THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development AF **BOARD AGENDA #** 9:10 a.m.

Urgent ☐ **Routine** ■ **AGENDA DATE** July 30, 2013

CEO Concurs with Recommendation YES ☐ **NO** ☐ **4/5 Vote Required YES** ☐ **NO** ■
(Information Attached)

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's June 6, 2013, Decision to Deny Use Permit Application No. 2012-04, Recology-Grover Environmental Products, a Request to Expand an Existing 112± Acre Composting Business to an Adjacent 42.87± Acre Parcel in the A-2-40 (General

(Continued on page 2)

STAFF RECOMMENDATIONS:

After conducting a public hearing at its regular meeting on June 6, 2013, the Stanislaus County Planning Commission, on 3-3 vote, denied Use Permit Application No. 2012-04 Recology-Grover Environmental Products, due to a lack of a majority vote.

The Board may decide to return this item back to the Planning Commission to review the information submitted by the applicant following the Planning Commission meeting, uphold the Planning Commission's decision or overturn the denial. If the Board decides to overturn the Planning Commission's decision, thus granting the applicant's appeal and approving the Use Permit application, the following findings must be made:

(Continued on page 2)

FISCAL IMPACT:

There are no fiscal impacts associated with this project. In accordance with the adopted Department of Planning and Community Development Fee Schedule, this project is subject to payment of the department's established fees for processing of the application. All costs associated with this project have been paid and will have no impact on the County's General Fund.

BOARD ACTION AS FOLLOWS:

No. 2013-388

On motion of Supervisor De Martini , **Seconded by Supervisor** O'Brien
and approved by the following vote,
Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

1)____ **Approved as recommended**
2)____ **Denied**
3)____ **Approved as amended**
4) X **Other:**
MOTION: Conducted the public hearing; and, based on a request from the applicant, the Board returned the project to the Planning Commission to reconsider the application in light of new information and to address outstanding issues

Christine Ferraro

ATTEST: **CHRISTINE FERRARO TALLMAN, Clerk** **File No.**

SUBJECT: (CONTINUED)

Agriculture) Zoning District, Located on Gaffery Road, Assessor's Parcel Numbers 016-003-010 and 014, Vernalis. The Board Will Consider Adoption of a California Environmental Quality Act - Mitigated Negative Declaration for the Project

STAFF RECOMMENDATIONS: (CONTINUED)

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.

2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.

3. Find that:
   (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County;
   (b) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;
   (c) The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity;
   (d) It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage;
   (e) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;
   (f) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they

relate directly to the production of commercial agricultural product on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping;

(g) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use; and

(h) The project will increase activities in and around the project area and increase demands for roads and services thereby requiring dedication and improvements.

4. Approve Use Permit Application No. 2012-04 – Recology – Grover Environmental Products, subject to the attached conditions of approval and mitigation measures.

DISCUSSION:

This item is an appeal of the Stanislaus County Planning Commission's June 6, 2013, decision to deny Use Permit Application No. 2012-04, Recology/Grover Environmental Products. The appeal letter, submitted by the project applicant, Recology-Grover Environmental Products (RGEP) and dated June 17, 2013, is included as Attachment "1".

The project site, currently operating as a composting facility, is located on Gaffery Road, east of Koster Road, and west of Welty Road in the Vernalis area. The composting facility was originally established under Use Permit No. 98-19. In 2008, the facility expanded under Use Permit No. 2006-37 by adding an additional 50± acres of composting area, for a total of approximately 112± acres for the entire facility. Waste types processed at this facility include green yard material, leaves, brush, wood chips, municipal clean green waste, Christmas trees, clean fresh agricultural product (fruits, olive pumice, manure and vegetables), and potentially contaminant free post-consumer food waste. No publicly-owned treatment plant sludge or residue is processed. The facility composts green material, commonly referred to as composting "feedstocks" originating in the agricultural, residential, and light commercial waste streams, to be processed for use as soil amendments and top-dressing. RGEP also receives green material from several cities and attempts to maintain standards of clean non-contaminated material for feedstock that will help in quality control of the finished product. The finished product is primarily used as a soil amendment for local agricultural operations and is a certified organic soil amendment. The RGEP compost is presently listed, with both the California Certified Organic Farmers Handbook (CCOF) and the Organic Material Review Institute (OMRI) as being an amendment that may be utilized in the commercial production of certified organic produce.

The present Use Permit application, made by RGEP, is a request to expand the existing 112± acre composting facility to an adjacent 42.87± acre parcel, to re-organize the site for better efficiency and to expand the allowable composting feedstocks, to be composted on-site.

A compost facility such as Recology-Grover site is classified by Section 21.20.030 of the Stanislaus County Zoning Ordinance as a Tier Two use within the A-2 (General Agriculture) Zoning District. Tier Two uses are considered agriculture related commercial and industrial uses that may be allowed when the following findings can be made:

1. *The establishment as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;*

2. *The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity; and*

3. *It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage.*

A detailed analysis of this project and its compatibility with both the County's General Plan and Zoning Ordinance can be found in the attached Planning Commission Staff Report (see Attachment "3"). The attached Staff Report also includes an overview of the findings required for project approval (listed above) and a complete discussion with a detailed description of the proposed expansion.

Planning Commission Hearing – June 6, 2013

The Planning Commission held a public hearing on this project at its regular meeting on June 6, 2013. As discussed in the attached Planning Commission Staff Report, staff believed that the necessary Tier Two - Use Permit findings could be made. Staff's recommendation to the Planning Commission was to approve the project as proposed. Due to a lack of a majority vote, the Planning Commission's ultimate decision was to deny the proposed Use Permit. Article 4, Section 14(1) of the Stanislaus County Planning Commission Rules and Regulations state that:

> *"In the case of a tie vote or where less than a majority vote is cast on a motion, the motion fails and a new motion is in order. If an alternative action is not possible, the proposal shall be considered denied."*

At the public hearing, the Planning Commission initially made a motion to approve (Pires/Peterson) the project but this motion failed on a 3-3 vote to garner a majority. A second motion was made to deny (Buehner/Ramos) the project, but again on a 3-3 vote, this motion failed due to a lack of a majority (see Attachment "4").

Overall, the Planning Commission discussion centered on potential issues that the proposed RGEP expansion may cause as a result of approving the Use Permit. Specifically, one of the Commissioners felt that the RGEP facility should have conducted an Environmental Impact Report (EIR) in order to properly evaluate potential groundwater contamination due to water being used as part of the normal composting activities. Another comment made by a Commissioner was that all the incoming material (feedstocks) and actively composted material should be tested in order to assure neither contaminates nor hazardous material were being processed at the facility. The concerns raised on the materials also brought forth questions as to the current types of materials allowed at the site and the proposed allowance of "urban organics" to be used as composting feedstocks.

Another potential issue stated by the Commission was the ability of RGEP to adequately contain "trash" on-site. A few Commissioners stated that in their personal communications with surrounding property owners, they had a concern with paper or plastic trash being blown into adjacent orchards. Lastly, comments were made that the application does not state the number of daily truck trips or loads of material entering the site and that there is no proof that the numbers supplied by RGEP as part of the application process or the on-going road maintenance mitigation are accurate.

The Commissioners in favor of the project stated that they felt the expansion would not present a significant problem given the State's permitting and inspection, as well as the Use Permit's proposed conditions of approval.

At the public hearing, Vince Tye and Sean O'Rourke, both representatives of RGEP, spoke in favor of the project. Together they provided answers to questions the Planning Commission raised and generally spoke to the operating conditions at the facility. There was no public comment in opposition of the proposed Use Permit.

Issues

As stated above, the Planning Commission had several issues with the proposed expansion of the RGEP Vernalis facility. The following is a discussion of these issues as well as the information provided to Staff during the appeal process. The applicant, RGEP, has provided supplemental information including a summary response to the various issues, some of which are discussed below (see Attachment "2").

Groundwater/Water Quality

The issue of potential groundwater contamination was raised at the June 6, 2013, Planning Commission meeting. One of the concerns was that the use of water during the "aerobic open windrow" composting process was negatively impacting the groundwater below the project site. RGEP has provided information indicating that the groundwater beneath the facility sits at 165 feet and that their custom composting equipment utilizes a specific amount of sprayed water, used during the turning or rotating of compost rows. This specialized equipment and watering technique ensures that minimal water is used, most of which is absorbed during the turning of the compost rows. Also stated is that the combination of various materials assists in absorbing liquids and preventing excess liquids or water run-off.

RGEP has also stated that the facility is regulated closely by the Regional Water Quality Control Board (RWQCB), which actively monitors groundwater quality. In researching the facility, Staff has not identified any groundwater violations or enforcement actions taken by the RWQCB against this facility. Important to note is the RWQCB is currently developing General Waste Discharge Requirements (WDR), specific to composting facilities, and RGEP will be required to comply with all future requirements of the RWQCB in addition to what currently is in place.

Materials

The types of materials allowed to be used as feedstocks at the RGEP site and the quality of these feedstocks was an issue raised during the Planning Commission meeting. Within the supplemental information provided by RGEP, there is additional clarification on the types of materials, provided in response to the questions that arose during the Planning Commission hearing. This information outlines the existing feedstock materials permitted under previous Use Permits and the new feedstock materials being requested under this current Use Permit application. The materials allowed currently include green materials such as yard clippings; agricultural materials or plant or animal origin; and food materials collected from "food facilities" defined under California Health & Safety Code §113789 (*previously §113785*) including but not limited to grocery stores, dining establishments or residential food scrap collection programs.

Some uncertainty has centered on the request by RGEP to allow street sweepings and material dubbed urban organics to be used as part of the overall composting feedstock. One of the Planning Commissioners stated that he felt allowing these types of materials to be used is the equivalent to importing the San Francisco Bay Area garbage to Stanislaus County. In the information provided by RGEP, it lists several other communities throughout California where street sweepings are actively being used as

composting feedstocks given the high content of green material or organic content. RGEP's use of street sweepings has been stated by them to be a minimal percentage in the overall composting feedstock to be used on-site and would be screened/processed to remove any inorganic materials prior to being transported to the Vernalis site.

The term urban organics is being used by RGEP to identify organic compostable material which is sorted out of the traditional trash collection stream. A simple description of this material would be an organic rich material that is thrown in the trash along with mixed solid waste (MSW), then collected by a refuse pick-up company, and sorted out from inorganic materials so that it can be diverted to a facility, then used as compost feedstock. RGEP has stated that the collection of urban organics will occur by targeting areas with high organic/food scrap content or areas with low recycling rates. In summary, the material collected as urban organics is the same type of feedstock currently composted at RGEP, although the method of collection differs from the existing feedstock brought in as bulk green waste.

It is important to note that the diversion and use of street sweepings/urban organics by RGEP is tied to the waste diversion requirements established under Assembly Bill 939 (1989) which required local jurisdictions to divert 50% of landfill waste by the year 2000 and Assembly Bill 341 (2011) which requires a 75% diversion rate by 2020. Recology does operate three landfills and is required as a landfill operator to meet these state diversion requirements.

Trash

As stated above, one of the issues that rose during the Planning Commission hearing was the ability to adequately contain litter or trash such as paper and plastic from leaving the RGEP site. This Use Permit is conditioned (No. 13) so that RGEP is required to contain all litter or materials on-site. Furthermore, the condition requires that RGEP submit a Material (Litter) Containment Plan within 90 days of project approval. At the Planning Commission hearing, some discussion focused on if the containment plan should be required prior to the project being approved or if the 90 days is adequate. RGEP has been forthright in acknowledging that litter may have been problematic in the past and that they have been proactive in searching for a method to prevent future issues from occurring. As a result, RGEP has developed and submitted a Litter Containment Plan as part of this appeal process (see Attachment "2").

The Litter Containment Plan submitted to Staff identifies both existing practices of litter clean-up and future efforts needed to control any potential materials from leaving the site. RGEP has stated that litter control is currently conducted daily by RGEP staff that patrols the perimeter of the facility and removes any litter that has been blown off-site.

Internally, RGEP staff continually inspects and removes litter as needed on a daily basis. In terms of physical improvements to prevent litter from leaving the site, RGEP has recently installed a 20-foot high screen along the southern property line that runs for approximately 800 linear feet, parallel to Gaffery Road. RGEP has proposed to install additional fencing and landscaping to help contain litter from leaving the site. Other efforts include the use of portable wind or litter screens to target certain areas of the operation that, depending on the environmental conditions, may change from day to day. In addition to the above efforts, part of this Use Permit request is to allow RGEP to reorganize the existing receiving area so that it is located in the center of the property rather than adjacent to Gaffery Road, its current location. Furthermore, RGEP has indicated that new processing equipment will be installed that will minimize the amount of small pieces of litter created during the receiving process.

It should be noted that both the San Joaquin Valley Air Pollution Control District (SJVAPCD) and CalRecycle permit composting activities at the RGEP site. Components of these permits require the site to maintain litter materials within the facility and prevent litter from leaving the site.

Truck Trips

The issue of truck trips to the RGEP facility was yet another concern raised by the Planning Commission. The RGEP facility is permitted by previous County Use Permits and a Solid Waste Facility Permit (SWFP – 50-AA-0020) issued by the California Department of Resources Recycling and Recovery (CalRecycle). Pursuant to the SWFP, the facility is allowed to receive a maximum of 2,000 tons of material (feedstock) per day. No changes to the amounts are being proposed or requested as part of this Use Permit request. Any amount above the 2,000 tons per day would require a modification to the CalRecycle SWFP permit, County Use Permit and would require an additional CEQA analysis to allow the increase. A copy of the CalRecycle – SWFP permit, including the associated conditions can be seen in Attachment "2".

Based on the maximum allowance of 2,000 tons per day, the amount of truck trips equates to 83 truck trips per day, given the fact that RGEP utilizes a 24 ton transfer trailer when delivering material to the site. This amount of truck trips is aligned with the amount shown on RGEP's application which stated that the facility would generate between 60-80 trips per day and used in the environmental assessment of the project.

Correspondence Received

Staff received an emailed letter prior to the Planning Commission meeting from the Del Puerto Water District (DPWD) and a letter from an adjacent property owner after RGEP

appealed the Planning Commission's decision. The main concern within the DPWD letter stated that they have issues with litter entering the Water District's infrastructure. The letter received from an adjacent landowner stated that he has concerns with dust contaminating his almond trees as well as potential contamination as a result of bird droppings on his almond trees. These letters are attached to this report (see Attachment "5").

Options

As stated in the appeal letter, RGEP's preference is to have this Board send the item back to the Planning Commission for re-consideration. Due to the Commission's denial (lack of a majority) and the discussion held at the hearing, RGEP feels that the Commission should have the opportunity to review the new information submitted as part of the appeal process. They also believe that this will give them the chance to address many of the questions raised by the Commission but not entirely answered the night of the hearing. Staff would also add that one of the dissenting Planning Commissioners, during the hearing, expressed the belief that RGEP should clarify the issues and return to the Planning Commission.

However, if the Board feels that the project cannot meet the required findings for approval and would need to incorporate significant changes in order to move forward, the Board should consider if a "denial without prejudice" would be appropriate. This would allow the applicant, RGEP to re-evaluate the conditions at and around the facility, and re-submit an application without the need to wait one (1) year as required by County Code § 21.96.060(A).

POLICY ISSUES:

The Board should determine whether the Planning Commission's actions denying Use Permit Application No. 2012-04, Recology-Grover Environmental Products was appropriate. The Board should also determine whether the project, as proposed, furthers the goals and objectives of ensuring A Well Planned Infrastructure and A Strong Agricultural Economy and Heritage.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director.
Telephone: (209) 525-6330

ATTACHMENTS:

1. Appeal Letter dated June 17, 2013, submitted by Recology-Grover Environmental Products

2. Supplemental Information provided by Recology-Grover Environmental Products
   - *Response to June 6, 2013 Planning Commission Hearing*
   - *Litter Management Plan*
   - *Odor Impact Minimization Plan*
   - *CalRecycle Solid Waste Facility Permit & Conditions*
   - *SJVAPCD Operational Permits & Conditions*

3. Planning Commission Staff Report, June 6, 2013
   - *Exhibit A - Findings and Actions Required for Project Approval*
   - *Exhibit B – Maps*
   - *Exhibit C - Conditions of Approval*
   - *Exhibit D - Initial Study*
   - *Exhibit E - Biological Resources Analysis by Monk & Associates*
   - *Exhibit F - Mitigated Negative Declaration*
   - *Exhibit G - Mitigation Monitoring Plan*
   - *Exhibit H - Environmental Review Referral*

4. Planning Commission Minutes, June 6, 2013

5. Correspondence received by Staff
   - Del Puerto Water District, email dated June 3, 2013
   - Bobby Yamamoto, letter dated July 3, 2013

Recology
WASTE ZERO

BOARD OF SUPERVISORS

2013 JUN 17 A 11:51

June 17, 2012

Stanislaus County Board of Supervisors
1010 10th Street, Suite 6500
Modesto, CA 95354

Re: Recology Grover Environmental Products Compost Facility, Vernalis, CA
Request to Appeal Planning Commission Decision on Use Permit Application No. 2012-04

Dear Stanislaus County Board of Supervisors:

On behalf of Recology Grover Environmental Products (RGEP), we are submitting this request to appeal the Planning Commission's decision on Use Permit application No. 2012-04 which was heard at its regular meeting on Thursday, June 6, 2013. Accompanying this request is a check payable to Stanislaus County Planning & Community Development in the amount of $622.00.

Due to the Commission's denial based on a lack of a majority vote, we respectfully request that the Board of Supervisors direct this item back to the Planning Commission in order for Recology to provide additional information and address issues raised by the Commission at the June 6th hearing. Issues which will be addressed include, but are not limited to:

1. Off-site litter control and litter containment,
2. Groundwater/Water quality,
3. Truck and tonnage capacity,
4. Incoming material types, and
5. Use of the proposed expansion area.

The additional information will be provided prior to the Board of Supervisors meeting.

If you have any questions, please feel free to contact me at (209) 830-3001.

Sincerely,

Vincent Tye
General Manager

cc: A. Freitas and J. Mann, Stanislaus County Planning & Community Development
B. Clarkson, E. Merrill, and P. Yamamoto; Recology

ATTACHMENT 1

Executive Summary - Recology Grover Use Permit Application – UPA 2012-04

1) Use of Proposed Expansion Area

- Expansion allows for efficient processing while meeting increased demand from the agriculture community for finished compost product.

2) Off-Site Litter Control, Containment and Enhancement

- Litter control practices include: litter fencing, regular patrols, discontinuing screening during high winds, and/or spraying water during processing.
- Installation of a permanent, 20-foot high litter fence will be complete by the end of summer 2013.
- A Litter Management Plan details the Facility's current and future efforts to manage litter.

3) Groundwater/Water Quality

- Operations occur on hard-pack ground surfaces or a compacted base rock foundation.
- Integrated watering system directly applies water as windrows are turned to reduce excess liquid.
- Groundwater quality is regulated by the Central Valley Regional Water Quality Control Board.
- To date, the Facility has not received any violations relating to groundwater.

4) Truck and Tonnage Capacity

- No change is being requested to the permitted maximum tonnage of 2,000 tons per day.
- At the permitted maximum tonnage of 2,000 tons per day, there would be approximately 83 incoming truck trips per day based on a 24-ton transfer trailer delivery.

5) Incoming Material Types and Proposed New Feedstocks

- Current feedstocks include: green materials, agricultural materials, and food materials.
- Proposed feedstocks include: processed street sweepings and urban organics.
- Both street sweepings and urban organics will be processed prior to receipt at the Facility.
- The finished compost is analyzed for heavy metals, fecal coliform, and Salmonella sp. bacteria.

6) Environmental and Community Benefits

- Employee owned, green, and sustainable business dedicated to producing a premium quality soil amendment utilized by the agricultural community.
- Manufactured to standards of the U.S. Composting Council, and the Organic Material Review Institute, and is listed in the California Certified Organic Farmers handbook.
- Currently employs over 50 employees with a majority of those residing in Stanislaus County.

7) Additional Facility Controls and Regulatory Oversight

- Odor controls include: regular housekeeping between windrows; use of microbial inoculants or lime; and management of liquids containing high organic content.
- Operates under Permits issued by Stanislaus County and California Department of Resources Recycling and Recovery (CalRecycle).

Response to June 6, 2013 Planning Commission Public Hearing
Recology Grover Environmental Products Compost Facility
Recology Grover Use Permit Application – UPA 2012-04

This summary responds to and addresses issues raised at the June 6, 2013 Stanislaus County Planning Commission on the Recology Grover Use Permit Application ("UPA 2012-04") for the Recology Grover Environmental Products Compost Facility ("RGEPV") located in Vernalis, CA. Subjects addressed within this document include the following:

1) Use of Proposed Expansion Area;
2) Off-Site Litter Control, Containment and Enhancement;
3) Groundwater/Water Quality;
4) Truck and Tonnage Capacity;
5) Incoming Material Types and Proposed New Feedstocks;
6) Environmental and Community Benefits; and
7) Additional Facility Controls and Regulatory Oversight.

Use of Proposed Expansion Area

The proposed 42-acre expansion will allow the Facility to process materials more efficiently while continuing to meet increasing demand from the agriculture community for the finished product. This in turn supports continued efforts to produce premium soil amendments by increasing the amount of active phase windrows that can be developed on-site. The expansion area was formerly used for vermi-composting by a previous owner, and is currently vacant. The Facility will continue to be accessed from the Gaffrey Road entrance with no new entrances proposed.

Off-Site Litter Control, Containment and Enhancement

Litter control at the Facility is conducted by RGEPV laborers, who patrol the site perimeter daily. Aisles between windrows and vessels, receiving and load-out areas, and entrance and exit roads are inspected daily and accumulated litter is removed. Litter control efforts include: portable and/or permanent litter fencing, regular, daily patrolling of windrow and processing areas, discontinuing screening during times of high winds, or spraying water during processes that may release small sized litter. Portable litter

fencing can be increased in height as necessary to keep all sized litter particles within the Facility boundaries.

In May of 2013, RGEPV installed a permanent, 20-foot high litter fence along 800 feet of the property fronting Gaffery Road and is currently in the process of installing the remaining fencing along Gaffery Road to be completed by the end of summer 2013. This will complete the entire property frontage along Gaffery Road.

Litter Fence along Gaffery Road

Additionally, RGEPV has initiated the relocation of the unloading and materials processing area from the existing location near the Facility entrance to a more central area of the Facility located along the eastern property line. The relocation is anticipated to be complete by the end of 2013. This relocation will assist with the containment of any litter from migrating off-site along both Gaffery Road and the Delta-Mendoza canal.

In addition to the relocation, new processing equipment will be installed that minimizes the amount of small sized litter created during processing.

A Litter Management Plan has been prepared by RGEPV which details the Facility's current and future efforts to manage litter at the Facility. (See Appendix A).

Groundwater/Water Quality

Current estimates on the depth to groundwater at the Facility are approximately 165 feet. Operations occur on hard-pack ground surfaces. Active composting operations are conducted on top of a former runway, located on the eastern portion of the Facility. Other areas of the Facility utilize a compacted base rock foundation. This hard pack ground surface helps to prevent liquids from infiltrating into the ground.

