

Notice of Determination, CEQA Findings, and Mitigation Monitoring and Reporting Program



Old Banks Landfill Cap Project

Mitigated Negative Declaration

SCH # 2019109084



California Department of Water Resources

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Notice of Determination

Notice of Determination

Appendix D

To:

Office of Planning and Research
U.S. Mail: P.O. Box 3044
Street Address: 1400 Tenth St., Rm 113
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk
County of:
Address:

From:

Public Agency: CA Dept of Water Resources
Address: 1416 Ninth Street
Sacramento, CA 95814
Contact: Gerald Snow
Phone: (916) 376-7213

Lead Agency (if different from above):
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2019109084

Project Title: Old Banks Landfill Cap Project

Project Applicant: CA Department of Water Resources

Project Location (include county): Approximately 9 miles northwest of Tracy in Contra Costa County

Project Description:

DWR is proposing to repair and upgrade the existing cap at the Old Banks Landfill to address concerns related to landfill debris exposure raised by the Contra Costa County Health Department (CCCHD). Project activities include placing fill soil material on the Landfill crown to bring the site to grade, placing a commercially available rodent control barrier material, and placing a surface layer on top of the rodent control barrier.

This is to advise that the California Department of Water Resources has approved the above (Lead Agency or Responsible Agency)

described project on 12/2/2019 and has made the following determinations regarding the above described project.

- 1. The project will not have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan was adopted for this project.
5. A statement of Overriding Considerations was adopted for this project.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

1416 Ninth Street, Sixth Floor; Sacramento, CA 95814

Signature (Public Agency): Jerry Snow Title: EPM II

Date: 12/2/2019 Date Received for filing at OPP:

Governor's Office of Planning & Research

DEC 04 2019

Adoption of the Mitigated Negative Declaration

Pursuant to the California Environmental Quality Act (CEQA), the California Department of Water Resources (DWR) finds the Mitigated Negative Declaration (including Initial Study; IS/MND) for the Old Banks Landfill Cap Project (Project) has been completed in compliance with the California Environmental Quality Act (CEQA), that the IS/MND and all comments were reviewed and considered, and adopts the IS/MND. The IS/MND was filed at the State Clearinghouse (SCH) on October 28, 2019 (SCH # 2019109084) and no comments requiring response were received during the 30-day review period.

Findings

The following Findings are hereby adopted by DWR:

Potentially Significant Impacts that would be mitigated to less-than-significant levels:

- **Air Quality**
Construction of the Project has the potential to violate air quality standards by temporarily generating emissions such as ROG, NO_x, PM₁₀, and PM_{2.5}. Implementation of Mitigation Measure AQ-1 will reduce impacts from off-road equipment and heavy-duty vehicles emissions to less-than-significant.
- **Biological Resources**
Project activities including site preparation, placing fill soil material on the Landfill crown to bring the site to grade, placing a commercially available rodent control barrier material, and placing a surface layer on top of the rodent control barrier have the potential to adversely affect special-status species. Implementation of Mitigation Measures Bio-1 – Bio-5 will reduce impacts to less-than-significant.
- **Cultural Resources**
Project activities site preparation, placing fill soil material on the Landfill crown to bring the site to grade, placing a commercially available rodent control barrier material, and placing a surface layer on top of the rodent control barrier have the potential to adversely affect an archaeological resource or disturb human remains. Mitigation Measures Cult-1 and Cult-2 will reduce impacts to less-than-significant.

The proposed Project will have a less-than-significant or no impact on Aesthetics; Agricultural and Forestry Resources; Energy; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation; Transportation; Tribal Cultural Resources; Utilities and Service Systems; and Wildfire.

Mitigation Monitoring and Reporting Program

Table 1 includes the Mitigation Measures that will reduce Project impacts to less-than-significant, the party responsible for monitoring, implementation timeframes, and reporting.

Table 1. Summary of mitigation measures, responsible parties, and timing of monitoring compliance for the DWR Old Banks Landfill Cap Project.

