, at p. 2, describes the project as "[a]ddition of minor site improvements....because of the use of CNG" and "minor interior improvements." The CNG project is a revision to the existing project approved in the 1995 CUP, and not a new project. There is no change in use at Site No. 1 or a change in basic operating parameters, and the Conditions of Approval for this CNG project would not invalidate the 1995 Resolution of Approval or its conditions. The impervious area of disturbance is less than 2,500 square feet, which is a "minimal area of disturbance" that is exempt from the City's SUSMP requirement. FMND, p. 4-30.

E-5 The site plan included as Figure 4 of the MND (both the Draft MND for public review and the FMND) show the gas line connection to Oceanside Blvd., as described on page 2-8. The City disagrees with the commenter's characterization of the gas pipeline extension as a "major construction activity," for the reasons provided in Response to Comment E-4.

E-6 The City acknowledges that FOLAC provided comments to the Draft MND, which were responded to in the responses to Comment Letter C. The City acknowledges that FOLAC has previously made noise complaints regarding existing operations, and have participated in meetings with the applicant, where reasonable attempts have been made to address those concerns. Among other things, Waste Management has adopted a good neighbor policy and provided training to its employees to implement the policy and be sensitive to concerns of its neighbors. Additionally, the back-up alarms on the existing diesel collection fleet serving the City of Oceanside have been converted to "white-noise alarms" as requested in comment letter from FOLAC on the draft MND. However, none of those noise complaints are related to the proposed CNG project, which is predicted to create less noise than under current conditions and will comply with the Oceanside noise ordinance.

E-7 The project was first officially noticed for Planning Commission hearing on December 3, 2012. Any prior hearing dates would have been tentative. That meeting was continued until January 14, due to staffing availability, and further continued to allow review and response to the commenter's letter, which was not received by the City until January 11, 2013, well outside of the public comment period for the Draft MND.

E-8 The City acknowledges the description of the 1995 CUP process.

E-9 The summary of the 1995 approvals in this comment is not accurate. The staff report for the D-9-95 and C-24-95 applications state that the existing activities at Site No. 1 prior to the 1995 approvals included the Administration Building, Bin Maintenance Building, Truck Parking for 52 vehicles, Storage Yard, Fuel Island and Truck Scale, and noted that all truck access to this site was taken off of Industry Street. Employee and visitor parking spaces were located north and west of the administration building, with access off of Oceanside Boulevard. There was no relocation of the access points.

New proposed uses of the Site No. 1 property associated with the 1995 approvals were truck maintenance, truck wash operation and bin wash area, with a new fueling system including underground diesel tanks. The existing administration building had 3,000 square feet of roof area raised from 18'6" to 32'-0" to accommodate truck maintenance operations within the building. A bin wash bay was added to the rear (south side) of the existing administration building and a pre-engineered truck wash structure installed east of the administration building. The truck parking area accessed off of Industry Street was paved and striped for 57 parking spaces.

The discussion of the "no" responses on the 1995 initial study checklist indicated:

"Based on review of the City's Environmental Data Base, relevant background studies, previous environmental documentation and staff input, it has been determined that no substantial evidence exists in the public record which indicates the potential for significant environmental impacts associated with the project as proposed including conditions of approval imposed by the City."

As noted in the staff report and negative declaration, the site is located in a zoned industrial area of the City, designated as General Industrial, and developed with industrial uses.

E-10 The commenter's assertion regarding a condition of approval requiring a SWPPP update apparently refers to CUP Resolution Approval conditions 24 and 44, where stormwater control measures and a SWPPP are subject to City approval prior to issuance of a grading permit. The applicable SWPPP would be a construction SWPPP. However, these conditions were not applicable since no grading permit was required or issued.

The State Water Resources Control Board (State Board) and Regional Water Quality Control Board (Regional Board) administer the NPDES stormwater management program in San Diego County. Waste Management is required to prepare, implement and update an industrial SWPPP related to operations (latest update April 2012) which includes information regarding lubricants, hazardous material and the underground diesel tanks as required. However, that industrial SWPPP goes beyond the City's requirements in the 1995 CUP related to stormwater impacts from construction.

Operation-related stormwater control and treatment measures are being implemented in accordance with the industrial SWPPP and will remain in place. FMND, p. 4-35. The current industrial SWPPP is not related to the matter before the Planning Commission, and no analysis of that document is required.

A construction SWPPP would potentially be applicable to implementation of the CNG project, but due to the minimal area of disturbance, the City has determined that a construction SWPPP is not required for the CNG project. FMND, p. 4-31.

E-11 The City disagrees with this comment. The commenter appears to have misunderstood the 1995 Description & Justification. The "raised elevation" refers to increasing the roof height of the administration building. The summary of physical improvements later in the Description & Justification, as well as the staff report for the project, explain this improvement, which increased the roof height from 18'6" to 32'0" to accommodate truck maintenance operations within the building. There was no grading or floodway filling at the south end of the site adjacent to the creek as stated in the comment. Accordingly, no wildlife agency, FEMA, Army Corps or Regional Board permits were needed, as fill activities did not occur. No grading permit was required or issued by the City. The City believes that the underground diesel tanks were constructed in accordance with applicable requirements as of the date of submittal, in accordance with the 1995 Resolution of Approval Conditions 1 and 56, and the commenter acknowledges that it has no information demonstrating that the requirements were not complied with. The tanks nevertheless remain part of the existing environment which the proposed revision to the existing facility will not alter. All responsive records located in the City's files were provided in accordance with requests made under the Public Records Act.

E-12 The City acknowledges comments made by commissioners at the 1995 Planning Commission hearing. No stormwater detention basin is on the site, because none is required. The FMND, at p. 4-35, states that “[d]rainage associated with the existing facility is treated on site through a coalescing plate oil/water separator and then discharged to Loma Alta Creek. No aspect of the CNG project would alter the existing drainage pattern or treatment system.” (See *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885 [upholding City’s reliance on a mitigated negative declaration in approving a 219-lot residential subdivision, concluding that the neighbors’ general concerns regarding drainage and erosion did not rise to the level of a “fair argument” requiring environmental review].) The State Board and Regional Board administer the NPDES stormwater management program in San Diego County.

E-13 The City acknowledges comments made by commissioners at the 1995 Planning Commission hearing. The hours of operation noted in the comment are as stated in Planning Commission Resolution No. 95-P51. It should be noted that operations were taking place during the 5:30 am – 7:00 am period prior to the approval of the 1995 CUP, which has been the primary area of concern in noise complaints submitted by FOLAC. The modifications to the project site do not involve an increase in the hours of operation.

E-14 The development approved by the 1995 Resolution of Approval is described in that document and the staff report. The City disagrees with the assertion that project approval was improper, and notes that the time for challenging that project expired many years ago. The City acknowledges the opinion of the commenter that applicant’s prior operations could not have been properly approved at any location, and notes that no evidence in support of this opinion was provided. The 1995 Resolution of Approval (p. 2) found that the project approved at that time was “consistent with the objectives of the Zoning Ordinance and the purposes of the IG (Industrial General) Zone,” and consistent with relevant General Plan policies. As a result, the City believes that approval of this development and related operations at this location was proper, and no timely challenge to that determination was made. All responsive records located in the City’s files were provided in accordance with requests made under the Public Records Act.

E-15 The City acknowledges that legal requirements are evolving. However, 1995 Resolution of Approval Condition 1 expressly stated that “[a]pplicable Building Codes and Ordinances shall be based on the date of submittal of Building Department plan check. Condition 56 required compliance with “all current zoning standards and City ordinances and policies in effect at the time building permits are issued.” The 1995 Resolution of Approval expressly precludes what this comment is attempting, which is the ex post facto application of laws or regulations taking effect after the completion of the development.

E-16 This comment accurately describes the number of waste collection vehicles currently in operation and the description of the requested CUP modification.

E-17 The City disagrees with this comment. There is no requirement for the City to consult with the listed agencies prior to making a determination to prepare a Negative Declaration. The draft Mitigated Negative Declaration for the CNG project was circulated for a 30-day public review, including circulation through the State Clearinghouse (SCH No. 2012031089). The State Clearinghouse submitted the document to the following state agencies: Resources Agency, Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission California Energy Commission; and Public Utilities Commission. The only agency that provided comments was the Department of Toxic Substances Control, whose comments with responses are included in the FMND.

E-18 This comment accurately describes the contents of the FMND. The Draft MND did include some of the listed studies, and the FMND clearly indicates additions between the draft and final in response to comments, including additions to the focused noise assessment and the subarea plan memo.

E-19 Due to the minimal area of disturbance, the City has determined that a construction SWPPP is not required for the CNG project. FMND, p. 4-31. The applicant has a current industrial SWPPP.

E-20 The 1995 staff report (pp. 2-3) indicated that at the time, 52 vehicles were in operation, and the development plan provided for 57 waste collection vehicle parking spaces. The 57 parking spaces shown in the 1995 development plan corresponds almost exactly with the 58 waste collection vehicles currently in operation. Moreover, there is no provision in the 1995 Resolution of Approval placing any restrictions on the number of collection vehicles in use. The number of collection vehicles is unrelated to “design or layout,” and no revision to the original Development Plan application was required. The 1995 initial study determined that an overall increase in traffic was not anticipated, because of reorganization of operations at the three sites. No timely challenge to this finding was made. The proposed revisions to the project do not include an increase over existing realized (58) waste collection vehicles; therefore, no new potentially significant adverse environmental impacts were identified over the existing baseline conditions.

E-21 This comment accurately cites portions of the Oceanside Zoning Ordinance. More importantly, it acknowledges that any analysis of whether a violation has occurred would be based on “ordinances and policies in effect at the time building permits are issued.” The City disagrees with most of the commenter’s conclusions regarding alleged violations of the 1995 Resolution of Approval. A detailed discussion will be provided in the Responses to Comments E-22 through E-27.

E-22 The City disagrees with this comment. The development approved in the 1995 Resolution of Approval did not involve any grading or floodway filling. No encroachments were placed in the floodway. As a result, FEMA requirements and the

Oceanside Floodplain Ordinance were not applicable. Consistent with Condition of Approval 24, drainage associated with the existing facility is treated on site through a coalescing plate oil/water separator and then discharged to Loma Alta Creek. FMND, p. 4-35. The City finds that the current stormwater control measures are adequate. The commenter provides no evidence that NPDES requirements in effect in 1995 were not complied with.

In addition, it should be noted that Conditions of Approval 29-33 for the CNG project require compliance with the Oceanside Floodplain Management Ordinance and FEMA requirements, and further requires a detailed hydrology study as part of the project's final engineering. The proposed Conditions of Approval for the CNG project specifically require verification and certification that there is no increase in the base flood elevation from proposed improvements prior to authorization for any encroachment (Conditions of Approval 29-33). This is because the CNG project involves the placement of encroachments (K-rail and concrete light-pole bases) in the floodway. This determination is based on a clear standard of performance for "A No Rise Certification." See Response to Comment E-28 for more detailed discussion of legal standards.

E-23 The City disagrees with this comment. The development approved in the 1995 Resolution of Approval did not involve any grading or floodway filling. No encroachments were placed in the floodway. No grading permit was required or issued by the City. As a result, 1995 Resolution of Approval Condition 32 is not applicable. In addition, the development took place in a previously-disturbed area without any wetlands of native habitat areas. As a result, no Army Corps, U.S. Fish & Wildlife Service or California Fish & Game approvals were appropriate or required. The commenter provides no evidence that NPDES requirements in effect in 1995 were not complied with.

E-24 The Focused Environmental Noise Assessment included in the FMND noted that under existing conditions, the Noise Ordinance standard of a one-hour average of 65 dBA L_{eq} was exceeded during the 5:00 am and 6:00 am hours at the southern property boundary of Site No. 1. FMND, Appendix C, p. 9. However, with implementation of the CNG project the City's noise requirements would be complied with, because new CNG waste collection vehicles produce less noise than diesel collection vehicles. FMND, Appendix C, p. 12.

The City's Noise Ordinance, found at Section 38.12 of the Oceanside Municipal Code, sets standards applicable at the "boundaries of the property." If those levels are exceeded, Section 38.13 provides that notice to the owner would be given, along with a range of potential responses that include reducing the level of noise or developing a plan to bring the noise into conformance. The City's Code Enforcement Division has not validated that the subject site is in violation of the City's Noise Ordinance; therefore, no Notice of Violation has been issued to the Waste Management Facility.. As a result, the City has concluded that seeking revocation of the 1995 CUP is not warranted.

Moreover, Waste Management has demonstrated its good faith by converting the back-up alarms on the existing diesel collection fleet serving the City of Oceanside to "white-

noise alarms” as requested in comment letter from FOLAC on the draft MND, in advance of implementation of the CNG project.

The Eilar noise study included with USD’s comments provides no additional information with respect to Site No. 1 that would change the City’s determination. Moreover, Eilar’s noise measurements at Site No. 2 for the critical 6:00 am hour average 2 dBA less than for Site No. 1. Moreover, the location of the Site No. 2 measurements were likely influenced by ambient noise, in particular truck traffic on Industry Street. The City concludes that there is insufficient evidence to find a violation of the noise standards at Site No. 2. Moreover, the totality of the evidence in the record shows that the modifications to the project site (i.e. the use of quieter CNG fueled trucks and changes to the backup beepers), will result in a decrease in existing noise levels, as explained above, such that the project will not result in any new cumulatively considerable significant adverse noise impacts under CEQA.

The City has determined that there is insufficient evidence to call the 1995 CUP for review by the Planning Commission. The noise complaints, which were received almost entirely from one resident on Hoover Street (Nadine Scott, co-founder of FOLAC), could not be verified. In particular, actual noise measurements on Hoover Street taken by Dudek on May 31, 2012 indicated that while discernable, noise from the current facility between 5:30 am – 6:30 was less than ambient noise, primarily noise from traffic on Oceanside Boulevard. Facility noise was at least 10 dB less than hourly average of 57 dB. FMND, Appendix C to Appendix C, p. 1-2. The Dudek report determined that after implementation of the CNG project, noise levels at this location on Hoover Street would be up to 42 dB, and would, if applicable, be consistent with the City’s noise criteria.

The Eilar noise study calculates that under current operations, noise levels at the Hoover Street location would be 47.3 dBA. However, that analysis is solely based on distance attenuation only, and did not consider ground absorption, intervening structures, vegetation, humidity or wind direction. In addition, it did not consider the effect of future noise reductions from the use of CNG collection vehicles. As a result, the Eilar analysis does not provide substantial evidence of any additional impacts associated with subject project, and if anything provides further documentation that noise complaints could not be verified.

E-25 The City disagrees with this comment. The reason for die off of oleanders along the eastern boundary of Site No. 1 is due to plant disease (Response to Comment C-32), and is not directly attributable to the failure to provide “normal care an irrigation of the landscaping.” During the time this project has been on file, the oleanders were removed to limit spread of the disease. As noted, these were non-native species, and there was no potential for impact from their removal, which was done during the fall, outside any potential breeding season activity.

Moreover, the CNG project provides for replacement of the oleanders, a non-native plant species, with native plant species at this location. FMND, p. 2-5.

E-26 The City disagrees with this comment. There has been no change to the “design or layout” of the current facility. The 57 parking spaces shown in the 1995 development plan corresponds almost exactly with the 58 waste collection vehicles currently in operation. Moreover, there is no provision in the 1995 Resolution of Approval placing any restrictions on the number of collection vehicles in use. The number of collection vehicles is unrelated to “design or layout,” and no revision to the Development Plan application was required.

E-27 The City acknowledges the provisions of the Oceanside Zoning Ordinance. The allegation of public nuisance is based on noise complaints received almost entirely from one resident on Hoover Street (Nadine Scott, co-founder of FOLAC), which cannot be verified. See Response to Comment E-24 for a more detailed discussion. There is insufficient evidence to conclude that the current operation of the facility has resulted in a nuisance. Further, implementation of the CNG project will reduce noise at the Hoover Street location to 42 dB, consistent with City noise standards if they were applicable.

E-28 The City disagrees with this comment. The “fair argument” standard asserted by the commenter does not apply because the application currently before the Planning Commission is for the revision of a previously approved project. (See Pub. Resources Code, § 21166; CEQA Guidelines §§ 15162, subd. (b) [allowing preparation of a subsequent negative declaration for changes made to a previously approved project].) The facts here are very similar to those in *Benton v. Board of Supervisors* (1st Dist. 1991) 226 Cal.App.3d 1467. *Benton* involved a modification of a winery project through use of a mitigated negative declaration where the original project had also been approved through a mitigated negative declaration. *Id.*, at 1473. Under those circumstances, the determination of whether an EIR was required was based upon CEQA Guidelines Section 15162, which require a supplemental or subsequent EIR only when:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration,

- b. Significant effects previously examined will be substantially more severe than shown in the previous EIR,
- c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Benton held that this standard applied where the prior project was approved through the use of a mitigated negative declaration. *Id.*, at 1479-1480. The court saw no reason to reach a different rule, even though this CEQA Guidelines section did not specifically mention mitigated negative declarations. *Id.* Based on that determination, the *Benton* court then held that the “substantial evidence” test should apply when evaluating whether a second mitigated negative declaration was properly issued pursuant to CEQA Guidelines Section 15162 (*Id.*, at 1481), and that the adoption of a mitigated negative declaration was proper unless there is substantial evidence that one of the three conditions in CEQA Guidelines Section 15162 applies (*Id.*, at 1482).

Even if the "fair argument" standard were to be applied for this CNG project, the comment does not reflect the inclusion of "substantial evidence" in this record.

Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. “Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (Pub. Resources Code, Section 21080, subs. (e)(1)–(2).)

E-29 The City disagrees with this comment. City staff has concluded that, with mitigation, the revision to the existing project site do not require major revisions to the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (CEQA Guidelines, § 15162(a).) The City’s conclusions are based upon substantial evidence. FMND, p. 4; p. 4-52 – 4-53. The commenter has not provided substantial evidence that any of the conditions set forth in CEQA Guidelines Section 15162 apply. Moreover, even if the “fair argument” standard did apply, there was no fair argument presented “on the basis of substantial evidence” that significant impacts would result. A detailed discussion will be provided in Responses to Comments E-30 through E-35.

E-30 The City disagrees with this comment. The commenter does nothing more than speculate about potential impacts to biological resources identified in the FMND (pp. 4-

11 – 4-16). The mere potential existence of natural vegetation or protected species does not in and of itself result in a significant impact. The commenter’s assertion is not based on substantial evidence, and is nothing more than “argument, speculation, unsubstantiated opinion or narrative.” The commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply. To the contrary, the FMND provides substantial evidence showing that the project would either not have a significant impact, or in one instance (the removal of oleanders) with mitigation would not result in a significant impact. During the time this project has been on file, the oleanders died due to disease, and were removed to limit spread of the disease. As noted, these were non-native species, and there was no potential for impact from their removal, which was done during the fall, outside any potential breeding season activity.

Since the project would be contained within the existing already developed fueling facility site, no native or potential least Bell’s vireo or California gnatcatcher habitat removal would result. In addition, project construction is planned to occur prior to March 15 (outside the breeding season for the least Bell’s vireo) such that any indirect impacts from noise to nesting species would be avoided. However, in the case of project delays the project would adhere to the requirements of the draft Oceanside Subarea Plan (FMND, Appendix D), which will ensure indirect construction noise impacts to least Bell’s vireo will be less than significant, if construction is delayed.

E-31 The City disagrees with this comment. The commenter restates potential impacts identified in the FMND related to hazards and hazardous materials (pp. 4-23 – 4-28), and then simply concludes there is a significant impact without citation to any fact, reasonable assumptions predicated on facts, or expert opinion supported by facts. The commenter’s assertion is nothing more than “argument, speculation, unsubstantiated opinion or narrative.” The commenter did not present any substantial evidence that any of the conditions set forth in Public Resources Code Section 21166 or Guidelines Section 15162 apply.

To the contrary, substantial evidence in the record supports the City’s finding of a less than less than significant impact. Contrary to commenter’s assertion, the FMND expressly provides that it must register with the Department of Environmental Health and update the on-site Environmental Business Plan. FMND, p. 4-24. The comment acknowledges this, but provides no substantial evidence as to why it would be insufficient to avoid a significant impact. The environmental business plan is based on a clear standard of performance as required by the Health and Safety Code and Title 22 of the California Code of Regulations. See *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884 [City did not impermissibly defer mitigation for seismic impacts when relying on applicable Building Code and other regulations requiring soils and geotechnical investigations which would lead to site-specific design of foundations and structural systems]).

The commenter’s concerns about potential fire hazards are complete speculation, and do not constitute substantial evidence. Because the ignition temperature of CNG is 1080°F,

compared to 410°F for diesel, CNG vehicles pose less fire hazard than diesel vehicles, any replacement of diesel vehicles results in less impact than with current operations, which the commenter acknowledges were determined in 1995 to not pose a significant risk of fire or explosion. There is no support for the conclusion that the proximity of the gas line and the diesel tanks creates a significant risk of fire or explosion, especially since both are underground and are very unlikely to have a release of vapors to the atmosphere. City staff has been provided a drawing from the applicant confirming that the CNG facilities are not in close proximity to the underground diesel tanks. The claim that the existing underground diesel tanks would affect soil quality is completely speculative, in addition to being unrelated to the current CNG project proposal. There was no substantial evidence of any release from these tanks presented by the commenter, or any reasoned explanation how they would result in a significant fire or explosion hazard. Likewise, the commenter provides no substantiation of how small fuel or lubricant leaks would result in a significant fire or explosion hazard. To the extent this comment goes to releases of these materials in stormwater, that is addressed through the current stormwater control measures and the current industrial SWPPP (see Response to Comment E-17 for more detailed discussion). Finally, claims regarding a potential hazard from wildfires do nothing more than note the existence of undeveloped areas located beyond existing Sprinter line and Skylark Dr. to the south of Site No. 1, then leap to a conclusion of significant impact without any basis in substantial evidence. The commenter fails to acknowledge substantial evidence in the record that most of the area around Site No. 1 is industrial, and that water systems are available for fire protection purposes. FMND, p. 4-28. The MND was not required to speculate about each possible scenario envisioned by the commenter. (See *Citizens' Committee to Save Our Village v. City of Claremont* (1995) 37 Cal. App. 4th 1157, 1170-1171 [finding expert opinions that rely solely on speculation and conjecture do not constitute a "fair argument" any more than lay opinions would].)

E-32 The City disagrees with this comment. The commenter restates potential impacts identified in the FMND related to hydrogeology and water quality (pp. 4-29 – 4-36), and then simply concludes there is a significant impact without any basis in substantial evidence. The commenter's assertion is nothing more than "argument, speculation, unsubstantiated opinion or narrative." The commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

The FMND discloses that encroachments will be placed in the floodway. However, that mere fact does not mean that it would impede or redirect flood flows in a way that would result in a significant impact. The commenter indicates the proposed improvements are "prohibited encroachments", which is not accurate. The definition of encroachment included in the comment clearly indicates the requirement that alteration of the flow capacity of a floodplain must occur to meet the definition. The commenter does not provide any substantial evidence, or even go so far as to suggest there would be a significant impact (see Response to Comment E-22 for more detailed discussion). The proposed Conditions of Approval for the CNG project specifically require verification and certification that there is no increase in the base flood elevation from proposed improvements prior to authorization for any encroachment (Conditions of Approval 29-

33). This determination is based on a clear standard of performance. (See *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal. App. 3d 612, 624-625 [upholding negative declaration, in part, because it expressly stated that any future development would be required to conform to applicable city performance standards].)

The commenter offers no substantial evidence explaining how implementation of mitigation measure HYD-1 would not reduce potential impacts from directional drilling to less than significant. FMND, p. 4-31. Indeed, the commenter does not even go so far as to suggest there would be a significant impact. The commenter's assertion regarding a potential accidental toxic chemical exposure is complete speculation and lacks any basis in substantial evidence. Bentonite and water are used for directional drilling, neither of which are hazardous. FMND, p. 4-26. Moreover, an environmental health and safety plan would provide direction to the driller in the event that suspicious underground substances are encountered. FMND, p. 4-25 – 4-26.

Without support on the basis of substantial evidence, the commenter simply asserts that the construction will alter the existing drainage pattern on Site No. 1, even though the FMND concludes that no aspect of the proposed project would alter the existing drainage pattern and treatment systems. FMND, p. 4-35. The commenter then repeats its prior argument that the mere placement of structures within the floodway will change the current drainage system or impact flood flows, again without any basis in substantial evidence.