In addition, operational practices help minimize excess liquids. RGEPV utilizes an aerobic open windrow composting system with an integrated watering system which directly incorporates water into the materials as they are turned. This watering system minimizes the creation of excess moisture as the applied water is absorbed into the windrow as its being turned. Also, the use of green materials in the compost windrows assists in absorbing liquids that could be generated by food materials.

The Facility is regulated by the Central Valley Regional Water Quality Control Board which monitors groundwater quality. To date, the Facility has not received any violation relating to groundwater quality. The State Water Resources Control Board is currently in the process of developing ground water protection guidelines referred to as Statewide General Waste Discharge Requirements ("WDRs") for the Discharge of Wastes at Compost Management Units. Upon approval of the new WDRs, the Facility will be required to comply with all the requirements.

As part of Recology's due diligence to purchase the Facility, a Phase I Environmental Site Assessment was conducted in 2009 by Golder Associates. No recognized environmental conditions ("RECs") were identified as part of the Phase I and no issues related to groundwater or water quality were identified.

Truck and Tonnage Capacity

RGEPV operates under Use Permit No. UP 2006-37, issued by Stanislaus County, and a Solid Waste Facility Permit ("SWFP"), SWIS No. 50-AA-0020, issued by the California Department of Resources Recycling and Recovery ("CalRecycle"). Pursuant to the approved SWFP (See Appendix B), the Facility is permitted to bring in a maximum of 2,000 tons of material per day Monday through Saturday. No changes to the permitted tonnages are being requested as part of this use permit application or as part of the process to revise the Facility's SWFP. Any increase to permitted tonnages above the 2,000 tons per day would require additional permitting, including CEQA analysis.

Based on the current permitted maximum tonnage of 2,000 tons per day, this equates to approximately 83 incoming truck trips per day based on a 24-ton transfer trailer delivery.

Current Incoming Material Types and Proposed New Feedstocks

The following descriptions outline the types of feedstock that are currently composted and managed at the Facility:

Green Material: Any plant material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by weight, and meets the requirements of Title 14 of California Code, Division 7, Chapter 3.1, Article 6, Section 17868.5. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, natural fiber products, and construction and demolition wood waste.

Agricultural Material: Material of plant or animal origin, which results from the production and processing of farm, ranch, agricultural, horticultural, aquacultural, silvicultural, floracultural, vermicultural, or viticultural products including manures, orchard and vineyard prunings, and crop residues.

Food Material: Any material that was acquired for animal or human consumption and its packaging, is separated from the municipal solid waste stream, and that does not meet the definition of "agricultural material". Food material may include material from food facilities as defined in Health and Safety Code, §113785, grocery stores, institutional cafeterias (e.g., prisons, schools and hospitals) or residential food scrap collection.

The following descriptions outline the proposed feedstocks that are being requested in UPA 2012-04:

Street Sweepings: Compostable street sweepings are generated by screening and processing the material to reduce the inorganic portion of collected street sweepings, to generate a feedstock high in green materials/organic content. In California, street sweepings are already being composted successfully in communities such as Riverside, Berkeley, Glendale, Pleasant Hill, Manhattan Beach, Woodland, Long Beach, and Davis. Street sweepings will be processed prior to receipt at the Facility.

Urban Organics: Urban organics are defined as organic-rich materials, which are processed post-collection to remove non-organic contaminants. The urban organics feedstocks are generated by sorting and processing mixed solid waste ("MSW") from specially targeted areas with high organic/food scrap content, and/or low recycling or composting rates.

Processed Urban Organics

The Urban Organics will be processed prior to receipt at the Facility and mixed with other on-site feedstock materials and incorporated into open compost windrows. These materials will be managed consistent with existing protocols and applicable composting requirements.

Sampling and Testing of Finished Compost Product

The Facility is required to ensure that the finished compost product meets the State's requirements for pathogen reduction and metal concentrations. In accordance with Title 14 of California Code, Division 7, Chapter 3.1, Article 6, Section 17868.1(a)(1), a sample is collected for every 5,000 cubic yards ("CY") of finished compost product produced. The samples are analyzed for heavy metals, fecal coliform, and Salmonella sp. bacteria.

Disposition of Residual Materials

Because the compost feedstocks consist of source-separated or processed materials, minimal non-recoverable material is encountered during normal operations. Overs, typically a woody fraction that is removed during processing or the pre- and final screening operations, that have a potential market value are either reintroduced into the composting process or utilized for beneficial reuse. Any waste materials containing non-recoverable or non-marketable residues are stored on-site for up to seven (7) days. All waste materials are hauled off-site for disposal at a permitted landfill or waste transfer facility.

Environmental and Community Benefits

RGEPV is an employee owned, green, and sustainable business dedicated to producing a premium quality soil amendment. The exceptional quality of the finished product reflects the Recology Grover commitment to the best and highest use of all resources. The finished product is used in agricultural, landscape, and turf management applications primarily throughout Stanislaus County, and is recognized for its ability to increase organic content and add biological and microbial life to the soil. Our compost products are manufactured to the highest standards of the U.S. Composting Council Seal of Testing Assurance program ("STA"), and the Organic Material Review Institute ("OMRI"), and are listed in the California Certified Organic Farmers ("CCOF") handbook. As an OMRI listed product, it may be used in the certified organic production or food processing and handling according to the U.S Department of Agriculture ("USDA") National Organic Program Rule.

RGEPV currently employs over 50 employees with a majority of those residing in Stanislaus County.

Additional Facility Controls and Regulatory Oversight

Odors

Odor is primarily controlled by processing all incoming materials in a timely manner, adequately blending feedstocks to achieve desired carbon to nitrogen levels, monitoring feedstock porosity, adding sufficient water to achieve desired moisture, and temperature balancing through regulation of airflow within the windrows. Odor controls on the compost pads include: collection and incorporation of organics

from aisles between windrows; use of microbial inoculants or lime on pad surfaces and water collection systems; installation of systems to separately manage high organic content liquids from high volume, low organic content liquids; and incorporating high organic content liquids into the composting process, both as an inoculant and for moisture control.

In the event an odor complaint occurs with respect to composting operations, the issue is addressed in accordance with the Facility's Odor Impact Minimization Plan ("OIMP"). A copy of this plan is enclosed in Appendix C.

The Facility is regulated by the California Department of Resources Recycling and Recovery ("CalRecycle"). CalRecycle is responsible for ensuring that all conditions in the operation's Solid Waste Facility Permit ("SWFP") are being complied with and inspects the Facility on a monthly basis. The Facility is required to comply with all State Minimum Standards, as established in Title 14 of California Code, Division 7, Chapter 3.0, Article 6.0 which sets forth performance standards and requirements for the operation of solid waste facilities in the State. This includes setting levels for the amount of contaminants in feedstocks as well as the control and disposition of litter and other nuisance controls.

Appendix A

Litter Management Plan

Litter Management Plan

Recology Grover Environmental Products

3909 Gaffery Road
Vernalis, CA 95385

July 2013

Prepared by

Recology Grover Environmental Products
P.O. Box 128
Westley, CA 95387
Phone (209) 833-3392
Fax (209) 833-1010

LITTER MANAGEMENT PLAN

The Recology Grover Environmental Products Composting Facility in Vernalis, CA ("RGEPV") strives to ensure that the Facility is managed to minimize any nuisance issues. One of those potential nuisance issues is the control and management of litter. This plan addresses current practices and additional enhancements to improve current control measures. Litter includes: blowing papers, plastics, and other materials that may become airborne and carried away by the wind primarily through the transport and unloading of materials or during the processing of materials. This Litter Management Plan is being written to identify best management practices and offer directions that may be implemented by the Facility operator for the management and control of litter.

The control of litter is an integral part of the daily operations of the Facility. The primary goal of the Facility operations is to implement best management practices and have all litter contained within the site.

The Facility employs the following Best Management Practices and Techniques to control litter:

1) Transport Vehicles

   Pursuant to California law, all trucks entering and exiting the Facility are required to be covered. This cover is required on-site until the trucks arrive at the unloading or loading areas within the Facility. This policy is strictly enforced by RGEPV personnel. The Facility is open to commercial haulers only and not to the public.

2) Litter Control

   Litter control at the Facility is conducted by RGEPV laborers, who patrol the site perimeter regularly, and no less than once per day. These employees utilize the following measures:

   a) Regular, daily patrol of on-site areas, including aisles between windrows, receiving areas, and load-out areas in addition to entrance and exit roads, with removal of any accumulated litter;
   b) Dispatch of RGEPV personnel, as needed or daily if conditions require, to collect any off-site litter that has escaped the on-site litter control measures. Off-site areas include, but are not limited to Gaffery Road, Koster Road, and adjoining properties (with permission by property owners) including the Delta Mendota canal and West Side canals;

c) Use of temporary contract workers if additional assistance is required beyond RGEPV personnel;
d) The use of portable and/or permanent litter fencing (see Item #3 below regarding fencing controls);
e) Discontinue material screening during times of high winds;
f) Spraying water during processes that may release small sized litter;
g) Employ portable lifts to retrieve litter that may be distributed by the wind into trees and bushes on Facility property and/or adjoining properties.
h) Use of portable litter vacuums to collect litter that accumulates on litter fences or in other areas of the Facility.
i) If possible, adjustment of unloading areas on windy days to minimize effects of wind (i.e., tipper facing into wind adjacent to the leeward sidewall, or sheltered by equipment or feedstock piles).
j) Routine monitoring of Koster and Gaffery Roads for litter. All necessary safety precautions are followed.
k) Provide contact numbers on Facility entrance sign, and also RGEPV management office and cell phone number to neighbors.

3) Litter Fencing

Permanent and portable litter fencing is used throughout the Facility to capture any windblown litter to minimize any off-site migration. Use of litter fences includes the following:

i. Installation of permanent fencing along Gaffery Road.
    a) Installation of a 20-foot high litter fence along 800 feet of the property that fronts Gaffery Road. Completed May 2013.
    b) Installation of the remaining frontage of Gaffery Road with a 20-foot high litter fencing is expected to be complete by the end of summer 2013.

ii. Litter fencing may be increased in height, as necessary, to keep all sized litter particles within the Facility boundaries.

iii. Planting of approximately 150 Western Red Cedar trees along Gaffery Road.

iv. The use of portable skid-mounted litter fences may be provided, as needed, for deployment downwind, and as close as practical, to the unloading, processing, and/or screening areas.

4) Relocation of Materials Processing Area

RGEPV has initiated the relocation of the unloading and materials processing area from the existing location near the Facility entrance to a more central area of the Facility located along the eastern property line. The relocation is anticipated to be complete by the end of 2013. By relocating the processing area to a more central location within the Facility, this will help with the ability to contain any litter from migrating off-site along both Gaffery Road and the Delta-Mendoza canal. In addition to the relocation, new processing equipment will be installed that minimizes the amount of small sized litter created during processing.

The Facility is regulated by the California Department of Resources Recycling and Recovery (CalRecycle). CalRecycle is responsible for ensuring that all conditions in the operation's Solid Waste Facility Permit (SWFP) are being complied with and inspects the Facility on a monthly basis. In addition to the above noted measures, the Facility is required to comply with all State Minimum Standards which sets forth performance standards and requirements for the operation of solid waste facilities. This includes setting levels for the amount of contaminants in feedstocks as well as the control and disposition of litter.

The management of litter at the Facility is a daily, on-going activity. In most instances the above procedures and techniques will properly manage litter effectively. However, should an occasion or situation arise where additional measures need to be employed, RGEPV will respond to this situation as expeditiously as possible.

Appendix B

Solid Waste Facility Permit

SOLID WASTE FACILITY PERMIT

Facility Number:
50-AA-0020

1. Name and Street Address of Facility:	2. Name and Mailing Address of Operator:	3. Name and Mailing Address of Owner:
Recology Grover Environmental Products-Vernalis 3909 Gaffery Road Vernalis, CA 95385	Recology Grover Environmental Products PO Box 128 Westley, CA 95387	Recology Grover Environmental Products 235 N. First Street Dixon, CA 95620

4. Specifications:

a. Permitted Operations:

- ☐ Solid Waste Disposal Site
- ☐ Transfer/Processing Facility (MRF)
- ☒ Composting Facility
- ☐ Transformation Facility
- ☐ Other: ____

b. Permitted Hours of Operation: Receipt of Materials & Maintenance: Monday-Saturday, 24 hours; Sunday in an emergency.
Grinder Operations: 5:00 a.m. – 10:00 p.m., Monday- Saturday; Sunday in an emergency.

c. Permitted Maximum Tonnage: 2,000 Tons per Day

d. Permitted Traffic Volume: Not specified Vehicles per Day

e. Key Design Parameters (Detailed parameters are shown on site plans bearing EA and CIWMB validations):

	Total	Disposal	Transfer/Processing	Composting	Transformation
Permitted Area (in acres)	123.5			123.5	
Design Capacity (cu. yds)				300,000 cy	
Max. Elevation (Ft. MSL)					
Max. Depth (Ft. MSL)					
Estimated Closure Year					

Upon a significant change in design or operation from that described herein, this permit is subject to revocation or suspension. The attached permit findings and conditions are integral parts of this permit and supersede the conditions of any previously issued solid waste facility permit.

5. Approval:

Ted Rauh, Program Director
Waste Compliance and Mitigation Program
California Integrated Waste Management Board

6. Enforcement Agency Name and Address:

California Integrated Waste Management Board (CIWMB)
1001 I Street
P.O. Box 4025
Sacramento, CA 95812-4025

7. Date Received by CIWMB:
April 23, 2008

8. CIWMB Concurrence Date:
August 19, 2008

9. Permit Issued Date:
August 20, 2008

10. Permit Review Due Date:
August 20, 2013

11. Owner/Operator Transfer Date:
April 8, 2010

SOLID WASTE FACILITY PERMIT

Facility Number:

50-AA-0020

12. Legal Description of Facility:

The legal description of this facility is contained in page 9 of the RCSI dated April 2008: Section 9, Township 4 South, Range 6 East, Mount Diablo Base and Meridian, Stanislaus and San Joaquin Counties, California.

13. Findings:

a. This permit is consistent with the Stanislaus County Integrated Waste Management Plan, which was approved by the CIWMB in June 1996. The location of the facility is identified in the Non-Disposal Facility Element, pursuant to Public Resources Code (PRC) Section 50001(a).

b. This permit is consistent with the standards adopted by the CIWMB, pursuant to PRC 44010.

c. The design and operation of the facility is consistent with the State Minimum Standards for Solid Waste Handling and Disposal as determined by the enforcement agency, pursuant to PRC 44009.

d. The West Stanislaus District Fire Department has determined that the facility is in conformance with applicable fire standards, pursuant to PRC 44151.

e. An Initial Study/Mitigated Negative Declaration was filed with the State Clearinghouse (SCH #2006122022) and certified by the Stanislaus County Planning and Community Development Department on February 25, 2008. The IS/MND describes and supports the design and operation which will be authorized by the issuance of this permit. A Notice of Determination was filed with the State Clearinghouse on January 23, 2008.

14. Prohibitions:

The permittee is prohibited from accepting the following wastes:

Hazardous, radioactive, medical (as defined in Title 22, Division 4, Section 117600-118360 of the Health and Safety Code), liquid, designated, or other wastes requiring special treatment or handling, except as identified in the RCSI and approved amendments thereto and as approved by the enforcement agency and other federal, state, and local agencies.

15. The following documents describe and/or restrict the operation of this facility:

	Date		Date
Report of Composting Site Information	04/08	Preliminary Closure and Postclosure Maintenance Plan	NA
Waste Discharge Requirements Order No. R3-2004-0002	Waiver	Closure Financial Assurance Documentation	NA
APCD Permit to Operate	NA	Operating Liability Certification	NA
IS/MND (SCH #2006122022)	02/08	Land Use and/or Conditional Use Permit	2006-37

SOLID WASTE FACILITY PERMIT

Facility Number:
50-AA-0020

16. Self Monitoring:

The owner/operator shall submit the results of all self monitoring programs to the Enforcement Agency within 30 days of the end of the reporting period *(for example, 1st quarter = January – March, the report is due by April 30, etc.. Information required on an annual basis shall be submitted with the 4th quarter monitoring report, unless otherwise stated.)*

Program	Reporting Frequency
a. The types and quantities (in tons) of materials, including separated or commingled recyclables entering the facility per day.	Quarterly
b. The number and types of vehicles using the facility per day.	Quarterly
c. Results of the hazardous waste load checking program, including the quantities and types of hazardous wastes, medical wastes or otherwise prohibited wastes found in the waste stream and the disposition of these materials.	Quarterly
d. Notification to the enforcement agency via telephone or electronic mail of any special occurrences, such as fires, explosions, earthquakes, significant injuries, accidents or property damage, and all measures taken to address the incident.	Within 24 hours of the event
e. Copies of all written complaints regarding this facility and the operator's actions taken to resolve these complaints.	Quarterly
f. Results of sampling results performed pursuant to 14 CCR 17868.1 to 17868.3.	Within five business days of receiving laboratory results
g. Estimate of the total cubic yards of material on site (including all feedstock, additives, active compost, chipped & ground material, curing and stabilized piles, and finished compost).	Quarterly

SOLID WASTE FACILITY PERMIT

Facility Number:
50-AA-0020

17. **Enforcement Agency (EA) Conditions:**

a. The operator shall comply with all State Minimum Standards for solid waste handling and disposal as specified in Title 14, California Code of Regulations (CCR).

b. The operator shall maintain a log of special/unusual occurrences. This log shall include, but is not limited to, operational shutdowns, fires, explosions, the discharge and disposition of hazardous or unpermitted wastes, and significant injuries, accidents or property damage. Each log entry shall be accompanied by a summary of any actions taken by the operator to mitigate the occurrence. The log shall be available to site personnel and the EA during operating hours.

c. Additional information concerning the design and operation of the facility shall be furnished upon request and within the time frame specified by the EA.

d. The maximum permitted daily tonnage for this facility is 2000 tons per day, and shall not receive more than this amount without a revision of this permit.

e. This permit is subject to review by the EA and may be suspended, revoked, or revised at any time for sufficient cause.

f. The EA reserves the right to suspend or modify waste receiving and handling operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.

g. Any change that would cause the design or operation of the facility not to conform to the terms and conditions of this permit is prohibited. Such a change may be considered a significant change, requiring a permit revision. In no case shall the operator implement any change without first submitting a written notice of the proposed change, in the form of an RFI amendment, to the EA at least 180 days in advance of the change.

h. A copy of this permit, the Odor Impact Minimization Plan, and RCSI shall be maintained at the facility.

i. Compost products shall not be sold or given away until the results of the sampling requirements pursuant to 14 CCR 17868.1 are received and verify that the products do not exceed the maximum acceptable metal concentrations (14 CCR 17868.2) and maximum acceptable pathogen concentrations (14 CCR 17868.3).

Appendix C

Odor Implementation Minimization Plan

Odor Impact Minimization Plan

Recology Grover Environmental Products
3909 Gaffery Road
Vernalis, CA 95385

May 2013

ODOR IMPACT MINIMIZATION PLAN

Recology Grover Environmental Products Compost Facility

May 2013

Site Address Primary Landowner:	Recology Grover Environmental Products 3909 Gaffery Road Vernalis, CA 95385
Mailing Address:	Recology Grover Environmental Products P.O. Box 128 Westley, CA 95387
Project Contacts:	Vince Tye, General Manager 3909 Gaffery Road Vernalis, CA 95385 (209) 830-3003
Regulatory Contacts:	Joy Isaacson, Integrated Waste Management Specialist CalRecycle 1001 I Street P.O. Box 4025 Sacramento, CA 95812 (916) 341-6772

Background and Introduction

Title 14 of the California Code of Regulations (14 CCR), 17863.4 require that all compostable material handling operations and facilities prepare and maintain a site-specific Odor Impact Minimization Plan (OIMP).

While total elimination of odor from composting systems is not possible, the OIMP and the measures outlined herein are targeted toward the systematic reduction of on-site sources of malodor and the minimization of potential off-site nuisance odor impacts.

I. Odor Monitoring Protocol

The 168.49-acre Facility is located in both San Joaquin County and Stanislaus County at 3909 and 3432 Gaffery Road, in the unincorporated area of Vernalis. Site ownership consists of two (2) parcels within San Joaquin County [Assessor Parcel Numbers as well as two (2) parcels in Stanislaus County.

The Facility is located in an unincorporated area along the western margin of the San Joaquin Valley, approximately 10 miles southeast of the City of Tracy and 17 miles southwest of the City of Modesto. The Facility is located in Section 9 of Township 4 South, Range 6 East, Mount Diablo Base and Meridian, Stanislaus and San Joaquin Counties, California.

Land use within one mile of the site is primarily agricultural, consisting of fruit and almond orchards. The nearest business is an organics recycling facility located adjacent to the eastern boundary. The nearest off-site residence is located approximately 500 feet to the east of the Facility. No residential developments are located near the facility

If a compliant is received from a nearby residence or possible odor receptor, then the alleged odor will be investigated. The investigator will record the source, intensity, duration, weather conditions, character, and/or other information to assess odor impacts. If no odors are detected at that location, the investigator records "No Odor Present" on the Odor Monitoring Data Sheet.

II. Meteorological Conditions

Climate at the site is typical of that found in the Central Valley. Summers are hot and dry, while winters are mild. Further details regarding the overall climatological characteristics in proximity of the site, including temperature, precipitation, evaporation, and wind, are provided in the following bullet items:

- The mean daily maximum temperature in July and August exceed 90 degrees Fahrenheit (^{o} F), with frequent daily highs of over 100^{o} F. January minimum temperatures average about 40^{o} F, with maximum temperatures in the mid-50s.

- Rainfall is seasonal, with a majority of the precipitation occurring from October through May. The average annual precipitation for the project area is 13.19 inches, with January representing the wettest month at approximately 2.61 inches.

- According to the California Climate Data Archive, available evaporation data recorded between 1965 and 1977 for Manteca, which is in the same area as the project site, reveals a mean annual Pan A evaporation of 69.17 inches. A minimum mean monthly evaporation of 1.16 inches occurs in December, and a maximum mean monthly evaporation of 11.64 inches occurs in July.

- Over the course of the year typical wind speeds vary from 0 mph to 16 miles per hour (mph), rarely exceeding 20 mph. The highest average wind speed of 9 mph occurs around late May, at which time the average daily maximum wind speed is 16 mph. The lowest average wind speed of 4 mph occurs in January, at which time the average daily maximum wind speed is 9 mph. The wind is most often out of the north west (34% of the time) and north (16% of the time). The wind is least often out of the south west (1% of the time), north east (1% of the time), and south (2% of the time).