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	Time frame for implementation	Date completed
2.1.1 Aesthetics			
None.			
2.1.2 Agriculture and Forestry Resources			
None.			
2.1.3 Air Quality			
<p>Mitigation Measure AQ-1: Reduce emissions from off-road equipment and heavy-duty vehicles</p> <ul style="list-style-type: none"> ▶ Tier 4F diesel engine standards will be used during construction. ▶ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day during construction, or as frequently as needed to minimize fugitive dust. ▶ All materials in haul trucks, including transporting soil, sand, or other loose material being hauled on- or off-site shall be covered. ▶ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▶ All vehicle speeds on unpaved roads shall be limited to 15 mph. ▶ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. 	Engineer, Construction Contractor	Prior to the start of and during project construction	

<ul style="list-style-type: none"> ▶ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. ▶ All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. ▶ Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. 			
2.1.4 Biological Resources			
<p>Mitigation Measure Bio-1: Avoid and minimize potential impacts to wildlife</p> <ul style="list-style-type: none"> ▶ A qualified wildlife biologist will conduct pre-construction surveys no more than two weeks prior to the start of construction for any special-status wildlife that have the potential to occur within the project area. ▶ Prior to the start of construction, known sensitive areas adjacent to the project site will be marked with high visible flagging for avoidance. ▶ A qualified wildlife biologist will conduct a training session for all construction personnel prior to the start of work. At a minimum, the training shall include a description and discussion of the importance of avoiding impacts to special-status wildlife, the general measures that are being implemented to conserve these species as they relate to the project and project area, and procedures to follow should they encounter wildlife during work. 	Biologist	Prior to the start of and during project construction	

<ul style="list-style-type: none"> ▶ A biological monitor will be on-site as needed during project construction at the discretion of the Lead Biologist. ▶ Any observations of federally or State-listed species will be reported to the USFWS and CDFW within one (1) working day of the observation. ▶ If federally or State-listed species are observed on site, all work will halt and the animal will be allowed to leave the project area on their own. ▶ Project activities shall be performed during daylight hours. ▶ All trash shall be properly contained, removed from the worksite, and disposed of properly to prevent attracting wildlife. ▶ All fueling and maintenance of vehicles or other equipment shall occur on established roads and at least 50 feet away from any on-site water feature. ▶ Motorized equipment will be kept clean and in good working condition and will not be left idling while not in use for more than 5 minutes. ▶ Absorbent materials will be available on-site. Any accidental leaks or spills will be immediately cleaned up, and the equipment will not be able to return to the project area until it has been repaired sufficiently to prevent further leaks or spills. 			
<p>Mitigation Measure Bio-2: Avoid and minimize impacts to special-status plants</p> <ul style="list-style-type: none"> ▶ A qualified biologist will conduct surveys in the appropriate seasons for any special-status species that are potentially present within the project area. If any are identified, they will be flagged and avoided if feasible. ▶ If special-status plants are identified within the project area and cannot be avoided, the Implementing Entity (ECCHC) will coordinate with USFWS/CDFW, and an attempt will be made to transplant the individuals or collect and disperse seeds. 	Biologist	Prior to the start of and during project construction	

<p>Mitigation Measure Bio-3: Avoid and minimize impacts to California tiger salamander and California red-legged frog</p> <ul style="list-style-type: none"> ▶ DWR will participate as a Participating Special Entity in the East Contra Costa County Habitat Conservation Plan/Natural Communities Conservation Plan (Jones & Stokes 2006) to mitigate for impacts to upland habitat for these species. ▶ Work will only be conducted during daylight hours and not during rain events. ▶ Any burrows or large cracks in the ground that will be temporarily impacted during construction will be covered with plywood to prevent collapse. 	<p>Biologist</p>	<p>Prior to the start of and during project construction</p>	
<p>Mitigation Measure Bio-4: Avoid and minimize impacts to Burrowing Owl</p> <ul style="list-style-type: none"> ▶ Prior to any ground disturbance related to project activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential Burrowing Owl habitat. The surveys will establish the presence or absence of Burrowing Owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 2012). ▶ On the parcel where the activity is proposed, the biologist will survey the proposed disturbance site and a 250-foot radius from the perimeter of the proposed site to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or Burrowing Owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys will document whether Burrowing Owls 	<p>Biologist</p>	<p>Prior to the start of and during project construction</p>	

<p>are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether Burrowing Owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.</p> <ul style="list-style-type: none"> ▶ If Burrowing Owls are found during the breeding season (February 1 – August 31), all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young will be avoided. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1 – January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below). ▶ During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing. ▶ If occupied burrows for Burrowing Owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand 			
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<p>tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.</p>			
<p>Mitigation Measure Bio-5: Avoid and minimize impacts to San Joaquin kit fox</p> <ul style="list-style-type: none"> ▶ Prior to any ground disturbance related to project activities, a USFWS/CDFW– approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999). ▶ Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist will survey the proposed disturbance site and a 250-foot radius from the perimeter of the proposed site to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of project activities. ▶ If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below will be implemented: <ul style="list-style-type: none"> ▪ If a San Joaquin kit fox den is discovered in the proposed development site, the den will be monitored for 3 days by a USFWS/CDFW– approved biologist using a tracking medium or an 	<p>Biologist</p>	<p>Prior to the start of and during project construction</p>	