Even though the FMND describes the existing drainage systems and concludes that drainage patterns on Site No. 1, would not change (FMND, p. 4-35), the commenter simply concludes without any support on the basis of substantial evidence that the project would exacerbate existing conditions. The commenter also misstates the facts in asserting that construction BMP's would not provide adequate erosion control or hazardous material storage during construction of the CNG project. In fact, due the minimal area of disturbance, the City has determined that a construction SWPPP is not required for the CNG project. FMND, p. 4-31. The proposed Conditions of Approval for the CNG project (Condition of Approval 35) address ongoing requirements for compliance with the city's SUSMP and source control BMPs. The applicant would be required to comply with the City's erosion control ordinance, which can be found at <http://www.ci.oceanside.ca.us/civica/filebank/blobload.asp?BlobID=22825>.

Finally, the commenter asserts without any support on the basis of substantial evidence that a significant impact from high groundwater levels would occur, in spite of substantial evidence in the FMND that groundwater levels are 10-12 feet below ground surface while the deepest excavation would be 5 feet below ground surface. FMND, p. 4-25. In fact, a substantially similar comment was made by Nadine Scott of FOLAC during preparation of the MND, and was appropriately addressed with factual data included in the FMND (Response to Comment C-34). The commenter offers no evidence of higher groundwater levels, and its assertion is completely speculative. While it is also completely speculative that vehicles will be leaking fluid that will flow into Loma Alta Creek during flooding on site, proposed Condition of Approval 32 for the CNG project

adds a requirement that the applicant make reasonable efforts to move trucks, vehicles, etc. from the site during any severe flood event.

E-33 The City disagrees with this comment. The FMND concludes on the basis of substantial evidence that the CNG project would not result in a significant noise impact. The commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

The commenter's argument is almost entirely premised on the existence of current exceedences of the City's noise standard at the southern boundary during early morning hours, which is disclosed in the FMND. FMND, Appendix C, p. 9. However, the commenter presents no evidence refuting the technical analysis provided in the FMND, or its conclusion that with implementation of the project the facility would be in compliance with the City's noise standard. The Eilar study does not address this issue at all, and provides no substantial evidence demonstrating the existence of a significant impact from the CNG project.

The commenter cites the change in traffic patterns resulting from implementation of the CNG project due to the fact that waste collection vehicles would back out of their parking spaces in the morning. However, the MND considered noise from back up alarms in reaching its conclusion of a less than significant impact. FMND, p. 4-41; FMND, Appendix C, p. 11-12. No support on the basis of substantial evidence refuting that conclusion is presented by commenter or contained in the Eilar noise study. Then, the commenter cites noise from the compressor, but fails to disclose that the FMND found that compressor noise would be only 56 dB at the southern property boundary (within the City's noise standards) and offers no substantial evidence demonstrating that the compressor would result in a significant noise impact.

The commenter's assertion that the CNG fueling facility will be a "24 hour gas station" is incorrect. Based on current operations, fueling will be complete in the majority of cases by 10:30 pm but may extend to 12:00 midnight in some cases, which is consistent with the operating hours in the 1995 CUP. Once the vehicles have been refueled, the compressor will turn off. FMND, p. 4-43. However, the Focused Noise Assessment conservatively assumed continuous operation of the compressor (FMND, Appendix C, p. 14), but nonetheless found that after implementation of the CFG project that the facility would comply with the City's noise level standards.

The FMND determined based on substantial evidence that no significant noise impact would result from the CNG project. The commenter offers no substantial evidence of noise levels in violation of applicable requirements of the City's noise ordinance in the residential area to the north of Site No. 1 (See Response to Comment E-24). In any event, compliance with the noise standard is required at the property boundary, not in remote areas, and Dudek's supplemental analysis indicates that the project would result in noise levels of 42 dB in this residential area. This is within the City's noise standard even though the standard is not applicable.

All of the commenter's assertions regarding noise impacts are nothing more than "argument, speculation, unsubstantiated opinion or narrative." The commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

E-34 The City disagrees with this comment. The commenter restates potential impacts identified in the FMND related to transportation and traffic (pp. 4-47 – 4-49), and then simply concludes there is a significant impact without any basis in substantial evidence. The commenter's assertion is nothing more than "argument, speculation, unsubstantiated opinion or narrative." The commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

The FMND discloses that the CNG project would result in some increased construction-related traffic and the potential closure of the southern lane of Oceanside Boulevard for up to two weeks for directional drilling, but concludes that the impact is less than significant due to the small size of the project and implementation of a required traffic control plan. FMND, p. 4-48; p. 4-49. The commenter presented no support on the basis of substantial evidence that a significant impact would result. Indeed, the primary basis for its complaint is the purported of clarity in the record, which is not substantial evidence of a significant impact. Nevertheless, a traffic control plan is a routine requirement for any construction or activity where normal flow of traffic could be disrupted. The City of Oceanside requires that traffic control plans be consistent with the California Manual on Uniform Traffic Control Devices (CAMUTCD) for temporary traffic control and the San Diego Regional Standard Drawings for traffic control plans, and processes them at the Engineering counter. The detailed requirements for the Traffic Control Plan are available to commenter at <http://www.ci.oceanside.ca.us/gov/dev/eng/transit/permits.asp>.

E-35 The City disagrees with this comment. Based upon the Responses to Comments E-28 through E-34, the commenter has not presented substantial evidence, or even a fair argument on the basis of substantial evidence, that the project would result in a significant impact.

E-36 The commenter's discussion of the law is confusing. The first paragraph of this comment restates its view of the law with respect to the use of a MND. As noted in Response to Comment E-28, that view is incorrect because the CNG project is a revision to an existing approved project. The commenter ignores the fact that, in general, once a project has been approved under CEQA the lead agency's role is completed unless further discretionary approval on that project is required; in which case it is the obligation of the agency with future discretionary approval authority to determine what form of additional environmental review is required, if any, prior to taking action. (See CEQA Guidelines, § 15162.) Under these circumstances, CEQA also allows lead agencies to restrict their review of modifications to a previously approved project to the incremental effects associated with the proposed modifications, compared against the anticipated effects of the previously approved Project at build-out. (See *Benton v. Board of Supervisors* (1991) 226 Cal. App. 3d 1467, 1475-1482; *Mani Bros. Real Estate Group v.*

City of Los Angeles (2007) 153 Cal.App.4th 1385; *Temecula Band of Luiseño Mission Indians v. Rancho California Water Dist.* (1996) 43 Cal. App. 4th 425, 438.)

Then, the second paragraph raises a completely separate alleged basis for requiring an EIR, which is that the mitigation measures identified are inadequate. In this instance, the standard for review is whether there is substantial evidence in the record supporting the City's view that the measures would mitigate the impacts in question. *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California* (1988) 47 Cal.3d 376, 422.

However, the commenter presented no substantial evidence or even argument that the three mitigation measures proposed for the CNG project (BIO-1, HYD-1 and HYD-2) were inadequate. Moreover, the commenter claims that mitigation measures for noise and transportation/traffic were inadequate, even though none were proposed (and none were required, as all impacts were determined on the basis of substantial evidence to be less than significant). This set of comments completely failed to articulate, much less support, its claim that an EIR should have been required due to the inadequacy of mitigation measures.

However, in order to provide a complete response, the Responses to Comments E-37 through E-40 will also be analyzed in the same way as the Responses to Comments E-30 through E-35; whether commenter has presented substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

E-37 The only mitigation measure related to biological resources is BIO-1, which relates solely to the protection of nesting birds during removal of the non-native oleander bushes. FMND, p. 4-12. This mitigation measure makes no reference to the native plant species to be used to replace the oleanders. The commenter does not assert any inadequacies related to BIO-1.

To the extent that the commenter objects to the use of *Ribes speciosum* rather than *Artemisia californica*, that is nothing more than "speculation, unsubstantiated opinion or narrative" and does not constitute substantial evidence that the use of *Ribes speciosum* would result in a significant impact. In fact, a substantially similar comment was made by Nadine Scott of FOLAC during preparation of the MND, and was appropriately addressed with factual data included in the FMND (Response to Comments C-31 and C-32). Based on those comments, the species suggestion by FOLAC was duly considered by the CNG project landscape architect, in consultation with the city's landscape staff, and due to its low growth habit (maximum of 3-4 feet high), was not considered the most appropriate choice at this location.

The commenter's assertion regarding noise impacts to species is, once again, nothing more than "speculation, unsubstantiated opinion or narrative." Substantial evidence contained in the FMND demonstrates that the CNG project will result in reduction in noise levels and will be in compliance with the City's noise ordinance. The analysis

considered noise from back up alarms and noise from the compressor. FMND, p. 4-41 – 4-43.

The commenter offers no support based on substantial evidence of a cumulative noise impact to species. The substantial evidence in the record demonstrates otherwise. There is no official threshold for determining noise impacts to special-status species, and birds in particular. The generally accepted guideline is 60 decibels averaged over a 1-hour period on an A-weighted scale (60 dBA L_{eq}). Following implementation of the CNG project, noise levels at the southern boundary, next to Loma Alta Creek where sensitive species might reside, worst-case noise levels would range from less than 48 dBA to be 63-65 dBA L_{eq} . The compressor is calculated to produce noise of 56 dBA L_{eq} at the south fence line. As a result, noise levels affecting special-status species would be substantially consistent with the guideline.

Finally, any special-status wildlife species that may be utilizing or occupying habitat in the Loma Alta Creek drainage area adjacent to the project site is currently being subjected to noise in excess of the generally-accepted limit of 60 dBA L_{eq} . It is common practice in City of San Diego, County of San Diego, and other local jurisdictions that if a bird chooses to nest in an environment where noise levels exceed the 60 dBA L_{eq} guideline and the project operations would not further increase the noise subjected to the bird, then the project does not bear the responsibility of reducing the noise at the nest/occupied habitat to the 60 dBA L_{eq} guideline.

E-38 Two mitigation measures are proposed, HYD-1 and HYD-2, both of which relate to erosion control during construction of the CNG facilities. The commenter does not assert any inadequacies related to HYD-1 and HYD-2. Rather, it expresses a concern over the lack of detail of the specific measures to be taken, which does not constitute substantial evidence of a significant impact.

As previously noted in Response to Comment E-32, due to the minimal area of disturbance, the City has determined that a construction SWPPP is not required for the CNG project. FMND, p. 4-31. The proposed Conditions of Approval for the CNG project (Condition of Approval 35) address ongoing requirements for compliance with the city's SUSMP and source control BMPs. The applicant would be required to comply with the City's erosion control ordinance, which can be found at <http://www.ci.oceanside.ca.us/civica/filebank/blobdload.asp?BlobID=22825>.

E-39 Based on substantial evidence presented in the FMND, noise impacts from the CNG project would be less than significant. As a result, no mitigation measures were required or proposed, and the commenter's reference to proposed mitigation measures is incorrect. The proposed CNG project is not a "mitigation" measure for noise, though studies show it will reduce current noise levels. The commenter's opinion that an EIR is required because mitigation measures are inadequate completely fails in this instance, because there are none.

These comments generally restate arguments made in Comment E-33. Please see the Responses to Comment E-33 for a more detailed discussion. Where new argument has been made, it will be responded to here. Once again, the commenter did not present any substantial evidence that any of the conditions set forth in Guidelines Section 15162 apply.

There is no mitigation measure related to evening-time maintenance operations at the facility, or generally the direction to avoid loud noises. Instead this is part of a good neighbor policy adopted by the applicant, but is not part of any Conditions of Approval. And, there is no evidence of an exceedence of the City's noise level standards except during early morning hours under current operations. The FMND has presented substantial evidence demonstrating that there would be no exceedence of the City noise level standards following implementation of the CNG project.

The commenter's assertion that conversion to CNG collection vehicles will take up to 12 years is incorrect. Under the terms of the City's collection franchise agreement with Waste Management, the conversion will take place in phases that begin at the time of initial operation of the CNG fueling facility, and is to be completed not more than two years following initial operation of the CNG fueling facility.

The collection franchise agreement provides a firm schedule for the conversion to CNG collection vehicles, which provides a clear performance standard. The facts here are not close to those in the *Communities for a Better Environment v. City of Richmond* case cited by the commenter, where a project approval for a refinery expansion was overturned because the *formulation* of a plan to mitigate impacts from greenhouse gas emissions was deferred. 184 Cal.App.4th at 92.

Since the CNG project would reduce noise levels, it would not add to cumulative noise impacts. FMND, p. 4-53. The commenter's argument is incorrect, and fails to provide any support on the basis of substantial evidence that any of the conditions set forth in CEQA Guidelines Section 15162 would apply.

E-40 Based on substantial evidence presented in the FMND, traffic and transportation impacts from the CNG project would be less than significant. As a result, no mitigation measures were required or proposed, and the commenter's reference to proposed mitigation measures is incorrect. The commenter's assertion that an EIR is required because mitigation measures are inadequate completely fails in this instance

The commenter's arguments are a repetition of its concerns expressed in Comment E-34 regarding a lack of clarity regarding measures to manage traffic on Oceanside Boulevard during a period of up to two weeks when directional drilling is occurring. That does not constitute substantial evidence. A traffic control plan is a routine requirement for any construction or activity where normal flow of traffic could be disrupted. The City of Oceanside requires that traffic control plans be consistent with the California Manual on Uniform Traffic Control Devices (CAMUTCD) for temporary traffic control and the San Diego Regional Standard Drawings for traffic control plans, and processes them at the

Engineering counter. The detailed requirements for the Traffic Control Plan are available to commenter at <http://www.ci.oceanside.ca.us/gov/dev/eng/transit/permits.asp>.

E-41 The City disagrees with this comment. Based on substantial evidence, three mitigation measures included in the FMND are adequate to reduce Biological or Hydrological impacts to less than significant. In fact, in its comments, the commenter does not take any issue with the adequacy of the mitigation measures proposed. All other potential impacts are less than significant and no mitigation measures are required or proposed. Those findings are supported by substantial evidence in the FMND, and the commenter has not presented any substantial evidence refuting those conclusions, or even to support a fair argument that a significant impact would occur.

E-42 Comment noted. No new argument is presented, and this comment simply refers to other comments. Please refer to the responses to those comments for more detailed information.

MEMORANDUM

To: Richard Greenbauer, City of Oceanside
From: Jonathan Leech, Dudek
Subject: Evaluation of the Eilar Noise Monitoring Report of Oceanside Waste Management Facility
Date: January 22, 2013
cc: Sherri Newland, ET Environmental; Ann Gunter, Lightfoot Planning Group; Elizabeth Doalson, Dudek
Attachment(s): N/A

A Noise Monitoring Report dated November 29, 2012, was prepared by Eilar Associates Inc. and was submitted to the City of Oceanside on January 11, 2013. Dudek has reviewed the Eilar Noise Monitoring Report and provides the following evaluation.

In summary, the Eilar Noise Monitoring Report did not provide new information, as it analyzed the existing noise conditions within the project area, and the findings of the report regarding existing noise levels associated with the Waste Management maintenance facility are equivalent to the findings of Dudek's Focused Environmental Noise Assessment dated June 21, 2012.

While the noise measurement locations differ between the Dudek and Eilar studies, the sound sources analyzed and the sound levels measured compare favorably with one another. The noise measurements from the Eilar Report were conducted at two locations: noise measurement location 1 was conducted immediately east of the project site in an adjacent parking lot; and noise measurement location 2 was conducted on the same property to the east, but just north of the adjacent existing machine shop building.

Eilar noise measurement location 1 was situated to directly address the truck fueling and maintenance facility (the project site), and the location of this measurement at the property boundary line allows direct comparison of recorded noise level to the City's Noise Ordinance allowances. In addition, this measurement point serves the same purpose as the Dudek on-site measurement point, which is located at the southern property boundary. Both reports conclude that the existing facility, at the property boundary, has noise levels above ordinance allowance (which is 65 A-weighted decibels (dBA)) during the 1-hour period from 6 AM to 7 AM. The Dudek 24-hour measurement captured this 1-hour non-compliance occurrence once; the Eilar 72-

Memorandum

Subject: Evaluation of the Eilar Noise Monitoring Report of Oceanside Waste Management Facility

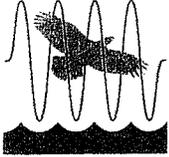
hour measurement documents a regular pattern of daily elevated noise during the 6 AM to 7 AM period, each of the 3 days of measurement.

The second noise measurement location from the Eilar Report primarily has noise exposure to the pod yard; however, it is also on the south side of Industry Street, which means it is exposed to traffic noise on Industry Street. Even with the traffic noise, the pod yard noise measurements average approximately 2 dB less during the 6 AM to 7 AM time period than the noise level measured for the maintenance facility. Eilar provides calculation only, and no off-site noise measurements, to conclude that noise during the one problematic hour (6 AM to 7 AM) *probably* exceeds the allowable levels at nearby residences. As stated on page 5 of the Eilar Report, the calculation is based upon distance attenuation only, and does not account for excess ground absorption, intervening topography, or existing structures.

To validate the calculation results for attenuated noise levels at nearby residences, Dudek performed an off-site noise measurement during the 5:30 AM to 6:30 AM hour in the Loma Alta Neighborhood (which is documented in Appendix C to the Focused Environmental Noise Assessment). The time period was selected because the trucks from the facility begin to operate and depart each work day at 5:30 AM. The off-site noise measurement demonstrated that the existing facility does not generate noise in excess of 45 dBA during the 5:30 AM to 6:30 AM time period (45 dB is the maximum sound level permitted overnight in the residential zone). Furthermore, the proposed project would reduce existing facility noise levels at nearby residences via replacement of diesel trucks with quieter compressed natural gas (CNG) trucks.

Both reports conclude that existing facility noise levels are within noise ordinance allowances for every hour during the day, with the exception of 6 AM to 7 AM. The documented exceedance of the noise ordinance restriction during 6 AM to 7 AM is based upon the property line noise levels; noise restrictions for the neighboring residential areas are not documented to be exceeded by the existing facility operations noise. Therefore, no new information was provided in the Eilar Noise Report.

Eilar's Noise Report only addressed the existing noise generated at the Waste Management Fleet Maintenance and Administration Facility, and at the pod yard; it does *not* address changes in noise levels from implementation of the proposed CNG project. Dudek's Focused Environmental Noise Assessment concluded the quieter CNG truck fleet would result in the facility noise levels being in compliance during all hours of the day.



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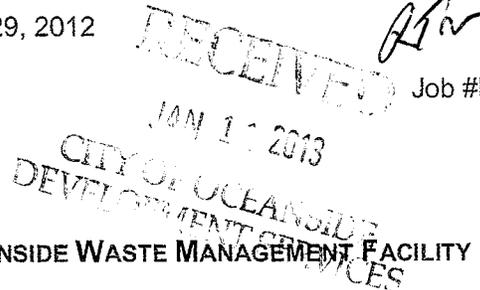
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November 29, 2012

University of San Diego Environmental Clinic

Attention: Margaret Dalton
5998 Alcalá Park
San Diego, California 92110

Job #B21105N1



SUBJECT: NOISE MONITORING REPORT OF OCEANSIDE WASTE MANAGEMENT FACILITY

At the request of Margaret Dalton, Eilar Associates has conducted noise monitoring of the Oceanside Waste Management facility operations on four consecutive days, from November 26 through November 29, 2012. The purpose of this noise monitoring was to approximate the noise levels generated by the Oceanside Waste Management facility.

Project Location & Description

The Oceanside Waste Management facility is located in the City of Oceanside, California. The facility consists of two separate areas, the main truck servicing area, located at 2141 Oceanside Boulevard, and a Pod storage and maintenance yard, located at 2403-B Industry Street. Both facilities operate Monday through Friday, with the peak noise generating hour typically from 6 a.m. to 7 a.m. each day.

Measurement Locations

Noise monitoring was conducted at two locations beginning the afternoon of Monday, November 26, and continuing until the morning of Thursday, November 29, 2012. Measurement Location 1 was placed near a small drainage canal, bordering the eastern property line of the truck maintenance facility, located at 2141 Oceanside Boulevard. Measurement Location 2 was placed to the west of the Pod storage and maintenance yard, located at 2403-B Industry Street. For both locations, the sound level meter was placed approximately 4 feet above ground level.

Applicable Noise Regulations

The City of Oceanside Noise Ordinance provides noise level limits based on zoning of affected properties. Between the hours of 7 a.m. and 9:59 p.m., one-hour average noise levels may not exceed 50 dBA at single-family residential or open space properties. Between the hours of 10 p.m. and 6:59 a.m., one-hour average noise levels may not exceed 45 dBA at single-family residential or open space properties. Industrial properties have a daytime noise limit of 70 dBA, and a nighttime noise limit of 65 dBA. At boundaries between two different zones, the applicable noise limit is the arithmetic average of the limits for the two respective zones. Therefore, where industrial properties are located adjacent to open space or residential properties, the applicable noise limit would be 60 dBA during the daytime hours and 55 dBA during the nighttime hours.

Measurement Equipment

Some or all of the following equipment was used to measure noise levels:

- Larson Davis Model 720 Type 2 Sound Level Meter, Serial #0312
- Larson Davis Model 720 Type 2 Sound Level Meter, Serial #0311
- Larson Davis Model CA150 Calibrator, Serial #0339
- Distance measurement wheel, digital camera

The sound level meters were field-calibrated immediately prior to the noise measurement and checked afterwards, to ensure accuracy. All sound level measurements conducted and presented in this report, in accordance with the regulations, were made with sound level meters that conform to the American National Standards Institute specifications for sound level meters (ANSI S1.4-1983, R2001). All instruments are maintained with National Bureau of Standards traceable calibration, per the manufacturers' standards.

Noise and Sound Level Descriptors

All noise level or sound level values presented herein are expressed in terms of decibels (dB), with A-weighting, abbreviated "dBA," to approximate the hearing sensitivity of humans. Time-averaged noise levels are expressed by the symbol L_{EQ} , for a specified duration. Short duration peak noise levels are expressed by the symbol L_{MAX} .

Attenuation due to distance is calculated by the equation:

$$SPL_1 = SPL_2 - 20 \log\left(\frac{D_2}{D_1}\right)$$

where SPL_1 = Calculated sound pressure level at distance,
 SPL_2 = Known sound pressure level at known distance,
 D_1 = Distance from source to known sound pressure level, and
 D_2 = Distance from source to location of calculated sound pressure level.

This is identical to the more commonly used reference of 6 dB reduction for every doubling of distance. This equation does not take into account reduction in noise due to atmospheric absorption. Roadway noise is considered a line source, and typically is attenuated by 3 dB for every doubling of distance rather than 6 dB. In this case, the 20 multiplier in the equation above would be changed to 10 to account for this rate of attenuation.

Noise Measurement Results

Noise measurements were made at each of the aforementioned measurement locations from just before 3 p.m. on November 26, until just after 9 a.m. on November 29.

Summaries of noise measurements made on site are provided in Table 1. Graphs of measured sound data are also provided in Appendix A.