III. Complaint Response Protocol

When an odor complaint is received an Odor Complaint Investigation will be conducted as follows:

a. The site receives a complaint. Complaints received by RGEP will be forwarded to CalRecycle within 24 hours of receipt or by close of business of the first business day after a weekend complaint. The submittal will note that an investigation will be conducted and an Odor Complaint Investigation Report (OCIR) (see Appendix A) will follow within 48 hours of receipt of initial complaint or by close of business of the first business day after a weekend complaint.

b. An investigator will determine if the odor is detectable at complaint location. If an odor is not detectable, or is only detectable within the RGEP property boundary, the investigation is completed by submitting an Odor Complaint Investigation Report (OCIR) to the CalRecycle within 48 hours of receiving the complaint.

c. If an odor is detectable at the complaint location, determine if the nature of the odor is malodorous indicating a possible operational issue or if the odor is consistent with normal composting operations by evaluating the character of the odor i.e. grassy, leafy, earthy, putrid, fishy, etc.

d. Determine the duration of the odor i.e. chronic (present over several days), acute (present over several hours), or conditional (only present during certain weather conditions).

e. Determine the source of the odor.

f. If RGEP is found to be the source of acute malodorous conditions, then the site will work to eliminate the source of the malodor and an OCIR will be submitted to CalRecycle within 48 hours of receiving the complaint or by close of business of the first business day after a weekend complaint. Methods used to eliminate the source of malodorous conditions may include, but are not limited to, the following: evaluate and alter moisture management operations, adjust food material to green material ratios, adjust piles sizes, and

improve site drainage. Other technologies, facility improvements, or changes to process controls may be used as deemed appropriate by the operator to eliminate the source of malodor.

g. If RGEP is found to be the source of chronic malodorous conditions, then the site will work to eliminate the source of the malodor. An olfactometer device may be used, at the operator's discretion, to quantify chronic malodors offsite and to verify that efforts made by the facility to eliminate the odor source are effective. An OCIR will be submitted to CalRecycle within 48 hours or by close of business of the first business day after a weekend complaint.

h. If a conditional malodor is discovered, appropriate adjustments to storage, process control, and facility improvements will be made to improve the problem if possible and an OCIR will be submitted to CalRecycle within 48 hours of receiving the complaint or by close of business of the first business day after a weekend complaint.

i. If acute malodors reoccur or become chronic, then site personnel will determine if the odor source is related to weather or operations. Appropriate adjustments to storage, process control, and facility improvements will be made to improve the problem.

Facility improvements and adjustments to process controls used to eliminate the source of malodorous conditions may include, but are not limited to, the following examples: evaluate and alter moisture management operations, adjust food material to green material ratios, adjust piles sizes, and improve site drainage. Other technologies, facility improvements, or process control adjustments may be used as deemed appropriate by the operator to eliminate potential malodor sources.

IV. Design Considerations

Aeration: Odor causing conditions are minimized with adequate air flow through the material. Adequate aeration during the composting process can be achieved using open windrows with adequate porosity. Forced or active aeration technologies can be used if necessary to assist in the control of odors. Additional odor control measures and technologies such as biofiltration may be used should the need arise.

Moisture: Windrows are moisture conditioned regularly to provide water that supports the biological breakdown of the feedstock. Water is added at a rate that allows thorough absorption and minimizes runoff.

Feedstock Characteristics: Feedstocks composted at the site may include green materials, food materials, agricultural materials, urban organics, street sweepings, and mixed solid waste ("MSW) as defined in 14 CCR Section 17852.

Airborne Emission Production: Airborne odor causing emissions are minimized by maintaining a process that is predominantly aerobic. RGEP accomplishes this by maintaining aerobic conditions in the pile. Other airborne emissions such as dust and particulate matter can be minimized by maintaining proper moisture in the material and on roads.

Process Water Distribution: Water can be applied using portable or dedicated systems such as a windrow turner with sprayer, water truck with sprayer, a sprinkler system, or other type of water distribution system.

Pad and Site Drainage Permeability: The site is on a compacted, well-drained clay loam soil and a paved area that was historically an airport runway. An improved surface receiving area will be installed in the western area and is targeted for completion in 2013.

Equipment Reliability: Equipment used at the facility was chosen for its reliability and ease of repair or replacement should a breakdown occur. Back-up equipment is available from other Recology operations or local rental companies.

Personnel Training: RGEP personnel are trained in compost operations and odor management on at least an annual basis.

Weather Event Impacts: Climatological conditions such as inversions, changes in wind direction, and temperature can cause potential odors to migrate. Maintaining aerobic conditions minimizes the production of malodors which are generally the source of complaints. The potential impacts from climatological conditions are most effectively minimized by mitigating malodor causing compounds with aerobic processing.

Utility Service Impacts: Site operations are performed during daylight hours using diesel and electrical equipment, Water used for moisture conditioning and dust control is provided by a pump off of the Delta Mendota Canal, which pumps at 1,500 gallons per minute (GPM). The Facility also features one (1) on-site well, located at the northwest corner of the site. The well has a depth of 300 feet and has a production rate of 125 GPM. The onsite well is used primarily to replenish the retention pond.. Portable generators are located on site and may be used should the need arise.

V. Operating Procedures

Odor controls are in place throughout the entire composting process. If material loads exhibit odor problems at the time of delivery, these loads are given processing priority. Upon initiation of the composting phase, odors are primarily controlled in windrows by maintaining proper carbon to nitrogen levels, maintaining adequate moisture levels, and monitoring temperature conditions to ensure sustainment of an efficient compost process. Windrows are turned regularly to ensure any anaerobic pockets of material that may have formed are broken up and can compost aerobically. Finally, the implementation of good housekeeping practices (i.e., cleaning around the windrows) also serves to effectively control the potential generation of odors.

It should be noted that the Facility is located in an isolated rural area surrounded by land used for agricultural purposes, although the closet single residence located approximately 500 feet to the east of the Facility. The remote, rural location of this Facility, therefore, as very limited odor impacts to residences.

Aeration: Odor causing conditions are minimized with adequate air flow through the material. Adequate aeration during the composting process can be achieved using open windrows with adequate porosity. Forced or active aeration technologies can be used if necessary to assist in the control of odors. Additional odor control measures and technologies such as biofiltration may be used should the need arise.

Moisture Management: Windrows are moisture conditioned regularly to support the biological breakdown of the material. Feedstocks with high moisture content such as food materials and MSW are combined with drier materials such as green materials to maintain proper moisture content and minimize runoff. By maintaining the proper moisture, porosity, and mixture of high liquid and low liquid feedstocks run-off and/or ponding from the windrows can be minimized.

Feedstock Quality: Feedstocks with high moisture content such as food materials and MSW are combined with drier materials such as green materials to maintain the proper mixture of high and low moisture feedstocks. Incoming organics are tipped and contaminant removal efforts begin prior to incorporation into a windrow. The contaminant removal process continues as windrows are turned and residual contaminants are exposed.

Drainage Controls: Ponded water can be a significant source of nuisance odors at a compost facility. The Facility's surface is designed to flow to drainage ditches which direct the flow of liquids to a retention pond. Liquids from this pond are removed for application into the composting process.

Surface Maintenance: Ponded water can be a source of malodors. When water is found ponded in low areas it can be treated with lime to neutralize it and/or absorbed with compost and reincorporated into the process. Low areas on the pad will be repaired, weather permitting.

Wastewater Pond Controls: On site retention ponds are pumped regularly to prevent long-term storage of liquids. Liquids collected from the retention ponds are applied for moisture control on active compost windrows.

Storage Practices: Compost materials will be stored in piles sized in compliance with the Recology Grover Environmental Products Fire Prevention Plan. Storage times will vary based on location in the process.

Contingency Plans:

a. **Equipment:** Loaders are predominantly used at the site. Additional loaders can be procured on a temporary basis from other Recology companies or from local equipment leasing companies. Other more specialized equipment such as windrow turners and screens can be temporarily replaced by borrowing equipment from other Recology companies or through rental companies. RGEP maintains a mechanic staff and shop for equipment repairs.
b. **Water:** Should an issue arise with the well on site, the Facility can utilize water from the Delta Mendota Canal and the retention pond.
c. **Personnel:** Site personnel can be temporarily replaced by using employees from other Recology companies or through temporary labor.

Biofiltration: Biofilters are not currently in use at the site. Potential odor causing compounds such as VFA's and VOC's created during composting can best minimized by maintaining an aerobic process. Should the site deem this to be insufficient, the use of biofiltration may be considered.

Tarping: Windrows are not currently tarped at the site. Tarping may be evaluated in the future.

Appendix A

Odor Complaint Investigation Report

Recology Grover Environmental Products
Odor Complaint Investigation Report

COMPLAINT			
Date (of Complaint):			
Time (of Complaint):		LEA Notified (Time):	
Name/Address of Person Filing Complaint:			
Contact Number:			
Location of Observed Odor:			
Reported Odor Type/Duration:			
INVESTIGATION			
RGEP Representative:		LEA Representative:	
Nasal Ranger Measurement (location, D/T and descriptor):			
Is Odor Obvious, Persistent or Ephemeral:			
Investigation Details:			
WEATHER			
Wind Speed:		Direction:	
Temperature:		Conditions:	
OPERATIONS			
Operations at time of Complaint:			
Operational steps taken to reduce odors:			

Recology Grover Environmental Products
Odor Complaint Response Map

Date of Complaint:	
Complaint Time:	
Complainant:	
Complaint Location:	
Weather Conditions:	

*Subject to change based on complaint location

STANISLAUS COUNTY PLANNING COMMISSION

June 6, 2013

STAFF REPORT

USE PERMIT APPLICATION NO. 2012-04
RECOLOGY – GROVER ENVIRONMENTAL PRODUCTS

REQUEST: TO EXPAND AN EXISTING 112± ACRE COMPOSTING BUSINESS TO AN ADJACENT 42.87± ACRE PARCEL. THIS USE PERMIT PROPOSES TO ADD STREET SWEEPINGS AND URBAN ORGANICS TO THE FEEDSTOCKS PROCESSED AND COMPOSTED ON BOTH PARCELS.

APPLICATION INFORMATION

Applicant/Owner:	Vince Tye - Recology Inc.
Agent:	Erin Merrill - Recology Inc.
Location:	3401 Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area
Section, Township, Range:	9-4-6
Supervisorial District:	Five (Supervisor DeMartini)
Assessor's Parcel:	016-003-010 & 016-003-014
Referrals:	See Exhibit H Environmental Review Referrals
Area of Parcel(s):	112± and 42.87± acres
Water Supply:	Private Well
Sewage Disposal:	Septic System
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Sphere of Influence:	Not Applicable
Community Plan Designation:	Not Applicable
Williamson Act Contract No.:	75-1888
Environmental Review:	Mitigated Negative Declaration
Present Land Use:	Existing composting operation and fallow land (expansion area)
Surrounding Land Use:	Sun Dry Products to the east; Delta Mendota Canal to the west; and orchards to the north and south

RECOMMENDATION

Staff recommends the Planning Commission approve this request based on the discussion below and on the whole of the record provided to us. If the Planning Commission decides to approve the project, Exhibit A provides an overview of all of the findings required for project approval which include use permit findings.

SITE DESCRIPTION

The existing composting facility consists of 112± acres (APN: 016-003-010) located on Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area. The existing facility includes an additional 11± acres (APN: 265-010-021) located in San Joaquin County. A portion of the existing facility is located on a long-closed World War II era aircraft training runway which was used as a drying yard for cannery waste by the adjacent Sun Dry Products operation. The proposed 42.87± acre expansion area is located on the adjoining parcel to the northeast (APN: 016-003-014) located entirely within Stanislaus County. The expansion area consists of fallow land. The project site is surrounded by Sun Dry Products (a separately operated composting facility) to the east, the Delta-Mendota Canal to the west, and orchards to the north and south.

BACKGROUND AND PROJECT DESCRIPTION

In 1999, Use Permit Application No. 98-19 – Grover Landscape Services, Inc. was approved by the Planning Commission to allow establishment of the existing compost facility on approximately 60 acres. The approval allowed for processing of green waste, grass, and other organic materials, referred to as "feedstocks".

In 2003, Use Permit No. 2002-22 – Grover Landscape Services, Inc. was approved to allow an expansion of the compost facility to a 58± acre property comprised of a 38.47 acre parcel and 19.23 acre parcel located directly south, on the south side of Gaffery Road; however, this expansion never occurred and the Use Permit has since expired. The 58± acre property is still under the same ownership as the compost facility and serves as a "buffer" between the composting facility and property to the south.

In March of 2008, Use Permit Application No. 2006-37 – Grover Landscape Services, Inc. was approved to allow an expansion of the existing composting facility onto an adjacent 50 acre property. No new uses were proposed.

The compost facility produces a soil amendment sold primarily in bulk for application to vineyards, orchards, and other agricultural crops. A majority of the finished compost goes directly to local farmers in Stanislaus and San Joaquin County. Ownership and operations of the existing facility have been transferred from Grover Landscape Services to Recology Inc. The facility utilizes an aerobic open windrow composting system with an integrated watering system which directly applies and incorporates water to the windrows as they are turned. The facility consists of areas for compost windrows, curing piles, and compost storage as well as processing activities including the unloading, mixing, and grinding of materials. Additional operations include screening, blending, and loading of finished compost product.

Recology – Grover Environmental Products (RGEP) is requesting to expand the existing 112± acre composting facility to an adjacent 42.87± acre parcel and to expand the allowable feedstocks to include street sweepings and urban organics. Street sweepings, generated as a result of municipal street cleaning operations, contain a significant fraction of organic material comprised primarily of leaves and woody materials. Street sweepings will either be processed prior to transport to RGEP or will be processed on-site at the RGEP facility to separate out the compostable material from the material unsuitable for composting. Urban organics are compostable materials and are generated by sorting and processing mixed solid waste (MSW). Urban organics include food, yard waste, and paper.

Feedstocks are brought in from a variety of sources. RGEP currently has several contracts with municipalities in the San Francisco Bay area for sorting of their municipal street cleaning materials and MSW as well as contracts with private businesses in Stanislaus County. RGEP has three landfills, located outside Stanislaus County, where preliminary sorting and processing takes place.

The operation receives materials 24 hours per day, seven (7) days a week, and grinds materials from 5:00 a.m. to 10:00 p.m., seven (7) days a week. The operation consists of approximately 60 employees on a maximum shift and one (1) to two (2) employees on a minimum shift. Truck deliveries occur about 50 times per day, 24 hours a day. The hours of operation and number of employees will not change with the expansion, only the amount of materials brought on-site, the amount of compost generated, and the increase in area needed. The California Department of Resources Recycling and Recovery (CalRecycle) only permits this operation to bring 2,000 tons of material on-site per day. The operation will still be in compliance following the expansion. There are currently no plans to increase the amount of materials allowed on-site.

Currently, the feedstock receiving and processing areas are located on the southern portion of the project site. RGEP plans on moving these areas to the center of the project site. This will help with operation efficiency, on-site containment of materials, and odors.

ISSUES

The following issues related to biological resources, roadway conditions, on-site containment of materials, and odors have been reviewed and identified as a part of this request:

Biological Resources

Concerns were raised by the California Department of Fish and Wildlife (CDFW) noting that the project site is suitable habitat for wildlife species including special status species. CDFW noted concerns with project-related impacts to nesting birds, the State threatened Swainson's hawk, the State and federally endangered riparian brush rabbit, the State threatened and federally endangered San Joaquin kit fox, the State endangered Delta button-celery, and the following State Species of Special Concern: American badger; riparian woodrat; and burrowing owl.

The applicant hired Monk & Associates (M&A) to complete a Biological Resources Analysis within which a complete list of plant species on-site can be found. (See Exhibit E – *Biological Resources Analysis by Monk & Associates*.)

The Analysis determined that the special-status plants known from the project region are unlikely to occur on-site. No impacts to special-status plants are expected from project site development.

Although no state or federally threatened species, endangered species, or species of special concern were found on the project site, the Analysis identified that many of the species are mobile and migratory in nature. If any of the species move onto the project site in the future, the species could be impacted by any ground disturbances. In order to reduce potentially significant impacts to these species, mitigation measures have been included on the project dealing directly with each species. The mitigation measures require additional surveys to be conducted within the project site, specific buffer zones prior to any ground disturbances, specific setback requirements, and compensation for any habitat loss. (See Exhibit G – Mitigation Monitoring Plan.)

The Analysis notes that, although no burrowing owls or their sign have been detected on the project site, this owl is known from the area and thus could move onto the project site in the future. The

western burrowing owl is a California Species of Concern, protected under the Migratory Bird Treaty Act (50 CFR10.13) and its nest, eggs, and young are protected under CDFW Code Section 3503 and 3503.5. Mitigation measures have been included to ensure that there are no significant impacts to burrowing owls. The mitigation measures include pre-ground disturbance surveys of the site, setback distances from any occupied areas (which vary in distance depending on the time of year), fencing around any occupied areas, and the purchase of credits from a mitigation bank to offset any habitat loss.

No Swainson's hawks were observed on the project site or flying over the project site; however, since earth-moving and ground disturbance can disturb Swainson's hawk nesting up to one-quarter of a mile away, a mitigation measure has been included to ensure that there are no significant impacts to Swainson's hawks. The mitigation measure requires surveys by a qualified biologist, a Swainson's Hawk Monitoring and Habitat Management plan along with a 2081 permit from CDFW should any nests or eggs be detected within one-quarter of a mile of the project site, and compensation measures with CDFW and Stanislaus County if no feasible measures are available.

The Analysis indicated that ground nesting passerine (perching) birds could be impacted by the proposed project. Birds and their nests are protected under California Fish and Game Code (Section 3503, and 3503.5) and the Federal Migratory Bird Treaty Act. Impacts to nesting birds, their eggs, and/or young caused by implementation of the proposed project would be regarded as potentially significant. A mitigation measure has been included to ensure that there are no significant impacts to perching birds. The mitigation measure requires staking, fencing, and buffers around occupied areas.

The Analysis concluded that kit fox are currently not residing on the project site and the likelihood that the proposed project will impact the San Joaquin kit fox is remote and unlikely; however, since this mammal is highly mobile and could move onto the project site prior to implementation of the proposed project, a mitigation measure has been included to ensure that there are no significant impacts to the San Joaquin kit fox. The mitigation measure requires preconstruction surveys of the site. In the event that an active San Joaquin kit fox den is detected during pre-construction surveys, the owner must work with CDFW and US Fish and Wildlife Service (USFWS) on avoidance measures and authorization to proceed and land preservation mitigation compensation may be necessary.

The American badger is a California species of special concern. No American badgers or their distinctive burrows/diggings were observed onsite; however, since the American badger has a wide home range, there is a slight possibility that this animal could move onto the project site. Mitigation measures have been included to ensure that there are no significant impacts to the American badger. The mitigation measure requires a survey be conducted prior to any ground disturbance. Should any badgers be found on-site, relocation may be required.

A drainage ditch traverses the project site's southeastern boundary. This drainage is partially on and partially off of the proposed site. The expansion project, as currently proposed, would not impact this potential water of the U.S./State and CDFW regulated stream channel. A mitigation measure is being included to ensure that there are no significant impacts to the drainage ditch. The mitigation measure requires that a 25-foot non-disturbance setback be established from this existing drainage ditch. If the project does not establish the 25-foot setback and impacting this drainage becomes necessary (for example, a culvert needs to be placed in the drainage), authorization from the Army Corps of Engineers, the Regional Water Quality Control Board (RWQCB), and the CDFW would be required.

The Biological Resources Analysis has been provided to CDFW as well as all other responsible agencies for review. CDFW is satisfied with the Analysis and the Mitigation Monitoring Plan. No additional comments related to biological resources have been received.

Existing roadway system

Under Use Permit No. 2006-37 – Grover Landscape Services, Inc. (approved March 20, 2008), the Stanislaus County Department of Public Works noted that the business generated approximately 55 to 65 trucks a day which substantially impacted the existing roadway system. A mitigation measure was added which lowered the impact to a less than significant level. The mitigation measure stated:

> *"The applicant shall enter into an agreement with Stanislaus County Department of Public Works to pay a fee of $0.055 per ton of material entering or leaving the property to offset the traffic impacts to County roads..."*

Since this project is an expansion of Use Permit No. 2006-37, a condition of approval has been added to this use permit to continue to require this road maintenance fee be collected by the Department of Public Works.

On-site containment of materials and odors

A referral response was received from the Del Puerto Water District (DPWD) stating that it has some concerns with how the existing and proposed expansion would impact the surrounding agricultural land and irrigation infrastructure. In summary, the DPWD concerns center on the need for the project site to contain any and all "materials" on-site so that no conflicts or issues arise with the surrounding agricultural land. The response also states that there have been instances in the past where methods to contain "materials" on-site have failed and led to the "materials" entering the neighboring irrigation canals. RGEP has been working with DPWD to prevent such materials from entering the canals. A condition of approval has been added to the project which states that all materials must be contained on-site and requires preparation of a Materials Containment Plan.

The Sun Dry operation is adjacent to the RGEP site and is zoned Planned Development (P-D) No. 318 which allows for the reclamation and recycling of agricultural products and the processing of commercial feed products and construction debris. The operation processes agriculturally related byproducts, soil amendments, vermicomposting, and animal feed products. Other uses of the Sun Dry facility include: composting of green waste; dehydration/re-use of food processing by-products; processing of wood landscape materials, bio-mass for fuel material, and demolition debris; and recycling of metal, tires, wood pallets, concrete, asphalt, geothermal sulfur, gypsum and wallboard. At a 2009 public hearing to consider expansion of the Sun Dry Products operation, concerns about odor were raised; however, there was some indication, based on testimony provided, that RGEP could be the odor source. The Planning Department has not received any complaints or concerns related directly to odor for the RGEP site. Staff has conducted a site visit of the RGEP site and, while the entire site has a strong "earthy" odor common with compost, there is "landfill" type odor concentrated in the feedstock receiving and processing area. While the "landfill" odor is strongly detectible near the on-site source, the odor dissipates to nearly undetectable levels at the west, north, and east property lines. The only surrounding property directly impacted by the "landfill" odor is the RPEG owned property located on the south side of Gaffery Road.

As mentioned previously in the Background and Project Description section of this report, the feedstock receiving and processing areas will be moved to a central location on the property. This will help with the on-site containment of materials and reduce the odor for surrounding properties.

GENERAL PLAN CONSISTENCY

The site is currently designated "Agriculture" in the Stanislaus County General Plan, which is consistent with its A-2 (General Agriculture) zoning district. The agricultural designation recognizes the value and importance of agriculture by acting to preclude incompatible urban development within agricultural areas.

Composting facilities, as discussed below in the Zoning Ordinance Consistency section of this report, are considered Tier Two uses which are agriculturally related commercial and industrial uses. The RGEP composting facility produces a soil amendment sold primarily in bulk for application to vineyards, orchards, and other agricultural crops. A majority of the finished compost goes directly to local farmers in Stanislaus and San Joaquin County.

The following are the relevant goals, policies, and objectives of the General Plan that apply to this project:

Agricultural Element

Goal One: Strengthen the agricultural sector of our economy.

Objective No. 1.2: Support the development of agriculture-related uses.

Objective No. 1.3: Minimizing agricultural conflicts.

Policy 1.10: The County shall protect agricultural operations from conflicts with non-agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.

