

**Final
Supplemental Environmental Impact Report No. 597
SCH No. 1999041035**

**Statement of Overriding Considerations
Second Amendment to the 2001 Prima Deshecha
General Development Plan**

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April 2007

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**FINAL STATEMENT OF OVERRIDING CONSIDERATIONS FOR
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT 597
SECOND AMENDMENT TO THE 2001 PRIMA DESHECHA
GENERAL DEVELOPMENT PLAN**

1.0 INTRODUCTION

The County of Orange is the Lead Agency under the California Environmental Quality Act (CEQA), responsible for preparation, review and certification of the Supplemental Environmental Impact Report (SEIR) for the Second Amendment to the 2001 Prima Deshecha General Development Plan (SEIR No. 597). As the Lead Agency, the County is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed action.

In making this determination, the Lead Agency is guided by the CEQA Guidelines Section 15093, which provides as follows:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a Proposed Project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a Proposed Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the Lead Agency approves a project which will result in the occurrence of significant effects which are identified in the EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination.

Where a public agency finds that economic, legal, social, technical or other reasons make the mitigation measures or alternatives identified in the EIR infeasible and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical, or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

1.1 BACKGROUND

The 2001 Prima Deshecha General Development Plan (GDP) and its First Amendment were accompanied by EIR 575 for which a Notice of Determination was certified on November 6, 2001. EIR 575 served as a Project EIR for near-term projects and as a Programmatic EIR for long-term projects which covered known actions at the project site related to: current and future project operations; foreseeable and known site improvements related to regional transportation requirements; and subsequent land uses through the post-buildout period of project completion. At the time EIR 575 was certified, detailed engineering design plans had still not been developed for future operations, and engineering and geotechnical considerations for future

phases of project operation had not been fully addressed with respect to impacts on biological resources. Accordingly, EIR 575 stated its intent to function as a Program EIR for these future portions of the landfill project site in its entirety. Specifically mentioned within this context were landfill operations in the eastern portion of the site and unanticipated projects elsewhere on the property. EIR 575 was intended to simplify and narrow the scope of the necessary documentation that is required by CEQA for these portions of the site once additional project information became available.

The Second Amendment to the 2001 GDP further defines the extent of ground disturbance at the Prima Deshecha Landfill (PDL) site over the boundaries identified within EIR 575. Although there is no change to the refuse prism or refuse volumes being accepted at the PDL, the extent of potential ground disturbance has been better defined in order to provide for activities such as landslide remediation and implementation of landfill-related support features; adjustments to the Zone 4 desilting system; and measures needed to provide for the long-term success of the environmental mitigation and restoration components of the overall GDP (required for long-term state and federal agency permits). Although consistent in concept with the 2001 GDP, these elements constitute incremental additions, refinements, or minor changes to the approved 2001 GDP, the effects of which are analyzed within SEIR 597. SEIR 597 functions as a programmatic document for the updated project features presented in the Proposed Project description.

Although most potential environmental impacts identified in SEIR 597 for the project have been substantially avoided or mitigated through the identification and adoption of Project Design Features and Mitigation Measures (as more specifically described in the Statement of Findings and Facts approved for the project), some impacts including those which the County believes are adequately mitigated remain, or may be asserted to remain, for which complete mitigation is not feasible or may not be sufficient in some other manner. As to any impacts considered significant and unavoidable if the project is approved and implemented, after balancing the specific economic, legal, social, technological and other benefits of the project, the Board of Supervisors has determined that the unavoidable, adverse environmental impacts (as addressed in the SEIR) are considered acceptable in light of the considerations, specifically identified below, which outweigh the unavoidable, adverse environmental impacts of the project as specifically identified or subsequently determined.

SEIR 597 identified a number of alternatives to evaluate and determine the extent to which they meet the basic project objectives, while avoiding or substantially lessening any potential significant adverse impacts. However, for the reasons detailed in the Statement of Findings and Facts in support of the Proposed Project, the Proposed Project was found to be the environmentally superior alternative.