Table 1. Summary of Noise Measurement Results			
Time Period	Date	Hourly Noise Level (dBA) L_{EQ}	
		Location 1 (Meter 0311)	Location 2 (Meter 0312)
3:00 p.m. – 3:59 p.m.	11/26/2012	62.3	64.0
4:00 p.m. – 4:59 p.m.	11/26/2012	65.1	65.8
5:00 p.m. – 5:59 p.m.	11/26/2012	64.7	63.6
6:00 p.m. – 6:59 p.m.	11/26/2012	55.6	57.9
7:00 p.m. – 7:59 p.m.	11/26/2012	57.7	60.0
8:00 p.m. – 8:59 p.m.	11/26/2012	59.5	53.5
9:00 p.m. – 9:59 p.m.	11/26/2012	56.6	54.4

Table 1. Summary of Noise Measurement Results

Time Period	Date	Hourly Noise Level (dBA) L _{EQ}	
		Location 1 (Meter 0311)	Location 2 (Meter 0312)
10:00 p.m. – 10:59 p.m.	11/26/2012	50.0	51.8
11:00 p.m. – 11:59 p.m.	11/26/2012	57.3	50.9
12:00 a.m. – 12:59 a.m.	11/27/2012	49.9	53.0
1:00 a.m. – 1:59 a.m.	11/27/2012	56.1	57.9
2:00 a.m. – 2:59 a.m.	11/27/2012	44.0	48.6
3:00 a.m. – 3:59 a.m.	11/27/2012	45.3	49.8
4:00 a.m. – 4:59 a.m.	11/27/2012	57.8	60.1
5:00 a.m. – 5:59 a.m.	11/27/2012	57.6	60.3
6:00 a.m. – 6:59 a.m.	11/27/2012	72.1	70.1
7:00 a.m. – 7:59 a.m.	11/27/2012	61.3	66.6
8:00 a.m. – 8:59 a.m.	11/27/2012	59.3	63.1
9:00 a.m. – 9:59 a.m.	11/27/2012	56.4	60.7
10:00 a.m. – 10:59 a.m.	11/27/2012	58.8	61.4
11:00 a.m. – 11:59 a.m.	11/27/2012	62.5	62.2
12:00 p.m. – 12:59 p.m.	11/27/2012	58.1	64.4
1:00 p.m. – 1:59 p.m.	11/27/2012	61.7	66.8
2:00 p.m. – 2:59 p.m.	11/27/2012	60.3	69.8
3:00 p.m. – 3:59 p.m.	11/27/2012	63.4	67.9
4:00 p.m. – 4:59 p.m.	11/27/2012	62.5	65.9
5:00 p.m. – 5:59 p.m.	11/27/2012	65.3	66.2
6:00 p.m. – 6:59 p.m.	11/27/2012	55.7	57.4
7:00 p.m. – 7:59 p.m.	11/27/2012	52.6	53.3
8:00 p.m. – 8:59 p.m.	11/27/2012	58.7	52.9
9:00 p.m. – 9:59 p.m.	11/27/2012	57.3	56.3
10:00 p.m. – 10:59 p.m.	11/27/2012	53.7	52.3
11:00 p.m. – 11:59 p.m.	11/27/2012	46.3	48.0
12:00 a.m. – 12:59 a.m.	11/28/2012	43.9	48.6
1:00 a.m. – 1:59 a.m.	11/28/2012	41.0	47.4
2:00 a.m. – 2:59 a.m.	11/28/2012	51.9	55.6
3:00 a.m. – 3:59 a.m.	11/28/2012	56.2	71.5
4:00 a.m. – 4:59 a.m.	11/28/2012	49.4	57.0
5:00 a.m. – 5:59 a.m.	11/28/2012	59.0	63.1

Table 1. Summary of Noise Measurement Results			
Time Period	Date	Hourly Noise Level (dBA) L_{EQ}	
		Location 1 (Meter 0311)	Location 2 (Meter 0312)
6:00 a.m. – 6:59 a.m.	11/28/2012	71.0	69.9
7:00 a.m. – 7:59 a.m.	11/28/2012	59.8	66.4
8:00 a.m. – 8:59 a.m.	11/28/2012	57.1	62.1
9:00 a.m. – 9:59 a.m.	11/28/2012	61.1	64.3
10:00 a.m. – 10:59 a.m.	11/28/2012	58.4	65.2
11:00 a.m. – 11:59 a.m.	11/28/2012	64.6	65.3
12:00 p.m. – 12:59 p.m.	11/28/2012	57.1	61.9
1:00 p.m. – 1:59 p.m.	11/28/2012	59.7	65.8
2:00 p.m. – 2:59 p.m.	11/28/2012	58.1	63.8
3:00 p.m. – 3:59 p.m.	11/28/2012	61.2	67.9
4:00 p.m. – 4:59 p.m.	11/28/2012	62.0	63.9
5:00 p.m. – 5:59 p.m.	11/28/2012	62.0	64.0
6:00 p.m. – 6:59 p.m.	11/28/2012	61.9	64.2
7:00 p.m. – 7:59 p.m.	11/28/2012	53.2	54.7
8:00 p.m. – 8:59 p.m.	11/28/2012	59.6	54.2
9:00 p.m. – 9:59 p.m.	11/28/2012	60.9	53.6
10:00 p.m. – 10:59 p.m.	11/28/2012	51.2	50.7
11:00 p.m. – 11:59 p.m.	11/28/2012	47.7	48.6
12:00 a.m. – 12:59 a.m.	11/29/2012	43.1	47.5
1:00 a.m. – 1:59 a.m.	11/29/2012	41.1	44.5
2:00 a.m. – 2:59 a.m.	11/29/2012	41.4	45.6
3:00 a.m. – 3:59 a.m.	11/29/2012	56.8	57.0
4:00 a.m. – 4:59 a.m.	11/29/2012	54.6	67.2
5:00 a.m. – 5:59 a.m.	11/29/2012	54.8	66.6
6:00 a.m. – 6:59 a.m.	11/29/2012	72.4	69.2
7:00 a.m. – 7:59 a.m.	11/29/2012	70.1	68.8
8:00 a.m. – 8:59 a.m.	11/29/2012	60.6	63.1

During noise measurements, hourly noise levels at Location 1 ranged from 41.0 dBA L_{EQ} from 1 a.m. to 2 a.m. on November 28 to 72.4 dBA L_{EQ} from 6 a.m. to 7 a.m. on November 29. Hourly noise levels at Location 2 ranged from 44.5 dBA L_{EQ} , from 1 a.m. to 2 a.m. on November 29 to 71.5 dBA L_{EQ} from 3 a.m. to 4 a.m., which appears to be an anomaly, as Location 1 was not exposed to high noise levels during this same period. The highest measured hourly noise level at Location 2 that occurred during the operating hours of the Waste Management facility was 70.1 dBA L_{EQ} , from 6 a.m. to 7 a.m. on

November 27. Please refer to Appendix A for detailed measurement results. It should be noted that the greatest noise impact of 72.4 dBA at Location 1 occurred during the nighttime hours (between 6 a.m. and 7 a.m.), and as this location represents the noise exposure at the adjacent industrial property line, this operational noise is out of compliance with the industrial noise limit set by the City of Oceanside (65 dBA). Furthermore, this noise level also exceeds the daytime industrial noise limit of 70 dBA.

Using the maximum measured noise level of 72.4 dBA at Location 1, brief distance attenuation calculations were performed to determine estimated noise impacts from the Waste Management facility at nearby noise sensitive properties. As this noise level occurred during the nighttime hours, the nighttime noise level limits are applicable at neighboring properties.

Receiver	Approximate Distance from Noise Source	Estimated Hourly Noise Level (dBA) L_{EQ}	Noise Level Limit (dBA) L_{EQ}	In Compliance?
Measurement Location 1	50	72.4*	65	No
Open Space across Skylark Drive	300	56.8	55	No
Nearest Residence Across Skylark Drive	500	52.4	45	No
Nearest Residence Across Oceanside Blvd	480	52.8	55	Yes
Scott Residence 550 Hoover Street	900	47.3	45	No

*Measured noise level

Calculations show that noise levels at many nearby properties exceed the City of Oceanside's allowable nighttime noise level limits. It should be noted that intervening topography and structures were not taken into account for these calculations, and are likely to have an impact on actual noise levels.

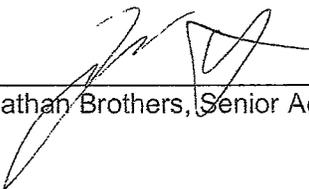
Conclusion

Noise levels from the operation of the Oceanside Waste Management Facility were measured at two locations to determine existing conditions. Monitoring showed that noise levels at the adjacent industrial property line were out of compliance with the City of Oceanside industrial noise limit. Rough calculations of noise levels at neighboring noise-sensitive receivers show that noise levels may exceed City of Oceanside noise limits; however, exact noise levels would need to be determined by using either detailed noise modeling or additional noise monitoring. This report was prepared by Jonathan Brothers, and Douglas K. Eilar. We will be glad to work with you further on these matters whenever the need arises.

EILAR ASSOCIATES, INC.



Douglas K. Eilar
Principal/Senior Acoustical Consultant



Jonathan Brothers, Senior Acoustical Consultant

FIGURES

1. Satellite Aerial Photograph Showing Measurement Locations

APPENDICES

- A. Noise Monitoring Results

FIGURES

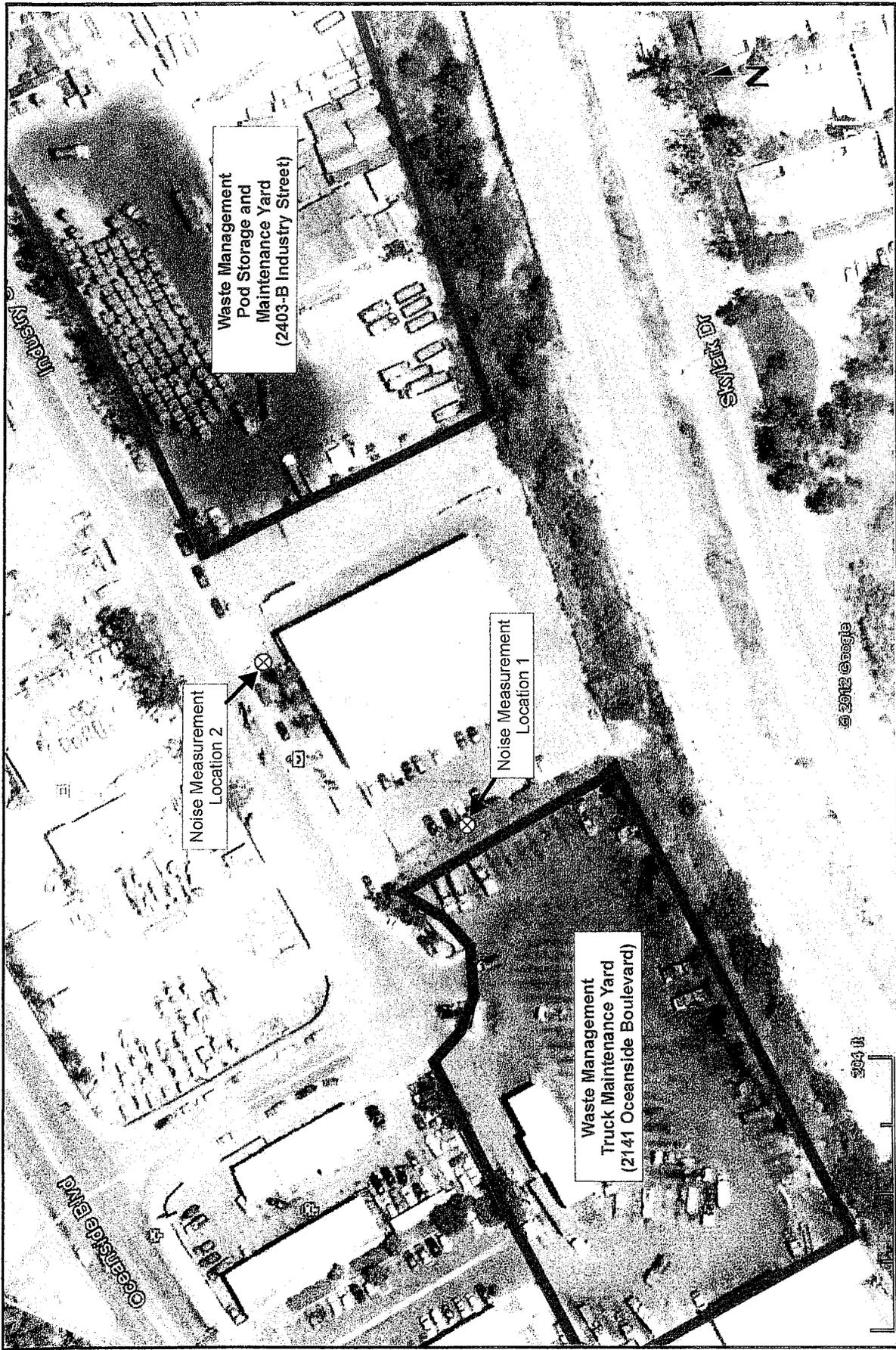


Figure 1

Satellite Aerial Photograph Showing
Measurement Locations
Job # B21105N1

Eilar Associates, Inc.
321 Willowspring Drive North
Encinitas, California 92024
760-738-5570

APPENDIX A

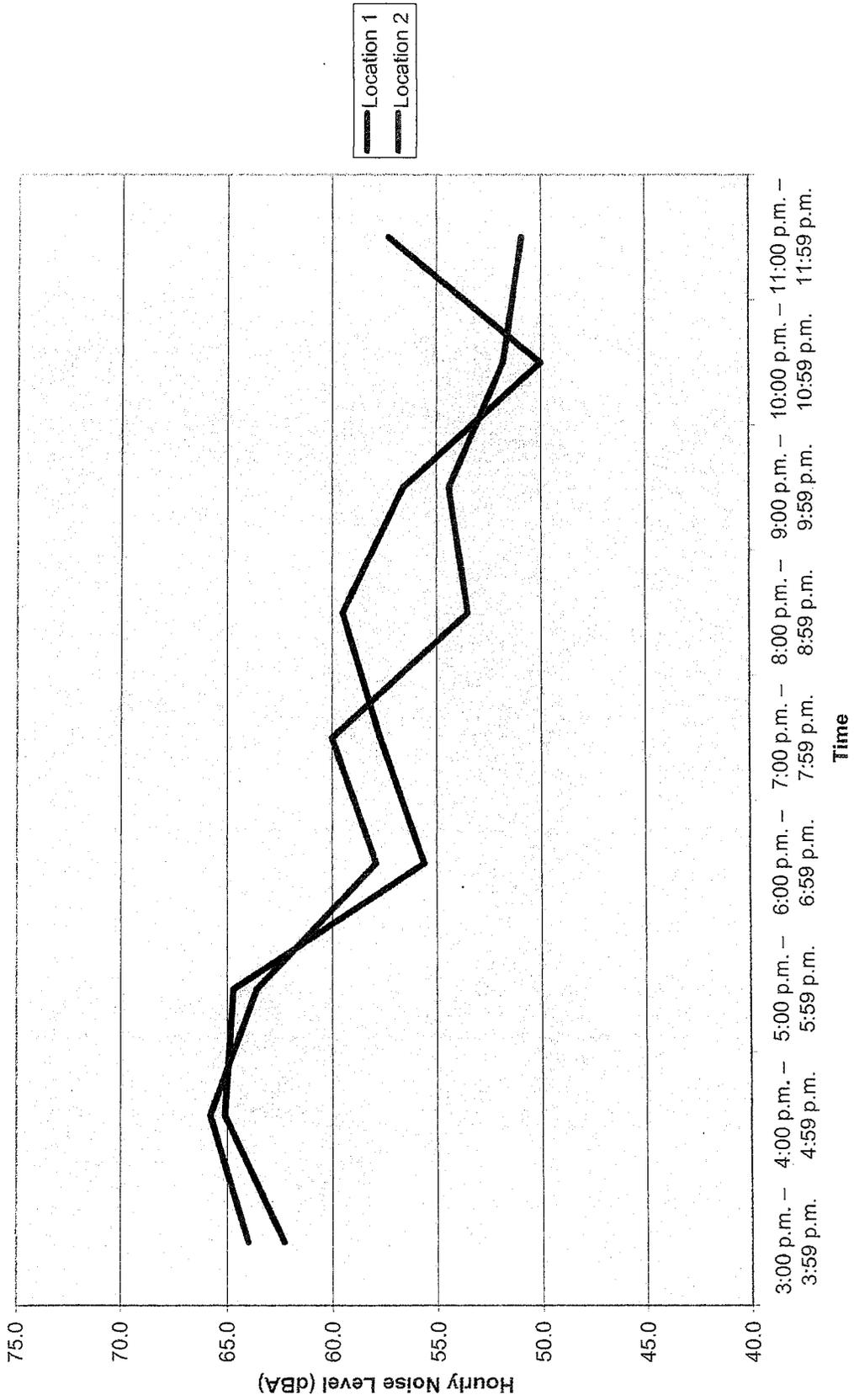
Noise Monitoring Results

Oceanside Waste Management Noise Monitoring, 11/26/2012 - 11/29/2012

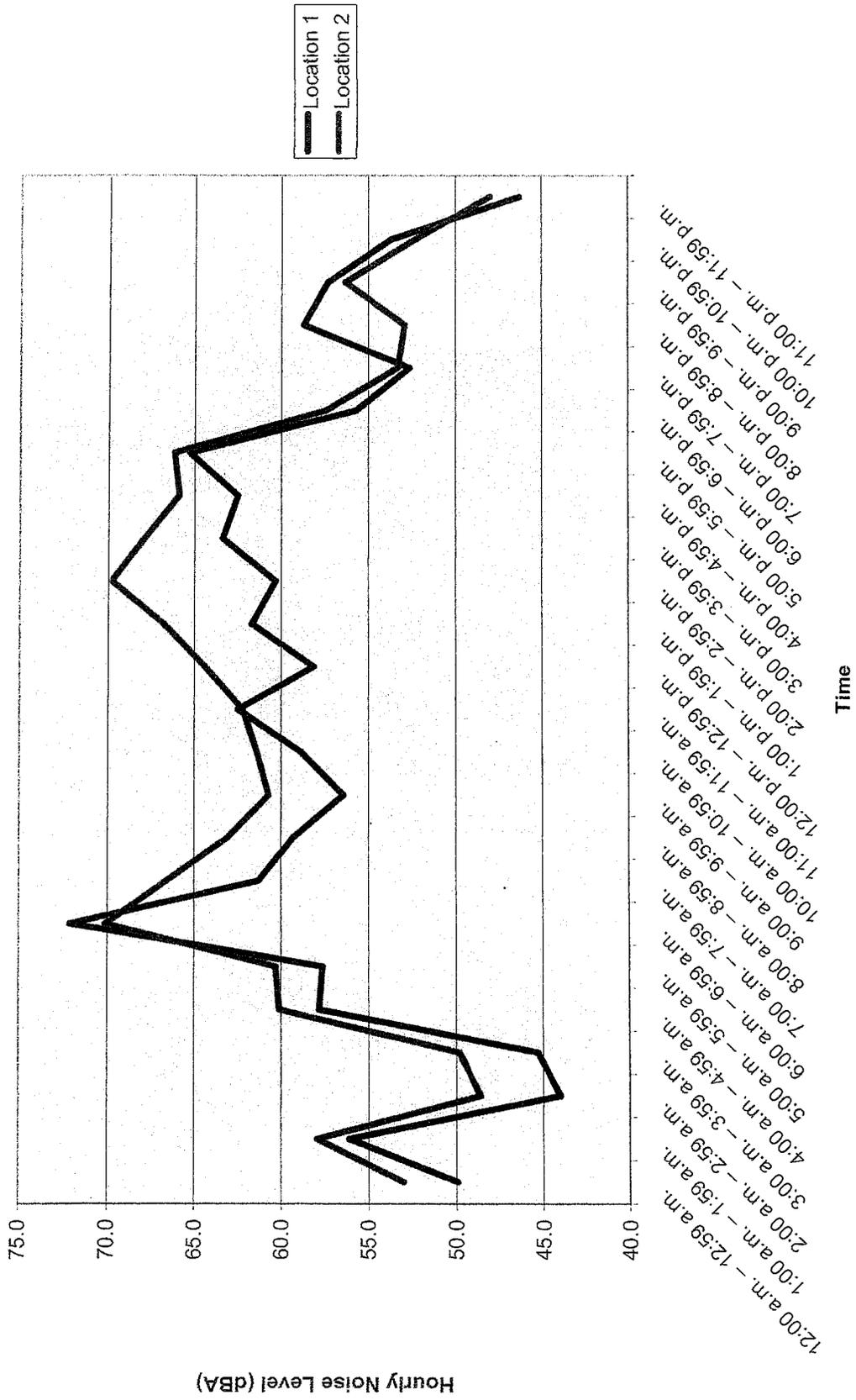
Date	Time	Hourly Noise Level (dBA)	
		Measurement Location 1	Measurement Location 2
11/26/2012	3:00 p.m. – 3:59 p.m.	62.3	64.0
	4:00 p.m. – 4:59 p.m.	65.1	65.8
	5:00 p.m. – 5:59 p.m.	64.7	63.6
	6:00 p.m. – 6:59 p.m.	55.6	57.9
	7:00 p.m. – 7:59 p.m.	57.7	60.0
	8:00 p.m. – 8:59 p.m.	59.5	53.5
	9:00 p.m. – 9:59 p.m.	56.6	54.4
	10:00 p.m. – 10:59 p.m.	50.0	51.8
	11:00 p.m. – 11:59 p.m.	57.3	50.9
11/27/2012	12:00 a.m. – 12:59 a.m.	49.9	53.0
	1:00 a.m. – 1:59 a.m.	56.1	57.9
	2:00 a.m. – 2:59 a.m.	44.0	48.6
	3:00 a.m. – 3:59 a.m.	45.3	49.8
	4:00 a.m. – 4:59 a.m.	57.8	60.1
	5:00 a.m. – 5:59 a.m.	57.6	60.3
	6:00 a.m. – 6:59 a.m.	72.1	70.1
	7:00 a.m. – 7:59 a.m.	61.3	66.6
	8:00 a.m. – 8:59 a.m.	59.3	63.1
	9:00 a.m. – 9:59 a.m.	56.4	60.7
	10:00 a.m. – 10:59 a.m.	58.8	61.4
	11:00 a.m. – 11:59 a.m.	62.5	62.2
	12:00 p.m. – 12:59 p.m.	58.1	64.4
	1:00 p.m. – 1:59 p.m.	61.7	66.8
	2:00 p.m. – 2:59 p.m.	60.3	69.8
	3:00 p.m. – 3:59 p.m.	63.4	67.9
	4:00 p.m. – 4:59 p.m.	62.5	65.9
	5:00 p.m. – 5:59 p.m.	65.3	66.2
	6:00 p.m. – 6:59 p.m.	55.7	57.4
	7:00 p.m. – 7:59 p.m.	52.6	53.3
	8:00 p.m. – 8:59 p.m.	58.7	52.9
9:00 p.m. – 9:59 p.m.	57.3	56.3	
10:00 p.m. – 10:59 p.m.	53.7	52.3	
11:00 p.m. – 11:59 p.m.	46.3	48.0	
11/28/2012	12:00 a.m. – 12:59 a.m.	43.9	48.6
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	2:00 a.m. – 2:59 a.m.	51.9	55.6
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	6:00 a.m. – 6:59 a.m.	71.0	69.9
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	9:00 a.m. – 9:59 a.m.	61.1	64.3
	10:00 a.m. – 10:59 a.m.	58.4	65.2
	11:00 a.m. – 11:59 a.m.	64.6	65.3
	12:00 p.m. – 12:59 p.m.	57.1	61.9
1:00 p.m. – 1:59 p.m.	59.7	65.8	
2:00 p.m. – 2:59 p.m.	58.1	63.8	

	3:00 p.m. – 3:59 p.m.	61.2	67.9
	4:00 p.m. – 4:59 p.m.	62.0	63.9
	5:00 p.m. – 5:59 p.m.	62.0	64.0
	6:00 p.m. – 6:59 p.m.	61.9	64.2
	7:00 p.m. – 7:59 p.m.	53.2	54.7
	8:00 p.m. – 8:59 p.m.	59.6	54.2
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	6:00 a.m. – 6:59 a.m.	72.4	69.2
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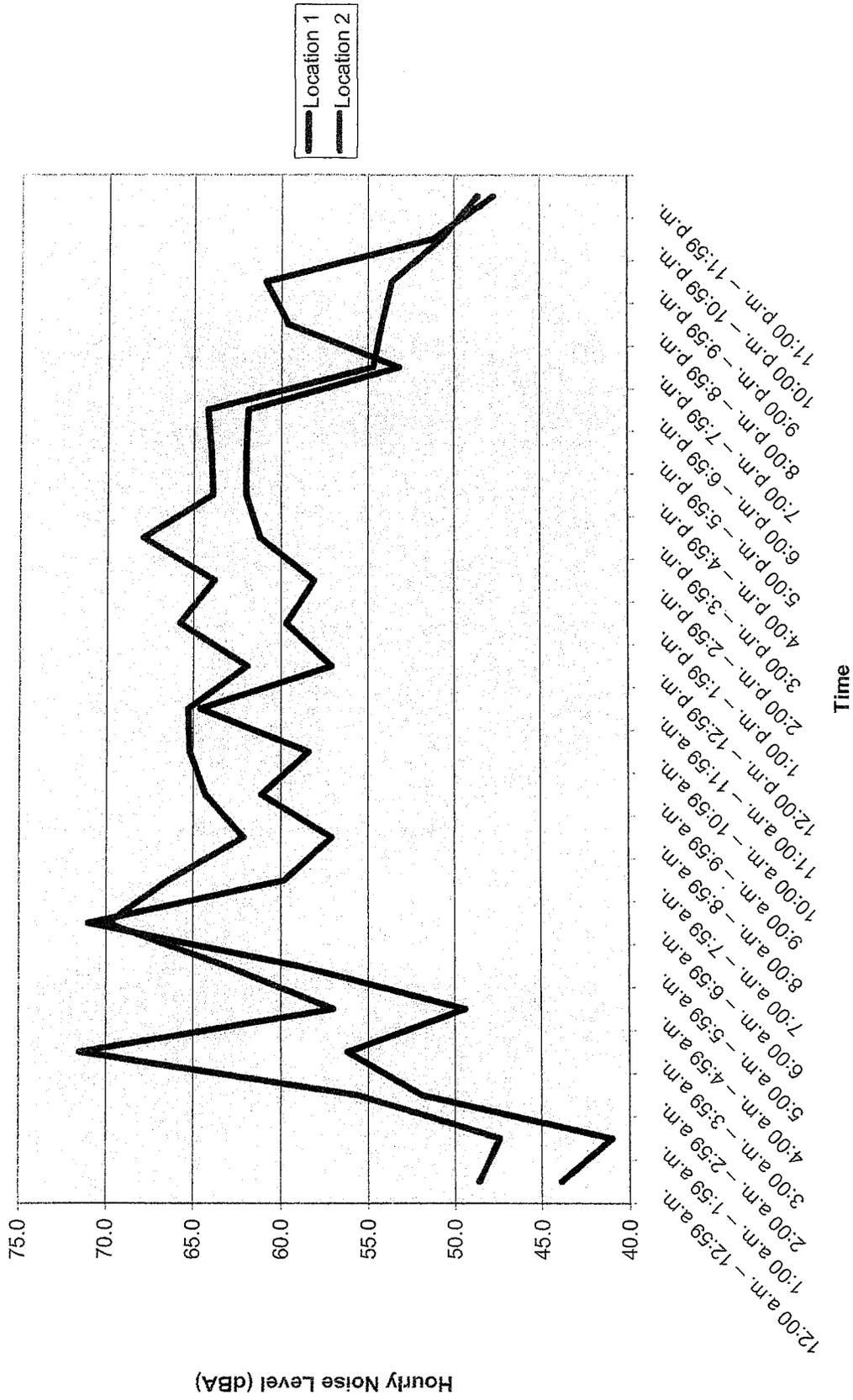
Hourly Noise Levels - November 26, 2012