In response to Policy 1.10, Buffer and Setback Guidelines (Appendix A of the Agricultural Element) applicable to new or expanding uses approved in or adjacent to the A-2 (General Agriculture) zoning district have been adopted. Appendix A states that low people intensive Tier One and Tier Two Uses (such as nut hulling, shelling, dehydrating, grain warehousing, and agricultural processing facilities) which do not serve the general public shall not be subject to compliance with these guidelines; however, conditions of approval consistent with these guidelines may be required as part of the project approval. The decision making body (Planning Commission) shall have the ultimate authority to determine if a use is "low people intensive".

Conservation/Open Space Element

Goal Eleven: Support efforts to minimize the disposal of solid waste through source reduction, reuse, recycling, composting, and transformation activities.

Policy 22 – Implementation Measure No. 5: Encourage and promote activities, projects, legislation, businesses, and industries that cause special wastes (e.g., food processing residue, demolition/construction waste, inert wastes, tires, de-watered sludge, household hazardous waste, etc.) to be safely diverted from landfills or transformation facilities, including composting and co-composting operations.

Staff believes this project can be found to be consistent with the General Plan. The project is an expansion of an existing use that produces compost for agricultural application. The facility is not open to the general public and is buffered by the Delta-Mendota canal to the west, Sun Dry Products

composting facility to the east, and an orchard to the south owned by RGEP. The proposed use is for composting which directly supports the Conservation/Open Space Element of the General Plan.

ZONING ORDINANCE CONSISTENCY

The proposed compost facility is classified by Section 21.20.030 of the Stanislaus County Zoning Ordinance as a Tier Two use. More specifically, Section 21.20.030(e) states the following:

> *Commercial or municipal composting, processing, and/or spreading of whey, treated sludge or biosolids (including Class A and Class B), or other organic matter when the matter to be composted, processed, and/or spread is not generated on-site and the composting, processing, and/or spreading is not part of a routine farming practice. Composting operations with less than 1,000 cubic yards or 300 tons of active composting material on-site at any given time shall be considered an agricultural use and shall be exempt from this provision. (This provision is intended to apply to operations whose primary function is the composting, processing, and/or spreading of organic matter; it is not intended to apply to composting and/or the use of fertilizers and other soil amendments or feed additives in conjunction with agricultural production.)*

Tier Two uses are agriculture related commercial and industrial uses that may be allowed when the Planning Commission finds that:

1. *The establishment as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;*

2. *The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity; and*

3. *It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage.*

Based on past operations, there is no indication that the proposed expansion will be substantially detrimental to or in conflict with agricultural uses of other property in the vicinity. The existing facility has been in compliance with the conditions of approval of previous Use Permits and the operator has been proactive in taking steps to ensure that any potential conflicts, such as materials (trash) leaving the site, are resolved. Apart from the letter received from Del Puerto Water District (DPWD) regarding material containment, staff has not received any concerns related to the RGEP operation. The operator has started construction on a 20-foot tall containment wall along Gaffery Road and intends to ultimately extend the wall along the entire length of the property frontage.

The project will not create any new commercial or industrial uses in the vicinity. The proposed project is an expansion on an already existing composting facility and not the establishment of a new business. The expansion will be operated in the same manner, handling the same materials, by the same operator.

The A-2 zone is a logical area for composting facilities because they require a large area of land in order to operate. The operation requires land for receiving, sorting, crushing and grinding, compost windrows, internal roads, and other operational areas. This type of land is not normally found in urbanized areas.

Both parcels within the project site are enrolled in Williamson Act Contract No. 75-1888. Section 21.20.045(A) of the A-2 zoning district requires that all uses requiring use permits that are approved on Williamson Act contracted lands shall be consistent with the following three principles of compatibility:

1. *The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;*

2. *The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping; and*

3. *The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.*

The expansion of the existing composting facility will not significantly compromise the long-term productive agricultural capability of the subject property. Although there is no agricultural commodity being grown or raised on-site, the composting operation provides large quantities of compost for soil amendment purposes to the agricultural community. The proposed expansion will not result in new facilities limiting the return of the property to agricultural production in the future. The proposed expansion will not remove any adjacent contracted land from agricultural or open space use. All surrounding lands will be able to continue their agricultural operations.

The project was circulated to the State Department of Conservation during the two-week Early Consultation and 30-day Initial Study reviews and no comments were received.

The specific findings required for approval of the proposed use permit are outlined in Exhibit A of this report. Based on the information provided in this report, staff believes that all of the findings necessary for approval of this request can be made.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment. As mentioned in the Issues Section above, CDFW raised some concerns related to biological resources; however, these concerns have been addressed by mitigation measures incorporated into the Mitigation Monitoring Plan (MMP) and CDFW is satisfied with the MMP. No other significant issues have been raised. (See Exhibit G – *Mitigation Monitoring Plan* and Exhibit H - *Environmental Review Referrals*.) Based on the comments received, the Initial Study discussion, and mitigation measures provided by the M&A Biological Resources Analysis, a Mitigated Negative Declaration is being recommended for adoption. (See Exhibit D – *Initial Study* and Exhibit F – *Mitigated Negative Declaration*.)

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Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay $2,213.25 for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Javier Camarena, Assistant Planner, (209) 525-6330

Attachments:
Exhibit A - Findings and Actions Required for Project Approval
Exhibit B - Maps
Exhibit C - Conditions of Approval
Exhibit D - Initial Study
Exhibit E - Biological Resources Analysis by Monk & Associates
Exhibit F - Mitigated Negative Declaration
Exhibit G - Mitigation Monitoring Plan
Exhibit H - Environmental Review Referrals

Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.

2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.

3. Find that:
   (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County;
   (b) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;
   (c) The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity;
   (d) It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage;
   (e) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;
   (f) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural product on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping;
   (g) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use; and
   (h) The project will increase activities in and around the project area and increase demands for roads and services thereby requiring dedication and improvements.

4. Approve Use Permit Application No. 2012-04 – Recology – Grover Environmental Products, subject to the attached conditions of approval and mitigation measures.

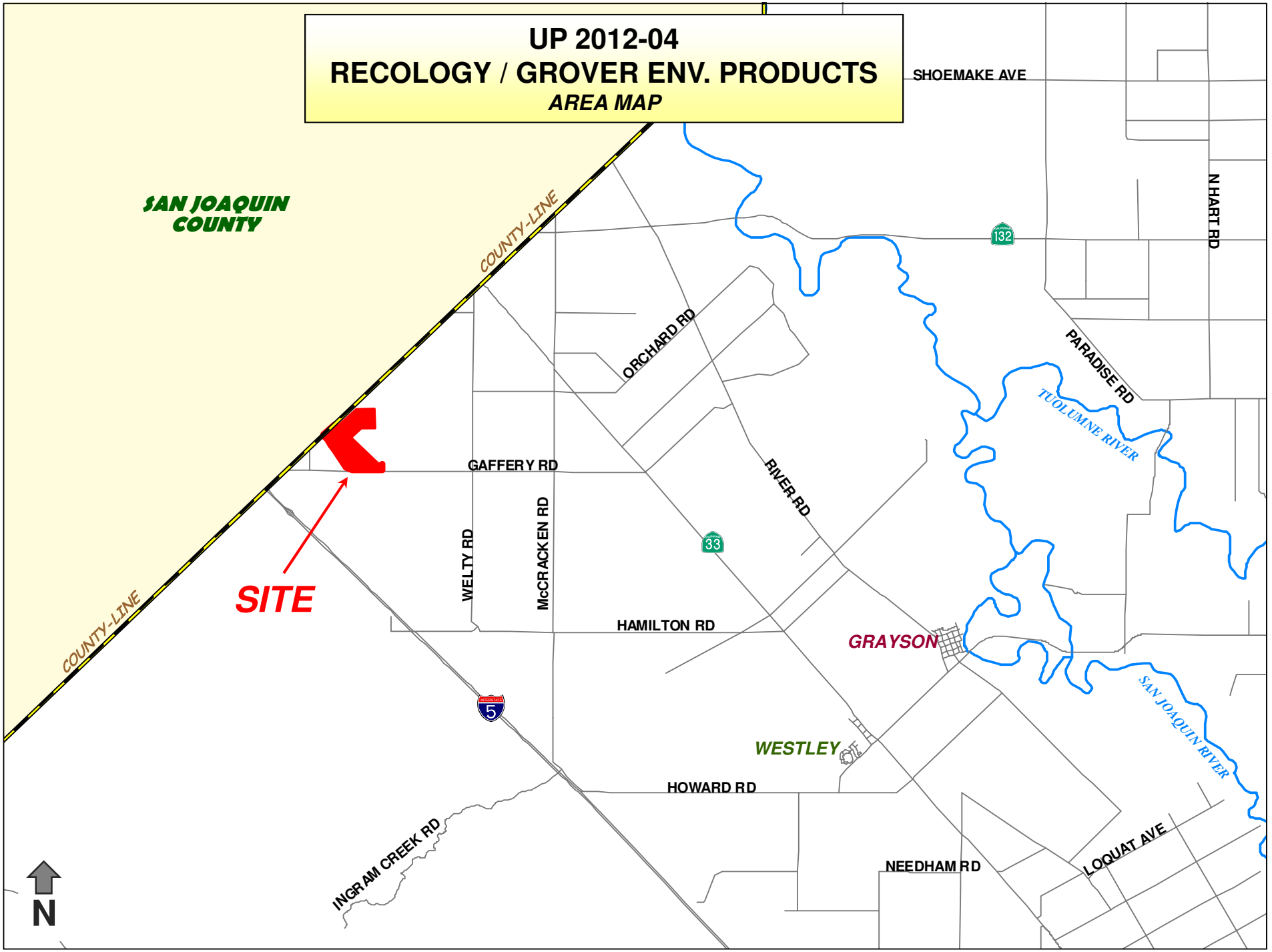
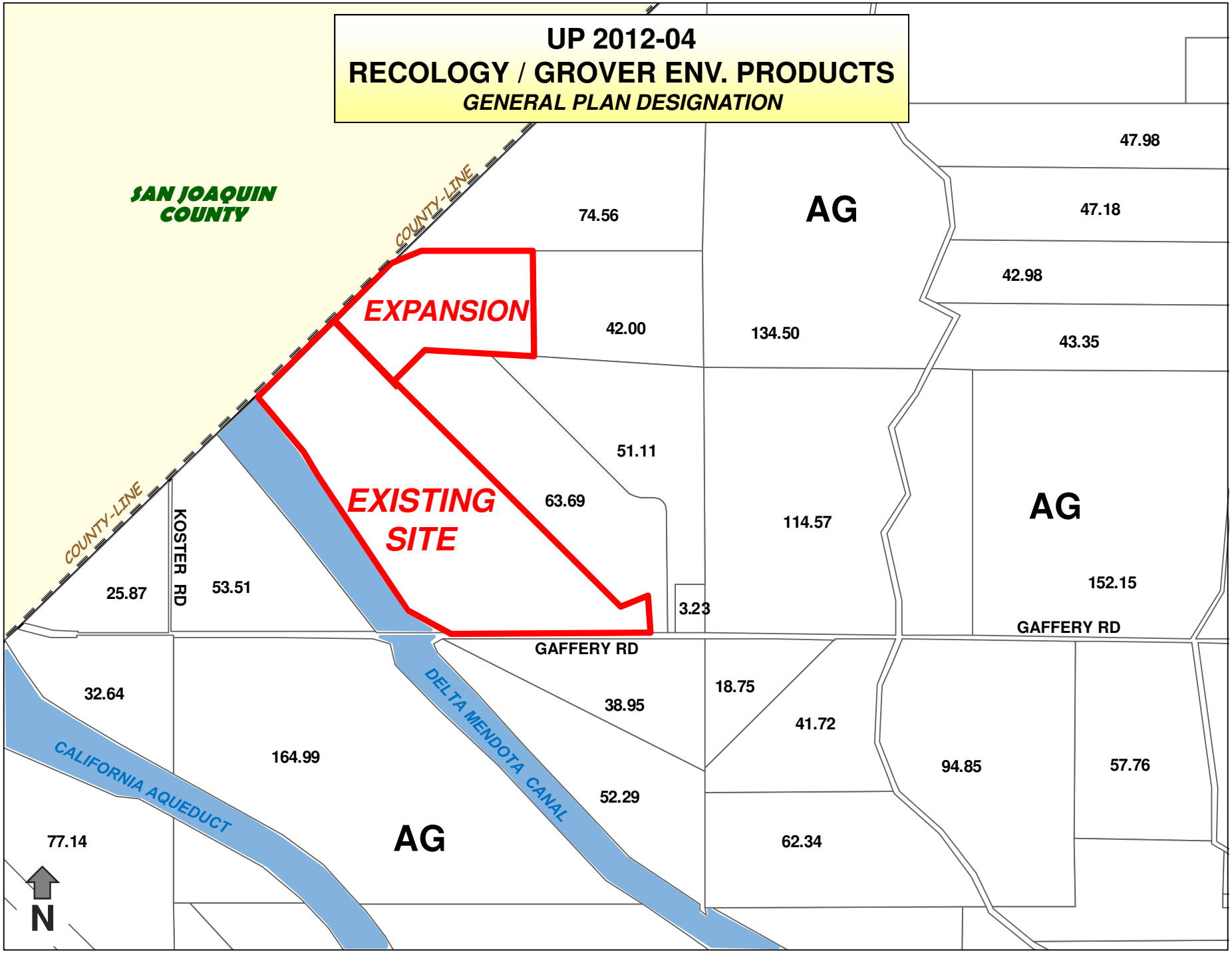

UP 2012-04
RECOLOGY / GROVER ENV. PRODUCTS
AREA MAP
SAN JOAQUIN COUNTY
COUNTY-LINE
COUNTY-LINE
SHOEMAKE AVE
N HART RD
132
ORCHARD RD
PARADISE RD
TUOLUMNE RIVER
GAFFERY RD
RIVER RD
WELTY RD
McCRACKEN RD
33
SITE
HAMILTON RD
GRAYSON
SAN JOAQUIN RIVER
5
WESTLEY
HOWARD RD
INGRAM CREEK RD
NEEDHAM RD
LOQUAT AVE
N

EXHIBIT B



12

EXHIBIT B-1

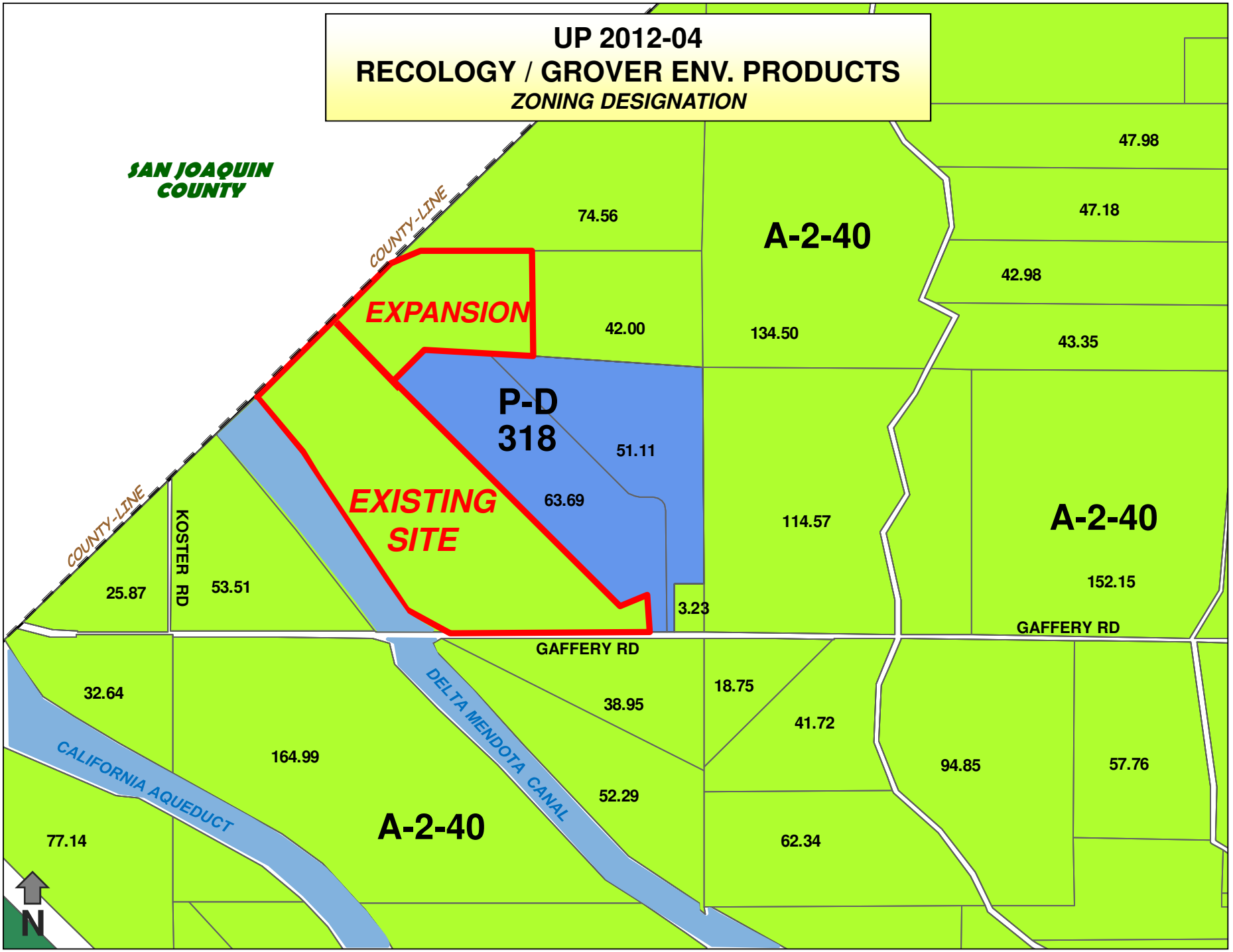

UP 2012-04
RECOLOGY / GROVER ENV. PRODUCTS
ZONING DESIGNATION
SAN JOAQUIN COUNTY
COUNTY-LINE
COUNTY-LINE
EXPANSION
EXISTING SITE
P-D 318
A-2-40
A-2-40
A-2-40
74.56
42.00
134.50
51.11
63.69
114.57
47.98
47.18
42.98
43.35
152.15
3.23
25.87
53.51
KOSTER RD
GAFFERY RD
GAFFERY RD
32.64
164.99
77.14
CALIFORNIA AQUEDUCT
DELTA MENDOTA CANAL
38.95
52.29
18.75
41.72
62.34
94.85
57.76
N

EXHIBIT B-2


UP 2012-04
RECOLOGY / GROVER ENV. PRODUCTS
AERIAL PHOTO (2006)
EXPANSION
EXISTING SITE
COUNTY LINE
COUNTY LINE
SAN JOAQUIN COUNTY
KOSTER RD
DELTA MENDOTA CANAL
GAFFERY RD
GAFFERY RD
N

EXHIBIT B-3

NOTES

1. SITE INFORMATION OBTAINED FROM THE DESIGN GROUP DRAWING TITLED SITE PLAN NEW EXPANDED PROPERTY. DATE OF INFORMATION: MARCH 15, 2007.
2. MAIN AERIAL IMAGERY OBTAINED FROM USGS NATIONAL MAP VIEWER WEBSITE (http://viewer.nationalmap.gov), BASED ON NAIP. DATE OF IMAGERY: SEPTEMBER 16, 2010.
3. SITE VICINITY MAP IMAGE OBTAINED FROM ESRI BASEMAP TITLED BING MAPS ROAD, BASED ON MICROSOFT BING MAPS. DATE OF MAP: 2010.

300 0 300
SCALE FEET

Golder Associates
Sacramento, CA

PROJECT No. 11397415 FILE No. F1-Site Plan CADD JDR DATE 10/27/11

SITE PLAN
RECOLOGY GROVER
ENVIRONMENTAL PRODUCTS
3909 GAFFERY RD., VERNALIS, CA

EXHIBIT B-4

NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

CONDITIONS OF APPROVAL

USE PERMIT APPLICATION NO. 2012-04
RECOLOGY – GROVER ENVIRONMENTAL PRODUCTS

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.

2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2013), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **$2,213.25**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

   Pursuant to Section 711.4 (e)(3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.

3. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.

4. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent sky glow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).

5. Should any archeological or human remains, significant or potentially unique, be found, all development activities in the area shall cease until the find can be evaluated by a qualified archeologist. (Public Resources Code Section 5097.98, California Government Code Section 27491, and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains and mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.) Construction activities shall not resume in the area until an on-site archeological

mitigation program has been approved by a qualified archeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

6. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.

7. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.

8. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation.

9. Pursuant to Sections 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits, or authorizations, if necessary.

10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

11. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.

12. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Wildlife (formerly the Department of Fish and Game) to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

13. The facility operator shall be responsible for keeping all materials on-site. The facility operator shall prepare and submit a Material Containment Plan to the Planning Department for review and approval by the Planning Director (or his/her designee) within three months of Use Permit approval. Planning Department review may include referral to the Del Puerto

Water District for input regarding District facilities. The facility operator shall be responsible for implementation of the Material Containment Plan.

14. All Conditions of Approval and Mitigation Measures included in Use Permit Nos. 98-19 and 2006-37 shall apply to this project.

Department of Public Works

15. The existing mitigation measure and agreement from UP 2006-37 – Grover Landscape Services, Inc. shall apply to this project. The mitigation measure states:

> *"The applicant shall enter into an agreement with Stanislaus County Department of Public Works to pay a fee of $0.055 per ton of material entering or leaving the property to offset the traffic impacts to County roads. The agreement shall be in place within three months of the approval of the use permit. The fee shall be tied to the Engineering News Record Construction Cost Index as published in the January edition; the base Construction Cost Index is 8090.06 as of January 2008."*

16. An encroachment permit shall be obtained prior to the start of any work within the County road right-of-way.

17. If a new driveway is installed, all new driveway locations and widths shall be approved by the Department of Public Works.

18. No parking, loading, or unloading of vehicles shall be permitted within the right-of-way of Gaffery Road. The developer will be required to install or pay for the installation of any signs or markings, if warranted.

19. A grading and drainage plan for the project site shall be submitted.
    - Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
    - The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
    - The grading and drainage plan shall comply with the current Stanislaus County National Pollutant Discharge Elimination System (NPDES) General Permit and the Quality Control standards for New Development and Redevelopment contained therein.
    - The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.

20. The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

West Stanislaus County Fire Protection District

21. Project shall comply with current California Fire Code requirements. Approved Fire Apparatus access roads shall be provided. Minimum width shall not be less than 20'.

22. Current Recology onsite water supply tanks shall be maintained in proper working order and shall have approved, unobstructed fire road access at all times.

23. Hydrants shall be maintained in proper working order at all times.

24. Water supply pond shall be filled and maintained at all times.

Central Valley Regional Water Quality Control Board (RWQCB)

25. The project shall be required to meet all RWQCB policies and standards in order to protect the quality of surface and groundwater. Policies and standards include but are not limited to a Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit – Water Qualification Certification, and Waste Discharge requirements. Policies and standards shall be met prior to development and maintained during operation.