The County of Orange Board of Supervisors, acting as the Lead Agency and having reviewed SEIR 597 and public records, adopts this Statement of Overriding Considerations (SOC), which has balanced the benefits of the project against its significant unavoidable adverse impacts in reaching a decision to approve the project.

2.0 UNAVOIDABLE ADVERSE SIGNIFICANT IMPACTS

2.1 AIR QUALITY

2.1.1 Impact

The PDL is currently implementing several mitigation measures required by EIR 575 and the 2001 GDP to reduce potential air quality impacts. The Proposed Project for the Second Amendment to the 2001 GDP does not alter project emissions as covered by EIR 575.

Notwithstanding the fact that the Proposed Project does not change maximum daily or total annual project emissions over those covered by EIR 575, a change in the CEQA Guidelines subsequent to certification of EIR 575 has resulted in an updated impact conclusion of significant after mitigation for air quality impacts associated with the original 2001 GDP.

Implementation of updated air quality mitigation measures were developed for SEIR 597 in accordance with the updated SCAQMD air quality regulations. These updated mitigation measures would help to further reduce air quality impacts that result from operations at the PDL; however, even with implementation of all existing and recommended updated mitigation measures, operations at the PDL would result in significant and unavoidable air quality impacts. The mitigation measures identified in the SEIR would substantially lessen the significant adverse impacts, but would not completely avoid these impacts.

The Proposed Project does not result in additional impact to surrounding communities from project-related odor considerations. However, in response to comments received during public review of Draft SEIR 597, IWMD has agreed to use the Whispering Hills development as a periodic odor survey point when fulfilling its established commitment under Mitigation Measure 4.9-5, contained within FEIR 575.

3.0 ABSENCE OF SIGNIFICANT NEW INFORMATION

Section 15088.5 of the CEQA Guidelines requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The Guidelines provide examples of significant new information under this standard. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

Geotechnical complexities at the PDL site were well documented within the 2001 GDP and EIR 575, which explicitly acknowledged that additional boundary adjustments might be required due to geotechnical constraints at the site. Accordingly, the Proposed Project described in SEIR 597 utilized the site-wide geotechnical information contained within EIR 575 and experience with ongoing landfill operations to refine the temporary limits of disturbance for remedial grading activities presented within SEIR 597, and is not based upon new technical information. Additionally, construction of the Whispering Hills residential development and the San Juan Hills High School (SJHHS) was initiated subsequent to finalization of the 2001 GDP and certification of EIR 575. The Whispering Hills development was considered as a regional project in EIR 575, and landfill operations as described within the 2001 GDP were considered within the Whispering Hills EIR and SJHHS Addendum.

Neither the Whispering Hills EIR nor the IS/Addendum for SJHHS reached a conclusion of significant impact or concern to air quality from landfill operations associated with the interaction of local wind patterns and ongoing landfill grading operations and remediation activities. Both the residential development and the high school have accordingly proceeded with project implementation. The Proposed Project in SEIR 597 does not alter air emissions from the site over those considered within FEIR 575 and the Whispering Hills EIR and Addendum to the SJHHS, and accordingly does not present a changed condition from that considered in the 2001 GDP.

Per Section 15088.5(a), “new information” requiring recirculation of an EIR would either result in a new significant environmental impact conclusion, an increase in the severity of an environmental impact unless mitigation measures were applied, or the disclosure of a project alternative that would clearly lessen the impacts of the Proposed Project, which the project proponents decline to adopt. As there has been no information provided or alternatives identified that would change the Proposed Project impact conclusions to meet these criteria, there is no requirement to recirculate SEIR 597.

Therefore, the Board of Supervisors hereby finds that no significant new information has been added to the SEIR since public notice was given of the availability of the draft SEIR that would require recirculation of the SEIR.