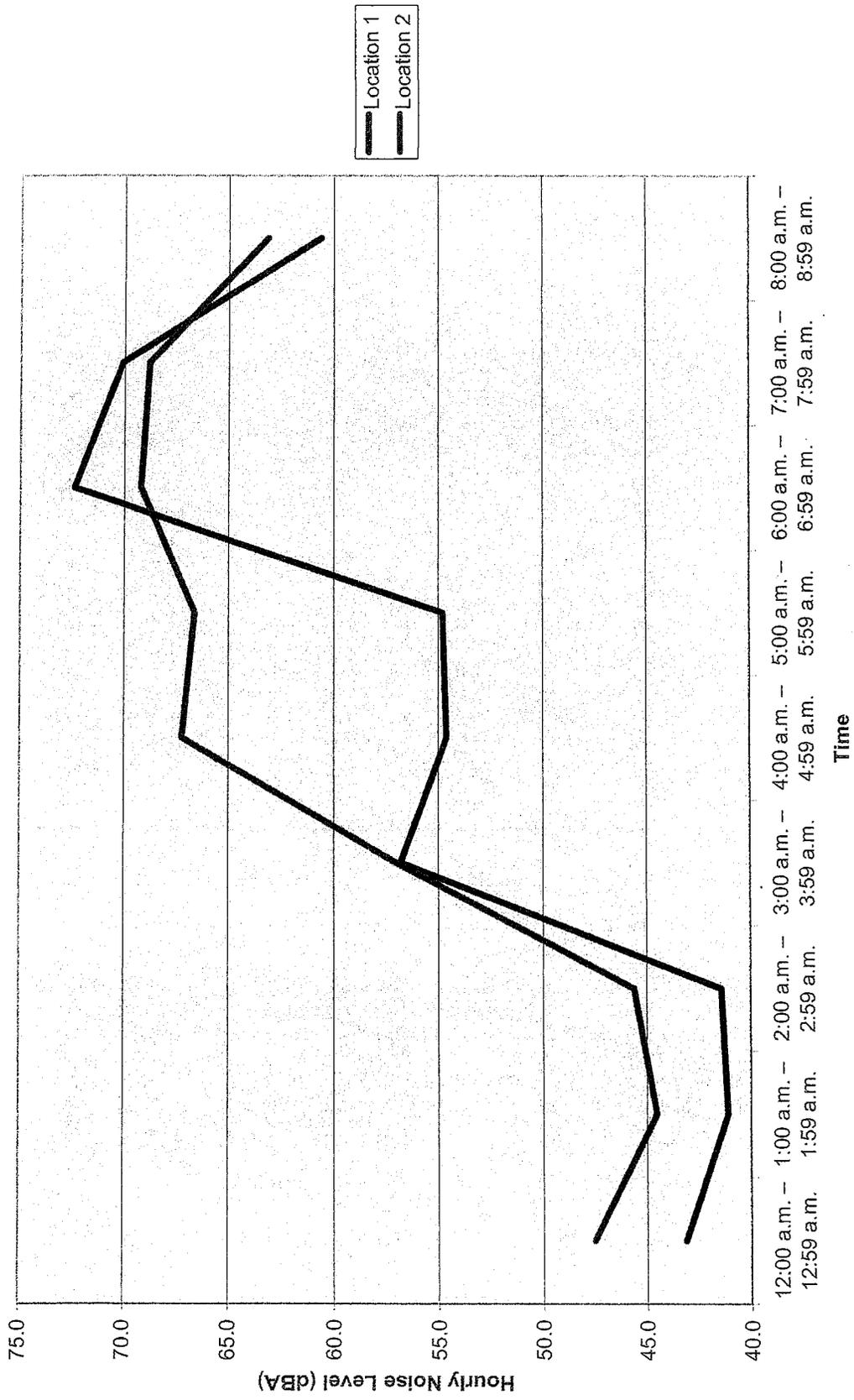
Hourly Noise Levels - November 27, 2012



Hourly Noise Levels - November 28, 2012



Hourly Noise Levels - November 29, 2012



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

MEMORANDUM

DATE: January 14, 2013

TO: Chairperson and Members of the Planning Commission

FROM: Richard Greenbauer, Senior Planner *RG*

SUBJECT: Item #3, Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) **Waste Management CNG Fueling Facility**

Please find attached one additional e-mail received today at 9:26 and to be placed into the public record regarding the subject project.

RG/fl

Richard Greenbauer

From: diane nygaard <dandd2@peoplepc.com>
Sent: Monday, January 14, 2013 9:26 AM
To: Richard Greenbauer
Subject: Comments on Waste Management CNG Fueling Facility

Mr. Greenbauer :

Please forward these comments to the Planning Commission for their consideration of this project scheduled for January 14, 2013 and reply to this email to confirm this.

We very much appreciate that Waste Management is taking this important step to convert their fleet to cleaner fuels. However, it is important that this change is made in a way that still protects the biological resources and water quality of Loma Alta Creek. We believe further analysis and mitigation is required to assure that these resources will be protected.

The following are our comments on the draft MND for the proposed Waste Management CNG Fueling Facility project:

Biological Resources

The MND has not treated Loma Alta Creek, which is along the entire southern boundary of the site, as anything that supports biological resources. Of course this creek corridor is highly degraded, but the vegetation along this channel still provides important biological functions. I have personally observed an egret feeding just a few feet upstream from the project site. At the time Waste Management received their original CUP for this site the region did not have an adopted conservation plan. This plan, the Multiple Habitat Conservation Plan (MHCP), was adopted by SANDAG in 2004. Oceanside is one of seven cities in north county that is subject to the conditions of that plan. In addition, the city of Oceanside has prepared a draft local conservation plan (SAP) which has been used for years to assure their compliance with this regional plan. These plans both include a number of provisions to assure that projects along the borders of sensitive biological resources do not cause indirect impacts through "edge effects." Mitigation for edge effects has routinely been included as conditions for numerous Oceanside projects- but has been completely ignored for this one. Ones of particular concern for this project include :

Lighting- standard condition is to protect from lightspillover.

Trash – site clean-up and trash control that assures trash does not move to the protected habitat or that wildlife would not be attracted to the site.

The MND needs to review this project for potential edge effects and add all that are appropriate as mitigation measures project conditions- as has been done for numerous other projects in Oceanside for the last eight years.

The SAP also includes provisions for wetland buffers. This project site appears to be immediately adjacent to the actual wetland, with no functional buffer. We realize this is an existing condition. However, the lack of buffers is part of the cumulative impacts to this watershed. New projects are required to meet the current standards. It seems reasonable that modifications to existing facilities should also result in a review of compliance with current conditions. Parking lots can be considered wetland buffers, providing certain conditions have been met. This MND has not done any evaluation of the site for its function as a wetland buffer and therefor does not meet the standards of the SAP or regional MHCP.

Excessive noise is an adverse impact to wildlife as well as people. The MND has not included adequate noise evaluation. We have been told the CNG compressors will generate noise at 75- 80 decibels or higher. This may be even higher for the occasional fast fill. The issue is what are the noise levels on the southern boundary of the site next to the creek? Noise limits for wildlife are typically 60 decibels- the same threshold the city applies to residential uses. The MND has not demonstrated that the proposed project will be within these acceptable limits and this remains a potential adverse impact that has not been mitigated. Further noise analysis is needed to confirm the thresholds are not exceeded, or if they are, to provide some sound attenuation around the compressor.

There really is nothing that describes the transition plan for the operation of this site. From the information provided it is clear that it will be many years before the entire fleet is converted to CNG. During this entire time period there will be noise and air quality impacts from both types of fuel. The analysis of impacts has just considered impacts once the entire fleet is converted and has ignored this interim time period- which will last for many years.

Hydrology

The drawings for this project identify a "30' Flood Control ROW." This is actually Loma Alta Creek. Loma Alta Creek is identified as an impaired waterbody in the regional water quality plan. The creek actually is listed for several beneficial uses in addition to flood control. The MND really has ignored all of these other functions of the creek. By doing so it is not clear that the specified "SWPP" and "BMP's" will be adequate. The MND needs to evaluate all of these beneficial uses and determine that the SWPP and BMP's are properly designed to address all of them- and not just flood control.

Oceanside has spent a great deal of taxpayer dollars to clean-up the Loma Alta sub- watershed. This is the only sub-watershed for which the city has prepared a detailed watershed management plan. (WMP) The MND should have evaluated this project for compliance with the provisions of this WMP. This would include things like encroachments within the floodway. Condition 29 says there will be no grading or disturbance within 30' of the flood control right of way- but that is off site. What are the guidelines in the WMP that would apply to construction, particularly fueling related construction, so close to the creek channel?

This reach of Loma Alta Creek has a long history of flooding. Clearly the existing "30' flood control ROW" is not sufficient to protect this area from flooding. Flooding causes pollution to the watershed and is part of the ongoing cumulative impacts. This project has the potential to exacerbate flooding conditions and the resultant water quality pollution that results from such flooding. The MND has failed to assess this additional potential indirect impact.

We urge you to require that all of these issues are addressed before proceeding with this project.

Diane Nygaard
On Behalf of Preserve Calavera

***COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION***

MEMORANDUM

DATE: January 10, 2013

TO: Chairperson and Members of the Planning Commission

FROM:  Richard Greenbauer, Senior Planner

SUBJECT: Item #3, Development Plan (D11-00007) and Conditional Use Permit (CUP11-00013) **Waste Management CNG Fueling Facility**

Please find attached four e-mails received and to be placed into the public record regarding the subject project.

RG/fil

Richard Greenbauer

From: Hank Mackey <hmackey@cox.net>
Sent: Thursday, January 10, 2013 3:35 PM
To: Richard Greenbauer
Subject: Waste Management

Please do not allow the Waste Management facility on Oceanside to expand. The noise is unbearable. It will negatively affect the neighborhood values.

Hank Mackey

Richard Greenbauer

From: Laura Mackey <lauramackey19@gmail.com>
Sent: Tuesday, September 25, 2012 11:07 PM
To: Richard Greenbauer
Cc: Laura; George Buell; John Helmer; David Manley
Subject: Re: Once peaceful Loma Alta resident

Out of curiosity what are the hours they are aloud to operate and make noise?
Laura Mackey

Sent from my iPad.

On Sep 25, 2012, at 2:37 PM, Richard Greenbauer <RGreenbauer@ci.oceanside.ca.us> wrote:

> Laura,
>
> I will place your comments into the public record for the Waste Management Project and forward your noise concerns to our Code Enforcement Staff.
>
> One point of clarification on the project is your statement of 24 hour a day operation. The proposal is actually a request to change the fueling facility from Diesel to CNG, not increase the sites permitted hours of operation beyond what is approved as of today.
>
>
> Richard Greenbauer, Senior Planner
> City of Oceanside
> Planning Division
> 300 North Coast Highway
> Oceanside, CA 92054
> Phone: 760-435-3519
> Fax: 760-754-2958
> rgreenbauer@ci.oceanside.ca.us
> Please be advised that all e-mails and phone messages are maintained on the City's server for 90 days and are considered public information when requested.
>
>
>
> -----Original Message-----
> From: Laura [<mailto:lamac5@cox.net>]
> Sent: Tuesday, September 25, 2012 2:25 PM
> To: Holly Trobaugh; Richard Greenbauer; George Buell
> Subject: Once peaceful Loma Alta resident
>
> I have been shocked by the growing of noise, over the last few years since we bought a home in very quiet restful Oceanside. We love opening our widows and getting the cool ocean breezes to sleep by, yet we are no longer able because of the noise that waste management has been creating. Now to learn you are looking at doing this 24 hours a day. Please do not disturb our sleep even more than you have been. We no longer get to sleep with our windows open because of the late and early noise. Learn to be a good neighbor and respect your neighbors sleep.
> Laura Mackey

Richard Greenbauer

From: Hank Mackey <hmackey@cox.net>
Sent: Tuesday, September 25, 2012 11:14 AM
To: Richard Greenbauer; 'gbuell@ci.oceanside.ca.us.'; Holly Trobaugh
Subject: Noise issue of concern/Project in Oceanside CUP11-00013 & Development Plan D11-00007

I live at 536 Hoover St. in Oceanside. The noise currently generated by Waste Management is ridiculous!!! I am constantly awakened by loud noises past 10:00 PM and before 5:00AM. I have complained in the past and the noise only gets louder!!! Now they want to make LOUD noises 24 hours a day. Please put a stop to this.

Hank Mackey

Richard Greenbauer

From: James 'Jimmy' H Knott III <jhk3@cox.net>
Sent: Wednesday, July 27, 2011 12:24 PM
To: nadia550@sbcglobal.net; Stephnie Clark
Cc: Cari Dale; Colleen Foster; Esther Sanchez; Richard Greenbauer
Subject: WM CNG facility application

Chair Nadine Scott and Commissioner Stephnie Clark,

I just opened my mail from yesterday and found Chair Scott that you will be having a new neighbor at 2141 Oceanside Blvd. Waste Managements a brand new CNG full time fueling station Project # D11-00007-,CUP11-00013. I assume this is for the new re-fueling station for the new fleet of Waste Management vehicles being used under the City's new contract.

I was under the impression it was going to be placed out near the Car Demo areas in the valley where a CNG line I am told already exists to North County Transit's maintenance yard as was many other Citizens. Were we misled or misinformed? This is sort of surprising.

How are they going to get this CNG fuel into this site on Oceanside Blvd?

I know many of Waste Management vehicles around the nation are now being fueled by CNG being harvested from their and others landfills. Does Waste management plan to offer this harvested CNG fuel as their sole CNG source to this fueling site to be used only as a back-up supply from their sources from their landfills in case it is needed, but regularly having their vehicles fueled up at the landfill locations after they deposit their loads? This could be a positive acceptable system.

Has anyone done any fuel source assessment and what will this source assessment be for their CNG? Is any of the source of this CNG from the dangerous long term ground water polluting "fraking"? "Fraking" is where yet to be named and identified 'liquids' are commonly pumped by companies deep under ground under bedrock forcing the bedrock to fracture and release trapped natural gas. People who live in many of these immediate regions commonly report their home faucets or tubs water catching on fire or water they pump from the ground being unusable due to these chemicals used in "fraking" in order to supply this CNG to other communities even thousands of miles away.

I've never been around these stations when they operate and it would be nice to know what it is like. I know some places use off loading into giant reserve tanks and many times these reserve tanks do have "incidents" where entire neighborhoods have been vaporized and/or surrounding homes have had their windows and doors blown off and children had their ear drums ripped open by the blast, and that's not counting the lost lives or seriously injured. What community protections will be put into place if this system is used?

Or do they plan to bring in a pipe for this source? If they do where will this pipe be placed? Does this mean if they do another road tear up of Oceanside Blvd?

Or another risk to the already fragile Loma Alta Creek?

Will there be a permanent restriction of any other current or future fuels or chemicals used at this site other than compressed fuel?

And I noticed they will only have this file available for folk to review at City hall and not on line, which is quite interesting.

You might want to review this for yourselves. I haven't reviewed this plan yet but I plan to in the near future and am including the project planner Richard Greenbauer on this e-mail to see if these any/all of these questions are addressed in this file he and the projects planning group, Lightfoot, prepared.

Thought you'd like to know,

Jimmy Knott III

LSMVHO/R Rep

Richard Greenbauer

From: Roger Davenport <sdsolarguy@aol.com>
Sent: Wednesday, July 27, 2011 7:11 PM
To: Richard Greenbauer
Cc: Ann@lightfootpg.com
Subject: D11-00007, CUP11-0013

Dear People,

We reside at 541 Crouch St, Oceanside, CA. Regarding the installation of a compressed natural gas fueling facility at the Waste Management facility, my wife and I are highly in favor of this. Using indigenous natural gas instead of imported diesel makes sense for cost, pollution, and national security reasons. As an amendment to the proposed project, I would suggest that the facility include the capability of fueling cars as well as the Waste Management truck fleet, and that the car portion be made available to the public and others as a retail outlet. That would provide a bit of needed infrastructure so as people in Oceanside begin converting from gasoline to other fuels they will have a local place to go for compressed natural gas. Presently, the nearest compressed natural gas filling station, and the only one between Del Mar and Temecula, is at the SDG&E power plant site at Cannon Road and I-5.

Since the main cost of the installation will be the compressor and storage tankage, adding a car filling station would not add a significant amount to the cost of the project. In fact, maybe it could be combined with the City of Oceanside converting their vehicles to natural gas, so as to provide an instant customer for the retail facility. Or perhaps a commercial vendor could be sited there to run the retail portion of the site, paying a fee to Waste Management for the use of their facility and for the gas they use. Potentially, an outside vendor could be found who would fund the retail portion of the plant, relieving Waste Management of any costs. At the minimum, I propose that the facility be designed to include the capability to add such a retail facility, so it could be added at a later time. Personally, I think the time is ripe now, and I applaud Waste Management for their forward-looking thinking. I expect it will also save them a boatload of money.

Cheers!
Roger Davenport
solarguy@cal.berkeley.edu

Richard Greenbauer

From: Marisa Lundstedt
Sent: Wednesday, January 09, 2013 7:23 PM
To: George Buell; Richard Greenbauer; Barbara L. Hamilton
Subject: FW: Waste Management CNG item: Oppose January 14, 2013 Planning Commission Hearing
Attachments: Floodway_surveymapWM.pdf; FloodwayMapIndustryHoover.PDF

FYI

From: Nadine [mailto:deannie550@sbcglobal.net]
Sent: Wednesday, January 09, 2013 7:20 PM
To: Zack Beck; Marisa Lundstedt; Bob Neal; Claudia Troisi; Dennis Martinek; Louise Balma; Tom Rosales; Jay Schrivner; Robert Ross; City Clerk
Subject: Waste Management CNG item: Oppose January 14, 2013 Planning Commission Hearing

To Whom it May Concern, (City Clerk - please ensure this is in the official record for this project)

Friends of Loma Alta Creek (FOLAC) opposes the Waste Management (WM) CNG project. While this seems like a good 'green' project, once again as in the Robertson's concrete plan project, it is in the *wrong place* for such a project. In addition, the level of environmental review was incorrect as will be detailed below. There are also several existing problems with the current operation and the Planning Commission should act on those as a matter of right to reopen the CUP upon validated complaints. FOLAC has a noise study showing continued violations of the City's Noise Ordinance and the City documents noise complaints since 1995, when Waste Management changed their operation location to its current site with entrance off Industry St.. WM's own noise study shows violations of the noise ordinance as well.

A summary of reasons to turn down this project and Mitigated Negative Dec is stated below and shall be incorporated into the official record.

After doing multiple detailed Public Records Act requests and examining the documentation for the current application, FOLAC raises the following issues.

1. WM proposes a gas station & high pressure gas lines (5000psi) mostly in the floodway & also some construction in floodplain and buffer, plus excavation in floodway to install underground high pressure gas lines-this is not allowed; (survey map attached in WM file, not in Mitigated Negative Declaration [MND] and latest FEMA floodway map attached)
2. Numerous, continuing and existing noise complaints since 1995 have gone unaddressed by the City or WM; violations of noise ordinance before 6:59 am are amply demonstrated in 2 sound studies- one prepared by WM's own consultant shows violations and one prepared for USD by Eihler also shows violations of the City's Noise Ordinance; Existing noise continues to violate the City's Noise Ordinance and no adequate noise mitigations have been proposed to reduce the noise level to accepted, legal noise levels in the industrial, Loma Alta Creek Sub-Area Plan gnatcatcher habitat area or the adjoining residential district Loma Alta neighborhood. The City disingenuously confuses the matter of law (Noise Ordinance and noise prohibitions) with operating hours. As a matter of law, WM cannot violate the Noise Ordinance no matter what operating hours they have been granted-Waste Management's own legal counsel, John Newell, stated this to FOLAC at a face-to-face meeting last year in October;
3. Inadequate or disallowed noise mitigations proposed- As proposed, the city's CNG/Diesel truck replacement plan constitutes an improper deferral of mitigation measures. Formulation of mitigation measures should not be deferred until some future time, as is the case here. Guidelines § 15126.4(a)(1)(B); *Communities for a Better*

Environment v. City of Richmond, 184 Cal. App. 4th 70, 92-96 (Cal. App. 1st Dist. 2010);

4. Noise from two huge new compressors(industry specs say no building to dampen noise can be built) has not been mitigated. These massive compressors will be outdoors, on a concrete slab, in metal shed-type structure with direct sight/noise line into Loma Alta neighborhood.

5. Noise currently exceeds and will continue to exceed 60db allowable for habitat species plan/gnatcatcher corridor *immediately adjacent* to the WM facility and violates the Endangered Species Act Section 9 which forbids any direct or indirect harm for species such as Gnatcatcher which have been document in the Loma Alta Creek Gnatcatcher corridor;

6. The entire CUP must be reopened as a matter of law to address noise issues from the existing fueling, maintenance and storage yard, the noise from the pod yard, excess vehicles, pod storage yard also has more equipment noise/backup beepers/dumpsters explosive noise and lack of living landscape screening as required in the original CUP;

7. There is no mitigation proposed for abandonment of huge, 24,000 gallon diesel tank which is in the floodway/floodplain,,,'will do when no longer needed' (which will be never if they fuel one item);

8. Cumulative, substantial noise issues were not dealt with at all in the MND and must be done: Cumulative noise consists of construction, existing noise, future noise, compressors noise (80db at 15 meters), fan noise, maintenance noise including air hammers/loud and prohibited noises during the nighttime, backup beepers on all vehicles, dropping of pods and metal dumpsters (sounds like explosions),etc.;

9.The City's own Topographic map (number 100 incorporated herein for reference) shows the canyon-like nature of the surrounding Loma Alta Neighborhood; sound travels UP and into the neighborhood at a very high dB during the nighttime hours (10pm to 6:59am); nighttime hours are 45dB in residential areas and WM exceeds that and will continue to exceed that based on cumulative noise of the project (Eihler's noise study);

10. The Planning Commission should revoke the CUP for WM due to violation of conditions including landscape, noise/harm to human health/nuisance and exceeding authorized number of vehicles, pods, dumpsters, etc. allowed in the original CUP/Development Plan.;

11. The Planning Commission should immediately change the operating hours, whether the project goes forward or not, from the current 3am to midnight to the required 7am to 10pm to comply with the City's noise ordinance; the violations of the Noise Ordinance are prohibiting residents in Loma Alta neighborhood from the quiet enjoyment of their homes, devaluing property values, and is causing and contributing to various health issues including sleeplessness, heart palpitations, etc..and the violations (over 60dB) must not occur in the special Gnatcatcher/habitat corridor immediately adjacent to the WM properties;

12. An Operational Management Plan appears to be proposed as some sort of mitigation but is not available for public review. This is an impermissible and must be present for public scrutiny.

For these reasons, FOLAC has determined this project and the MND must be denied. In addition FOLAC has determined the proper environmental review was not done and WM should have prepared an EIR for this project. There is substantial evidence in the record that demonstrates significant adverse environmental effects as outlined above. Inadequate or no mitigations have been proposed for noise. ; Last, the existing CUP must be modified to curtail noisy nighttime operating hours that violate the Oceanside Noise Ordinance, with a revocation considered for violations of the existing CUP/Development Plan and Noise Ordinance.

A more detailed letter is being prepared and will have the Eihlers' sound study attached. (due to restrictions on email size.) FOLAC will also discuss why the current CUP is subject to review or revocation, why this project does not comply with the Sub-Area plan (all projects the last few years are required to comply, the General Plan, Land Use Element, Noise Element and Environmental Resource Element.