San Joaquin Valley Air Pollution Control District (SJVAPCD)

26. The applicant may be subject to the following District Rules and may be subject to additional regulations/permits, as determined by the SJVAPCD:
    - Regulation VIII (Fugitive PM10 Prohibitions);
    - Rule 4102 (Nuisance);
    - Rule 4601 (Architectural Coatings); and
    - Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

CalRecycle

27. The facility is currently permitted to operate on 123.5 acres and may receive up to 2,000 tons per day of compostable material. In order to modify the operation, the operator will be required to apply for a Revised Solid Waste Facilities Permit prior to new operations commencing.

MITIGATION MEASURES

(Pursuant to California Public Resources Code 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:
1) Hold a public hearing to consider the project; and
2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)

28. The CDFW (California Department of Fish and Wildlife) Staff Report 2012, states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. Any burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including, but not limited to, a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.

    Burrowing owl survey should be conducted by walking the entire project and (where possible) in areas within 150 meters (approximately 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project

area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As all areas that are within 150 meters of the project site are orchard or commercially operated composting facilities, it is most unlikely that this would be found outside the project site limits. Thus, surveys should be limited to the project site and the visible areas adjacent to the project site.

Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approximately 160 feet) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.

29. If burrowing owls are detected on-site, the following restricted activity dates and setback distances are recommended, per CDFW Staff Report (2012):
    - From April 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests.
    - From October 16 through March 31, low disturbance activities should have a 50-meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests.
    - No earth-moving activities or other disturbance should occur within the aforementioned buffer zones and occupied burrows. These buffer zones should be fenced as well. If burrowing owls were found in the project area, a qualified biologist would also need to delineate the extent of burrowing owl habitat on the site.

30. In accordance with the CDFW Staff Report 2012, if burrowing owls are found nesting on-site, credits would have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owls. This would be developed in coordination with the CDFW and Stanislaus County.

31. To avoid impacts to nesting Swainson's hawks, CDFW has prepared guidelines for conducting surveys for Swainson's hawks entitled: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFW's recommendations for mitigation and protection of Swainson's hawks in this guideline, surveys should be conducted by a qualified biologist for a 0.25 mile radius around all project activities and should be completed for at least two survey periods as is found in the CDFG's 2000 survey guidelines. The guidelines provide specific recommendations regarding the number of surveys based on when the project is scheduled to begin and the time of year the surveys are conducted. A copy of this survey report should be provided to the local CDFW biologist.

    If the project could impact the Swainson's hawk, its nest, or eggs, typically assumed to be the case if a nest is detected within 0.25-mile of the project site, a Swainson hawk Monitoring and Habitat Management plan should be developed in coordination with CDFW

and Stanislaus County. In addition, if it is determined that a nest site could be impacted or project activities could otherwise cause take of the Swainson's hawk, its eggs, or young, as determined in coordination with the CDFW, a 2081 permit may be required for the project by the CDFW. The Monitoring and Habitat Management Plan could include protection and/or enhancement of locally or regionally available property provided it would benefit nesting Swainson's hawks. If no other feasible measures are available, compensation measures may be developed in coordination with CDFW and Stanislaus County.

32. If site disturbance would occur between February 1 and August 31, a nesting survey for ground nesting birds should be conducted on the project site prior to the disturbance. The nesting surveys should be completed 15 days prior to commencing with the work. If nesting passerine birds are identified nesting on or near the project site, a 75-foot radius around the nest must be staked with orange construction fencing. If an active nest is found offsite, the portion of the buffer that is onsite must be staked. No construction or earth moving activity shall occur within this 75-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.

    Typically, most passerine birds in the region of the project site are expected to complete nesting by August 1st; however, in the region, many species can complete nesting by mid-June to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of the buffers. This report shall be submitted to the Stanislaus County Planning Department prior to the time that buffers are removed if the date is before August 1st.

33. To avoid and minimize impacts to San Joaquin kit fox, preconstruction surveys should be conducted by qualified wildlife biologists no fewer than 14 days prior to the onset of any ground disturbing activity. The survey area shall include all areas subject to disturbance and a 250-foot buffer area extending beyond areas subject to the disturbance. Preconstruction survey methods would include den surveys and use of surveillance cameras at questionable burrow sites. Proposed survey methods should follow the USFWS' Standardized Recommendations for Protection of Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011). In addition, survey results should be prepared and submitted to Stanislaus County prior to initiation of disturbance.

    If surveys identify potential dens (potential dens are defined as burrows at least four inches in diameter which open up wider within two feet), potential den entrances should be dusted for three calendar days to register tracks of any San Joaquin kit fox present. Infrared triggered cameras could be set over the potential dens in lieu of or in combination with application of a clay tracking medium. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. In the event that an active San Joaquin kit fox den is detected during preconstruction surveys, CDFW and USFWS should be contracted immediately and no project activity should begin until appropriate avoidance measures have been implemented and CDFW and USFWS have provided written authorization that project construction may proceed. Additionally, if the project site is found to support denning San Joaquin kit fox, then land preservation mitigation compensation may be necessary and would have to be developed in coordination with CDFW, USFWS, and Stanislaus County.

34. A preconstruction survey for the American badger should be conducted on the project site within 14 days of site disturbance. These surveys could be conducted concurrently with San Joaquin kit fox surveys. Surveys should be conducted by a wildlife biologist with experience identifying badgers and badger burrows. Survey methods would include walking parallel transects through the project site looking for badger burrows. Any badger burrow identified would be mapped with a global positioning system (GPS) and shown on the project site plans.

35. If active badger burrows are identified on the project site, they should be avoided. If avoidance is not feasible, a biologist should determine if the burrow is being used for breeding. This may require repeat visits to the burrow or replacement of a remote camera near the burrow. If young are determined to be present, the burrow should be avoided until young vacate the burrow and are mature enough to survive outside the burrow. If the burrow is simply being used as refugia by an adult or subadult badger then, as approved by CDFW, a one way eviction door should be installed to possibly relocate the badger from its burrow. If it digs back into the burrow, live traps should be established at the burrow entrances, as approved by CDFW, to trap and remove badgers from the area of impact.

36. If a 25-foot non-disturbance setback from the project site drainage is not established, then a wetland delineation would need to be conducted. Because only the Corps can determine the extent of its jurisdiction on any site, a wetland delineation would need to be conducted according to the 1987 Corps' Wetland Delineation Manual (U.S. Army Corps of engineers 1987) and the Regional Supplement to the Corps' Wetland Delineation Manual: ARID West Region (U.S. Army Corps of Engineers 2008). The preliminary wetland delineation map would need to be submitted to the Corps for confirmation. Once that map is confirmed, the full extent of waters of the United States would be known and the extent of impacts to regulated area ascertained. M&A (Monk & Associates) anticipates that CDFW would require a Streambed Alteration Agreement for any impacts to the bed, bank, or channel of the drainage onsite. Since at this time, the RWQCB (Regional Water Quality Control Board) does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps' determination.

    If avoidance of all Corps jurisdictional areas is not possible, which at this point is believed only to be the drainage onsite, potential impacts should be minimized to the extent feasible through changes to project design. Impacts should also be minimized by the use of Best Management Practices to protect the drainage and ensure water quality in other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures.

    For those waters that cannot be avoided (i.e., the drainage on-site) permits from the Corps, RWQCB, and CDFW should be acquired that allows impacts to the drainage (and any other regulated waters onsite). Mitigation compensation should be at a minimum 1:1 ratio or as otherwise required by the Corps, RWQCB, and CDFW at the time permits/authorization are issued.

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*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line through it.~~*

Stanislaus County
Planning and Community Development

1010 10th Street, Suite 3400
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Phone: (209) 525-6330
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CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, December 30, 2009

1.	**Project title:**	Use Permit Application No. 2012-04 - Recology - Grover Environmental Products
2.	**Lead agency name and address:**	Stanislaus County 1010 10th Street, Suite 3400 Modesto, CA 95354
3.	**Contact person and phone number:**	Joshua Mann, Associate Planner (209) 525-6330
4.	**Project location:**	Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area. APN: 016-003-010 and 016-003-014
5.	**Project sponsor's name and address:**	Erin Merrill Environmental Planning Manager Recology, Inc. 50 California Street, 24th Floor San Francisco, CA 94111
6.	**General Plan designation:**	Agriculture
7.	**Zoning:**	A-2-40 (General Agriculture)

8. Description of project:

This is a request to expand an existing composting operation to an adjacent 42.87-acre parcel (APN: 016-003-014). 11± acres of the original project site are located in San Joaquin County (APN: 265-010-021) and 112± acres on APN: 016-003-010. This use permit proposes to add street sweepings and urban organics to the feedstocks processed and composted on both parcels. This modification will allow for the expansion of the compost facility and the addition of feedstocks to the overall operation. (An expanded description is attached).

Use Permit No. 2006-37 was approved for waste types processed at this facility including green yard material, leaves, brush, wood chips, municipal clean green waste, Christmas trees, fresh agricultural products (fruits, olives, pumice, manure, and vegetables), and, potentially, contaminant-free post-consumer food waste. No publicly owned treatment plant sludges or residues are processed. The business composts green material feedstocks, originating in the residential and light commercial waste streams, to be processed for use as soil amendments and top-dressing. Grover Landscape Services also receives green material from several cities and strives to maintain standards of clean non-contaminated material for feedstocks that will help in quality control of the finished product.

9.	**Surrounding land uses and setting:**	Apricot orchard to the north; Sun Dry Products to the south and east; and Recology and San Joaquin County to the west.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

Stanislaus County Department of Public Works
California Department of Fish and Wildlife (formerly California Department of Fish and Game [CDFW])
San Joaquin Valley Air Pollution Control District
CalRecycle
United States Fish and Wildlife Service (USFWS)
Army Corps of Engineers
Regional Water Quality Control Board (RWQCB)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ **Aesthetics**	☐ **Agriculture & Forestry Resources**	☐ **Air Quality**
☒ **Biological Resources**	☐ **Cultural Resources**	☐ **Geology /Soils**
☐ **Greenhouse Gas Emissions**	☐ **Hazards & Hazardous Materials**	☐ **Hydrology / Water Quality**
☐ **Land Use / Planning**	☐ **Mineral Resources**	☐ **Noise**
☐ **Population / Housing**	☐ **Public Services**	☐ **Recreation**
☐ **Transportation/Traffic**	☐ **Utilities / Service Systems**	☐ **Mandatory Findings of Significance**

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

☐ **I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.**

☒ **I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.**

☐ **I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.**

☐ **I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.**

☐ **I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.**

Joshua Mann, Associate Planner — April 10, 2013
Prepared By — Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) the significant criteria or threshold, if any, used to evaluate each question; and

b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

I. AESTHETICS -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Have a substantial adverse effect on a scenic vista?				**X**
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				**X**
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				**X**
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			**X**	
Discussion: The site itself is not considered to be a scenic resource or a unique scenic vista. This project is not requesting any buildings on site. The existing structures on the project's overall site are comprised of materials consistent with accessory structures in and around the A-2 (General Agriculture) zoning district. Standard conditions of approval will be added to this project to address glare from any previously installed, or proposed supplemental, on-site lighting.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				
II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. – Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				**X**
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?			**X**	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				**X**

d) Result in the loss of forest land or conversion of forest land to non-forest use?				**X**
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				**X**

Discussion: The project site contains two separate parcels, comprised of the existing site and an expansion area, both of which are enrolled in Williamson Act Contract No. 75-1888. Overall, half of the soils on the project site are classified as Prime Farmland and the other half as Prime Farmland (if irrigated) by the Farmland Mapping and Monitoring Program. Half of the soils are Cortina gravelly sandy loam, 0 to 5 percent slopes, Storie Index of 46, Grade 3 and the other half are Zacharias gravelly clay, 0 to 2 percent slopes, Storie Index of 46, Grade 3.

Within the A-2 (General Agriculture) zoning district, the County has determined that certain uses related to agricultural production are "necessary for a healthy agricultural economy." The County allows three tiers of related uses within the A-2 zone when it is found that the proposed use "will not be substantially detrimental to or in conflict with the agricultural use of other property in the vicinity." The proposed use falls under the Tier Two category for the A-2 zoning district. Tier Two uses are deemed "agriculture-related commercial and industrial uses." The use is such that the land could be returned to agricultural production as no permanent improvements are being constructed.

Section 21.20.045(A) of the Stanislaus County Zoning Ordinance requires that all uses approved on Williamson Act contracted lands be consistent with three principles of compatibility:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.

2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

On December 20, 2011, General Plan Amendment 2011-01 - Revised Agricultural Buffers was approved by the Board of Supervisors to revise the County's agricultural buffer requirements for projects. Since the proposed use is considered to be a "Tier Two Use" within the County's A-2 (General Agriculture) zoning district, and the use is not considered to be people-intensive in nature, the project is not subject to the County's agricultural buffer requirement. A referral response was received from the Del Puetro Water District (DPWD) stating that they have some concerns with how the existing and proposed expansion would impact the surrounding agricultural land and irrigation infrastructure. In summary, the DPWD concerns centered on the need for the project site to contain any and all "materials" on-site so that no conflicts or issues arise with the surrounding agricultural land. The DPWD also stated that there have been instances in the past where methods to contain "materials" on-site have failed and led to the "materials" entering the neighboring irrigation canals. As a result of the DPWD comments, a condition of approval will be added to the project to re-enforce previously applied conditions of approval so that the project site is required to contain "materials" on-site. In the past, the site has used various methods including landscaping and screening. This proposed condition of approval will require the applicant/site operator to coordinate any material containment proposals with DPWD, although final approval of any proposal will be subject to the Planning Director's (or his/her designee's) authorization.

Mitigation: None.

References: Referral response from the Del Puerto Water District dated May 21, 2012; revisions to the agricultural buffers section of the Agricultural Element approved by the Board of Supervisors on December 20, 2011, (Board of Supervisors Resolution No. 2011-790); Stanislaus Soil Survey (1997); California State Department of Conservation Farmland Mapping and Monitoring Program - Stanislaus County Farmland 2010; and the Stanislaus County General Plan and Support Documentation[1].

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Conflict with or obstruct implementation of the applicable air quality plan?			**X**	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			**X**	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			**X**	
d) Expose sensitive receptors to substantial pollutant concentrations?				**X**
e) Create objectionable odors affecting a substantial number of people?				**X**

Discussion: The proposed project is located within the San Joaquin Valley Air Basin (SJVAB) and, therefore, falls under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). In conjunction with the Stanislaus Council of Governments (StanCOG), the SJVAPCD is responsible for formulating and implementing air pollution control strategies. The SJVAPCD's most recent air quality plans are the 2007 PM-10 (respirable particulate matter) Maintenance Plan, the 2008 PM2.5 (fine particulate matter) Plan, and the 2007 Ozone Plan. These plans establish a comprehensive air pollution control program leading to the attainment of state and federal air quality standards in the SJVAB, which has been classified as "extreme non-attainment" for ozone, "attainment" for respirable particulate matter (PM-10), and "non-attainment" for PM 2.5, as defined by the Federal Clean Air Act.

Potential impacts on local and regional air quality due to the project's proposed actions are anticipated to be less than significant, falling below SJVAPCD thresholds as a result of the nature and small scale of the proposed project and project's operation after construction. Implementation of the proposed project would fall below the SJVAPCD significance thresholds for long-term operational emissions, as discussed below. Because operation of the project would not exceed the SJVAPCD significance thresholds, the proposed project would not increase the frequency or severity of existing air quality standards or the interim emission reductions specified in the air plans.

For these reasons, the proposed project would be consistent with the applicable air quality plans. Also, the proposed project would not conflict with applicable regional plans or policies adopted by agencies with jurisdiction over the project and would be considered to have a less than significant impact.

Primary sources of PM-10 and PM2.5 emissions are generally clearing and demolition activities, grading operations, construction vehicle traffic on unpaved ground, and wind blowing over exposed surfaces. The project proposes to add a minimal amount of additional truck trips to the already existing facility.

This project was referred to the SJVAPCD and, in a referral response, they concluded that the project's estimated pollutant emissions would have no significant adverse impact on air quality as the emissions are not expected to cross the districts thresholds of 10 tons/year NOX, 10 tons/year ROG, nor 15 tons/year PM-10. The SJVAPCD did note that the project development will be subject to Rule 2201 (New and Modified Stationary Source Review Rule) and Rule 2010 (Permits Required) pursuant to District Rule 9510, Section 4.4.3. They also noted the project may be subject to Regulation VIII (Fugitive PM-10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). All comments received from the SJVAPCD, including the above "rules", will be placed as conditions of approval on the project.

Mitigation: None.

References: Referral response from the San Joaquin Valley Air Pollution Control District dated May 10, 2012; San Joaquin Valley Air Pollution Control District - Regulation VIII Fugitive Dust/PM-10 Synopsis; www.valleyair.org; and the Stanislaus County General Plan and Support Documentation[1].

IV. BIOLOGICAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?		X		
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?		X		
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?		X		
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

Discussion: A CEQA Early Consultation referral was mailed to responsible agencies regarding this application. Staff received a response from the California Department of Fish and Wildlife (formerly California Department of Fish and Game [CDFW]) in which they noted that this site is suitable habitat for wildlife species, including special status species. They noted concerns with project-related impacts to nesting birds, the State threatened Swainson's hawk, the State and federally endangered riparian brush rabbit, the State threatened and federally endangered San Joaquin kit fox, the State endangered Delta button-celery, and the following State Species of Special Concern: American badger; riparian woodrat; and burrowing owl.

The applicant hired Monk & Associates (M&A) to complete a Biological Resources Analysis. The M&A biologists conducted a general survey of the project site on August 28, 2012, to record biological resources and to assess the likelihood of agency regulated areas on the project site. The biologists walked parallel transects spaced approximately 50 feet apart over the entire project site to determine if the project site provides denning or nesting habitat for special-status mammals such as the San Joaquin kit fox and western burrowing owl. The field survey allowed the biologists to record all plants observed, all animal signs on the project site (tracks and scat), and all animals observed. The field work also included a cursory

evaluation of waters of the U.S. and State on the project site. The level of analysis was not sufficient for a preliminary wetlands investigation report suitable for submittal to the Corps. The biologists conducted a focused survey for San Joaquin kit fox on the project site between October 5 and 15, 2012.

A complete list of plant species on site can be found in the attached analysis which notes that the site was previously used for vermicomposting (organic fertilizer) but is currently fallow. There is only one plant community/wildlife habitat on the project site. It is a non-native herbaceous community that developed over time from disturbances related to long-term agricultural disturbance. Based on the survey over the entire project site, it was determined that the special-status plants known from the project region are unlikely to occur on site. No impacts to special-status plants are expected from project site development.

The analysis notes that, while western burrowing owls have not been observed on the project site and the likelihood of their presence is low, suitable nesting and foraging habitat (e.g., California ground squirrel burrows) occurs on the project site. Since the western burrowing owl is a mobile species, impact avoidance measures are warranted. The closest known record is four (4) miles southwest of the project site. In September of 1992, a burrowing owl was seen at the entrance to a burrow along Hospital Creek, 2.7 miles southwest of I-580 junction with I-5, seven (7) miles southwest of Vernalis. Although no burrowing owls or their sign have been detected on the project site, this owl is known from the area and thus could move onto the project site in the future. The western burrowing owl is a California Species of Concern, protected under the Migratory Bird Treaty Act (50 CFR10.13) and its nest, eggs, and young are protected under California Fish and Game Code Section 3503, and 3503.5. As such, this project may result in impacts to the western burrowing owl that would be potentially significant unless mitigated to a less than significant level as is intended with the inclusion of Mitigation Measures Nos. 1, 2, and 3.

The Swainson's hawk is a State listed threatened species pursuant to the California Endangered Species Act (CESA), title 14, California Code of Regulations. The closest known nesting record for Swainson's hawk to the project site is a 2003 record in a landscape tree surrounded by orchards, vineyards, and row crops (CNDDB). No Swainson's hawks were observed on the project site or flying over the project site. Since this small site was previously disturbed and somewhat graded, it does not provide good foraging habitat for this large raptor species. There are no trees on site and adjacent trees are relatively small orchard trees that typically are not used for nesting by raptor species including Swainson's hawk in California; however, since earth-moving and ground disturbance can disturb Swainson's hawk nesting up to a one-quarter mile away, preconstruction nesting surveys should be conducted if such work would occur during the nesting season (February 1 through September 15). In the absence of such surveys, impacts to nesting Swainson's hawk from the proposed project are considered potentially significant unless mitigated to a less than significant level as is intended with the inclusion of Mitigation Measure No. 4.

The analysis indicated that ground nesting passerine (perching) birds could be impacted by the proposed project. Birds and their nests are protected under California Fish and Game Code (Section 3503, and 3503.5) and the Federal Migratory Bird Treaty Act. Impacts to nesting birds, their eggs, and/or young caused by implementation of the proposed project would be regarded as potentially significant. This impact can be mitigated to a less than significant level as is intended with the inclusion of Mitigation Measure No. 5.

The San Joaquin kit fox is a state listed threatened, and federally listed endangered, species. ICF International biologists, following CDFW and USFWS guidance, conducted modified protocol level surveys for kit fox on the project site. During these surveys, no burrows of suitable size for kit fox (entrances greater than four (4) inches in diameter) were observed on the project site nor was kit fox sign (e.g. scat or tracks) observed. Very few small mammals burrows were noted. Thus, it can be concluded that kit fox are currently not residing on the project site and the likelihood that the proposed project will impact the San Joaquin kit fox is remote and unlikely; however, since this mammal is highly mobile and could move onto the project site prior to implementation of the proposed project, preconstruction den surveys should be conducted prior to project initiation. In the absence of such surveys, impacts to the kit fox are considered potentially significant unless mitigated to a less than significant level as is intended with the inclusion of Mitigation Measure No. 6.

The American badger is a California species of special concern. It has no federal status. During M&A's field reconnaissance and ICF International's modified protocol level kit fox surveys, no American badgers or their distinctive burrows/diggings were observed onsite; however, since the American Badger has a wide home range, there is a slight possibility that this animal could move onto the project site. Thus, preconstruction surveys would be necessary to ensure that no impacts occur to this animal from site disturbance. In the absence of preconstruction surveys, impacts to the American badger from the proposed project are considered potentially significant unless mitigated to a less than significant level as is intended with the inclusion of Mitigation Measures Nos. 7 and 8.

A drainage ditch traverses the project site's southeastern boundary. This drainage is partially on and partially off of the proposed site. The expansion project, as currently proposed, would not impact this potential water of the U.S./State and CDFW regulated stream channel. Additionally, a 25-foot non-disturbance setback is proposed from this existing drainage. If the project plans change and impacting this drainage becomes necessary (for example, a culvert needs to be placed in the drainage), any impact to this drainage water of the U.S./State/stream channel without prior authorization from the Army Corps, the RWQCB, and the CDFW would be a significant adverse impact; however, since there are no plans at this time for such an impact, the impact is only considered "potentially significant" in this analysis. Any potential impact is mitigated to a less than significant level with Mitigation Measure No. 9.

Mitigation:

1. *The CDFW (California Department of Fish and Wildlife) Staff Report 2012, states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. Any burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including, but not limited to, a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.*

   Burrowing owl survey should be conducted by walking the entire project and (where possible) in areas within 150 meters (approximately 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As all areas that are within 150 meters of the project site are orchard or commercially operated composting facilities, it is most unlikely that this would be found outside the project site limits. Thus, surveys should be limited to the project site and the visible areas adjacent to the project site.

   Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approximately 160 feet) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.

2. *If burrowing owls are detected on site, the following restricted activity dates and setback distances are recommended, per CDFW Staff Report (2012):*
   - *From April 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests.*
   - *From October 16 through March 31, low disturbance activities should have a 50-meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests.*
   - *No earth-moving activities or other disturbance should occur within the aforementioned buffer zones and occupied burrows. These buffer zones should be fenced as well. If burrowing owls were found in the project area, a qualified biologist would also need to delineate the extent of burrowing owl habitat on the site.*

3. *In accordance with the CDFW Staff Report 2012, if burrowing owls are found nesting on site, credits would have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owls. This would be developed in coordination with the CDFW and Stanislaus County.*

4. *To avoid impacts to nesting Swainson's hawks, CDFW has prepared guidelines for conducting surveys for Swainson's hawks entitled: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFW's recommendations for mitigation and protection of Swainson's hawks in this guideline, surveys should be conducted by a qualified biologist for a 0.25 mile radius around all project activities and should be completed for at least two survey periods as is found in the CDFG's 2000 survey guidelines. The guidelines provide specific recommendations regarding the number of surveys based on when the project is scheduled to begin and the time of year the surveys are conducted. A copy of this survey report should be provided to the local CDFW biologist.*

If the project could impact the Swainson's hawk, its nest, or eggs, typically assumed to be the case if a nest is detected within 0.25-mile of the project site, a Swainson hawk Monitoring and Habitat Management plan should be developed in coordination with CDFW and Stanislaus County. In addition, if it is determined that a nest site could be impacted or project activities could otherwise cause take of the Swainson's hawk, its eggs, or young, as determined in coordination with the CDFW, a 2081 permit may be required for the project by the CDFW. The Monitoring and Habitat Management Plan could include protection and/or enhancement of locally or regionally available property provided it would benefit nesting Swainson's hawks. If no other feasible measures are available, compensation measures may be developed in coordination with CDFW and Stanislaus County.

5. *If site disturbance would occur between February 1 and August 31, a nesting survey for ground nesting birds should be conducted on the project site prior to the disturbance. The nesting surveys should be completed 15 days prior to commencing with the work. If nesting passerine birds are identified nesting on or near the project site, a 75-foot radius around the nest must be staked with orange construction fencing. If an active nest is found offsite, the portion of the buffer that is onsite must be staked. No construction or earth moving activity shall occur within this 75-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.*

   Typically, most passerine birds in the region of the project site are expected to complete nesting by August 1st; however, in the region, many species can complete nesting by mid-June to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of the buffers. This report shall be submitted to the Stanislaus County Planning Department prior to the time that buffers are removed if the date is before August 1st.

6. *To avoid and minimize impacts to San Joaquin kit fox, preconstruction surveys should be conducted by qualified wildlife biologists no fewer than 14 days prior to the onset of any ground disturbing activity. The survey area shall include all areas subject to disturbance and a 250-foot buffer area extending beyond areas subject to the disturbance. Preconstruction survey methods would include den surveys and use of surveillance cameras at questionable burrow sites. Proposed survey methods should follow the USFWS' Standardized Recommendations for Protection of Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011). In addition, survey results should be prepared and submitted to Stanislaus County prior to initiation of disturbance.*

   If surveys identify potential dens (potential dens are defined as burrows at least four inches in diameter which open up wider within two feet), potential den entrances should be dusted for three calendar days to register tracks of any San Joaquin kit fox present. Infrared triggered cameras could be set over the potential dens in lieu of or in combination with application of a clay tracking medium. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. In the event that an active San Joaquin kit fox den is detected during preconstruction surveys, CDFW and USFWS should be contracted immediately and no project activity should begin until appropriate avoidance measures have been implemented and CDFW and USFWS have provided written authorization that project construction may proceed. Additionally, if the project site is found to support denning San Joaquin kit fox, then land preservation mitigation compensation may be necessary and would have to be developed in coordination with CDFW, USFWS, and Stanislaus County.

7. *A preconstruction survey for the American badger should be conducted on the project site within 14 days of site disturbance. These surveys could be conducted concurrently with San Joaquin kit fox surveys. Surveys should be conducted by a wildlife biologist with experience identifying badgers and badger burrows. Survey methods would include walking parallel transects through the project site looking for badger burrows. Any badger burrow identified would be mapped with a global positioning system (GPS) and shown on the project site plans.*

8. *If active badger burrows are identified on the project site, they should be avoided. If avoidance is not feasible, a biologist should determine if the burrow is being used for breeding. This may require repeat visits to the burrow or replacement of a remote camera near the burrow. If young are determined to be present, the burrow should be avoided until young vacate the burrow and are mature enough to survive outside the burrow. If the burrow is simply being used as refugia by an adult or subadult badger then, as approved by CDFW, a one way eviction door should be installed to possibly relocate the badger from its burrow. If it digs back into the burrow, live traps should be established at the burrow entrances, as approved by CDFW, to trap and remove badgers from the area of impact.*

9. If a 25-foot non-disturbance setback from the project site drainage is not established, then a wetland delineation would need to be conducted. Because only the Corps can determine the extent of its jurisdiction on any site, a wetland delineation would need to be conducted according to the 1987 Corps' Wetland Delineation Manual (U.S. Army Corps of engineers 1987) and the Regional Supplement to the Corps' Wetland Delineation Manual: ARID West Region (U.S. Army Corps of Engineers 2008). The preliminary wetland delineation map would need to be submitted to the Corps for confirmation. Once that map is confirmed, the full extent of waters of the United States would be known and the extent of impacts to regulated area ascertained. M&A (Monk & Associates) anticipates that CDFW would require a Streambed Alteration Agreement for any impacts to the bed, bank, or channel of the drainage onsite. Since at this time, the RWQCB (Regional Water Quality Control Board) does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps' determination.

If avoidance of all Corps jurisdictional areas is not possible, which at this point is believed only to be the drainage onsite, potential impacts should be minimized to the extent feasible through changes to project design. Impacts should also be minimized by the use of Best Management Practices to protect the drainage and ensure water quality in other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures.

For those waters that cannot be avoided (i.e., the drainage on site) permits from the Corps, RWQCB, and CDFW should be acquired that allows impacts to the drainage (and any other regulated waters onsite). Mitigation compensation should be at a minimum 1:1 ratio or as otherwise required by the Corps, RWQCB, and CDFW at the time permits/authorization are issued.

References: Referral response from the California Department of Fish and Wildlife (formerly California Department of Fish and Game [CDFW]) dated May 23, 2012; Biological Resources Analysis by Monk & Associates dated February 5, 2013; and the Stanislaus County General Plan and Support Documentation.

V. CULTURAL RESOURCES -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?			**X**	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?			**X**	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			**X**	
d) Disturb any human remains, including those interred outside of formal cemeteries?				**X**

Discussion: It does not appear this project will result in significant impacts to any archaeological or cultural resources. The project was referred to the Native American Heritage Commission (NAHC) via the State Clearinghouse; however, to date, no response has been received stating concerns with any potential cultural resources on the project site. Although no information has been provided stating specific cultural resources may be present on site, a standard condition of approval will be added to this project to address any discovery of cultural resources during any ground disturbing activities.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation[1].

VI. GEOLOGY AND SOILS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
I) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

Discussion: As contained in Chapter 5 of the General Plan Support Documentation, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5; however, per the California Building Code, all of Stanislaus County is located within a geologic hazard zone (Seismic Design Category D, E, or F) and a soils test may be required as part of a building permit application. Results from the soils test are generally used to determine if unstable or expansive soils are present. If such soils are present, special engineering of proposed structures will be required to compensate for the soil deficiency. Any earth moving is subject to Public Works Standards and Specifications which consider the potential for erosion and run-off prior to permit approval. Likewise, any addition of a septic tank or alternative waste water disposal system would require the approval of the Department of Environmental Resources (DER) through the building permit process, which also takes soil type into consideration within the specific design requirements. The project was referred to DER, Public Works, and the County's Building Permits Division. Although no new structures are being proposed as part of this application, the comments provided will be incorporated into the project's conditions of approval, out of caution, for any future structures that may be proposed.

Mitigation: None.

References: Referral response from the Stanislaus County Department of Public Works dated May 15, 2012, referral response from the Stanislaus County Building Permits Division dated May 21, 2012; referral response from the Stanislaus County Department of Environmental Resources (HazMat) dated May 16, 2012; and the Stanislaus County General Plan and Support Documentation - Safety Element[1].

VII. GREENHOUSE GAS EMISSIONS – Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

Discussion: The principal Greenhouse Gasses (GHGs) are carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), sulfur hexafluoride (SF6), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and water vapor (H2O). CO2 is the reference gas for climate change because it is the predominant greenhouse gas emitted. To account for the varying warming potential of different GHGs, GHG emissions are often quantified and reported as CO2 equivalents (CO2e). In 2006, California passed the California Global Warming Solutions Act of 2006 (Assembly Bill [AB] No. 32), which requires the California Air Resources Board (ARB) to design and implement emission limits, regulations, and other measures, such that feasible and cost-effective statewide GHG emissions are reduced to 1990 levels by 2020. As a requirement of AB 32, the ARB was assigned the task of developing a Climate Change Scoping Plan that outlines the state's strategy to achieve the 2020 GHG emissions limits. This Scoping Plan includes a comprehensive set of actions designed to reduce overall GHG emissions in California, improve the environment, reduce the state's dependance on oil, diversify the state's energy sources, save energy, create new jobs, and enhance public health. The Climate Change Scoping Plan was approved by the ARB on December 22, 2008. According to the September 23, 2010, AB 32 Climate Change Scoping Plan Progress Report, 40 percent of the reductions identified in the Scoping Plan have been secured through ARB actions and California is on track to its 2020 goal.

Although not originally intended to reduce GHGs, California Code of Regulations (CCR) Title 24, Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. Since then, Title 24 has been amended with recognition that energy-efficient buildings require less electricity and reduce fuel consumption, which in turn decreases GHG emissions. The current Title 24 standards were adopted to respond to the requirements of AB 32. Specifically, new development projects within California after January 1, 2011, are subject to the mandatory planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and environmental quality measures of the California Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11).

This project is adding a small amount of truck traffic to the site, so GHG emissions are considered to be less than significant.

Mitigation: None.

References: San Joaquin Valley Air Pollution Control District (www.valleyair.org) and the Stanislaus County General Plan and Support Documentation[1].

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				**X**
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				**X**
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				**X**
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				**X**
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				**X**
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				**X**

Discussion: DER is responsible for overseeing hazardous materials and has not indicated any particular concerns in this area. The current use of any on-site hazardous materials and any future use of such materials is permitted through DER. Pesticide exposure is a risk in areas located in the vicinity of agricultural uses. Sources of exposure include contaminated groundwater which is consumed and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. A referral response was received from DER stating that they have "no comments" regarding any potential environmental impacts as a result of this project. The groundwater is not known to be contaminated in this area. The area is not a wildland nor is it in the vicinity of any active airport.

Mitigation: None.

References: Referral response from the Stanislaus County Department of Environmental Resources (HazMat) dated May 16, 2012, and the Stanislaus County General Plan and Support Documentation[1].

IX. HYDROLOGY AND WATER QUALITY -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Violate any water quality standards or waste discharge requirements?			**X**	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				**X**

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				**X**
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				**X**
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				**X**
f) Otherwise substantially degrade water quality?			**X**	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				**X**
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				**X**
I) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				**X**
j) Inundation by seiche, tsunami, or mudflow?				**X**

Discussion: Run-off is not considered an issue because of several factors which limit the potential impact. These factors include a relative flat terrain of the subject site and relatively low rainfall intensities. Areas subject to flooding have been identified in accordance with the Federal Emergency Management Act. The project site itself is not located within a recognized flood zone and, as such, flooding is not an issue with respect to this project. The possibility of run-off associated with the proposed expansion is considered minimal since no structures are being proposed. DER is responsible for reviewing and permitting septic systems in Stanislaus County; however, no new or modified septic system is proposed at this time. A referral response was received from DER (HazMat) stating "no comment" on potential project related impacts. The Central Valley Regional Water Quality Control Board (RWQCB) provided a response that indicated various permitting and regulatory requirements to which new construction or site development may be subject. Comments from the RWQCB will be incorporated into the project's conditions of approval. A condition of approval will also be added to the project requiring a grading and drainage plan be approved by the Department of Public Works, in compliance with all appropriate state, federal, and local requirements.

Mitigation: None.

References: Referral response from the Department of Environmental Resources (HazMat) dated May 16, 2012; referral response from the Central Valley Regional Water Quality Control Board (RWQCB) dated May 21, 2012; referral response from the Stanislaus County Department of Public Works dated May 15, 2012; and the Stanislaus County General Plan and Support Documentation[1].

X. LAND USE AND PLANNING -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Physically divide an established community?				**X**

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				**X**
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				**X**
Discussion: As discussed above within Section II. Agriculture and Forest Resources, any use of the property must be compatible with the County's General Agriculture (A-2) zoning district and the Williamson Act which limits the property to agricultural uses and uses incidental and accessory to the on-site agricultural use of the property. No established community will be physically divided nor will any existing habitat conservation plan or natural community conservation plan be impacted.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				
XI. MINERAL RESOURCES -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				**X**
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				**X**
Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources on the site.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				
XII. NOISE -- Would the project result in:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				**X**
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				**X**
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				**X**

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				**X**
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				**X**
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				**X**
Discussion: Any noise impacts associated with increased on-site activities and traffic are not anticipated to exceed the areas existing level of noise. Noise levels are not expected to exceed the acceptable noise levels outlined in the Stanislaus County General Plan (60 dB CNEL) or the levels permitted within the County's Noise Ordinance. The project is not in the vicinity of an active airport. Vehicle movements do generate noise; however, there are no sensitive receptors in this agricultural area.				
Mitigation: None.				
References: Stanislaus County General Plan Noise Element[1] and the Stanislaus County General Plan Support Documentation[1].				
XIII. POPULATION AND HOUSING -- Would the project:	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				**X**
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				**X**
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				**X**
Discussion: This project is commercial in nature and does not propose any type of growth inducing features; therefore, adverse affects created by population growth should not occur.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				

XIV. PUBLIC SERVICES	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?			X	
Discussion: The County has adopted Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. Such fees are required to be paid at the time of building permit issuance; however, there is no construction proposed with this project.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				

XV. RECREATION --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
Discussion: Due to the type of project, impacts to existing recreational facilities is not anticipated.				
Mitigation: None.				
References: Stanislaus County General Plan and Support Documentation[1].				

XVI. TRANSPORTATION/TRAFFIC -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				**X**
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				**X**
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				**X**
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				**X**
e) Result in inadequate emergency access?				**X**
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				**X**

Discussion: With Use Permit No. 2006-37, which expanded an existing compost facility, the Stanislaus County Department of Public Works noted that the business generated approximately 55 to 65 trucks a day which substantially impacted the existing roadway system. A mitigation measure was added which lowered the impact to a less than significant level. The mitigation measure stated: *"The applicant shall enter into an agreement with Stanislaus County Department of Public Works to pay a fee of $0.055 per ton of material entering or leaving the property to offset the traffic impacts to County roads..."*. Since this project is an expansion of Use Permit No. 2006-37, and this use permit project will be adding truck trips, a condition of approval will be added that this use permit is subject to the conditions of approval/mitigation measures of Use Permit No. 2006-37. The project will not impair any air traffic patterns associated with flights departing and arriving into a City or County Airport

Mitigation: None.

References: Stanislaus County Use Permit No. 2006-37; referral response from the Stanislaus County Department of Public Works dated May 15, 2012; and the Stanislaus County General Plan and Support Documentation[1].

XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				**X**

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			**X**	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			**X**	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			**X**	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			**X**	
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			**X**	
g) Comply with federal, state, and local statutes and regulations related to solid waste?				**X**
Discussion: Limitations on providing services have not been identified. None of these issues have arisen as a result of the current operation. On-site run-off will be collected in a basin. Water needs will be met via on-site wells. The use actually removes solid waste from the community waste-stream by the "recycling" of green waste into compost, so pressure is lessened on landfills. The present site is recognized by the County Solid Waste Management Plan. A referral response was received from the California Department of Resources Recycling and Recovery (CalRecycle) stating that the project site is currently operating under a CalRecycle permit which allows the on-site composting activities. CalRecycle also included in their response that the proposed expansion will trigger the need for the applicant to apply for a "Revised Solid Waste Facilities Permit" as required under Title 27, California Code of Regulations (CCR), Section 21640(a)(4).				
Mitigation: None.				
References: Referral response from the California Department of Resources Recycling and Recovery (CalRecycle) dated May 31, 2012, and the Stanislaus County General Plan and Support Documentation[1].				
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --	**Potentially Significant Impact**	**Less Than Significant With Mitigation Included**	**Less Than Significant Impact**	**No Impact**
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		**X**		

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			**X**	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			**X**	
Discussion: Review of this project has not indicated any features which might significantly impact the environmental quality of the site and/or the surrounding area. Any potential impacts to biological resources from this project have been mitigated to a level of less than significant.				

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[1] Stanislaus County General Plan and Support Documentation adopted in October 1994, as amended. Optional and updated elements of the General Plan and Support Documentation: ***Agricultural Element*** adopted on December 18, 2007; ***Housing Element*** adopted on April 20, 2010; ***Circulation Element*** and ***Noise Element*** adopted on April 18, 2006.

BIOLOGICAL RESOURCES ANALYSIS
RECOLOGY GROVER ENVIRONMENTAL PRODUCTS
COMPOST FACILITY EXPANSION PROJECT SITE
3909 GAFFREY ROAD
STANISLAUS COUNTY, CALIFORNIA

February 5, 2013

Prepared for

Recology Grover Environmental Products
3909 Gaffery Road
Vernalis, California 95385

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Prepared by

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APPENDICES

1. INTRODUCTION

Monk & Associates, Inc. (M&A) has prepared this biological resource analysis for the proposed 43-acre expansion of Recology's Grover Environmental Products Compost Facility (herein referred to as the project site) located at 3909 Gaffrey Road, Vernalis, Stanislaus County, California (Figures 1 and 2). The purpose of this analysis is to provide a description of existing biological resources on the project site and to identify potentially significant impacts that could occur to sensitive biological resources from the expansion of the compost facility.

Biological resources include common plant and animal species, and special-status plants and animals as designated by the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW) [formerly known as California Department of Fish and Game], National Marine Fisheries Service (NMFS), and other resource organizations including the California Native Plant Society. Biological resources also include waters of the United States and State, as regulated by the U.S. Army Corps of Engineers (Corps), California Regional Water Quality Control Board (RWQCB), and CDFW. It is important to note that our analysis includes an assessment of the potential for impacts to regulated waters, but does not provide the level of detail required for a formal delineation of waters suitable for submittal to the Corps.

This biological resources analysis also provides mitigation measures for "potentially significant" and "significant" impacts that could occur to biological resources. When implemented, the mitigation measures would reduce impacts to levels considered less than significant pursuant to the California Environmental Quality Act (CEQA). Accordingly, this report is suitable for review and inclusion in any review being conducted by the County of Stanislaus for the proposed project pursuant to the CEQA.

2. PROPOSED PROJECT

Recology Grover Environmental Products Facility is proposing:

1. An expansion of the existing composting facility on to an adjacent 42.87 acre parcel;

and,

2. The addition of feedstocks on both the existing facility footprint and the expansion area.

An application has been submitted to the Stanislaus County Planning Department pursuant to Section 21.20.030(B)(e) of the Stanislaus County zoning. Stanislaus County will review the project pursuant to CEQA and for conformance with other General Plan policies and guidelines.

3. PROPERTY LOCATION AND SETTING

Recology's Grover Environmental Products Facility is an established approximately 123-acre composting operation located at 3909 Gaffery Road, Vernalis, California. One hundred twelve acres (112 acres) of the property are in Stanislaus County and 11 acres are in San Joaquin County. The facility is accessed from Gaffery Road.

The proposed 42.87-acre expansion area is located in Stanislaus County. Prior to Recology taking ownership of the expansion project site in 1999, this parcel was used by a former owner for vermicomposting. This project site is bounded by orchards to the north, Sun Dry Products (another composting facility) to the east, the existing Grover Environmental Products Compost Facility to the south and west. The Delta-Mendota Canal is located immediately west of the existing compost facility (Figure 2).

4. ANALYSIS METHODS

Prior to preparing this biological resource analysis report, M&A researched the most recent version of the CDFW Natural Diversity Database, RareFind 3.2 application (CNDDB 2012) for historic and recent records of special-status plant and animal species (that is, threatened, endangered, rare) known to occur in the region of the project site. M&A also reviewed a May 23, 2012 letter prepared by CDFW biologist, Mr. Jim Vang, in response to Stanislaus County's pending Use Permit Application for the expansion project. Mr. Vang's letter addressed many special-status animal and plant species known from the Stanislaus County area and region. In this analysis all special-status species records are compiled in tables. M&A examined all known record locations for special-status species to determine if special-status species could occur on the project site or within an area of affect. To assess the potential for impacts to special-status species, M&A cross-referenced site habitat conditions with those habitats necessary to support regionally known special-status species.

M&A biologists Ms. Sarah Lynch and Mr. Geoff Monk conducted a general survey of the project site on August 28, 2012 to record biological resources and to assess the likelihood of agency regulated areas on the project site. M&A biologists walked parallel transects spaced approximately 50 feet apart over the entire project site to determine if the project site provides denning or nesting habitat for special-status mammals such as the San Joaquin kit fox (*Vulpes macrotis mutica*) and the western burrowing owl (*Athene cunicularia hypugaea*). This thorough field survey allowed M&A to record all plants observed, all animal sign on the project site (that is, tracks and scat) in addition to all animals observed. M&A's field work also included a cursory evaluation of waters of the United States and/or State on the project site (the level of analyses was not sufficient for a preliminary wetlands investigation report suitable for submittal to the Corps). As both Ms. Lynch and Mr. Monk routinely provide preliminary wetland delineation reports to the Corps for verification of the extent of this agency's jurisdiction pursuant to Section 404 of the Clean Water Act, our cursory evaluation of waters of the U.S. and State is adequate from a CEQA perspective for evaluation of potential impacts to waters of the U.S. and State. The results of our literature research and field reconnaissance are provided in the sections below.

It should also be noted that ICF International biologists conducted a focused survey for San Joaquin kit fox on the project site between October 5 and 15, 2012. The results of ICF International's survey work are summarized in the San Joaquin kit fox section of this report.

5. RESULTS OF RESEARCH AND PROJECT SITE ANALYSES

5.1 Topography and Hydrology

The project site is relatively flat. It was likely modified in the past for agricultural operations; and most recently to support a vermicomposting project. The site is currently fallow. An unnamed drainage traverses the southeastern project site boundary. This drainage is partially inside the project site (see Figure 3). It is not indicated as a blue line drainage on the Solyo, California U.S. Geological Survey quadrangle. This drainage was modified into a ditch at some time in the past, likely when the Delta-Mendota Canal was constructed. This ditch receives water from two, 4-foot by 6-foot concrete box culverts that originate as an open box culvert traveling over the Delta-Mendota Canal. Once over the canal, these box culverts dive underground and traverse the existing Grover Composting Facility before daylighting at the ditch on the project site. M&A was told by Grover Environmental Products staff that this ditch only flows seasonally. It was dry at the time of M&A's August 2012 site reconnaissance.