4.0 OVERRIDING CONSIDERATIONS

The Proposed Project consists of the adoption of the Supplemental Environmental Impact Report for the Second Amendment to the 2001 Prima Deshecha General Development Plan. Proposed Project elements occur at the PDL site, which is located at 32250 La Pata Avenue, San Juan Capistrano, CA, to: (1) provide for the areal extent of future landslide remediation activities around the PDL, without which adequate slope stabilization measures could not be provided for the landfill and the site would be required to cease operations much earlier than currently planned; (2) accommodate future landfill-related features such as landfill gas generation (LFG) perimeter probes and LFG collection header lines; (3) make adjustments for Zone 4 to provide drainage and erosion control facilities that avoid sensitive biological resources; and (4) implement measures needed to provide for the long-term success of the environmental mitigation and restoration components of the overall GDP.

Although implementation of the Proposed Project does not increase air emissions from the PDL or landfill-generated traffic volumes over the 2001 GDP, the EIR 575 impact conclusion for air quality has been updated to reflect a change in the CEQA Guidelines since EIR 575 was certified. Accordingly, SEIR 597 has concluded that project operations at the PDL will result in air quality impacts that cannot be mitigated to a less than significant level. All other potential significant adverse project impacts have been mitigated to a level considered less than significant based on mitigation measures in the SEIR. All significant unavoidable adverse impacts are identified in the SEIR and are addressed in the Statement of Findings and Facts.

The County has determined that the significant unavoidable adverse impact to air quality is acceptable and is outweighed by specific social, economic, and other benefits of the project. In making this determination, the following factors and public benefits were considered as overriding considerations which apply to the unavoidable significant adverse impacts of the Proposed Project:

1. The County of Orange is charged with the responsibility of providing landfill capacity to serve the anticipated waste disposal demand created within the County. This demand is presently being served in large part by the existing Prima Deshecha Landfill, which is anticipated to reach build-out around the year 2067. Should the PDL’s remaining capacity be reduced or project operations be interrupted, the County would be required to seek alternate refuse disposal alternatives which would likely entail the need to transport refuse to other off-site locations. The environmental, social, and economic impacts resulting from these alternate disposal options would be severe.
2. The 2001 GDP and EIR 575 analyzed environmental impacts associated with project operations and support facilities for both active landfill zones at the site. The limits of ground disturbance within EIR 575 were estimated to accommodate the proposed landfill grading

limits as well as anticipated landfill support features required for landfill operation such as landfill gas (LFG) generation perimeter probes, and LFG collection header lines. Conceptual designs were utilized for those portions of the landfill designated for future refuse operations. The 2001 GDP and EIR 575 analyzed landfill impacts for a total of approximately 800 acres, of which approximately 327 acres were located within Zone 1 and approximately 473 acres were located within Zone 4. This impact area consisted of the refuse footprint with some additional area needed for cut slopes.