Thank you for your attention to these very important issues. Please call if you have any questions about the material below or if you wish any further documentation at this time.

I am appreciative of your consideration.

Nadine L. Scott, co-founder





oil-free natural gas

TWIN IMW50-8000DA-150HP-4500-4AC

QTY 1

SUCTION PRESSURE: 13 - 15 PSIG @40°/80°F INLET/-20/105°F AMBIENT
(REGULATED)
DISCHARGE PRESSURE: 4500 PSIG
FLOW CAPACITY/COMPRESSOR: 245 SCFM/143 HP@ 13 PSIG INLET PRESSURE
264 SCFM/150 HP@ 15 PSIG INLET PRESSURE
POWER REQUIRED: 150 HP, TEFC ELECTRIC MOTOR (CL1 DIV 2)
SPEED: 668 RPM
NO. STAGES: FOUR (4)
COOLING METHOD: AIR COOLED
LUBRICATION METHOD: FORCE-FED CRANK/ROD BEARINGS & CROSSHEAD

COMPRESSOR FEATURES:

TYPICAL

- "W" STYLE RADIAL COMPRESSOR CONFIGURATION
 - BALANCED RECIPROCATING DESIGN FOR LOW VIBRATION AND LOW NOISE
 - 25 YEAR MINIMUM SERVICE LIFE ON COMPRESSOR FRAME WHEN MAINTAINED ACCORDING TO THE MANUFACTURE'S RECOMMENDED MAINTENANCE SCHEDULE
- NON-LUBRICATED CYLINDERS, PISTONS AND VALVES
 - SELF-LUBRICATING TEFLON® COMPOSITE, "PEEK" RINGS ON PISTON RINGS AND ROD PACKING
 - 6000 ~ 8000 HOUR TYPICAL SERVICE LIFE OF VALVES, RINGS, AND PACKING, WHEN MAINTAINED ACCORDING TO THE MANUFACTURE'S RECOMMENDED MAINTENANCE SCHEDULE
 - OIL CONTENT IN DISCHARGE GAS ≤ 5 PPM
- HIGH-EFFICIENCY HEAT EXCHANGER FOR INTER-STAGE AND DISCHARGE GAS COOLING
 - PRESSURE DESIGN CODE, PER ASME SEC VIII, DIV1
 - OUTLET GAS TEMPERATURE ≤ 20 °F ABOVE AMBIENT TEMP.
 - MOUNTED FOR VERTICAL DISCHARGE
- ELECTRIC MOTORS (CLASS 1 DIV2 GROUP D)
 - ELECTRICAL MOTOR PRIME MOVER
 - ELECTRIC MOTOR (DESIGNED FOR 480 V 60 HZ 3 PH)
 - SOFT START SYSTEM TO REDUCE STARTING VOLTAGE
- COMPRESSOR SKID DESIGNED FOR EASY SERVICE/MAINTENANCE ACCESS
- SKID FABRICATION TO MOUNT TWO COMPRESSORS & RELATED EQUIPMENT
- INSTRUMENT PANEL DISPLAY SYSTEM STATUS, TEMPERATURES AND PRESSURES
- ELECTRICAL CONTROL (PLC/MCC) PANEL WITH ALARM STATUS INDICATORS
- INLET FILTER (10.0 MICRON) AND DISCHARGE FILTER (0.3 MICRON) AT 99.95% EFFICIENCY
- CHECK VALVE AND MANUAL ISOLATION VALVE AT INLET & DISCHARGE
- AUTOMATIC UNLOADING OF COMPRESSOR INTO RECOVERY TANK AT END OF CYCLE
- NO COMPRESSOR GAS VENTED TO ATMOSPHERE DURING SHUTDOWN
- BLOCK HEATERS
- RE-CIRCULATION SYSTEM
- INTER-STAGE PULSATION DAMPENER/SCRUBBER VESSELS WITH CONDENSATE DRAINS
- ALL TUBE FITTINGS ARE DOUBLE-FERRULE COMPRESSION TYPE

www.imw.ca

IMW Industries, Inc. 1465 Slater Road, Ferndale, WA, USA 98248 Tel: 360-306-5306 info@imw.ca

Bracket numbering provided for revised comments only.

TO: City of Oceanside Planning Commission
FROM: USD Environmental Law Clinic
RE: WM Refueling Facility: Conditional Use Permit & Development Plan CUP11-00013 and D11-00007

FMND ISSUES

1. Whether the City should revoke the CUP and Development Plan for failure to satisfy conditions.
2. Whether the City of Oceanside (City) proceeded in a manner required by law in not requiring an Environmental Impact Report (EIR) for the Waste Management (WM) Project.
3. Whether the findings in the Final Mitigated Negative Declaration (FMND) are supported by substantial evidence.

SHORT ANSWERS

1. WM is violating multiple conditions of the Development Plan/CUP. Under City Law, the City should revoke WM's permission to operate until conditions are met.
2. The City failed to proceed in a manner required by law because there was substantial evidence in the record to indicate substantial environmental impacts caused by the project. Because a "fair argument" may be made that such impacts will be present after the proposed mitigation measures are implemented, an EIR must be prepared.
3. Several findings in the FMND are not supported by substantial evidence.

STATEMENT OF FACTS

Background:

The application before the Planning Commission requests the addition of a fueling facility (gas station) at WM's maintenance yard. The bulk of the site is in the floodway zone and partially in the floodplain zone AE. Additionally, the site is immediately adjacent to sensitive habitat area of Loma Alta Creek, adjacent to Fire Mountain and Loma Alta neighborhoods, and adjacent to Oceanside Boulevard.

This major WM project will include new gas and electrical service, a new transformer, a new CNG equipment compound, and a new CNG distribution and dispensing system. The equipment compound will consist of the following major components (list is not exhaustive):

Natural gas utility meter assembly; PBS dryer; Twin-compressor assembly self-contained in a weather-proof enclosure (equipped with silencers and insulation to provide attenuation at 80 db at 3 meters); priority panel; 67 cubic foot storage unit for CNG; electrical utility transformer and switch gear; gas distribution piping and time fill dispensers; a new structural concrete

pad upon which all CNG equipment will be located; new underground natural gas line (installed, owned, and operated by SDG&E) from Oceanside Boulevard, under Industry Street, to the CNG equipment compound; new underground electrical power service to the CNG equipment compound.

The CNG compressors (2) will be 9 feet wide, 10 feet high and 25 feet long and placed at the current driveway entry for the maintenance yard. They will be run by 150HP (horsepower) motors, installed on a concrete pad and according to the FMND cannot be housed in a building. Their location is closest to the Loma Alta neighborhood and Industry Avenue.

Fueling will take place relative to the number of trucks and their return to the yard via 'time-fill' terminals by each vehicle. There will be only one rapid-fill terminal. "Compression of the gas and fueling of the fleet begins and continues over 10-12 hours." (Final FMND p. 2-5) Trucks will return to the site as late as 5:30pm allowing fueling to continue overnight until 5:30am Monday through Saturday, thus creating a 24-hour operation with associated noise of the compressors turning on and off, etc.

The FMND states the CNG fuel line will be built from Oceanside Boulevard (p. 2-8) but the Preliminary Site Plan indicates it will be located 270 feet away from Site 1 easterly on Industry Avenue. This necessitates, among other major construction activity, trenching, soil removal, and asphalt/street displacement.

Throughout the project, Friends of Loma Alta Creek (FOLAC) and FOLAC co-founder Nadine Scott, have expressed concerns about the level of environmental review, noise, landscaping, road damage, and construction issues. In an email to the City in March, 2011, FOLAC wrote about concerns with this project and its environmental impacts. Written comments on the Draft FMND were sent by FOLAC to the City on April 30, 2012. Previously, noise and other environmental complaints were made by Nadine Scott regarding WM's operations. A public records act request (PRA) document confirms these complaints since 1995. In a face-to-face meeting August 30, 2012 with city staff and others, David Manley from Code Enforcement confirmed that multiple noise complaints were filed 'over the years'. In May and June 2012, Scott met with WM's manager, Bill Bixler, and subsequently expressed concerns in two face-to-face meetings, one in April 2012 and one in June 2012 at her home. Over the years Scott met with Ken Ryan, another manager for WM, and expressed concerns about the operations as recently as September, 2012. Scott has discussed the noise issues with Lead Counsel for WM John Newell on October 12th, 2012.

The project was originally scheduled before the Planning Commission on October 22, 2012 but was delayed until a hearing date of December 3, 2012. That hearing has been further delayed until January 14, 2013.

Original CUP Background:

In 1994 WM requested a Development Plan and Conditional Use Permit ("CUP") [D-9-95 and C-24-95] "to permit improvements and operation modifications at three existing Waste Management of North County facilities." Notice of the project was given to persons

within a 300 foot radius, excluding the great majority of adjacent residences in the Fire Mountain and Loma Alta neighborhoods.

On October 23, 1995, the Planning Commission of the City conducted a public hearing and approved Resolution No. 95-P51 (Resolution) for all three sites to be operated by Waste Management of North County ("WM") based on a Negative Declaration stating no negative environmental effect would occur. The three WM sites are identified as follows: 2141 Oceanside Boulevard (Site No.1 administration/maintenance, etc.), 2403 B Industry Street (Site No.2 Pod/Dumpster storage), and 2880 Industry Street (Site No.3 recycling center), respectively. Site No. 1 is the subject of the development plan and CUP.

The 1995 CUP and Development Plan substantially changed the use of Site 1 which was originally an administrative office, an indoor bin maintenance building, and truck parking storage yard. It added other items including moving the bin maintenance/washing outdoors, moved collection vehicles to that site and relocated their access point from Oceanside Boulevard to Industry Avenue. (That address is currently still known as 2141 Oceanside Boulevard or Site 1.)

The planner Graff made a finding of no environmental effects or a Negative Declaration (8/25/95) stating, "there is no substantial evidence...which indicates the potential for significant environment impacts." Thus, no environmental studies were ever prepared including soils, noise, traffic, hydrology, wildlife, biological, or other impacts prior to the Planning Commission hearing. The development consisted of new 24,000 gallon underground diesel fuel tanks, a fueling station, a large truck maintenance area including painting area, parking area for an unknown number of vehicles, truck and bin wash areas, and bin maintenance facility. Truck fueling, washing and maintenance were previously done at Site 3 that is farther East on Industry Street where it is surrounded by other industrial business and not close to or within sight line of adjacent homes.

A Storm Water Pollution Protection Plan (SWPPP) was prepared in April, 1996 and did not disclose the underground fuel tanks or the presence of any hydraulic fluid, lubricants or other hazardous chemicals that were being used daily and still are for vehicle repairs. The SWPPP says for each of those items, "Vehicles Will Provide On-Site Service" on the Materials Inventory disclosure page (p.6) indicating that none of the substances would be on site. The SWPPP also states that "The State Permit requires updates to the SWPPP whenever there is a change in construction and/or operations..." (p.18) yet the SWPPP has never been updated to reflect actual conditions as outlined immediately above. The approval required an update to the SWPPP if any changes to the site or operations were made. No documents were provided after numerous PRAs that no new SWPPP was ever prepared even though a City documents indicates this will be updated in May, 2003. (City of Oceanside Clean Water Program Urban runoff business inspection form dated 4-21-03)

Further the site apparently was graded and the floodway was filled at the South end of the site adjacent to the creek "increasing the elevation of the building to allow the addition of truck maintenance". (Description & Justification p.1) No wildlife agency, FEMA, Army Corps or water board permits were applied for or approved to allow fill on this site. It is also unknown if WM has complied with regulations for their underground fuel tanks or the SWPP. Again, no records were made available after multiple PRA requests to the City.

E-10
E-11

During the 1995 Planning Commission hearing Commissioner Frazier asked about flooding and the facility "being right near a creek...one of the most vulnerable creeks in the City" and was told there was "an issue at the rear of the facility if the flood waters got up that high". Planner Blessing said, "I do not see a direct condition on this project." Associate Civil Engineer Lowell later stated "If water flows through a building in this type of use, that containment must be provided." City staff (Eslambochi meeting with Scott & others, November 5, 2012) indicates there is no stormwater detention basin on site and no new FEMA maps have been approved changing the flood lines for this site. No containment appears evident on the current Preliminary Site Plan or the bha, Inc. Survey Map dated 4/15/2011. The Survey Map and city staff indicate all flows go off the site directly into the Loma Alta Creek.

Commissioner Bockman asked about operating hours, "Are those hours pretty much the ones that you have in operation now?" and Ken Thompson answered, "Yes." The operating hours at Site 1 were Monday through Friday, 4:30 am to 6:00 pm, Saturday/Sunday from 5 am to 1:00 pm. The development plan made substantial revisions to the hours, changing them to Monday through Friday 3:30 am to 12:00 am (midnight) and Saturday/Sunday from 5:00 am to 4:00 pm.

The CUP and the Development plan were approved even though the development substantially takes place in the floodway and floodplain. The floodway was filled, substantial new noise was created, substantial changes in operating hours were implemented, new underground diesel fuel tanks were installed, and WM began storing hazardous materials on site. It is impossible to know exactly how WM was permitted to operate this facility at any location prior to 1995. According to the City, in response to a public records request dated November 13, 2012, there is no documentation for WM's operations at any site prior to 1995.

Current Events:

Since the project was approved in 1995 there have been many changes to the legal and regulatory landscape in Oceanside when new projects and CUPs are applied for: new storm water regulations have been adopted by the Regional Water Quality Control Board (updated 2011) and Oceanside (2002) including secondary containment, retrofits to contain runoff from receiving waters, vehicle washing, and fueling requirements (no new SWPPP was prepared for the Final FMND); there are new compliance programs for underground fuel tanks and on-site materials; there are new laws and regulations regarding waste disposal and recycling; the City's development of the final Sub Area Multiple Habitat Conservation Plan (MHCP) that maps sensitive animal and plant species has designated wildlife corridors immediately adjacent to Sites 1 and 2; numerous flooding events have occurred on Industry Avenue and environmental buffers are now required; multiple noise and other environmental compliance complaints have been filed regarding WM's operation at Sites 1 and 2.

The facility is currently a diesel-refueling site for approximately 58 fleet refuse trucks and other additional unspecified vehicles Monday-Saturday per the FNMD.

On June 30, 2011 WM applied for a new Development Plan and modification of the CUP (Project) as follows:

Revision to existing Development Plan (D-9-95) and Conditional Use Permit (C-24-95) for installation of compressed natural gas (CNG) fueling facility to the Waste Management of North County Administration and Fleet Maintenance Facility to allow conversion of existing fleet from diesel to CNG.

The City determined that a Mitigated Negative Declaration was the appropriate environmental review for this project (no dated copy could be located) and no wildlife agencies, San Diego County Department of Environmental Health, Army Corps or the regional water quality control board were directly consulted. A draft FMND was prepared sometime prior to March 28, 2012 and a Final FMND was prepared on October 29th 2012. Subsequent to comments received, a "focused noise assessment", greenhouse gas emissions calculations, air quality emissions calculations, and a memo called "Relationship to Revised Final Oceanside Subarea Plan" were added to the FMND.

No amended SWPPP was prepared for this project prior to release of the Final FMND or prior to December, 2012.

Under the proposed modification, the number of fleet vehicles specified in the FMND at 58 will remain the same. But earlier documentation prepared for the 1995 hearing, "Operation and truck traffic analysis", indicates the site was approved much fewer. This is an expansion of the original CUP authorized amount.

E-20

DISCUSSION

I. **Pursuant to Oceanside Zoning Ordinance §4108(E) Revocation: Violations of Existing Development Permit & CUP, Waste Management's CUP should be revoked.**

Oceanside Zoning Ordinance §4108(E) *Revocation* states: "A use permit or variance exercised in violation of a condition of approval or a provision of this ordinance may be revoked, as provided in Section 4706 [hearing requirements]". The project is required to meet all zoning and other ordinances and policies in effect at the time of building. (Condition 56). WM has violated numerous conditions of approval of the CUP granted in 1995 including number of vehicles allowed, landscape requirements, noise ordinance violations, filling a floodway, etc.

Floodway/Floodzone:

The WM facility in question is in violation of Engineering Conditions of Approval sections 24 and 26 of the Resolution. The facility is located in part in an established AE floodway, deemed a Special Flood Hazard area by FEMA, in violation of FEMA and Oceanside Article IX Floodplain Management Regulations because WM failed to obtain necessary permits allowing encroachment, fill and development on the floodway.

Condition of Approval 24 under Engineering requires that, "All site grading, drainage and improvements must meet... the City's Flood Control and Grading Ordinances." Condition of Approval 26 requires that "Development shall be in accordance with the City Floodplain Management Regulations. Section §6.42.3 of the Oceanside Code *Compliance* mandates that, "No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations." (6.22.3). Per §6.42.2 Oceanside Code of Ordinances, areas of special flood hazard are identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency in the Federal Insurance Study (FIS) of 1987. All provisions of FEMA are adopted by reference. (6.42.2).

Special Flood Hazard Areas (SFHA) in Zone AE, as identified by FEMA, must be, "... kept free of encroachments so that the 1% annual chance flood can be carried without substantial increases in flood heights." (FEMA legend). "Encroachment" is defined in §6.41 *Definitions* as, "the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain." Section §6.43.1 *Establishment of development* permit requires that, "A development permit be obtained before any construction or other development begins within any area of special flood hazard established in section 6.42.2." (6.43.1). Oceanside Code clearly requires a Development Permit for any construction in a flood zone to ensure that the all construction complies with FEMA. According to the FMND filed in conjunction with the CUP and Development Plan, the project will not result in alterations to the course or flow of floodwaters (Section 3.c. Water Negative Declaration 1995) even though the CNG line will be placed on top of a new concrete barrier in the floodway that will alter the flow of stormwater and flooding.

Floodway/Sensitive Receptors:

The WM Facility in question is in violation of Condition of Approval 32: "The applicant shall obtain the appropriate permits and clearances from the U.S. Army Corps of Engineers and/or U.S. Fish and Wildlife Service and/or California Department of Fish and Game and all appropriate NPDES clearances and permits prior to the issuance of grading permits." Multiple Public Records Requests have not yielded any evidence that WM consulted with any of the necessary agencies, a violation of the Conditional Use Permit.

Noise:

The WM Facility in question is in violation of Condition of Approval 57: "This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified by the Code Enforcement Office concerning the violations of any of the approved conditions or assumptions made by the application." Noise complaints alleging violation of the City of Oceanside Noise Code have been filed on a regular basis since 2001 with some as early as 1995, but have gone unaddressed. Residents in the neighborhood just north of the WM facility have requested inspection by the Code Enforcement Office to no avail. The Final FMND dated July 2012 frankly demonstrates and admits that the facility is in violation of the City Municipal Noise Ordinance.

Landscaping:

The WM Facility in question is in violation of Condition of Approval 62: "All landscaping, fences, walls, etc. on the site, in the medians in the public right of way and in any adjoining public parkways shall be permanently maintained by the owner... The maintenance program shall include normal care and irrigation of landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of landscaped and open areas." The sites were also to be landscaped with "fast-growing screen trees with foliage to the ground and vines on the fence." (Staff report, page 3). At the date of preparation of this memo, there is substantial die-off of the landscaping, no vines present, and few trees are alive and offering visual screening. Those that do exist are in need of trimming to comply with the development plan.

Page 2-5 of the Final Negative Mitigated Declaration dated June 2012 (FMND) acknowledges that, "...the existing oleander bushes outside the fence line and along the eastern site boundary are in poor condition," (FNMD 2-5). While the new project proposes to replace these bushes, WM admits that they have failed to maintain the landscaping, a condition of approval.

Modifications to Operations:

The WM Facility in question is in violation of Condition of Approval 63: "Any substantial modification in the design or layout shall require revision to the Development Plan and Conditional Use Permit or a new Development Plan and Conditional Use Permit."

Over the years WM continued to add vehicles to this site adding environmental impacts. A document titled "Operation and Truck traffic analysis" prepared for the 1995 hearing and received though a PRA indicates that approximately 25 refuse pod trucks would be onsite; today there 58 as outlined in the FMND plus additional undisclosed types of vehicles. No reapplication for the increased number of vehicles was made by WM.

- A. Pursuant to Oceanside Zoning Ordinance §4105: Required Findings, Waste Management's failure to comply with the CUP also constitutes a public nuisance, which further justifies revoking the CUP.**

Oceanside Zoning ordinance §4105 *Required Findings* mandates that the proposed location of the conditional use and its conditions will not, "be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use." In this case, documented noise complaints date back to 1995. Further the FMND and the November, 2012 noise study for USD, along with the numerous noise complaints received by the City all indicate constant, continuous violations of the nighttime noise levels allowable in the City of Oceanside. It does not matter as a matter of law that WM has been granted longer than usual operating hours. They must comply with the City's ordinances and rules.

II. The City Failed to Proceed in a Manner Required by Law in Allowing the FMND

- A. There is Substantial Evidence in the Record From Which it Can be Fairly Argued that the Project May Have Significant Environmental Impacts**

Under California Public Resources Code § 21151, the California Environmental Quality Act ("CEQA") requires the preparation of an environmental impact report ("EIR") whenever "it can be *fairly argued* on the basis of substantial evidence that a project may have a significant environmental impact." *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1316 (Cal. Ct. App. 1992) (citing *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 75 (Cal. 1974)) (Emphasis added). A "significant" effect on the environment means "a substantial, or potentially substantial, adverse change in the environment." *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.*, 6 Cal. 4th 1112, 1123-1126 (Cal. 1993).

If there is substantial evidence of a significant environment impact, contrary evidence is not adequate to support a decision to dispense with an EIR. *Sierra Club*, 6 Cal.App.4th at 1316. For example, a disagreement among experts over the significance of an effect means the agency must treat the effect as significant and prepare an EIR. *Id.* at 1317 (citing *Friends of "B" Street v. City of Hayward*, 106 Cal.App.3d 988, 1000-1001 (Cal. Ct. App. 1980)). The low threshold requirement for initial preparation of an EIR "reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted." *Id.* at 1316-17.

In the case at bar, there is substantial evidence in the record that the WM project would have significant environmental impacts. At the very least, a "fair argument" can be made that such impacts would take place, and therefore an EIR must be prepared. See *Sierra Club*, 6 Cal.App.4th at 1316.

Biological Resources:

There is substantial evidence in the record that the project may have significant environmental impacts on biological resources. According to the FMND, non-native oleander bushes exist along the eastern property line. The project will involve removal of the non-native oleander bushes along the eastern property line.

Natural vegetation associated with Loma Alta Creek is also located south of the property line. This vegetation consists of a mixture of freshwater marsh and southern willow scrub and may support special-status birds, including the federally listed endangered least Bell's vireo (*Vireo bellii pusillus*). Loma Alta Creek and adjacent hillsides south of the creek are also known to support the federally listed threatened coastal California gnatcatcher (*Polioptila californica californica*).

The proposed project may have significant impacts on special status birds protected by the Endangered Species Act and the federal Migratory Bird Treaty Act. The bell's Vireo and the coastal California gnatcatcher are known to live in the Loma Alta Creek adjacent to the project site. Both are federally protected species. This evidence demonstrates a "fair argument" of significant environmental impacts on biological resources that require an EIR to be prepared.

Hazards and Hazardous Materials:

There is substantial evidence in the record that the project may have significant environmental impacts resulting from hazards and hazardous materials. According to the Negative Declaration filed August 22, 1995, the proposal will not result in:

A risk of explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions. (ND 5 II.10).

This Project is a change in the use of the site from diesel to CNG and associated operations. Per the San Diego County Department of Environmental Health (DEH), the property owner must contact the Department of Environmental Health's SAM Division for an evaluation of the site. No documents have been produced indicating an evaluation by DEH. There is nothing in the FMND providing for the presence of various personnel, firefighting equipment, etc. in order to comply with safety procedures, potential spills or accidents.

The Final Mitigated Negative Declaration states that there will be a less than significant impact or no impact in regards to hazards and hazardous materials. (4-22). Compressed natural gas facilities generate two types of waste product: water-based effluent from a gas dryer that is entrained with mercaptan, and compressor-lube oil that may also be entrained with mercaptan.

The water-based dyer effluent is generated from condensation that results from the periodic regeneration of the dryer. The substance occurs when water that is evaporated off the saturated desiccant material in the dryer's main vessel is circulated to the condenser/cooler where the water falls out and is collected in a closed condensed pot. The water has been exposed to natural gas and is entrained with mercaptan; it is the presence of mercaptan that renders the water waste hazardous. Mercaptan is the sulfur/hydrocarbon that gives natural gas its odor, and its concentration varies from a conservative estimate of 50-150 parts per million.

The oil-based effluent is mostly derived as waste recovered during scheduled lube-oil changes of the CNG trucks. The effluent may also be drained from the blowdown-recovery vessels on each compressor skid, and from CNG-storage vessels that are part of the fast-fill system.