5.2 Soils

According to the NRCS' Soil Survey of Stanislaus County, California, there are three soil series on the project site. These series are: Zacharias gravelly clay loam, 0-2% slopes, Cortina gravelly sandy loam, 0-5% slopes, and Xerofluvents-Xerorthents complex, 1-8% slopes. While M&A's site reconnaissance did not include an examination of the site soils (that is, no soil pits were dug), we did notice that the native soils had been modified to some extent by past deposits of fill and other foreign materials. These modifications likely occurred during past agricultural activities.

5.3 Plant Communities and Associated Wildlife Habitats

A complete list of plant species observed on the project site is presented in Table 1. Nomenclature used for plant names follows *The Jepson Manual* Second Edition (Baldwin 2012) and changes made to this manual as published on the Jepson Interchange Project website (http://ucjeps.berkeley.edu/interchange/index.html). Table 2 is a list of wildlife species observed on the project site. Nomenclature for wildlife follows CDFW's *Complete list of amphibian, reptile, bird, and mammal species in California* (2008) and any changes made to species nomenclature as published in scientific journals since the publication of CDFW's list.

There is only one plant community/wildlife habitat on the project site. It is a non-native herbaceous community that developed over time from disturbances related to long-term agricultural disturbance. This man-modified (anthropogenic) community is discussed below.

5.3.1 ANTHROPOGENIC/AGRESTAL COMMUNITY

Agrestal communities form in areas that have been disturbed by cultivation. Many species of weeds thrive in the same environments as crop plants. The project site is located in California's San Joaquin Valley. The San Joaquin Valley is well known throughout the United States as an agricultural region that produces stone fruits, almonds, raisins, and lettuce, among other types of produce. From M&A's site examination and discussions with Grover Environmental Products staff we were able to ascertain that the project site was used in the recent past for agriculture. According to Grover staff, the site was most recently used to support a vermicomposting

business. As a result of past agricultural use, which included land leveling and disking, weed removal, irrigation (irrigation lines are still visible on the project site), and likely use of herbicides and pesticides, the native plant community has been greatly altered. After agricultural practices ceased in the last few years, weedy plant species colonized the parcel.

At the time of M&A's August 2012 site visit the project site was dominated by Russian thistle (*Salsola tragus*), tumbling oracle (*Atriplex rosea*), and non-native grasses such as rip-gut brome (*Bromus diandrus*), foxtail (*Hordeum murinum* ssp. *leporinum*), and soft chess (*Bromus hordeaceus*). Much of the ground was bare, however, with exposed sandy topsoils.

This fallow, agrestal field provides habitat for common rodents and lagomorphs (rabbits) such as cottontails (*Sylvilagus audubonii*), black-tailed hare (*Lepus californicus*), and California meadow voles (*Microtus californicus*). Meadow vole trails, rabbit and hare scat, tracks, and trails were abundant on the project site at the time of our field reconnaissance. Feral cats (*Felis cattus*) were observed onsite as well. While many California ground squirrel (*Spermophilus beechyi*) tracks were observed by two active burrows, M&A did not see any California ground squirrels during our one day field visit. Additionally, many of the burrows observed onsite were inactive (that is, the openings were covered with cobwebs and/or tumbleweeds had blown up against the burrow opening). The project site's rodent and rabbit population provides a prey base for a number of mammalian predators such as red fox (*Vulpes vulpes*) and coyote (*Canis latrans*), whose scat and tracks were observed onsite. Northern harrier (*Circus cyaneus*), a raptor (bird of prey) who feeds on meadow voles and other small rodents, among other animals, was observed hunting over the site. Finally, scavenging birds, the common raven (*Corvus corax*) and turkey vulture (*Cathartes aura*), were both observed flying low over the site.

6. SPECIAL-STATUS SPECIES DEFINITION

6.1 Definitions

For purposes of this analysis, special-status species are plants and animals that are legally protected under the California and Federal Endangered Species Acts (CESA and FESA, respectively) or other regulations, and species that are considered rare by the scientific community (for example, the CNPS). Special-status species are defined as:

- Plants and animals that are listed or proposed for listing as threatened or endangered under the CESA (Fish and Game Code §2050 *et seq*.; 14 CCR §670.1 *et seq.*) or the FESA (50 CFR 17.12 for plants; 50 CFR 17.11 for animals; various notices in the Federal Register [FR] for proposed species);

- Plants and animals that are candidates for possible future listing as threatened or endangered under the FESA (50 CFR 17; FR Vol. 64, No. 205, pages 57533-57547, October 25, 1999); and under the CESA (California Fish and Game Code §2068);

- Plants and animals that meet the definition of endangered, rare, or threatened under the California Environmental Quality Act (CEQA) (14 CCR §15380) that may include species not found on either State or Federal Endangered Species lists;

- Plants occurring on Lists 1A, 1B, 2, 3, and 4 of CNPS' *Electronic Inventory* (CNPS 2001). The California Department of Fish and Wildlife (CDFW) recognizes that Lists 1A, 1B, and 2 of the CNPS inventory contain plants that, in the majority of cases, would qualify for State listing, and CDFW requests their inclusion in EIRs. Plants occurring on CNPS Lists 3 and 4 are "plants about which more information is necessary," and "plants of limited distribution," respectively (CNPS 2001). Such plants may be included as special-status species on a case by case basis due to local significance or recent biological information;

- Migratory nongame birds of management concern listed by U.S. Fish and Wildlife Service (Migratory Nongame Birds of Management Concern in the United States: The list 1995; Office of Migratory Bird Management; Washington D.C.; Sept. 1995);

- Animals that are designated as "species of special concern" by CDFW (2012);

- Animal species that are "fully protected" in California (Fish and Game Codes 3511, 4700, 5050, and 5515).

In the paragraphs below we provide further definitions of legal status as they pertain to the special-status species discussed in this report or in the attached tables.

Federal Endangered or Threatened Species. A species listed as Endangered or Threatened under the FESA is protected from unauthorized "take" (that is, harass, harm, pursue, hunt, shoot, trap) of that species. If it is necessary to take a Federal listed Endangered or Threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from the USFWS prior to initiating the take.

State Threatened Species. A species listed as Threatened under the state Endangered Species Act (§2050 of California Fish and Game Code) is protected from unauthorized "take" (that is, harass, pursue, hunt, shoot, trap) of that species. If it is necessary to "take" a state listed Threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from CDFW prior to initiating the "take."

California Species of Special Concern. These are species in which their California breeding populations are seriously declining and extirpation from all or a portion of their range is possible. This designation affords no legally mandated protection; however, pursuant to the CEQA Guidelines (14 CCR §15380), some species of special concern could be considered "rare." Pursuant to its rarity status, any unmitigated impacts to rare species could be considered a "significant effect on the environment" (§15382). Thus, species of special concern must be considered in any project that will, or is currently, undergoing CEQA review, and/or that must obtain an environmental permit(s) from a public agency.

CNPS List Species. The California Native Plant Society (CNPS) maintains an inventory of special status plant species. This inventory has four lists of plants with varying rarity. These lists

are: List 1, List 2, List 3, and List 4. Although plants on these lists have no formal legal protection (unless they are also state or federal listed species), the California Department of Fish and Wildlife requests the inclusion of List 1 species in environmental documents. In addition, other state and local agencies may request the inclusion of species on other lists as well. List 1 species have the highest priority: List 1A species are thought to be extinct, and List 1B species are known to still exist but are considered "rare, threatened, and endangered in California and elsewhere." All of the plants constituting List 1B meet the definitions of Section 1901, Chapter 10 (Native Plant Protection Act) or Sections 2062 and 2067 (California Endangered Species Act) of the CDFW Code, and are eligible for state listing (CNPS 2001). List 2 species are rare in California, but more common elsewhere. Lists 3 and 4 contain species about which there is some concern, and are review and watch lists, respectively. Additionally, in 2006 CNPS updated their lists to include "threat code extensions" for each list. For example, List 1B species would now be categorized as List 1B.1, List 1B.2, or List 1B.3. These threat codes are defined as follows: .1 is considered "seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat)"; .2 is "fairly endangered in California (20-80% of occurrences threatened)"; .3 is "not very endangered in California (less than 20% of occurrences threatened or no current threats known)."

Under the CEQA review process only CNPS List 1 and 2 species are considered since these are the only CNPS species that meet CEQA's definition of "rare" or "endangered." Impacts to List 3 and 4 species are not regarded as significant pursuant to CEQA.

Fully Protected Birds. Fully protected birds, such as the white-tailed kite and golden eagle, are protected under California Fish and Game Code (§3511). Fully protected birds may not be "taken" or possessed (i.e., kept in captivity) at any time.

6.2 Potential Special-Status Plants on the Project Site

Figure 4 provides a graphical illustration of the closest known records for special-status species within 5 miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. No special-status plants have been mapped on or adjacent to the project site. However, according to the CNPS *Inventory* and CDFW's CNDDB, a total of 6 special-status plant species are known to occur in the region of the project site (Table 3). Four of these plants occur in specialized habitats such as marsh, riparian scrub, pinyon and juniper woodland, or mesic clay depressions. Only two of these plants are known to occur specifically in grassland habitat. Owing to the long history of past agricultural activities onsite that include disking, weed control, and piping irrigation water to the site (the irrigation system still remains visible today), and the currently disturbed site conditions, special-status plants are unlikely to occur onsite. M&A biologists Mr. Geoff Monk and Ms. Sarah Lynch are very familiar with the special-status plant species known to occur in grassland habitats of the San Joaquin Valley and have conducted many surveys for special-status plants in Stanislaus and San Joaquin Counties. Based on our site survey in which we walked transects over the entire project site, and after determining that the site only supports ruderal plant species, it is our professional opinion that the special-status plants known from the project region are unlikely to occur onsite. No impacts to special-status plants are expected from project site development.

6.3 Potential Special-Status Animals on the Project Site

Figure 4 provides a graphical illustration of the closest known records for special-status species within 5 miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. No special-status animals have ever been mapped on or adjacent to the project site. However, a total of 13 special-status animal species are known to occur in the region of the project site (Table 4). Of these 13 species, 4 have the possibility of occurring onsite. Those special-status animals with a possibility of occurring onsite based on habitat suitability are discussed below.

6.3.1 SWAINSON'S HAWK

The Swainson's hawk is a State-listed threatened species pursuant to the California Endangered Species Act (CESA), Title 14, California Code of Regulations. Swainson's hawks, their nests, eggs, and young are also protected under California Fish and Game Code (§3503, §3503.5, §3513, and §3800). While Swainson's hawks have no special federal status, this species is protected from direct take under the Federal Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-711). The closest known nesting record for Swainson's hawk to the project site is a 2003 record in a landscape tree surrounded by orchards, vineyards, and row crops (CNDDB Occurrence No. 1666). This sighting is approximately 2.2 miles north of the project site.

The Swainson's hawk is a summer visitor to California. In the fall months, most Swainson's hawks migrate to South America before returning to the United States to breed once again in the late spring. There may also be a small population of Swainson's hawks that remain resident in the delta and Central Valley of California year-round. In California, the nesting population of Swainson's hawks declined greatly from the 1970s through approximately 2005. Large declines were attributed in part to the use of DDT as an agricultural pesticide in the 1960s through early 1970s. Later further declines were attributed to acute poisoning of adults in Argentina on their wintering grounds. In recent years there is an apparent uptick in the number of known Swainson's hawk nest territories largely attributable to cessation of the use of DDT circa 1970, curtailment of acute poisoning in Argentina, and nesting habitat protection efforts throughout this species' range in North America. This raptor inhabits open to semi-open areas at low to middle elevations in valleys, dry meadows, foothills, and level uplands (Kochert 1986). It nests almost exclusively in trees and will nest in almost any tree species that is at least 10 feet tall (Schmutz et. al. 1984). Nests are constructed in isolated trees that are dead or alive along drainages and in wetlands, or in windbreaks in fields and around farmsteads (Palmer 1988). Swainson's hawks occasionally nest in shrubs, on telephone poles, and on the ground. In the Central Valley of California, the majority of Swainson's hawk nests and territories are associated with riparian systems and nests are commonly found in cottonwoods and oaks (Schlorff et. al. 1984). They have also been documented nesting in eucalyptus (*Eucalyptus* spp.), black walnut (*Juglans hindsii*), black locust (*Robinia pseudoacacia*), almond (*Prunus dulcis*), Osage orange (*Maclura pomifera*), Arizona cypress (*Cupressus arizonica*) and pine (*Pinus* spp.) (CNDDB records).

No Swainson's hawks were observed on the project site or flying over the project site by M&A or ICF International biologists during the course of their survey work. The project site is a small parcel surrounded by two active operating composting facilities (Recology's Grover facility and Sun Dry Products' facility next door) and orchards. Thus, this small, previously disturbed and

somewhat degraded parcel does not provide good foraging habitat for this large raptor species. Levels of disturbance from the two operating commercial recycling enterprises immediately adjacent to the project site that can include use of zon guns to control pest avian species (gulls), and the enclosed nature of the project site as it is wedged between these commercial enterprises and orchards makes the site unlikely foraging habitat for the Swainson's hawk. In consideration that surrounding orchard habitat is extensive in the area, the project site would be unlikely to be targeted by Swainson's hawk as a foraging site. Rather these hawks are expected to both nest and forage in expanses of habitat dominated by low, herbaceous cover. Accordingly, we do not expect the project to result in significant impacts to Swainson's hawk foraging habitat.

There are no trees onsite and adjacent trees are relatively small orchard trees that typically are not used for nesting by raptor species including Swainson's hawks in California. As there are no suitable trees for nesting on or anywhere near the project site, impacts to nesting Swainson's hawks are not expected from the proposed project. However, in an abundance of caution, and to satisfy the tenants of CEQA, prior to any earth-moving or site disturbance work if this work would take place during the nesting season (February 1 – September 15), preconstruction surveys for active nests will be conducted according to the Swainson's Hawk Technical Advisory Committee (CDFG 2000) methodologies. Unless these surveys determine that an active nest is either onsite or within a 0.25-mile disturbance zone of an active nest no additional mitigation is proposed. Please see the Impacts and Mitigations Measures for details.

6.3.2 SAN JOAQUIN KIT FOX

The San Joaquin kit fox is a federally listed endangered species and a California listed threatened species. This species' distribution is primarily limited to the San Joaquin Valley and adjacent regions. Because of the endangered/threatened status of this fox species, all proposed projects within the current and/or historic range of the kit fox must address potential impacts to this species. The closest known occurrence of kit fox to the project site is a 1973-75 record of an active den located approximately 1.7 miles to the west (CNDDB Occurrence No. 566) on the other side of I-5..

The San Joaquin kit fox is the smallest fox species in North America, typically weighing between four and six pounds. It has large ears, long legs, and is generally a buffy tan color with a black-tipped tail. Kit fox live primarily in the lowlands of the San Joaquin Valley of California, but are also known to occur in several counties in the coast mountain ranges including Santa Barbara, San Luis Obispo, Monterey, San Benito, Santa Clara, Contra Costa and Alameda Counties.

This fox species is usually found in open grassland and shrubland communities, but has also been observed in orchards that border grassland or shrub plant communities. Kit fox are carnivorous, usually feeding on small rodents such as San Joaquin pocket mice (*Perognathus inornatus*), deer mice, western harvest mice, kangaroo rats (*Dipodomys* spp.) and larger rodents such as California ground squirrel. Kit fox also prey upon lagomorphs such as black-tailed hare and desert cottontail. It relies on dens for breeding, and to provide escape cover from potential predators. Kit fox are reputedly poor diggers, so dens are excavated in loose-textured soils, generally in areas with low to moderate relief, or they will utilize holes left by other species. They will utilize burrows dug by rabbits, ground squirrels, and on occasion, badgers (*Taxidea taxus*). Man-made structures, such as well casings, culverts, and abandoned pipelines, are also occasionally used for dens. Typically, dens

are small enough to discourage easy predation by coyotes. Populations of kit fox are thought to be related to the availability of denning sites, particularly natal denning sites, which are often moved several times throughout the season.

To determine if the proposed project could impact the San Joaquin kit fox, ICF International initiated protocol surveys for this kit fox in October 2012. ICF biologist, Mr. Will Kohn, met with Recology representatives, Mr. Sean O'Rourke and Mr. Steve Boynton, at the project site on October 3, 2012 to orient Mr. Kohn to the existing facility, project site history, and proposed use. Following this tour, pedestrian transect surveys of the project site were conducted to determine the habitat suitability for San Joaquin kit fox. These surveys entailed walking transects 10 to 20 meters apart throughout the project site looking for potential kit fox sign (e.g. suitable dens, tracks and scat). Track plate (scent station) and camera surveys were initiated on October 5, 2012 by ICF biologist, Mr. Kailash Mozumder, and ran for a total of 10 consecutive days until October 15, 2012. Three camera stations were installed on the project site at locations judged to have high potential for medium to large mammal traffic (e.g., along game trails and abandoned and existing roadways). Each station consisted of a single Moultrie 4MP Game Spy I-40 Infrared Digital Game Camera. Cameras were programmed to record an image in response to a motion sensor being triggered. Each image includes an information tag that records the date, time, temperature, camera identification and moon phase. Once installed, the cameras were periodically checked and data were downloaded to a portable hard drive. During interpretation of data, all animals were identified to species. Three track plate stations (scent stations) were installed on the project site and monitored by ICF biologists, Mr. Eric Christensen and Mr. Mozumder, for the requisite 10 days. Metal track plates, approximately 1 meter in diameter, were placed on the ground and gypsum was used as the tracking medium. Stations were set every evening using fish-based bait (cat food) and checked the following morning for visitation. Data on tracks, temperature and weather was recorded at this time.

The next step in a protocol-level kit fox survey would be conducting 10 nights of spotlighting. ICF International contacted Mr. Josh Emery of the USFWS and Mr. Jim Vang of the CDFW. These two agency biologists deemed complete protocol surveys unnecessary and spotlighting was not conducted. Specifically, Mr. Emery questioned whether the protocol surveys were necessary since the Grover site is isolated; surrounded by active compost facility, apricot orchard, and a water conveyance canal. Mr. Emery was of the opinion that protocol surveys would not be necessary provided Recology follows during construction the USFWS avoidance measures described in a 2011 memo issued from the Sacramento Office of the USFWS. ICF extended the same protocol survey question to Mr. Vang, CDFG Environmental Scientist in an email dated October 12, 2012. On October 15, 2012, ICF received an email from Mr. Vang stating that protocol surveys were not necessary provided Recology follows the USFWS' avoidance measures. Therefore, on October 15, 2012, all equipment was removed from the project site and surveys ceased. ICF International's survey memorandum which details communications with CDFW and USFWS biologists, the survey methods and results is appended to this document (Appendix A).

The results of the San Joaquin kit fox modified protocol-level surveys, based on agency guidance, are as follows. During pedestrian transect surveys, no burrows of suitable size for San Joaquin kit fox (entrances greater than 4 inches diameter) were observed on the project site nor

was kit fox sign (e.g., scat or tracks) observed. Very few small mammal burrows were noted. Domestic dog (*Canis lupus familiaris*) was observed on the project site during the survey. No kit fox images were recorded during camera station monitoring. Other species recorded include ground squirrel, feral cat (*Felis catus*), domestic dog, and black-tailed jackrabbit. No kit fox tracks were observed or detected during track plate (scent station) monitoring. Other species tracks recorded on the track plates include ground squirrel, feral cat, brush rabbit, opossum (*Didelphis virginiana*), jackrabbit, common raven, lizards and insects. Although the project site is located approximately 2,000 feet east of the Delta-Mendota Canal, which provides a suitable north-south migration corridor, there is no evidence that San Joaquin kit fox resides on the project site. Further, it is highly unlikely that San Joaquin kit fox would occur onsite due to the existing habitat conditions, presence of domestic dog and existing activities of the organic waste recycling facilities, Sun Dry Products to the east and south and Recology's composting facility to the west. Hence, no impacts to the San Joaquin kit fox are expected from expansion of the existing composting facility onto the project site. No mitigation compensation is warranted. However, in an abundance of caution and to prevent an unnecessary impacts to this federal and state listed mammal species, preconstruction surveys will be conducted prior to earth-moving/grading activities onsite. See the Impacts and Mitigations Section for details.

6.3.3 AMERICAN BADGER

The American badger (*Taxidea taxus*) is a California "species of special concern." This mammal has no federal status. It is found in a variety of habitats, especially in open habitats such as oak-savannah and grasslands where its presence is typically identified by its distinctive, large underground dens (burrows) excavated in friable (loose) soils. This nocturnal mammal is rarely observed. In the region, this animal is uncommon. When present, this animal would be expected to prey upon Botta's pocket gopher (*Thomomys bottae*), California ground squirrel, and several species of mice common in the area. Except during breeding, badgers are typically highly solitary and have vast home ranges. In 1992 an active badger den was observed approximately 3.5 miles southwest of the project site (CNDDB Occurrence 77).

During M&A's field reconnaissance and ICF International's kit fox den surveys, none of the burrows examined were constructed by a badger. Badger dens are typically quite large and have distinctive claw marks along the opening indicating that a badger either dug its own den or widened an existing ground squirrel hole. No indication of badger's presence such as distinctive burrows, scat, or tracks was found onsite. This is understandable due to the site's long history of agriculture production and the surrounding composting facilities (Sun Dry Products and Grover Environmental Products) serving as a near constant source of noise and human and vehicular activity. This shy mammal tends to den in more remote locations away from people. However, it is not unheard of for a badger to move in and take up residence on a site with similar characteristics. Thus, in an abundance of caution to prevent unnecessary impacts to this special-status species, preconstruction surveys should be conducted. In an absence of such surveys impacts to the American badger from the proposed project may be considered potentially significant.

6.3.4 WESTERN BURROWING OWL

The western burrowing owl (*Athene cunicularia hypugaea*) is a California "species of special concern." Its nest, eggs, and young are also protected under California Fish and Game Code (§3503, §3503.5, and §3800). The burrowing owl is protected from direct take under the Migratory Bird Treaty Act (50 CFR 10.13). Finally, based upon this species' rarity status, any unmitigated impacts to rare species would be considered a "significant effect on the environment" pursuant to §21068 of the CEQA Statutes and §15382 of the CEQA Guidelines. Thus, this owl species must be considered in any project that will, or is currently, undergoing CEQA review, and/or that must obtain an environmental permit(s) from a public agency. When these owls occur on project sites, typically, mitigation requirements are mandated in the conditions of project approval from the CEQA lead agency.