3. Geotechnical and operational considerations have been refined for the active landfill zones, with a corresponding refinement in the designation of temporary disturbance that may be needed to support existing landfill operations. The Proposed Project has changed these limits of disturbance to a total of 1,078 acres, for an incremental increase of 278 acres (or 35 percent). Of these 278 acres, approximately 110 acres are located around the perimeter of Zone 1 and 168 acres are located around the perimeter of Zone 4. This increase in temporary disturbance limits is required to provide for additional area to accommodate implementation of landslide remediation features and landfill support features needed to fully develop the approved landfill designs within the 2001 GDP. The Proposed Project also incorporates features to reduce impacts to on-site biological resources, and maintain existing biological mitigation areas. Updates to the Zone 1 incremental fill and excavation limits are also presented within the Proposed Project, and conceptual excavation phasing limits are presented for Zone 4 as well.
4. These Proposed Project changes in the limits of disturbance overlap Rancho Mission Viejo (RMV) Burdened Property and include activities associated with temporary roads and infrastructure required to support landfill operations (i.e., site-grading and soil-filling associated with the implementation of landslide stabilization measures, and biological mitigation). These actions are consistent with County of Orange/RMV Company Settlement Agreement (RMV Agreement) designated approved uses for this property in support of landfill operations and are consistent with pre-existing commitments and restrictions for this area as set forth within the RMV Agreement.
5. The 2001 GDP proposed a permanent desilting basin between Zones 1 and 4 to provide desilting capabilities for Zone 4. This location would have directly impacted four of five existing least Bell's vireo (LBV) territories (fully impacting two territories and partially impacting two others). The preferred design alternative incorporated into the Proposed Project includes several desilting basins located around the perimeter of Zone 4 that would avoid the LBV territories that would have been impacted with the desilting basin location proposed in EIR 575.
6. The primary function of the Proposed Project desilting basins is to provide desilting and some detention capabilities for Zone 4 landfill operations, while also functioning as part of a rainfall collection system designed to maintain flows to the downstream riparian corridor once Zone 4 operations have impacted the spring and its probable recharge area.
7. The Proposed Project assessed within SEIR 597 incorporates hydrologic features for surface water augmentation to the Prima Deshecha Cañada riparian corridor, thereby providing for the long-term viability of on-site biological resources. These hydrologic features would offset Zone 4 operational impacts to the potential recharge area of an existing water source for the biological resources along this riparian corridor.
8. The Proposed Project presents a pre-mitigation program for the PDL site, which proactively addresses future impacts from landfill operations to coastal sage scrub, southern needlegrass grassland, special status plant species, and state and federal jurisdictional

wetlands and waters of the United States that will likely occur at some point during the ultimate development of the Prima Deshecha Landfill between 2019 and 2067. This pre-mitigation program will assist the PDL in obtaining long-term resource agency permits needed to ensure continued and seamless operation of the landfill through project build-out around the year 2067.

9. On-site environmental resources and restoration and enhancement opportunities at the PDL make the site an important partner in a number of significant and ongoing regional planning efforts. These planning efforts include, but are not limited to, the development of a San Juan Creek and Western San Mateo Creek Watershed SAMP; the Proposed Southern Subregion NCCP for the Orange County Southern Subregion; and the La Pata Avenue Gap Closure Study. Implementation of the Proposed Project also includes the development of a comprehensive conceptual plan identifying regional environmental enhancement opportunities on site (REEOP).
10. This Regional Environmental Enhancement Opportunities Plan (REEOP) identifies restoration, enhancement, and creation opportunities on the PDL property that can be made available to satisfy potential mitigation requirements for (non-PDL) public and private projects in the region. The REEOP will serve to identify these opportunities in conjunction with state and federal resource agency permit authorizations. SEIR 597 provides the CEQA documentation that would allow other public agencies or private landowners to use specific areas within the PDL property (identified by the REEOP) at the time of landfill closure for restoration mitigation purposes if the IWMD authorizes this activity.
11. The Proposed Project will provide needed facilities and services to residents of the County by providing for the continued operation of the PDL at its currently approved capacity. The ultimate use of this property, after termination of landfilling, will be consistent with the 2001 GDP.
12. Implementation of the Proposed Project will enable the IWMD to maintain adequate revenues and local control of waste disposal to provide consistent and reliable public rates and fees.
13. Implementation of the Proposed Project would avoid adverse environmental impacts associated with developing new landfill facilities in Orange County by fully utilizing an existing solid waste disposal facility.
14. This analysis was part of an effort to provide for the continued operation and full utilization of the approved capacity of the PDL throughout the projected landfill life. Failure to provide for the County's waste disposal needs in its existing landfills will require the development of new landfills in Orange County or the transportation of waste that cannot be accommodated in-County to out of County landfills. Either of these options would result in considerable expense to the County and its residents, as well as additional and potentially severe environmental impacts, including air quality impacts.

5.0 LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the County's findings and decisions are based are located at County of Orange, Integrated Waste Management Department, 320 North Flower Street, Suite 400, Santa Ana, CA 92703. The custodian for these documents is the Director of the Integrated Waste Management Department. This information is provided in compliance with *Public Resources Code* Section 21081.6(a)(2) and *California Code of Regulations*, Title 14, Section 15091(e).