Prior to operation, WM will be required to prepare an update to the on-site Environmental Business Plan, which will entail a description of the two effluents generated at the facility and the storage and disposal procedures proposed to ensure health and safety of on-site workers and the on-site and adjacent natural environment. The updated Environmental Business Plan will be filed with the County Department of Environmental Health. The FMND claims that due to these procedures, the presence of mercaptan-based oil and water effluent will result in a less-than-significant impact on the environment.

The CNG tanks on the new trucks will be equipped with pressure relief devices to allow blow-off and prevent an explosion. There is a fire hazard if CNG is released, but it will diffuse into the air and would not ignite unless an ignition source is present. Usually, any fire would be localized, whereas diesel fuel has a potential to flow from a ruptured fuel tank

and impact water quality and public health. The FMND claims that the transport of CNG within the fleet vehicles will reduce potential fire risks associated with vehicle collisions.

The water-based dryer effluent, a hazardous material, falls out of the trucks as a function of the vehicles' cooling system. There is evidence that this material could cause a hazard to soils if it is not properly contained, a significant environmental impact. Similarly, mismanagement of the oil-based effluent could cause a significant environmental impact.

The FMND claims that there is a fire hazard if the CNG is released, but that this risk is not significant because the CNG will dissipate into the air unless a source of ignition is present. The conclusion that there exists no ignition source is not supported by evidence. There will be continued welding and spray paint activities that could precipitate an explosion. No mitigations to avoid this have been offered in the FMND. Further, the FMND states that usually a CNG fire would be localized whereas a diesel fire would be more dangerous. This is irrelevant since both fire sources, diesel and CNG, will be present on site if the project is approved. The FMND concludes that because the risk is less with CNG trucks than with diesel trucks, the impact is less than significant. However both types of trucks may be used on site for at least 10-12 years, thereby significantly increasing potential environmental impacts.

The FMND states that the onsite diesel fuel storage tanks are not located in areas proposed for establishment of CNG facilities, and that no known hazards or previously hazardous conditions that may affect soil quality exist on site. Neither of these conclusions is supported by substantial evidence in the record. First, according to the Preliminary Site Plan for Compressed Natural Gas Time Fill Facility (dated 07-01-11), the location of the existing underground diesel fuel tanks are located within 20 feet of a portion of the proposed CNG fuel lines. Further, the location of the diesel fuel tanks is listed as "approximate" indicating that they could pose a greater risk of release of hazardous materials both during the fracking and during normal operations. These underground fuel tanks pose the risk of affecting soil quality, a potentially significant environmental impact.

The FMND also acknowledges that there is a risk of accidental release of hazardous materials, such as hydraulic fluid or diesel fuel, but that because the volume of materials would be small and of low concentration, the risk is not significant. This conclusion is not supported by evidence in the record. Even small amounts of diesel fuel and hydraulic fluid, along with other substances, could have a significant effect on soil quality and the sensitive species residing in the adjacent Loma Alta Creek. The assertion that the contractor will use standard construction controls and safety procedures does not render the risk to soil quality and wildlife insignificant.

The FMND asserts that there is a Less than Significant Impact for the project in exposing people or structures to increased danger of wildland fire. The claimed existence of water systems and wetlands near the southern boundary of the project is not a fact support by the record. While Loma Alta Creek does have water running through it at some times during the year, this is not true year round. The area is currently experiencing drought, and wildland fire is a serious danger, especially given the abundance of residences located at the top of the hill to the south of the proposed project. Further, because the facility is working with gas, diesel and other hazardous materials that may be released, wildfire risk

E-31
Cont.

are increased. Considering the presence of hazardous materials on the project site (highly flammable materials including diesel fuel and hydraulic fluids) both from the proposed project and possibly from past projects, there is a "fair argument" of significant environmental impacts. These potential impacts require an EIR to be prepared.

E-31
Cont.

Hydrology and Water Quality:

There is evidence in the record from which it can fairly be argued that there may be significant environmental impacts to hydrology and water quality. The project requires a fueling station and large dual compressors be built in the floodway/floodplain and vehicles will be fueled in the floodway/floodplain from CNG lines placed on top of concrete barriers, which are prohibited encroachments. "Encroachment" is defined in FIS §6.41 *Definitions* as "the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain."

Further, the project construction requires directional drilling, which would temporarily expose spoil soil, which could result in runoff contamination (4-30). Additionally, hazardous substances will be used during construction and if released, could cause an accidental toxic chemical exposure to the neighboring environment.

Also, there is evidence from the FMND from which it can fairly be argued that construction will alter the existing drainage pattern of the site or area (4-31). Although no changes are proposed to the existing water, wastewater, or storm drain systems, a project of this scale, with infrastructure construction, a new natural gas line 30 inches below ground, gas lines above ground, concrete barriers and changes in landscaping and irrigation will likely have an impact on the entire drainage system, especially with Loma Alta Creek nearby. Additionally, there is evidence in the FMND from which it can fairly be argued that the project may impede or redirect flood flows. The project will result in new structures within a 100-year floodway (4-32). The FMND proposes no mitigation measures to control changes to the current drainage system or potential impacts to flood flows, and therefore the proposed mitigation measures are inadequate. No hydrology study was prepared for the FMND.

There is evidence in the FMND from which it can fairly be argued that the project will exacerbate already existing sensitive conditions. The Loma Alta Creek is an environmentally sensitive freshwater creek and wetland area. Drainage is currently treated on site through a coalescing oil/water separator before discharge into the Creek, and no change would be made to the system (4-33FMND). The proposed mitigation measures implementing best management practices for erosion control and hazardous material storage during the construction phase is not clear from the record that these measures will reduce the impacts to a level of insignificance.

Further, this area has demonstrably high groundwater occurrence since it is in the floodway and floodplain. Public information that indicates flooding in this area, as well as the hydrology test drilling for the proposed Robertson's project also demonstrate a high potential for groundwater and flooding in the Industry Street Area as well as a high risk for liquefaction. The FMND does not address this environmental impact at all nor does it offer

any mitigations if groundwater or liquefaction are found during construction. It does not offer any mitigations should flooding occur on the site such as removing vehicles that leak hydraulic fluid, diesel fuel, or other such hazardous substances that will flow into Loma Alta Creek. Indeed it is unclear where the actual construction of the CNG line will take place. Because this evidence presents a “fair argument” of significant impact, an EIR must be prepared.

Noise:

There is substantial evidence in the record that the project may have significant environmental impacts on noise. A Focused Environmental Noise Assessment (FENA) was conducted for the proposed project and determined the site was in violation of the City of Oceanside Municipal Code, Noise Control, between the hours of 5:30 a.m. – 7:00 a.m. along the southern property line. (FMND Noise Assessment 4.)

At the request of USD Environmental Law Clinic an independent noise study was undertaken. The Eilar noise study (Eilar) indicates multiple violations of the Oceanside Noise Ordinance. The Eilar study measured noise ordinance violations in the early morning or so-called ‘nighttime hours’ over a period of three days. This study shows exceedences of the industrial limit for adjacent residential areas and the sensitive habitat creek areas.

Additionally many of the standard operating procedures currently in effect will change once the facility is converted to CNG and only exacerbate the existing noise ordinance violations. A major change is the trucks, which currently have the fill source in the back of the trucks mandates they back into the fueling stalls upon returning to the facility at night. With the CNG trucks, the fill source is in the front of the trucks meaning that they will pull into the fueling stalls at night and back up in the early morning hours. This requires a change to the layout of the facility, as confirmed by the FMND and creates more noise. Further the addition of two huge compressors will create additional noise (they cannot be housed in a building) along with other operational changes that will make this a 24-hour gas station. This will create additional and continuing violations of the Oceanside Municipal Noise Ordinance, violates the Land Use Element Noise Policy and Oceanside’s zoning ordinance. Such operations must occur primarily indoors or else ‘all environmental impacts ...be mitigated in accordance with the California Environmental Quality Act” (p30-35) and must not exceed the ordinance early in the morning or at any time with prohibited equipment such as air hammers or other highly objectionable noises. It is well documented that such violations are constantly occurring as evidence by complaints from Scott and others.

This evidence of noise within the proximity of residential areas presents a “fair argument” of significant environmental impacts which must be addressed in an EIR.

Transportation:

There is substantial evidence in the record that the project may have significant environmental impacts due to traffic caused by construction and operation of the project. During construction, traffic will be affected from construction vehicles and crewmembers accessing the site, and due to a closure of parts of Oceanside Boulevard (or Industry Street

- the record is not clear on this) while drilling the natural gas line (4-45). The partial closure of a main street in Oceanside, while access of vehicles to the site is increased, demonstrates that there will be in impact on traffic congestion and access of emergency vehicles. This evidence presents a "fair argument" that increased traffic in the relatively small city of Oceanside will cause a significant environmental impact that requires an EIR to be prepared.

Conclusion:

Based on the substantial evidence cited above, there is at least a "fair argument" that the project may cause significant environmental impacts. Therefore, CEQA requires an EIR, not an MND, to be prepared. Because the City only required preparation of a FMND when there was a fair argument of significant environmental impacts, it failed to proceed in a manner required by law.

B. There is Substantial Evidence in the Record that the Proposed Mitigation Measures Are Inadequate and the Project Would Still Have Significant Environmental Impacts.

There are two situations in which an EIR need not be prepared. If there is no substantial evidence that the project may have a significant environmental impact, CEQA allows a negative declaration to be prepared. *San Bernardino Valley Audubon Society v. Metro Water Dist.*, 71 Cal. App. 4th 383, 389-90 (Cal. Ct. App. 1999). If the initial study does identify potentially significant environmental effects but revisions in the project plans would avoid the effects or mitigate the effect to a point where (1) "clearly no significant effect on the environment would occur" and (2) there is "no substantial evidence that the revised project may have a significant effect on the environment," a mitigated negative declaration ("MND") may be prepared. *Id.* at 390 (citing Pub. Res. Code § 21064.5). Therefore, upon the issuance of an FMND, the project opponent must demonstrate by substantial evidence that (1) the proposed mitigation measures are inadequate, and (2) the project as revised and/or mitigated may have a significant adverse effect on the environment. *Id.*

Many of the mitigation measures identified by WM and the City are inadequate to remedy the significant environmental impacts posed by the project. Accordingly, the project as revised would still have significant environmental impacts. Therefore, an EIR should have been prepared to address all potential mitigation measures.

Biological Resources

The FMND says that direct impacts to special-status species will not occur as a result of installation of the CNG fueling facility or the modifications to the maintenance building but concedes that removal of the non-native oleander bushes may result in impacts to nesting birds that are protected by the federal Migratory Bird Treaty Act. The FMND claims that in order to avoid this potential impact, mitigation will be provided. FOLAC suggested a species specific plant replacement, *Artemisia californica*. The City and WM have refused to mitigate with this Gnatcatcher species appropriate plant.

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E-37

The FMND asserts that direct impacts to sensitive vegetation and any species that may be using this habitat for breeding, fledging, or foraging will not occur. WM alleges less noise will be associated with the proposed project compared to the existing condition (see Section 14.12, Noise), thereby reducing noise levels that any potential sensitive species is currently being subjected to in off-site areas. Therefore, significant indirect impacts to special-status species located off site, south of the project, will not occur. However, the cumulative noise impacts will occur and further impact these species. There is evidence in the record to suggest that there may be a significant impact on the biological resources adjacent to the WM site.

The FMND also asserts that there will be less noise associated with the project so the species will not be affected by noise. There is evidence in the record to suggest that this is not true. Under the current design of the site, trucks back into their stalls in the evening to cut down on the use of back up beepers in the morning hours. When the site is converted to CNG, the trucks pull forward into their stalls upon returning to the site in the evening, and will back up out of the stalls, activating the back-up beepers that sound at 85 dB, between the hours of 5-7 AM. This and the addition of huge compressors and other fans may have a significant impact on both federally protected species and it is not addressed in the FMND.

Hydrology and Water Quality:

The FMND outlined two mitigation measures to reduce the impacts to a level of insignificance although no mitigations are present regarding the floodway/floodplain encroachments. WM states that they will obtain approval of a site-specific Erosion Control Plan from the City Engineering Department in the future, which will include a list of "best practices" for the contractor to use. There are no facts to elaborate on what these practices entail, the feasibility of these practices to this project specifically, whether the contractor is capable of implementing these practices, or the likelihood of the City approving such a plan. This is not sufficient evidence that practices are adequate and will be used, and therefore this mitigation measure is not enough to reduce impacts to a level of insignificance. Second, during the construction period, WM will apply standard best management practices such as proper storage, use, and disposal of construction materials, and will provide protection of all storm drain inlets downstream of the construction site. Again, this mitigation measure is vague, as there is no mention of what the proper methods should be and whether it is in fact feasible by the designated contractors.

Noise

FMND proposed noise mitigation measures would not reduce the project noise to a level of insignificance. Maintenance efforts create loud noises during nighttime hours (11:01pm to 6:59 am). The evidence shows that WM does not perform all their maintenance operations indoors as required, they use prohibited noise producing tools during nighttime hours, they are in violation of the Noise Ordinance between 6 and 7am (FMND noise studies and Eilar noise study), plus they are adding two huge compressors that will generate additional noise 24 hours a day. Further, their proposed mitigation measures to replace diesel trucks with CNG trucks which could take as long as 12 years is not a reasonable mitigation measure nor will it put them in compliance with the noise

E-37
Cont.

ordinance levels required for sensitive species to the south, the industrial noise limits, or the residential noise limits. Further, the WM project and proposed project is in violation of the Noise Ordinance, the Land Use Element and the Zoning Ordinance..

There is no evidence in the record that the mitigation measures proposed by the FMND to reduce noise levels from the project site during and post-construction would reduce the impact to a level of insignificance. The mitigation measures proposed to reduce loud noises during construction are that "Waste Management makes best efforts to move any loud operations inside the shop after late night hours, and tries to avoid the use of loud equipment to the extent possible" (4-41). This mitigation measure is not specific enough in its methods, and does not commit the employees to any methods to reduce their noise pollution while working. The most certain term used is that any efforts will be made after late night hours, which excludes any mitigation measures employed during the majority of each day. Accordingly, there is evidence in the FMND from which it can be argued that the environmental impacts have not been mitigated to a level of insignificance. All the additional noise sources as described above add cumulative environmental impacts that have not been addressed in the FMND at all.

Transportation

There is no evidence in the record that the mitigation measure proposed, the implementation of a "traffic control plan" will be sufficient to reduce the level of traffic. The plan has not been outlined with any detail in the FMND, and it is therefore uncertain whether the mitigation will be effective. There is reference to the plan as outlined in Table 2-1, but Table 2-1 is a summary of the project and outlines no traffic plan. Table 2-2, on the other hand, states that the plan shall outline procedures for notifying the Police and Fire Departments of the road closures, so that they may notify "other public service providers" (2-9). There is no mention of any action for emergency services to follow other than notification, and provides no help for the level of traffic congestion projected. Furthermore, the plan is stated as mitigating the problem of emergency access to the site, and not of relieving traffic congestion on Oceanside Boulevard, which is of a much different scale. Accordingly, the mitigation measures that the FMND relies on are not sufficient to show that the impacts have been mitigated to a level of insignificance

Conclusion:

Because the mitigation measures proposed by WM do not address all potentially significant environmental impacts, an EIR must be prepared to address all potential impacts and all possible mitigation measures. Only then can the City of Oceanside determine whether there is still a "fair argument" that those environmental impacts exist.

III. The Findings in the FMND are Not Supported by Substantial Evidence

Pursuant to CEQA's code § 15070, the conclusions set forth in an FMND must be supported by "substantial evidence, in light of the whole record before the agency..." WM has failed to base their conclusions on substantial evidence concerning the levels of impact to the stated areas above. For this reason, the FMND is invalid and must not be approved.

Supplemental Response to Revised Comment Letter E

USD Environmental Law Clinic

Undated; received January 11, 2013; Revised; received January 28, 2013

On January 28, 2013, at the Planning Commission hearing for the proposed CNG project, FOLAC and Nadine Scott submitted to the City a revised version of the undated comment letter from the University of San Diego Environmental Law Clinic (USD), that was previously received by the City on January 11, 2013. Both the original USD comment letter and the revised version were submitted substantially after the close of the public comment period on April 28, 2012.

The revised version of the USD comment letter was purportedly submitted to provide minor clarification or to correct typographical errors. In addition, it is unclear whether the revised comment letter represents the work product of USD or FOLAC/Nadine Scott. The City has compared the original version of the USD comment letter with the revised version, and contrary to the representation made by FOLAC and Nadine Scott, has noted that some additional substantive argument was added to some of the comments.

In accordance with CEQA Guidelines Section 15074, subdivision (b), the following identifies those comments where substantive changes were made, using the prior bracketing, and provides a response.

E-10 The revised comment letter now includes a claim that the SWPPP was supposed to have been updated in 2003, based on a City inspection form.

The commenter continues to be confused by the difference between a construction SWPPP and an industrial SWPPP. As noted in the initial Response to Comment E-10, the State Water Resources Control Board (State Board) and Regional Water Quality Control Board (Regional Board) administer the NPDES stormwater management program in San Diego County. Waste Management is required to prepare, implement and update an industrial SWPPP related to operations, with the latest update April 2012. However, that industrial SWPPP goes beyond the City's requirements in the 1995 CUP related to stormwater impacts from construction.

The comment provides no evidence to support the claim that an updated industrial SWPPP was not prepared in 2003. To the contrary, the industrial SWPPP has been continually updated through the years, and most recently in April 2012.

E-11 The revised comment letter concedes that the commenter has no information demonstrating that any grading of the CNG project site occurred in accordance with the 1995 CUP. It now uses the more equivocal phrase "*apparently* was graded."

This claim was fully addressed in the initial Response to Comment E-11. There was no grading or floodway filling at the south end of the site adjacent to the creek as alleged (however equivocally) in the revised comment. Accordingly, no wildlife agency, FEMA, Army Corps or Regional Board permits were needed, as fill activities did not occur. No grading permit was required or issued by the City.

E-20 The revised comment adds a legal conclusion that the current utilization of the CNG project site by 58 refuse collection vehicles was “an expansion of the original CUP authorized amount.”

The City disagrees with this legal conclusion. This issue was fully addressed in the initial Response to Comment E-20. The 1995 staff report (pp. 2-3) indicated that at the time, 52 vehicles were in operation, and the development plan provided for 57 waste collection vehicle parking spaces. The 57 parking spaces shown in the 1995 development plan corresponds almost exactly with the 58 waste collection vehicles currently in operation. Moreover, there is no provision in the 1995 Resolution of Approval placing any restrictions on the number of collection vehicles in use.

E-31 The revised comment letter adds text in the fifth sentence of the last paragraph of the comment, related to potential wildfire impacts, to complete a previously incomplete sentence. The identification of certain materials at the CNG project site, which was disclosed in the FMND and discussed in other portions of Response to Comment E-31, does not change the substance of the comment or the City’s response.

The City disagrees that the CNG project presents a substantial wildfire impact. This issue was fully addressed in the Response to Comment E-31. The revised comment still fails to acknowledge substantial evidence in the record that most of the area around Site No. 1 is industrial, and that water systems are available for fire protection purposes. FMND, p. 4-28.

E-37 The revised comment asserts that *Artemisia californica* is a “Gnatcatcher” species appropriate plant. This claim is nothing more than a lay person’s “speculation, unsubstantiated opinion or narrative” as to a technical issue and does not constitute substantial evidence.

The City disagrees with this comment because the purpose of landscaping is to provide visual screening and improvement in aesthetics. There is no City requirement for landscaping to provide habitat where, as here, the project does not result in a significant habitat loss impact.

E-42 The revised comment letter adds the commenter’s opinion that the CNG project must not be approved. No new argument is presented, and this revision to the comment simply provides the commenters opinion, which does not constitute substantial evidence of a significant impact.



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January 28, 2013

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RE: Waste Management 24-hour Fuel Facility, CUP11-00013 & D11-00007

We request a continuance based on new materials that were submitted by the City and Waste Management near the close of business on Thursday, January 24, 2013 in the "Staff Report". Our legal representatives have not had adequate time to review these lengthy materials or respond to any new substantial evidence or legal theories raised in said document labeled "Staff Report" for 1/28/2013.

This comment is timely as comments may be accepted up to and including at any public hearing. You may note the Resolution (2013-P01) for the January 28, 2013 staff report incorrectly states a hearing was held on the 14th of January, 2013 (page 2). In fact that hearing was continued to January 28, 2013.

For multiple reasons including but not limited to objectionable noise, impacts to the Gnatcatcher corridor and the floodway, we are opposed to this project and ask that you deny it and do not approve the Final Mitigated Negative Declaration (FMND). We also ask, in the alternative, that you require an Environmental Impact Statement due to the likelihood of substantial environmental impacts that have not been mitigated to a less than significant impact.

This project also does not comply with the General Plan, the sub-area plan, and the Oceanside Boulevard Vision Plan. WM, per the Noise Use Element, should be encouraged to find an alternative site for their fuel, maintenance and truck yard. (Noise Use Element- Implementation Program5) There is a property for lease on Industry at the old Argo Stone operation that could be an ideal location for this noisy operation. The South side is shielded from the residential area and Loma Alta Creek area by another building and the North side is shielded from residential areas by numerous building and structures.

We are also submitting additional documentation for the record relative to this project, WM's operations and documentation referred to in this letter, including a copy of the USD memorandum with typographical errors corrected. The USD memo was submitted by the Environmental Law Clinic on behalf of FOLAC and Nadine Scott dated January 11, 2012.

Last we asked the City to reopen the existing Conditional Use Permit and Development Plan, as allowed under the 1995 resolution for the WM operations due to violations of the conditions for operation including excessive noise, landscape die-off and operating in the floodway without permission of the necessary agencies.

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The record on this project is quite clear: Waste Management (WM) is operating during the nighttime hours (10pm-6:59am) and is violating the noise ordinance. (FMND including noise study materials, Description & Justification, the City's own observations, Nadine Scott and Mackey's observations/emails, Waste Management's admissions, Eilar Noise Study, etc.). The new CNG vehicles will *not* substantially reduce loud, objectionable cumulative noise from the operations to a legally acceptable level. At best noise will be reduced on average 5dB by the trucks but will still exceed 70dB, and the cumulative noise from 58 trucks, backup beepers, metal crashing/banging noises, pneumatic hammers, huge compressors and so forth will actually increase the noise coming from the operation.

Further, the record is clear this project application does not request a 'minor' change to the existing operation; it creates a 24-hour fueling operation. Current operating hours are between 3am and midnight, although by law *this does not allow WM to violate any ordinances* including the noise ordinance. Refuse vehicles return to the site at 5:00 or 5:30 pm and some perhaps even later. Numerous citations in the FMND acknowledge slow-fill fueling takes between 8-10 hours. That means, without a doubt, that fueling will take place throughout the nighttime hours, making this a 24-hour operation- beginning at 5:30 for 10 hours would push fueling into 3:30am or later. 58 very loud trucks and assorted accessory vehicles operate and leave at 5am. There would only be at most a few hours of a 24-hour period when objectionable noise that violates the noise ordinance and disturbs the adjacent residential neighborhoods would not occur.

Huge compressors, 25 feet by 10 feet placed on skids on a concrete pad, will pressurize the gas and dry it and will further exceed allowable noise levels. The noise from these is variously calculated at 85dB (compressor specifications) and 115dB (document received in response to Public Records Act, attached). These compressors will be located on the Northerly property line closest to the Loma Alta Neighborhood with a direct sight/noise line into the neighborhood. According to the record these may not be housed in a 'building' to dampen noise and must basically be freestanding, housed in a sheet metal or aluminum type 'equipment enclosure'. WM has not taken into account the 'effect that the CNG compressor will have on the noise environment of the site.' [Eilar email 1-28-2013]

The proposed operation will disturb the peace and quiet of the adjacent residential areas and prohibit us from the quiet enjoyment of our properties, degrade our property values, and cause sleep and health disturbances.

Early on Waste Management acknowledges noise problems from their operation in a memo to the City (Ester Beatty) dated *August 21, 2002*. "Unfortunately (from a noise standpoint) the maintenance, repair and testing of our trucks can be noisy, especially when work is performed on the several hydraulic systems... overall complaints are few and generally during the warm season when windows are open." This same memo says tire changes will be done outside 'to be completed by 9:30 pm' but my personal observation demonstrates this often happens up until almost midnight on multiple occasions. The memo further goes on to say they will do all maintenance work after 10pm indoors with bay doors shut. Again my personal observation is this has not been done. I witness vehicles partially pulled into the garage areas throughout the evening and never have observed the bay doors closed during truck maintenance. This memo implies we should keep our windows closed during warm weather so we are not disturbed. This is very unreasonable as I and my neighbors, and frankly most people, keep windows open during nice weather for our comfort.