<p>infrared beam camera to determine if the den is currently being used.</p> <ul style="list-style-type: none"> ▪ Unoccupied dens within the disturbance site should be destroyed immediately to prevent subsequent use. ▪ If a natal or pupping den is found, USFWS and CDFW will be notified immediately. The den will not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW. ▪ If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities ▪ If dens are identified in the survey area outside the proposed disturbance site, exclusion zones around each den entrance or cluster of entrances will be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No project activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging 			
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<p>that encircles each den or cluster of dens but does not prevent access to the den by kit fox.</p>			
<p>2.1.5 Cultural Resources</p>			
<p>Mitigation Measure Cult-1: Halt ground-disturbing construction activities if cultural materials are discovered</p> <ul style="list-style-type: none"> ▶ If historical or unique archaeological resources are discovered during construction, all work would temporarily cease in the immediate area until the findings can be assessed by a qualified archaeologist and an appropriate course of action can be determined. Work may continue on other parts of the proposed project while evaluation and mitigation takes place (CEQA Guidelines §15064.5 [f]). If the find is determined to be a historical or unique archaeological resource, time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation must be available. 	<p>Cultural Resources Specialist</p>	<p>During project construction</p>	
<p>Mitigation Measure Cult-2: Halt construction activities if any human remains are discovered</p> <ul style="list-style-type: none"> ▶ If human remains are found, such remains would be subject to the provisions of California Public Resources Health and Safety Code Section 7050.5. The requirements and procedures would be implemented, including immediately stopping work in the vicinity of the find and notifying the County Coroner. A DWR archaeologist would also need to be contacted immediately. The process for notification of the California Native American Heritage Commission (NAHC) and consultation with the individual(s) identified by the NAHC as the “most likely descendent” is set forth in Section 5097.98 of the California Public Resources Code. Work in the vicinity of the find can restart after the remains have been investigated and appropriate recommendations have been made for their treatment and disposition. 	<p>Cultural Resources Specialist</p>	<p>During project construction</p>	
<p>2.1.6 Energy</p>			

None.			
2.1.7 Geology and Soils			
None.			
2.1.8 Greenhouse Gas Emissions			
<ul style="list-style-type: none"> ▶ BMP 1. Evaluate project characteristics, including location, project workflow, site conditions, and equipment performance requirements, to determine whether specifications of the use of equipment with repowered engines, electric drive trains, or other high-efficiency technologies are appropriate and feasible for the project or specific elements of the project. ▶ BMP 2. Evaluate the feasibility and efficacy of performing on-site material hauling with trucks equipped with on-road engines. ▶ BMP 7. Minimize idling time by requiring that equipment be shut down after five minutes when not in use (as required by the State airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site and provide a plan for the enforcement of this requirement. ▶ BMP 8. Maintain all construction equipment in proper working condition and perform all preventative maintenance. Required maintenance includes compliance with all manufacturer’s recommendations, proper upkeep, and replacement of filters and mufflers, and maintenance of all engine and emissions systems in proper operating condition. Maintenance schedules shall be detailed in the Air Quality Control Plan prior to commencement of construction. ▶ BMP 9. Implement tire inflation program on job site to ensure that equipment tires are correctly inflated. Check tire inflation when equipment arrives on-site and every two weeks for equipment that remains on-site. Check vehicles used for hauling materials off-site weekly for correct tire inflation. Procedures for the tire inflation program shall 	Biologist, Engineer, Construction Contractor	Prior to the start of and during project construction	

<p>be documented in an Air Quality Management Plan prior to commencement of construction.</p> <ul style="list-style-type: none"> ▶ BMP 10. Develop a project-specific rideshare program to encourage carpools, shuttle vans, transit passes and/or secure bicycle parking for construction worker commutes. ▶ BMP 14. Develop a project-specific construction debris recycling and diversion program to achieve a documented 50% diversion of construction waste. ▶ BMP 15. Evaluate the feasibility of restricting all material hauling on public roadways to off-peak traffic congestion hours. During construction scheduling and execution minimize, to the extent possible, uses of public roadways that would increase traffic congestion. 			
2.1.9 Hazards and Hazardous Materials			
None.			
2.1.10 Hydrology and Water Quality			
None.			
2.1.11 Land Use and Planning			
None.			
2.1.12 Mineral Resources			
None.			
2.1.13 Noise			
None.			
2.1.14 Population and Housing			
None.			
2.1.15 Public Services			
None.			
2.1.16 Recreation			
None.			
2.1.17 Transportation			
None.			
2.1.18 Tribal Cultural Resources			

None.			
2.1.19 Utilities and Service Systems			
None.			
2.1.20 Wildfire			
None.			