City staff also acknowledged issues with location adjacent to residential area early on in an email dated *October 7, 2011* as follows, "Wonder what the history/thinking was at the time that zoning and land uses were established in your area and why someone would think Heavy Industrial in a canyon with residential properties on the periphery would be a good idea?????" The topographical map submitted with FOLAC's documents, as well as personal observations, show a canyon-like appearance, with WM's operations being at the bottom and residential areas located up

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from it. This bowl-like topography allows for more noise to travel up and out of WM's operations as opposed to flatter terrain that would have numerous buildings, foliage and other sound diminishing structures. (City of Oceanside Topographical Map 100)

F-5
Cont.

Noise- WM's Focused Noise report acknowledges there can be an INCREASE in sound levels due to humidity and wind gradients however they did not specifically document those issues in their report. (p. 7) Based on my personal observations and experience, just about every morning there is an offshore wind that directly funnels the noise up and into the Loma Alta neighborhood. This increases the predicted noise to unacceptable levels. I have a direct line-of-sight/noise line to the WM operations without intervening structures or foliage so the noise is not reduced substantially from the measured levels. WM's noise measurement on Hoover was taken at a home with intervening foliage and large buildings between the WM facility and the measurement site 'with mostly unobstructed view'. (Page 1, June 15, 2012 Dudek letter) This is not equivalent to the noise received at my and the Mackey's homes.

Plus the noise measurement was only taken on one day so varying weather conditions could not be factored in. We don't know if it was a rainy day, a cool dry day or a windy day with winds heading to the east. This wasn't a reliable measurement based on those factors. Although it did show a measurement of 57dB, well above the allowable 45dB for nighttime hours. Then WM attempts to estimate future noise levels at 42dB even though no rationale or basis for the new figure is stated. That would be a 15dB reduction even though they state elsewhere that CNG trucks are only 5dB quieter than the existing diesel trucks (FMND p.4-39), that other vehicles beside the refuse trucks are operating and a huge compressors will be operating, all contributing to increased noise levels.

F-6

Potential noise reduction with use of CNG trucks was documented by WM at an existing facility of theirs with sound measurements for 9 CNG trucks. The CNG trucks will be from 70dB to 81dB, still well above Noise Ordinance allowable levels during nighttime hours of 10pm to 7am. One must not forget that the noise will come from 58 refuse trucks and other vehicles on the WM sites. [The Oceanside noise limits are 65dB for industrial and 45dB for residential.]

WM does not address other vehicles in the yard that also make noise with regular backup beepers. I have personally observed other types of vehicles besides refuse collection vehicles in the maintenance yard and they have regular, loud backup beepers, not the so-called 'white noise' ones. The refuse trucks leave at 5:00am or 5:30am over a 2 hours period. That is constant, cumulative noise from 58 total refuse vehicles. The Focused noise report states that 'Given the proposed side-by-side location of the parked trucks and the simultaneous start-up of multiple trucks during the early morning hours it is expected that backup alarms would range up to 85dB at approximately 50 feet. Not only is idling loud, but also powering up through the gears as they leave the facility is very loud as well and has not been taken into account. (The studies measure average noise per hour but indicate noise as loud as 85dB in between 5 and 7am.) The noise measurements of 10 diesel trucks done by WM indicate their noise level at 77dB up to 85dB. (Appendix B Noise Measurements at Existing Santa Ana facility)

The FMND says they will replace the trucks between "5-20 per year with an initial 15-20 trucks at the site." (FMND p. 2-8) Calculating at 5 per year, the replacement could take as long as 8 years. The city's 1/28/2013 staff report says they are required to replace in 2 years per the contract. In reviewing the contract, WM is supposed to replace all diesel vehicles by October 2013 which would be 2 years from contract inception (Contract page 54) but that is in direct conflict with the stated schedule in the FMND.

F-7

The FMND states the fueling cycle will require 10-12 hours fueling time for a full tank. (FMND page 2-5) If trucks return at 5:30 as stated fueling will continue throughout the night to approximately 5am. (Focused Noise letter p.4) Additionally the CNG compressor and associated fans thus will run all night.

F-8

The FMND 'assumes' the compressor will operate at 56dB at the Southern boundary even though the specs say 80dB and above at 3 meters. There is no study on this, merely their assumption. Plus the compressor will be located on the Northern boundary of the site closest to the Loma Alta neighborhood. I received another document in October, 2012 that indicates the noise from the compressor is 115.6dB and truck operations are 84.5 dB. (attached)

Community Noise Level Equivalents (CNEL) is defined but one cannot tell if it was applied. This rule says a penalty of 10dB is added to noise measurements between 10pm and 7am. (page a-1 definitions in Focused Noise report) The logic behind these applied penalties is that since most citizens living in a given area are very sensitive to noise in the early morning hours and somewhat sensitive to noise during evening hours, a weighting factor is applied.

2013 Resolution paragraph 32 says WM will use 'best efforts' to move vehicles, containers and other objects from the site 'during any severe flooding event'. What 'best efforts' means is not specified nor is severe flooding event defined. Depending on where WM personnel live, moving items from the site could take hours during which time numerous pollutants, including diesel fuel, lubricants, hydraulic fluid, brake dust and so forth will enter the Loma Alta Creek.

2013 Resolution paragraph 36, "In the event that the conceptual plan does not match the conditions of approval, the resolution of approval shall govern." This adds uncertainty to the project and how it will be implemented. The public and other agencies rely on the FMND and its plans yet this paragraph purports to allow any changes after approval that will not be reviewed by the public or agencies for environmental compliance.

The 2013 Resolution does not have a section on mitigation/removal for the huge underground diesel tanks. According to the Oceanside Fire Department (conversation with Greg Voorhees 11-27-2012), the tanks must be removed after 1 year of being unused. Since the project may eliminate all diesel trucks in as short a time as 2 years, the City must include a condition for removal of the underground diesel tanks. It can fairly argued such removal will have substantial environmental impacts that have not been addressed in the FMND.

The project is not compatible with General Plan and various elements contained therein:

1. Land Use Element 1.12- The use of land shall not subject people to potential sources of objectionable noise. This project does subject me and my neighborhood to objectionable noise as detailed in numerous noise complaints, the Eilar noise study and WM's noise study.
2. Land Use Element 1.14- To improve the quality of Oceanside's environment by minimizing the negative effects of excessive noise levels. The two noise studies for this project, including one from applicant indicate excessive noise levels above the City's allowable noise levels in the nighttime hours. Again, numerous noise complaints have been submitted by me and the Mackeys and also outlined physical affects from the noise.

No mitigation has been proposed at the source which adds large, noisy CNG compressors and has vehicles whether diesel or CNG that will create average noise levels above the noise ordinance allowances. No barriers or soundproofing have been proposed to bring noise levels to an acceptable level.

- a. Noise emissions shall not reach levels that pose a danger to the public health.
- b. Noise emissions shall be controlled at the source where possible.
- c. Noise emissions shall be intercepted by barriers or dissipated by space where the source cannot be controlled.
- d. Noise emissions shall be reduced from structures by the use of soundproofing where other controls fail or are impractical.
- e. Acceptable noise levels shall be demonstrated by the applicant in the review and approval of any projects...that require a permit or other approval from the City.

F-8
Cont.

F-9

F-10

F-11

F-12

- 3. Land Use Element 1.22f- WM has failed to keep a landscape buffer on the south side of the property immediately adjacent to Loma Alta Creek. "A buffer of landscaping shall be required between the built environment and lands left in a natural or open state. The landscape buffer shall be of sufficient size and shall use plant materials that will retard the spread of wild fire." F-13
- 4. Land Use element 2.1B- this project is not compatible with surrounding residential uses due to noise. The FMND fails to state that the Northern side of the project has the residential neighborhood of Loma Alta. "Industrial land uses shall be comptabile with surrounding land uses..." F-14
- 5. Land Use Element 2.11D- General Industrial- this site is not screened from view from either the Loma Alta neighborhood or the Fire Mountain neighborhood. "Outside operations, equipment and storage aeras may be permitted provided such areas are adequately screened from view" F-15
- 6. Land Use element 2.11E- Structures, devices or procedures are mandatory so that noise does 'not interfere with neighboring industrial activies nor endanger the health, safety, peace, or general welfare of persons residing or working in the surrounding area.' There are no structures devices, procedures or mitigations in place or proposed that will protect my health and ability to quietly enjoy my home and those in the surrounding neighborhood. F-16
- 7. Land use element 2.11G- there is very little landscaping and none of it provides screening or buffering as required. "Landscaping shall be maintained in all setback, parking, and other open areas to provide screening, buffering, and to enhance the appearance of industrial structures." F-17
- 8. Land Use Element 3.12- Floodplain- "Construction is prohibited in the floodway."

The City has adopted an overlying flood plain zone that would restrict construction within designated floodplain areas. With the adoption of a designated floodway, construction will be entirely prohibited within these boundaries. This ordinance is intended to limit damage caused by flooding by restricting development in flood-prone areas.

(Note: the floodway is different than the floodplain which is a higher elevation.) The current FEMA map from 2012 indicates the entire site is within the floodway except for a small portion to the north that is in the floodplain. Installing gas lines, J-rail and even having the WM facility at its present site wholly within the floodway violates this Land Use element. Further 'flood proofing measures are required for all structures in the adjoining floodplain.' Environmental Resource Management Element p.24). Hydraulic floodplain modeling and a detailed surface water analysis should be required both pre-and post-project.

There is no flood proofing measure proposed for the very large CNG compressors located in the floodplain. Further, at page 24, it is well recognized that rising sea levels will have effects on low-lying areas like the WM operations. The Pacific Institute did a report "The Impacts of Rising Sea-Levels on the Coast of California" and "concludes that sea-level rise will inevitably change the character of the California coast, and that adaptation strategies must be evaluated, tested, and implemented if the risks identified in the report are to be reduced or avoided." They go on to say "...vulnerability to sea-level rise will be heightened among Californians who do not have a vehicle, do not speak English, or who live near hazardous waste facilities."
http://www.pacific.org/reports/sea_level_rise_report.pdf

Flooding would mean a complete loss of the Waste Management facilities and consequent pollution from their operations. Sea level has already risen 8 inches along the coastline. (P. xi) It is estimated that levels will rise by 5 feet. Continued development in these areas should stop. The National Research Council formed at the request of Governor Schwarzenegger, whose members are drawn from California, Oregon, Washington and several federal agencies echoes the findings by the Pacific Institute. They found "'Sea level rise isn't a political question, it's a scientific reality," said Gary Griggs, director of the Institute of Marine Sciences at UC Santa Cruz and a member of the committee that produced the report."

F-18

- <http://www.ci.grovesport.in.us/2011/04/14/land-use-element-1-14-01/>
9. Noise Use Element- goals. This project frustrates almost all the policies set by the City in order to minimize the effects of excessive noise. Each noise study and numerous noise complaints demonstrate excessive noise from WM operations. The stated objective is to “protect visitors and residents from noise pollution.” The same policies apply as above at paragraph 6, Land Use Element 1.14.
 10. Noise Use Element- Motor vehicles 3.- WM admits to violation of this requirement stating they repair vehicles until midnight and noise measurements well above 50dB as demonstrated in their and Eilar’s sound reports. “Vehicle repairs: It should be unlawful to repair or rebuild any motor vehicle between 9pm and 7am in such a manner that the ambient noise level exceeds 50 dB at the property line.” The Sounds studies are clear that noise exceeds this level for almost every measured hour of the 24 hour period.
 11. Noise Use Element- Motor vehicle4- WM admits to violation of this requirement by stating their refuse trucks leave the facility at 5:00 or 5:30 am. “No refuse collection should be allowed before 7am.”
 12. Noise Use Element- Noise Making Apparturs- WM admits to violation of this requirment as demonstrated both in their and Eilar’s noise study. “Machinery... should not be permitted to operate when a noise level is created at the property line exceeding 5dB above the ambient level.”
 13. Noise Use Element- Disturbers of the Peace-WM continues to operate in such a manner as to disturb my peace with loud noises throughout the nighttime hours.
It should be unlawful for any person to make or continue any loud, unnecessary noise that causes annoyance to any reasonable person of normal sensitiveness. Standards should include but not be limited to noise level intensity, noises that are usual or unusual/natural or unnatural, the level and intensity of background noise, the proximity of noise to residential sleeping facilities, the nature and zoning of areas within which noise emanates, the density of inhabitation, time of day or night, duration of noise, whether noise is recurrent, intermittent or constant, and whether noise is produced by commercial or noncommercial activity.
 14. Noise Use Element- Implementation Program2- “In order to measure noise levels, a noise meter must be acquired. This meter is necessary to identify and measure noise sources and noise levels.” The city has no noise meter and has failed to measure the noise levels generated by WM and in the surrounding neighborhoods.
 15. Noise Use Element- Implementation Program5- Land uses should be planned to “insure that residential neighborhoods will not be impacted by noise.” WM’s land use and operations are impacting the Loma Alta neighborhood. Further, the City has the ability through the approval process where health may be adversely affected by noise to “reduce or abate the noise effects or should be denied approval and recommended for an alternative site.” No noise mitigations are proposed to prevent noise impacts on the surrounding neighborhoods and the City should recommend denial with an alternative site for WM’s operations. The other option might be to prohibit operations, maintenance and fueling operations in the nighttime hours between 10pm and 7am.
 16. Noise Use Element- Implementation Program6- The City should develop “provisions for the mitigation of noise ... and should impose performance standards upon those activities associated in each zone.” There are no performance standards other than the Noise Ordinance prohibiting loud and/or unusual noises in the nighttime hours. There are no mitigations developed by the City for noise.
 17. Noise Use Element- Interference with Sleep- I have documented numerous occasions when my sleep was interrupted by WM operations during the nighttime hours. Such operations must be

F-19

prohibited.

Sleep is necessary to insure health and the normal functioning of the body. Sleep occurs in a series of stages or phases. Depending on one's stage of development (child, adolescent, adult, etc.) the proportion of time spent in any one phase varies; but in all cases the elimination or interference with certain phases of sleep on a regular basis may prove hazardous to health. Noise can serve to interfere with sleep by either awakening a person or causing shifts from one sleep phase to another. Brief sounds of sufficient intensity (48dB (A) or greater) and fluctuating noise levels have been shown to alter the sleep pattern to lighter sleep and hence poorer sleep. Research indicates that when people are exposed to a great deal of noise, they will complain of sleep loss and suffer a reduction in their feeling of wellbeing. Regular interruptions of sleep by noise may prove a health hazard both physically and mentally.

- 18. Noise Use Element- Non Auditory Physiological Responses- I have documented numerous responses in this category including heart racing, plus it's obvious I am highly irritated by this noise as well- all reactions to the excessive noise caused by WM's operations.

The project is not compatible with the Sub-Area Plan- Gnatcatcher Corridor- this plan has typically been enforced for *all* projects coming into the City for a number of years. In fact the Plan is discussed in the FMND. (p. 4-13 et.seq.) WM totally misses the mark by talking primarily about habitat without addressing the critical noise issue. Excessive noise can be considered a direct impact as it interferes with travel, breeding and nesting. The presence of Gnatcatchers is well documented in the Sub-Area plan. (Sub-area Plan Figure 3-3, Figure 3-6) and the project is located immediately adjacent the Gnatcatcher corridor. The current noise studies show noise exceedences for Gnatcatcher habitat which is generally to be limited to 60dB. Most recently the Melrose Extension project documented the requirement for 60dB for Gnatcatcher habitat. Other projects have been required to meet this limit as well. This project, now and in the future, cannot meet that restriction.

Last, this project is not compatible with the Oceanside Vision Plan. "The heavy industrial uses currently present in Area C [where WM is located] do not reflect the community's vision for the future of the corridor and need to be converted into a mixture of light industrial, office, and retail uses." (Oceanside Vision Plan page4-4)

No further changes to this site should be allowed as the noise levels will remain too high, even if diesel refuse trucks are replaced with CNG trucks, because of noise generated by the huge compressor and other equipment/repair noises. Heavy industrial sites like WM's operations *must* be candidates for less intense uses that can meet the noise requirements. Furthermore the City must encourage if not demand that WM find another site for their operations that will not have the substantial, unmitigated environmental impacts.

Sincerely,

Nadine L. Scott, co-founder

F-19 Cont.
F-20
F-21

Facility Future Noise Level

Receiver Location: Mosier Street (33 198563 -117.350586 plus/minus)

Noise Source	SEL (dBA)	Source Reference Distance (ft)	N	Receiver Equivalent Distance (ft)	Adjv (dBA)	Asim (dBA)	Asr (dBA)	Abaz (dBA)	Amisc (dBA)	Duty Cycle (mins)	Leq(h) (dBA)	Comments
Truck Operations	84.5	50	32	640	22.1	0.64	0	0	0	60	39.0	Truck 2000-2020 idling between idling safety cycles, etc.
Compressor	115.0	354	1	560	35.1	0.65	0	0	0	45	36.6	
											47	

Note: A minimum Fair Field

Response to Comment Letter F

Friends of Loma Alta Creek Association/Nadine Scott

Received January 28, 2013

F-1: The revised version of the USD comment letter included some additional substantive argument into some of the comments, in addition to typographical error corrections. Please refer to the supplemental response to revised comment letter E.

F-2: This comment does not address the proposed project but re-states prior comments. Please refer to responses C-5, D-6 and E-24.

F-3: The opinions in these paragraphs re-state prior comments. No evidence is presented to support these claims, which are contrary to evidence in the record and analysis completed for the proposed CNG project. Please refer to responses E-33 and E-39.

F-4: The noise analysis for the project does evaluate the noise associated with the CNG compressor (see page 14 of Appendix C in Final MND). Please also refer to response E-33.

F-5: As detailed in the Final MND and Staff Report, the project site is within an industrial area designated and zoned for General Industrial uses, with the objective to accommodate a wide range of industrial uses, including those of relatively high intensity. This industrial corridor was established along the rail line beginning in the 1960's. The comments note the topographic setting of the project site, but fail to acknowledge that the noise analysis for the proposed CNG project took into account the existing topographic conditions in the vicinity. For additional information, refer to response E-39.

F-6: Please see response E-24. These comments pull numbers out of the noise analysis out of context, and draw incorrect conclusions. Please refer to Appendix C for the noise assessment data for the project. As an example, the 57dB measurement of existing noise levels was attributable to traffic on Oceanside Boulevard, and not the existing facility operations as implied, or with the proposed project.

F-7: This comment draws a conclusion that is not consistent with information in the Final MND. The schedule for replacement of trucks as noted in the Final MND is consistent with the franchise agreement between WM and the City, which allows flexibility to phase in the CNG vehicles within the parameters of the contract. The overall completion of conversion remains controlled by the franchise agreement with the City which specifies a maximum 2-year timeframe for conversion of all collection vehicles from diesel to CNG. The implementation schedule is measured from an assumed date for the CNG facility to become operational, and is automatically extended by one month for each month that the CNG Fueling Station is not operational. This issue was previously raised and is also addressed in Response E-39.

F-8: The Noise Study used "worst case" for evaluations estimate of 10-12 hours if all fleet vehicles were completely empty and all required full fuel fill. Under most circumstances, the truck's fuel tanks will have some fuel remaining and time needed for fill will be considerably less. Regardless, the noise

evaluation for the project documents that the sound levels from the CNG compressors would comply with the noise ordinance criteria at all times of the day and night. The data table referenced in the comment and attached to the letter is part of the field notes and used as model input data. The Sound Equivalent Level (SEL) describes the total sound energy associated with an event or activity; in the case of the CNG compressor, this value applies to the starting of the compressor, running of the compressor to fill the storage vessel, and stopping of the compressor. The conversion of SEL to Leq is done by the model based upon anticipated use patterns on an hourly basis; the 115 dB(A) SEL at three meters [9.84 feet] is equivalent to 80 dB(A) Leq at 3 meters for the anticipated use pattern of the CNG compressors. As noted on page 14 of the Noise Analysis (Appendix C of Final MND), this sound level for the specified CNG equipment with designated enclosure was determined by third party testing provided by the equipment manufacturer.

F-9: This is a common sense condition that can be successfully undertaken by the applicant and monitored and enforced by the City. Unlike other types of natural disaster, there would be advance notice of the potential for a significant rainfall event that could cause flooding of Loma Alta Creek, and the applicant would have ample opportunity to have personnel available to move vehicles, containers and other objects as need to comply with the condition.

F-10: Condition 36 is a standard City of Oceanside condition of approval. It is included to clearly indicate that the conditions in the adopted resolution of approval govern in the event there is anything on the conceptual plans that may not match the conditions. If anything, this condition provides more clarity as to what will be built.

F-11: Removal of the existing underground diesel tanks is not a part of the proposed project. As noted elsewhere, all collection vehicles will be converted to CNG, but other trucks and equipment at the site will continue to use diesel fuel, and the tanks are remaining in place (see also Response D-7).

F-12: There is a distinction between existing complaints and the proposed project. There is no evidence provided to support these opinions or to counter the findings of the project noise evaluation which demonstrates that there will be no significant noise impact from the proposed CNG Fueling Facility project. The CNG compressors are located in an enclosure with silencers and insulation to provide sound attenuation of 80 dB at 3 meters (see MND Appendix C, Page 14). No mitigation is required.

F-13: This project is at an existing developed site, and no buffer was required at the time of initial site development. The City does not require removal of existing development improvements when applying this policy.

F-14: The project site is within a General Industrial land use and zoning designation. The first page of the Initial Study (page 4-1 of the Final MND) identifies residential uses to the north of the site beyond the adjacent industrial uses.

F-15: The existing site has screening as required by prior approvals. The new CNG Equipment area that is part of the proposed project has an additional, separate screening enclosure as part of the

project design. In Oceanside, screening is typically required for areas visible from adjacent streets. There is no requirement to screen distant view of any land use or area.

F-16: The proposed project will comply with the Noise Ordinance.

F-17: The proposed CNG facility improvements are proposed within existing developed portions of the site. Landscape Plans are included as part of the project to enhance and re-plant the front setback area adjacent to Industry Street and the side setback areas along the eastern site boundary.

F-18: This is an incomplete quote – The project will comply with the City's floodplain ordinance and is conditioned to require the hydraulic analysis and floodplain modeling prior to construction. Current site elevations range from approximately 40-45 feet above mean sea level and are well above the referenced 5-foot level.

F-19: These comments do not address the project but reference opinions about existing conditions and operations. There is no identified significant noise impact from the project so no noise mitigation measures are necessary.

F-20: Please see Response E-37.

F-21: The Vision Plan document was not formally adopted or approved by the City Council. Neither of the recommendations for implementation from that document have been pursued by the City to date. Additionally, the WM site is not within the boundaries of Area C as shown on the map in the Vision Plan.

From: diane nygaard [mailto:dandd2@peoplepc.com]
Sent: Monday, January 14, 2013 9:26 AM
To: 'rgreenbauer@ci.oceanside.ca.us'
Subject: Comments on Waste Management CNG Fueling Facility

Mr. Greenbauer :

Please forward these comments to the Planning Commission for their consideration of this project scheduled for January 14, 2013 and reply to this email to confirm this.

G-1

We very much appreciate that Waste Management is taking this important step to convert their fleet to cleaner fuels. However, it is important that this change is made in a way that still protects the biological resources and water quality of Loma Alta Creek. We believe further analysis and mitigation is required to assure that these resources will be protected.

G-2

The following are our comments on the draft MND for the proposed Waste Management CNG Fueling Facility project:

Biological Resources

The MND has not treated Loma Alta Creek, which is along the entire southern boundary of the site, as anything that supports biological resources. Of course this creek corridor is highly degraded, but the vegetation along this channel still provides important biological functions. I have personally observed an egret feeding just a few feet upstream from the project site. At the time Waste Management received their original CUP for this site the region did not have an adopted conservation plan. This plan, the Multiple Habitat Conservation Plan (MHCP), was adopted by SANDAG in 2004. Oceanside is one of seven cities in north county that is subject to the conditions of that plan. In addition, the city of Oceanside has prepared a draft local conservation plan(SAP) which has been used for years to assure their compliance with this regional plan. These plans both include a number of provisions to assure that projects along the borders of sensitive biological resources do not cause indirect impacts through "edge effects." Mitigation for edge effects has routinely been included as conditions for numerous Oceanside projects- but has been completely ignored for this one. Ones of particular concern for this project include :

G-3

G-4

Lighting- standard condition is to protect from lightspillover.

G-5

Trash – site clean-up and trash control that assures trash does not move to the protected habitat or that wildlife would not be attracted to the site.

G-6

The MND needs to review this project for potential edge effects and add all that are appropriate as mitigation measures project conditions- as has been done for numerous other projects in Oceanside for the last eight years.

The SAP also includes provisions for wetland buffers. This project site appears to be immediately adjacent to the actual wetland, with no functional buffer. We realize this is an existing condition. However, the lack of buffers is part of the cumulative impacts to this watershed. New projects are required to meet the current standards. It seems reasonable that modifications to existing facilities should also result in a review of compliance with current conditions. Parking lots can be considered wetland buffers, providing certain conditions have been met. This MND has not done any evaluation of the site for its function as a wetland buffer and therefor does not meet the standards of the SAP or regional MHCP.

G-7

Excessive noise is an adverse impact to wildlife as well as people. The MND has not included adequate noise evaluation. We have been told the CNG compressors will generate noise at 75-80 decibels or higher. This may be even higher for the occasional fast fill. The issue is what are the noise levels on the southern boundary of the site next to the creek? Noise limits for wildlife are typically 60 decibels- the same threshold the city applies to residential uses. The MND has not demonstrated that the proposed project will be within these acceptable limits and this remains a potential adverse impact that has not been mitigated. Further noise analysis is needed to confirm the thresholds are not exceeded, or if they are, to provide some sound attenuation around the compressor.

G-8

G-9

There really is nothing that describes the transition plan for the operation of this site. From the information provided it is clear that it will be many years before the entire fleet is converted to CNG. During this entire time period there will be noise and air quality impacts from both types of fuel. The analysis of impacts has just considered impacts once the entire fleet is converted and has ignored this interim time period- which will last for many years.

G-10

Hydrology

The drawings for this project identify a "30' Flood Control ROW." This is actually Loma Alta Creek. Loma Alta Creek is identified as an impaired waterbody in the regional water quality plan. The creek actually is listed for several beneficial uses in addition to flood control. The MND really has ignored all of these other functions of the creek. By doing so it is not clear that the specified "SWPP" and "BMP's" will be adequate. The MND needs to evaluate all of these beneficial uses and determine that the SWPP and BMP's are properly designed to address all of them- and not just flood control.

G-11

Oceanside has spent a great deal of taxpayer dollars to clean-up the Loma Alta sub-watershed. This is the only sub-watershed for which the city has prepared a detailed watershed management plan. (WMP) The MND should have evaluated this project for compliance with the provisions of this WMP. This would include things like encroachments within the floodway. Condition 29 says there will be no grading or disturbance within 30' of the flood control right of way- but that is off site. What are the guidelines in the WMP that would apply to construction, particularly fueling related construction, so close to the creek channel?

G-12

G-13

This reach of Loma Alta Creek has a long history of flooding. Clearly the existing "30' flood control ROW" is not sufficient to protect this area from flooding. Flooding causes pollution to the watershed and is part of the ongoing cumulative impacts. This project has the potential to

G-14

exacerbate flooding conditions and the resultant water quality pollution that results from such flooding. The MND has failed to assess this additional potential indirect impact.

We urge you to require that all of these issues are addressed before proceeding with this project.

Diane Nygaard

On Behalf of Preserve Calavera

↑ G-14
| Cont.
|
| G-15

Response to Comment Letter G

Diane Nygaard Email

Received January 28, 2013

G-1: The commenter requested that their letter be submitted to Planning Commission for consideration of the project. The City complied with this request and also added the letter to the public record for the project.

G-2: Comment noted. This comment notes the author's support for the use of compressed natural gas (CNG) fueled fleet vehicles, but states that further analysis and mitigation is required for the project. This comment does not identify any specific references as to what the significant unmitigable impacts may be and/or which mitigation measures are not adequate in reducing potentially significant impacts; therefore, no further response is provided.

G-3: Comment implies that the MND did not address impacts to biological resources along the Loma Alta Creek Corridor. As discussed on page 4-12 of the FMND, the project entails conversion of the existing diesel fueling facility to a CNG fueling facility at an existing Waste Management facility. The entire project area is supported by existing hardscape and structures, with ornamental landscaping scattered along the northern and western boundaries of the project site, therefore no direct impacts to biological resources would result from implementation of the proposed project. Furthermore page 4-12 of the FMND discussed indirect impacts to biological resources along Loma Alta Creek, and concludes that less noise will be associated with the proposed project in comparison to the existing conditions (see Section 14.12 of the FMND), thereby reducing noise levels that any potential sensitive species is currently being subject to in off-site areas. The project would also comply with the construction noise regulations identified in the City's Subarea Plan. Therefore, significant indirect impacts to any special status species that may be located off-site, along Loma Alta Creek, would not occur. Furthermore, the project would not entail any changes to the existing lighting; therefore, the project would not result in indirect lighting impacts to biological resources. Aside from the type of fuel, no other aspects of the site will be modified and no additional impervious area will be added; therefore an increase in runoff, presence of trash, etc. would not occur.

G-4: Comment noted. The City is aware of the approved Multiple Habitat Conservation Plan and the Oceanside Subarea Plan. Further, the project's consistency with these plans was discussed on pages 4-13, 4-15, and 4-16 of the FMND.

G-5: The commenter suggests that mitigation for edge effects should be required of the proposed project, especially for trash and lighting. As discussed in response to comment G-3, the project would not entail any new sources of light; therefore, no indirect effect from lighting would result from the proposed project. In addition, the conversion of diesel trucks to CNG trucks would not result in additional trash located on the project site; therefore, no indirect impacts/edge effects from trash would be generated by the proposed project.

G-6: The comment implies that edge effects were not addressed in the FMND, and that additional mitigation measures are required. As noted in response to comments G-3, G-4, and G-5; the FMND discusses the project's consistency with the Oceanside Subarea Plan in regards to potential impacts from edge effects. No lighting, trash or noise edge effects would be generated by the operational phase of the proposed project. The construction phase of the project would occur in compliance with the noise limitations outlined in the Oceanside Subarea Plan; therefore, impacts would be less than significant.

G-7: This comment implies that the project is subject to the provisions for wetland buffers. According to Section 5.14 of the Oceanside Subarea Plan – Conservation and Buffer Requirements along Tributaries and Creeks the following uses that are prohibited within the 50-foot biological buffer include (1) new development, (2) foot paths, bikeways, and passive recreational uses not already planned, and (3) fuel modification activities for new development. The project consists of minor improvements to an existing facility and does not constitute new development. Therefore, the requirement for wetland buffers does not apply to the proposed project.

G-8: The comment implies that the noise evaluation conducted for the FMND was not adequate, and states that the compressor would generate noise at 75-80 decibels or higher. The Focused Environmental Noise Assessment was conducted by a certified noise acquisition. The specification sheets for the compressor and associated enclosure document that the enclosure would provide sound attenuation of 80 dBA at 3 meters in free field conditions. The Focused Environmental Noise Assessment documents that the future noise levels generated by the compressor (based on this noise attenuation of 80 dBA at 3 meters) would produce a one hour average sound level of 56 dB at the southern property boundary. Therefore, the noise level would comply with the City's noise criteria for residential and biologically sensitive receptors.

G-9: The comment implies that additional noise analysis is needed to confirm the thresholds are not exceeded and that sound attenuation around the compressor should be required. As discussed in response to comment G-8, the project would entail installation of an all-weather enclosure around the compressor and noise attenuation of the enclosure was accounted for in the future noise levels for the project. The Focused Environmental Noise Assessment documents that the future noise levels generated by the compressor would produce a one hour average sound level of 56 dB at the southern property boundary. Therefore the noise level would comply with the City's noise criteria for residential and biologically sensitive receptors.

G-10: This comment implies that the impacts from the time frame in which the trucks will be replaced was not addressed in the FMND. The existing diesel-fueled vehicles generate more noise, and more air and GHG emissions than the proposed CNG-fueled vehicles. Therefore, every vehicle that is replaced reduces the amount of noise, air and GHG emissions that are generated at the existing facility. Therefore, the noise and air quality emissions present at the facility during the interim time period would be reduced over time with each change-out to CNG-fueled vehicle.

G-11: This comment identifies the area associated with Loma Alta Creek and implies that the FMND ignored the beneficial functions of the creek. However, page 4-35 of the FMND provides a full list of the

beneficial uses of Loma Alta Creek as provided by the San Diego Regional Water Quality Control Board, and discusses how construction related impacts would be mitigated through the implementation of mitigation measures Hydro-1 and Hydro-2. In addition, the FMND concludes that no operational changes would result from the proposed project that would change the current storm water drainage system or affect the quality of runoff discharged to Loma Alta Creek. Furthermore, due to the minimal area of disturbance, the City has determined that a construction SWPPP is not required for the CNG project (FMND, p. 4-31). The proposed Conditions of Approval for the CNG project (Condition of Approval 35) address ongoing requirements for compliance with the city's SUSMP and source control BMPs. The applicant would be required to comply with the City's erosion control ordinance, which can be found at <http://www.ci.oceanside.ca.us/civica/filebank/blobdload.asp?BlobID=22825>.

G-12: The Loma Alta Creek Watershed Management Plan (WMP) is intended to assist the City of Oceanside, City of Vista, resource agencies, and other stakeholders to protect, enhance, and restore the beneficial uses within the Loma Alta Creek Watershed. A large majority of the WMP goals, objectives and action plans are directed at the City of Oceanside to develop additional policies and guidelines for plan check review, inspection frequencies on structural and non-structural BMPs; and to provide guidelines to property owners and businesses and public outreach. In the cases where an objective or action item is directed to development projects they are specifically directed at new development projects and substantial redevelopment projects involving demolition and new construction. Since the project is limited to minor changes to an existing facility, there are no goals, objectives or action items from the Loma Alta Creek WMP that are specifically applicable to the proposed project.

G-13: The March 2003 Loma Alta Creek WMP does not identify a condition 29. Page 3-10 of the document states: "existing land use policies allow development within the floodplain provided that property owners make reasonable channel improvements to protect their property." As discussed in response to comment G-12, there are no goals, objectives or action items from the Loma Alta Creek WMP that are specifically applicable to the proposed project.

G-14: The City disagrees with this comment. Consistent with Condition of Approval 24, drainage associated with the existing facility is treated on site through a coalescing plate oil/water separator and then discharged to Loma Alta Creek (FMND, p. 4-35). The City has determined that these current stormwater control measures are adequate. In addition, it should be noted that Conditions of Approval 29-33 for the CNG project require compliance with the Oceanside Floodplain Management Ordinance and FEMA requirements, and further requires a detailed hydrology study as part of the project's final engineering. The proposed Conditions of Approval specifically require verification and certification that there is no increase in the base flood elevation from proposed improvements prior to authorization for any encroachment (Conditions of Approval 29-33). Should the detailed hydrology study show that an increase in flooding would occur; the applicant will be required to redesign the project so as to avoid that increase in flooding. Therefore, due to the lack of increased flooding, additional water quality impacts would not occur.

G-15: Comment noted. Since no specific claims are made, no response is required.

RECEIVED

FEB 07 2013

OCEANSIDE CITY CLERK

Received by: Holly
Via: hand-delivered
Copy to: Holly T. George
Marisa L. Angelante

ACCEPTANCE OF APPEAL
(OFFICE USE ONLY)

Appeal of: Planning Commission 1/28/13 Waste Management
CNG Reso 2013 - P01 & 2013 - P02

Date of Final Action: 1-28-13 Date Filed: _____

Form of Appeal: \$1,750 Appeal Fee Attendant Petition ✓

Person Submitting Appeal: NADINE SCOTT
Friends of Loma Alta Creek (FOCAC)

Company/Developer Representative, Company: _____

Name: _____

Name of Person who Prepared the Appeal: NADINE SCOTT
& Friends of Loma Alta Creek

Name of Spokesperson for the Appeal: NADINE SCOTT

& legal team

Address: 90550 Howe St Oceanside 92054

Phone Number: 760 803-6813

E-mail and/or Fax: nadia550@sbcglobal.net

Appeals must be filed within 10 days of the date of final action. **Section 4604:** To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.

I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.

Signature: [Handwritten Signature]
& on behalf of FOCAC

Date: 2-7-13

Friends of Loma Alta Creek

Nadine L. Scott, Co-Founder
550 Hoover Street
Oceanside CA 92054
760-803-6813

February 7, 2013

City of Oceanside
City Clerk
300 N. Coast Highway
Oceanside CA 92054

Appeal from 1/28/2013 Planning Decision- -Waste Management 24-hour CNG Fueling Station
Resolution No. 2013-PO1 and 2013PO2

Please find attached the following documents:

1. Petition In Lieu of Appeal Fee (Zoning Code Section 4604)
2. Appeal Stating Grounds for Appeal on behalf of FOLAC and Nadine L. Scott
3. A check # 629002, drawn on University of San Diego, in the amount of \$1,750.

PLEASE HOLD THE CHECK while verification of signatures/addresses is being done.
We are confident we have complied with requirements for the In Lieu Petition fees.

Once signatures are verified, kindly call and return the check, uncashed.

In the unlikely event the City fails to properly verify signatures, the check is for back up to complete the appeal but we honestly do not believe that will be necessary.

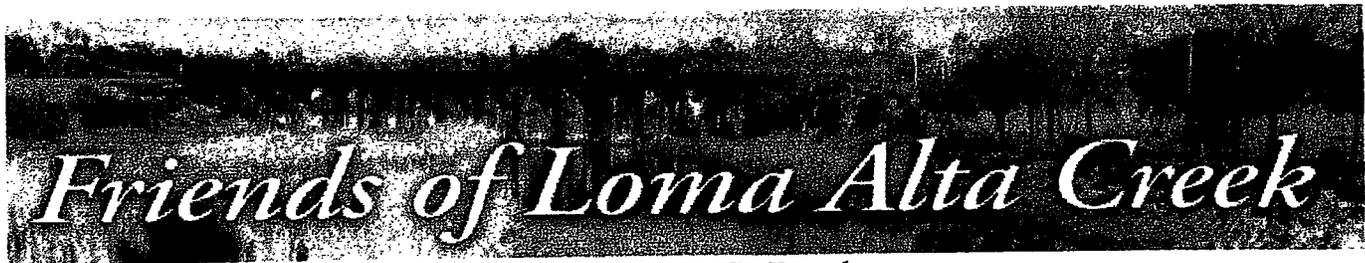
Sincerely,



Nadine L. Scott

Cpy: file

RECEIVED
FEB 07 2013
OCEANSIDE CITY CLERK



Nadine L. Scott, Co-Founder
550 Hoover Street
Oceanside CA 92054
760-803-6813

February 7, 2013

Hand Delivered

City of Oceanside
City Clerk
300 N. Coast Highway
Oceanside CA 92054

Appeal from 1/28/2013 Planning Decision--Waste Management 24-hour CNG Fueling Station
Resolution No. 2013-PO1 and 2013PO2

Grounds for Appeal: The CEQA review for the project was inadequate, failed to identify all of the adverse impacts or to provide adequate mitigation. Furthermore the findings from the initial study/analysis should have resulted in a complete Environmental Impact Report as the level of review. Failed to make required findings at the Planning Commission level; failed to take into account facts and evidence to the contrary. Numerous inadequacies in the environmental review included the following: failed to identify inconsistencies with the General Plan including Land Use and Noise Use elements, Oceanside Zoning Ordinance, the Oceanside Boulevard Vision Plan, the Oceanside Draft Sub-Area Plan, the Endangered Species Act (ESA), California Endangered Species Act (CESA), Oceanside Development Policies, City Policies, and the Loma Alta Watershed Management Plan; failed to identify adverse impacts associated with those inconsistencies, and failed to mitigate for identified impacts to below a level of significance; failed to demonstrate compliance with key provisions of local ordinances, particularly the Noise ordinance; failed to identify all existing, new and cumulative impacts of noise; failed to adequately evaluate floodway impacts considering current known flooding conditions; failed to identify or correct violations of the existing Conditional Use Permit for the site including landscape die-off that will result in biological and further cumulative impacts including noise, and floodway impacts; failed to provide adequate monitoring and enforcement required to assure current & future impacts are addressed for the life of the project; failed to give adequate notice to various residents/homeowners in notice area, failed to review existing development plan annually (Zoning Ordinance, Article 44), failed to adequately explain Item 36 of the 2013 Planning Commission resolution that creates uncertainty about what will be built.

Submitted by,

A handwritten signature in black ink, appearing to read "Nadine L. Scott", is written over a horizontal line.

Friends of Loma Alta Creek
&
Nadine L. Scott

Cpy: file

**REQUEST TO WAIVE \$1750 APPEAL FEE IN THE MATTER OF WASTE MANAGEMENT
CNG 24-HOUR FUELING/OPERATIONS, Development Plan D11-00007 & CUP11-00013**

TO THE OCEANSIDE CITY CLERK: We, the undersigned hereby request the exorbitant appeal fee of \$1750 be waived on the matter specified above [Zoning Code 4604A, paragraph1) and that we are "property owners or tenants within the noticed area."

NAME	ADDRESS
NADINE SCOTT <i>Nadine Scott</i>	550 Hoover St Oceanside CA 92054
Racquel Dudzinski Racquel Judzinski	2733 East Street Oceanside, CA 92054
Sharon Dudzinski Sharon Dudzinski	2733 East Street Oceanside, CA 92054
Dwight Dudzinski <i>Dwight Dudzinski</i>	2733 EAST STREET OCEANSIDE CA 92054
Lance Williams <i>Lance Williams</i>	537 Hoover St. Oceanside, CA 92054
FRED WESTERMAN <i>Fred Westerman</i>	553 HOOVER ST. OCEANSIDE CA. 92054
MARY J. WESTERMAN	553 Hoover St. Oceanside, City. 92054-4556.
Eva Hacks <i>Eva Hacks</i>	555 Hoover St Oceanside, CA 92054
Jack Zehriser <i>Jack Zehriser</i>	561 Hoover St Oceanside CA 92054

NAME

ADDRESS

NAME	ADDRESS
Jeanne Zahniser <i>Jeanne Zahniser</i>	561 Hoover St. Oceanside, CA 92054
Stephanie Woodard <i>Stephanie Woodard</i>	551 Hoover St. OCEANSIDE, CA 92054
Edna Condner EDNA CONDNER	566 Hoover St Oceanside Ca 92054
Gilberto Segura Gilberto Segura	574 Hoover St Oceanside, CA 92054
Thomas Heavey Thomas Heavey	578 Hoover St Oceanside CA 92054
Jessamyn Keenan <i>Jessamyn Keenan</i>	562 Hoover St. Oceanside CA 92054
VINCENT KNAKAL S/Vincent Knakal	562 Hoover St. Oceanside CA 92054
Bobby Gnillo Bobby Gnillo	530 HOOPER ST OCEANSIDE CA 92054
KAREN LEACHMAN <i>Karen Leachman</i>	520 HOOPER ST. OCEANSIDE CA 92054
David Berry <i>David Berry</i>	520 Hoover St Oceanside CA 92054

NAME

ADDRESS

Robert Chapin	537 Hoover St. Oceanside Ca 92054
STEVE NELSON	534 HOOVER ST. OCEANSIDE, CA. 92054
GAIL L SIMMONS	530 HOOVER ST OCEANSIDE, CA 92054
Leslie King	418 Hoover Street Oceanside, CA 92054
Greg May	418 HOOVER ST. OCEANSIDE, CA 92054
Steve Conley	416 Hoover St Oceanside CA 92054
Valerie K. Conley	416 Hoover St Oceanside, CA 92054
Donnie Giammaria	408 Hoover St. OCEANSIDE, CA 92054
Malissa Giammarie	408 Hoover St. Oceanside, CA 92054

NAME

ADDRESS

<p>Jayne Fitzgerald Jayne Fitzgerald Drum</p>	<p>317 Hoover St. Oceanside, CA. 92054</p>
<p>HERT MANUEL</p>	<p>2817 MACDONALD O'SIDE -</p>
<p>C CHARITY Kucroek</p>	<p>2842 macdonald st Oceanside, CA. 92054</p>
<p>Jenny Corbett</p>	<p>2828 Macdonald St Oceanside, CA 92054</p>
<p>ASIFA M MONAHAN Alita M. Monahan</p>	<p>2820 MACDONALD ST oceanside, CA 92054-4532</p>
<p>M Magan Taylor</p>	<p>2826 Macdonald St O'side, CA. 92054</p>
<p>ZACH TAYLOR</p>	<p>2726 MACDONALD ST. OSIDE, CA 92054</p>
<p>RITA SANDFORD</p>	<p>2725 MACDONALD ST. OCEANSIDE, CA. 92054 -</p>
<p>ANNIE DOUGHTON ANNIE DOUGHTON</p>	<p>409 Creek St Oceanside, Calif 92054</p>

NAME

ADDRESS

Ruth Brown Ruth Brown	416 Crouch St. Oceanside, Ca 92054
C. Christensen Courtney Christenson	2712 East St. Oceanside, CA 92054
 GARY CHRISTENSON	2712 East St Oceanside CA 92054
Arthur Larson ARTHUR LARSON	412 Hoover ST Oceanside Ca. 92054
Janette Dubski Mitchell Dubski M.	510 Hoover St Oceanside CA 92054
Beau Bonham BEAU BONHAM	423 Hoover st Oceanside CA 92054
Marianne Senteno MARIANNE SENTENO	2731 Mac Donald Oceanside, CA 92054
Pat Senteno Pat Senteno	2731 Mac Donald Oceanside, CA 92054
Kevin Bowers	581 Hoover Street Oceanside, CA 92054
Michelle Bowers Michelle Bowers	581 Hoover St. Oceanside CA 92054

**REQUEST TO WAIVE \$1750 APPEAL FEE IN THE MATTER OF WASTE MANAGEMENT
CNG 24-HOUR FUELING/OPERATIONS, Development Plan D11-00007 & CUP11-00013**

TO THE OCEANSIDE CITY CLERK: We, the undersigned hereby request the exorbitant appeal fee of \$1750 be waived on the matter specified above [Zoning Code 4604A, paragraph1) and that we are "property owners or tenants within the noticed area."

NAME

ADDRESS

KYLE KRAHEL L. K.	2931 MacDonald St. Oceanside, CA 92054
Thomas Frlander <i>[Signature]</i>	2931 Mac Donald SP. Oceanside, CA 92054
Amanda B. Loder <i>[Signature]</i>	2931 Mac Donald St. Oceanside, CA 92054
TRAVIS A. KRAHEL <i>[Signature]</i>	2931 Macdonald St Oceanside, CA 92054
Sean Frlander <i>[Signature]</i>	2931 Macdonald St Oceanside, CA 92054
SCOTT BRUNNET <i>[Signature]</i>	2943 MACDONALD STREET OCEANSIDE, CA 92054

NAME

ADDRESS

JOSEPH

DAVID WALKER	511 HOOPER OSIDE 92054
Joseph David Walker GENORA WALKER	511 HOOPER OSIDE 92054
Genora D. Walker	
Holly Carter	587 HOOPER O'side 92054
Holly Carter Richard Carter	587 HOOPER ST 92054
[Signature] Jodie Park	591 Hooper St O'side CA 92054

**REQUEST TO WAIVE \$1750 APPEAL FEE IN THE MATTER OF WASTE MANAGEMENT
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NAME	ADDRESS
<i>J. Howard Mackey</i> <i>Howard Mackey</i>	536 Hoover Oceanside, CA 92054
Henry C. Mackey	536 Hoover St., Oceanside CA 92054
Sonia Manuel	2812 MacDonald St 92054
<i>Sonia Manuel</i>	2812 MacDonald St 92054
<i>Tris Ste</i>	2832 MACDONALD ST 92054
Tris Stewart	OCEANSIDE
<i>Jeff D. Stewart</i>	2832 MACDONALD ST
Jeffrey D Stewart	2832 MACDONALD ST
<i>J. Gilbert</i> JAMES GILBERT	409 HOOVER ST OCEANSIDE, CA 92054



PROCUREMENT SERVICES
5998 Alcalá Park
San Diego, CA 92110-2492

CHECK DATE	CHECK NUMBER	SUPPLIER NUMBER
Jan 31, 2013	629002	38539

Invoice No	Invoice Date	Invoice Description	Invoice Discount	Invoice Net
01130CITYOF	Jan 30, 2013	APPEAL FEES		1,750.00
INVOICE TOTAL				1,750.00

Hold - 2/1/13
Do not deposit

WARNING - THIS CHECK IS PROTECTED BY SPECIAL SECURITY GUARD PROGRAM™ FEATURES



PROCUREMENT SERVICES
5998 Alcalá Park
San Diego, CA 92110-2492

Wells Fargo Bank, N.A.

Void After 90 Days

CHECK NUMBER	PAYMENT DATE
629002	Jan 31, 2013

One Thousand Seven Hundred Fifty Dollars And Zero Cents**

1,750.00

PAY to the Order of
City of Oceanside
City Clerk
300 N Coast Hwy
Oceanside, CA 92054 United States



May E. Lyon

Amounts over \$20,000.00 must be countersigned

THIS CHECK CONTAINS MULTIPLE SECURITY FEATURES - SEE BACK FOR DETAILS

73673 BS
PAYMENTS 3.107.785 1.540.99