Burrowing owl habitat is usually found in annual and perennial grasslands, characterized by low-growing vegetation. Often, the burrowing owl utilizes rodent burrows, typically ground squirrel burrows, for nesting and cover. They may also on occasion dig their own burrows, or use man-made objects such as concrete culverts or rip-rap piles for cover. They exhibit high site fidelity, reusing burrows year after year. Occupancy of suitable burrowing owl habitat can be verified at a site by observation of these owls during the spring and summer months or, alternatively, its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement (white wash) at or near a burrow. Burrowing owls typically are not observed in grasslands with tall vegetation or wooded areas because the vegetation obscures their ability to detect avian and terrestrial predators. Since burrowing owls spend the majority of their time sitting at the entrances of their burrows, grazed grasslands seem to be their preferred habitat because it allows them to view the world at 360 degrees without obstructions.

M&A determined that there are records of burrowing owls in proximity to the project site (Table 4). The closest known record is 4 miles southwest of the project site: In September of 1992, a burrowing owl was seen at the entrance to a burrow along Hospital Creek, 2.7 miles southwest of I-580 junction with I-5, 7 miles southwest of Vernalis. While the project site has only a small number of suitable burrows that could be used by this owl, the habitat conditions are good enough to warrant preconstruction surveys as detailed below.

No burrowing owls were observed on the project site during M&A's initial project site survey, or during ICF International's San Joaquin kit fox surveys. Thus, burrowing owls were not residing on the project site during these surveys. However, as this is a very mobile species that frequently moves both in the fall and early spring, this owl could move onto the project site in the future.

There are feral cats on the project site and in the area (as observed by M&A and by ICF International during their camera surveys); hence, burrowing owls are less likely to occupy the site as they can be preyed upon by feral cats. However, in an abundance of caution and to satisfy the tenants of CEQA, M&A recommends a preconstruction nesting survey be conducted within 14 days of any earth-moving/site work to determine if this owl could have moved onto the project site in the intervening period between surveys and when the proposed project is implemented. If no burrowing owls are observed onsite during the preconstruction survey, no mitigation would be necessary. However, if this owl is observed onsite during the nesting season,

mitigation would need to be prescribed to offset any project-related impact to this species to a less than significant level. See the Impacts and Mitigations Section for details.

7. REGULATORY FRAMEWORK FOR NATIVE WILDLIFE, FISH, AND PLANTS

This section provides a discussion of those laws and regulations that are in place to protect native wildlife, fish, and plants. Under each law we discuss their pertinence to the proposed development.

7.1 Federal Endangered Species Act

The Federal Endangered Species Act (FESA) forms the basis for the federal protection of threatened or endangered plants, insects, fish and wildlife. FESA contains four main elements, they are as follows:

Section 4 (16 USCA §1533): Species listing, Critical Habitat Designation, and Recovery Planning: outlines the procedure for listing endangered plants and wildlife.

Section 7 (§1536): Federal Consultation Requirement: imposes limits on the actions of federal agencies that might impact listed species.

Section 9 (§1538): Prohibition on Take: prohibits the "taking" of a listed species by anyone, including private individuals, and State and local agencies.

Section 10: Exceptions to the Take Prohibition: non-federal agencies can obtain an incidental take permit through approval of a Habitat Conservation Plan.

In the case of salt water fish and other marine organisms, the requirements of FESA are enforced by the National Marine Fisheries Service (NMFS). The USFWS enforces all other cases. Below, Sections 9, 7, and 10 of FESA are discussed since they are the sections most relevant to the proposed project.

Section 9 of FESA as amended, prohibits the "take" of any fish or wildlife species listed under FESA as endangered. Under Federal regulation, "take" of fish or wildlife species listed as threatened is also prohibited unless otherwise specifically authorized by regulation. "Take," as defined by FESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" includes not only the direct taking of a species itself, but the destruction or modification of the species' habitat resulting in the potential injury of the species. As such, "harm" is further defined to mean "an act which actually kills or injures wildlife; such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR 17.3). A December 2001 decision by the 9th Circuit Court of Appeals (Arizona Cattle Growers' Association, Jeff Menges, vs. the U.S. Fish and Wildlife Service and Bureau of Land Management, and the Southwest Center for Biological Diversity) ruled that the USFWS must show that a threatened or endangered species is present on a project site and that it would be taken by the project activities. According to this ruling, the

USFWS can no longer require mitigation based on the probability that the species could use the site. Rather they must show that it is actually present.

Section 9 applies to any person, corporation, federal agency, or any local or State agency. If "take" of a listed species is necessary to complete an otherwise lawful activity, this triggers the need to obtain an incidental take permit either through a Section 7 Consultation as discussed further below (for federal actions or private actions that are permitted or funded by a federal agency), or requires preparation of a Habitat Conservation Plan (HCP) pursuant to Section 10 of FESA (for state and local agencies, or individuals, and projects without a federal "nexus").

Section 7(a)(2) of the Act requires that each federal agency consult with the USFWS to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat for listed species. Critical habitat designations mean: (1) specific areas within a geographic region currently occupied by a listed species, on which are found those physical or biological features that are essential to the conservation of a listed species and that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a listed species that are determined essential for the conservation of the species.

The Section 7 consultation process applies only to actions taken by federal agencies, or actions by private parties that require federal agency permits, approval, or funding (for example, a private landowner applying to the Corps for a permit). Section 7's consultation process is triggered by a determination of the "action agency" — i.e., the federal agency that is carrying out, funding, or approving a project — that the project "may affect" a listed species or critical habitat. If an action is likely to adversely affect a listed species or designated critical habitat, formal consultation with the USFWS is required. As part of the formal consultation, the USFWS prepares a Biological Opinion assessing whether the proposed action is likely to result in jeopardy to a listed species or adversely modify designated critical habitat. If the USFWS finds "no jeopardy" or adverse modification, it provides an incidental take permit which allows for the taking of a limited number of listed species or critical habitat.

Federal actions include permitting, funding, and entitlements for both federal projects, as well as private projects facilitated by federal actions (for example, a private landowner applying to the Corps for a permit). As an example, if a federally listed endangered species is present in "waters of the United States" on a project site, prior to authorizing impacts to "waters of the United States," the U.S. Army Corps of Engineers (who administers the Clean Water Act) would be required to initiate "formal consultation" with USFWS pursuant to Section 7 of FESA. As part of the formal consultation, the USFWS would then be required to prepare a Biological Opinion based on a review and analysis of the project applicant's avoidance and mitigation plan. The Biological Opinion will either state that the project will or will not result in "take" or threaten the continued existence of the species (not just that population). If an endangered species could be harmed by a proposed project, USFWS has to be in complete concurrence with the proposed avoidance and mitigation plan. If USFWS is not in complete concurrence with the mitigation plan, they will submit a Biological Opinion to the Corps containing a "jeopardy decision" and state that a Corps' permit should not be issued for the pending project. The applicant would then

have an opportunity to submit a revised mitigation plan that provides greater protection for the species.

For non-federal entities, Section 10 provides the mechanism for obtaining take authorization. Under Section 10 of FESA, the applicant for an "incidental take permit" is required to submit a "conservation plan" to USFWS or NMFS that specifies, among other things, the impacts that are likely to result from the taking, and the measures the permit applicant will undertake to minimize and mitigate such impacts, and the funding that will be available to implement those steps. Conservation plans under FESA have come to be known as "habitat conservation plans" or "HCPs" for short. The terms incidental take permit, Section 10 permit, and Section 10(a)(1)(B) permit are used interchangeably by USFWS. Section 10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an incidental take permit can be issued.

7.1.1 RESPONSIBLE AGENCY

FESA gives regulatory authority over terrestrial species and non-anadromous fish to the USFWS. The NMFS has authority over marine mammals and anadromous fish.

7.1.2 APPLICABILITY TO THE PROPOSED PROJECT

There are no federal listed species that would be likely to be affected by the proposed project. The project site is within the known range of the San Joaquin kit fox, a federally listed endangered (and state listed threatened) animal. ICF International conducted modified protocol–level kit fox surveys based on agency guidance in October 2012. The results of these surveys show no evidence of San Joaquin kit fox on the project site. Further, existing habitat conditions, the presence of domestic dog and surrounding land use indicate that it is unlikely that San Joaquin kit fox would reside on or be found on the project site. Thus, a Federal Incidental Take Permit from the USFWS is not warranted for the proposed project nor is compensatory mitigation for impacts to this fox species.

7.2 Federal Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

Executive Order 13186 for conservation of migratory birds (January 11, 2001) requires that any project with federal involvement address impacts of federal actions on migratory birds. The order is designed to assist federal agencies in their efforts to comply with the MBTA and does not constitute any legal authorization to take migratory birds. The order also requires federal agencies to work with the USFWS to develop a memorandum of understanding (MOU). Protocols developed under the MOU must promote the conservation of migratory bird populations through the following means:

- avoid and minimize, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;
- restore and enhance habitat of migratory birds, as practicable; and prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable.

7.2.1 Applicability to Proposed Project

The project site does not provide habitat for tree nesting raptors and adjacent orchards would be most unlikely to be used by raptors for nesting. However, it does provide habitat for ground nesting birds including the western burrowing owl, western meadowlark (*Sturnella neglecta*), and several other common bird species. In almost all cases, local nesting birds are protected pursuant to the Migratory Bird Treaty Act. As long as there is no direct mortality of species protected pursuant to this Act caused by implementation of the proposed project, the project may proceed without further considerations for the MBTA. To comply with the Migratory Bird Treaty Act, all active bird nest sites of species protected pursuant to the MBTA would have to be avoided while such birds were nesting (it is safest to assume that most birds are protected pursuant to the MBTA). Upon completion of nesting, the project could commence as otherwise planned. Please review specific requirements for avoidance of nest sites for potentially occurring species in the Impacts and Mitigations section below.

7.3 State Endangered Species Act

7.3.1 Section 2081 of the State Endangered Species Act

In 1984, the state legislated the California Endangered Species Act (CESA) (Fish and Game Code §2050). The basic policy of CESA is to conserve and enhance endangered species and their habitats. State agencies will not approve private or public projects under their jurisdiction that would impact threatened or endangered species if reasonable and prudent alternatives are available. Because CESA does not have a provision for "harm" (see discussion of FESA, above), CDFW considerations pursuant to CESA are limited to those actions that would result in the direct take of a listed species.

If CDFW determines that a proposed project could impact a State listed threatened or endangered species, CDFW will provide recommendations for "reasonable and prudent" project alternatives. The CEQA lead agency can only approve a project if these alternatives are implemented, unless it finds that the project's benefits clearly outweigh the costs, reasonable mitigation measures are adopted, there has been no "irreversible or irretrievable" commitment of resources made in the interim, and the resulting project would not result in the extinction of the species. In addition, if there would be impacts to threatened or endangered species, the lead agency typically requires project applicants to demonstrate that they have acquired "incidental take" permits from CDFW and/or USFWS (if it is a Federal listed species) prior to allowing/permitting impacts to such species.

If proposed projects would result in impacts to a State listed species, an "incidental take" permit pursuant to §2081 of the Fish and Game Code would be necessary (versus a Federal incidental take permit for Federal listed species). CDFW will issue an incidental take permit only if:

1) The authorized take is incidental to an otherwise lawful activity;
2) the impacts of the authorized take are minimized and fully mitigated;
3) measures required to minimize and fully mitigate the impacts of the authorized take:
    a) are roughly proportional in extent to the impact of the taking on the species;
    b) maintain the project applicant's objectives to the greatest extent possible; and,
    c) capable of successful implementation; and,
4) adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with, and the effectiveness of, the measures.

If an applicant is preparing a habitat conservation plan (HCP) as part of the federal 10(a) permit process, the HCP might be incorporated into the §2081 permit if it meets the substantive criteria of §2081(b). To ensure that an HCP meets the mitigation and monitoring standards in Section 2081(b), an applicant should involve CDFW staff in development of the HCP. If a final Biological Opinion (federal action) has been issued for the project pursuant to Section 7 of the federal Endangered Species Act, it might also be incorporated into the §2081 permit if it meets the standards of §2081(b).

No §2081 permit may authorize the take of a species for which the Legislature has imposed strict prohibitions on all forms of "take." These species are listed in several statutes that identify "fully protected" species and "specified birds." *See* Fish and Game Code §§ 3505, 3511, 4700, 5050, 5515, and 5517. If a project is planned in an area where a "fully protected" species or a "specified bird" occurs, an applicant must design the project to avoid all take.

In September 1997, Assembly Bill 21 (Fish and Game Code §2080.1) was adopted. This bill allows an applicant who has obtained a "non-jeopardy" federal Biological Opinion pursuant to Section 7, or who has received a federal 10(a) permit (federal incidental take permit), to submit the federal opinion or permit to CDFW for a determination as to whether the federal document is "consistent" with CESA. If after 30 days CDFW determines that the federal incidental take permit is consistent with state law, and that all state listed species under consideration have been considered in the federal Biological Opinion, then no further permit or consultation is required under CESA for the project. However, if CDFW determines that the federal opinion or permit is not consistent with CESA, or that there are state listed species that were not considered in the federal Biological Opinion, then the applicant must apply for a state permit under Section 2081(b). The process provided in Fish and Game Code §2080.1 may be of use when the incidental take would occur to species that are listed under both the federal and state endangered species acts. Fish and Game Code §2080.1 is of no use if an affected species is state-listed, but not federally listed.

State and federal incidental take permits are issued on a discretionary basis, and are typically only authorized if applicants are able to demonstrate that impacts to the listed species in question are unavoidable, and can be mitigated to an extent that the reviewing agency can conclude that the proposed impacts would not jeopardize the continued existence of the listed species under review. Typically, if there would be impacts to a listed species, mitigation that includes habitat avoidance, preservation, and creation of endangered species habitat is necessary to demonstrate that projects would not threaten the continued existence of a species. In addition, management

endowment fees are usually collected as part of the agreement for the incidental take permit(s). The endowment is used to manage any lands set-aside to protect listed species, and for biological mitigation monitoring of these lands over (typically) a five-year period.

7.3.2 APPLICABILITY TO THE PROPOSED PROJECT

The project site is within the mapped range of the state listed San Joaquin kit fox. In October 2012, ICF International conducted a survey for this fox species using a modified USFWS survey protocol based on CDFW and USFWS guidance. ICF International's surveys found no evidence of San Joaquin kit fox on the project site. Further, existing habitat conditions, presence of domestic dog and surrounding land use indicate that it is highly unlikely that San Joaquin kit fox would reside on the project site. Thus, no impacts to this species are likely to occur from implementation of the proposed project. As such, an Incidental Take Permit is not required from the CDFW, and no mitigation for kit fox is warranted.

Swainson's hawk is a state listed threatened species. The closest known nesting record for Swainson's hawk to the project site is a 2003 record in a landscape tree surrounded by orchards, vineyards, and row crops (CNDDB Occurrence No. 1666). This sighting is approximately 2.2 miles north of the project site. There are no nesting opportunities for the Swainson's hawk onsite, and adjacent orchard trees are relatively small and would be most unlikely to be used by this hawk for nesting. As such, no impacts to nesting Swainson's hawks are anticipated. The project site also provides poor quality foraging habitat that would be most unlikely to be used by this hawk species. Regardless, in an abundance of caution and to ensure that there will be no "take" of this species that would be regulated by the California Endangered Species Act, prior to any earth-moving or site disturbance a preconstruction nesting survey will be conducted for the Swainson's hawk onsite and in the surrounding areas. If a nest site is found within 0.25-mile of the project site, site work will cease pending review by the CDFW.

There are no other state listed animal species to consider for this project site. Nor does the project site provide habitat for state listed plants or fish species.

7.4 Applicable CEQA Regulations

Section 15380 of CEQA defines "endangered" species as those whose survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. "Rare" species are defined by CEQA as those who are in such low numbers that they could become endangered if their environment worsens; or the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in the FESA. The CEQA Guidelines also state that a project will normally have a significant effect on the environment if it will "substantially affect a rare or endangered species of animal or plant or the habitat of the species." The significance of impacts to a species under CEQA, therefore, must be based on analyzing actual rarity and threat to that species despite its legal status or lack thereof.

7.4.1 APPLICABILITY TO PROPOSED PROJECT

This document addresses impacts to species that would be defined as endangered or rare pursuant to Section 15380 of the CEQA. This document is suitable for use by the CEQA lead agency (in this case the County of Stanislaus) for preparation of any CEQA review document prepared for the proposed project. This report has been prepared as a Biology Section that is suitable for incorporation into an initial study or the biology section of an Environmental Impact Report.

7.5 California Fish and Game Code § 3503, 3503.5, 3511, and 3513

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the "take, possession, or destruction of birds, their nests or eggs." Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered "take." Such a take would also violate federal law protecting migratory birds (Migratory Bird Treaty Act).

All raptors (that is, hawks, eagles, owls) their nests, eggs, and young are protected under California Fish and Game Code (§3503.5). Additionally, "fully protected" birds, such as the white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), are protected under California Fish and Game Code (§3511). "Fully protected" birds may not be taken or possessed (that is, kept in captivity) at any time.

7.5.1 APPLICABILITY TO THE PROJECT

The project site provides habitat for ground nesting birds including the burrowing owl, western meadowlark, and several other common bird species. Preconstruction surveys should be conducted for nesting birds to ensure that there is no direct take of nesting birds including harm that could occur to their eggs or young. Any active nests that were found during preconstruction surveys would have to be avoided by the project. Suitable non-disturbance buffers would have to be established around nest sites until the nesting cycle is complete. More specifics on the size of buffers are provided below in the Impacts and Mitigations Section.

7.6 Protected Amphibians

Under Title 14 of the California Code of Regulations (CCR 14, Division 1, Subdivision 1, Chapter 5, §41. Protected Amphibians), protected amphibians, such as the California tiger salamander may only be taken under special permit from CDFW issued pursuant to Sections 650 and 670.7 of these regulations.

7.6.1 APPLICABILITY TO THE PROJECT

No special-status amphibians likely would be found on or adjacent to the project site. The project site does not provide suitable habitat and the offsite drainage ditch has flashy flows only flowing after particularly large storm events and then only flows for a matter of hours after cessation of the storm event. There are no pools or other areas where water has an extended residency time in this drainage after large storm event flows. When this ditch does flow its flows are fast and water does not pond for long enough to provide suitable habitat conditions for any of the special-status amphibians known from the region. As such, no significant adverse impacts are expected to occur to special-status amphibians from implementation of the proposed project.

7.7 Stanislaus County General Plan

The Stanislaus County General Plan was adopted in 1994 and sections of the plan have been updated as recently as 2003 (for example, the Housing Element) and 2011 (revised agricultural buffers). M&A contacted the Stanislaus County Planning and Community Development Department and found out that the Conservation/Open Space element of the General Plan has not been updated since its adoption in 1994. Below we reference the most pertinent sections of the Conservation/Open Space Element.

7.7.1 CONSERVATION/OPEN SPACE ELEMENT GOAL ONE

Encourage the protection and preservation of natural and scenic areas throughout the County.

7.7.1.1 Policy One

Maintain the natural environment in areas dedicated as parks and open space.

7.7.1.2 Implementation Measures

1. Development of County parks shall include provisions for native vegetation conservation. Rare and endangered plants will be protected consistent with state and federal law and consistent with protection standards for private development as established in this General Plan.
2. Continue to use Williamson Act contracts as a means for open space conservation.

7.7.1.3 Policy Two

Assure [sic] compatibility between natural areas and development.

7.7.1.4 Implementation Measures

1. Review zoning regulations for compatibility between proposed development and natural areas.
2. Review all development requests to ensure that sensitive areas (e.g., riparian habitats, vernal pools, rare plants) are left undisturbed or that mitigation measures acceptable to appropriate state and federal agencies are included in the project.

7.7.1.5 Policy Three

Areas of sensitive wildlife habitat and plant life (e.g., vernal pools, riparian habitats, flyways and other waterfowl habitats, etc.) including those habitats and plant species listed in the General Plan Support Document or by state or federal agencies shall be protected from development.

7.7.1.6 Implementation Measures

1. Review all development requests to ensure that sensitive areas (e.g., riparian habitats, vernal pools, rare plants, flyways, etc.) are left undisturbed or that mitigation measures acceptable to appropriate state and federal agencies are included in the project.
2. In known sensitive areas, the State Department of Fish and Game shall be notified as required by the California Native Plant Protection Act; the U.S. Fish and Wildlife Service also shall be notified.

3. All discretionary projects that will potentially impact riparian habitat and/or vernal pools or other sensitive areas shall include mitigation measures for protecting that habitat.
4. Implementation of this policy shall not be extended to the level of an unconstitutional "taking" of property.

7.7.2 GOAL ONE -APPLICABILITY TO THE PROPOSED PROJECT

The project site is not located in an expansive area of natural lands or open space. The project site is small, has been previously disturbed and is located adjacent to two existing composting facilities, an orchard, and the Delta Mendota Canal. Thus, in general, Goal One of the Conservation/Open Space element does not apply to this project site. The project site is not located within a corridor of open land that would make preserving this small parcel beneficial to the natural environment. Finally, there are no sensitive habitats such as vernal pools or riparian habitat onsite that would be impacted by the proposed project. An unnamed, seasonal drainage ditch (that does not support riparian vegetation) is partially located onsite and offsite on the adjacent parcel. This drainage ditch would be unaffected by the proposed project.

7.7.3 CONSERVATION/OPEN SPACE ELEMENT GOAL TWO

Conserve water resources and protect water quality in the County.

7.7.3.1 Policy Six

Preserve vegetation to protect waterways from bank erosion and siltation.

7.7.3.2 Implementation Measures

1. Development proposals including or in the vicinity of waterways and/or wetlands shall be closely reviewed to ensure that destruction of riparian habitat and vegetation is minimized. This shall include referral to the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the State Department of Fish and Game.
2. Continue to encourage best management practices for agriculture and coordinate with soil and water conservation efforts of Stanislaus County Farm Bureau, Resource Conservation Districts, the U.S. Soil Conservation Service, and local irrigation districts.

7.7.4 GOAL TWO - APPLICABILITY TO THE PROPOSED PROJECT

There is an unnamed seasonal drainage channel onsite. This drainage does not support riparian vegetation. Regardless, the proposed project will incorporate a 25-foot setback into the project design to ensure that there are no impacts to this waterway.

7.7.5 CONSERVATION/OPEN SPACE ELEMENT GOAL THREE

Provide for the long-term conservation and use of agricultural lands.

7.7.5.1 Policy Ten

Discourage the division of land which forces the premature cessation of agricultural uses.

7.7.5.2 Implementation Measures

1. Use of the 40-acre or larger parcel size or agricultural Planned Developments with average residential densities equivalent to those allowed by parcel sizes of at least 40 acres shall be continued throughout most of the area designated Agriculture on the Land Use Element of the General Plan.
2. The County will continue to offer the financial benefits of the Williamson Act, consistent with Policy Sixteen, Implementation Measure 5 of the Land Use Element.
3. The County will continue to participate in the Farmland Mapping and Monitoring Program. (Comment: The major purpose of this program is to monitor conversion of the state's agricultural land to and from agricultural use, and to report that conversion annually to the legislature, local government, and the public. The program began in 1980 to supplement the land inventory and monitoring activity of the U.S. Department of Agriculture's Soil Conservation Service (SCS). Growing public concern over farmland losses in California and a low federal priority for the mapping program in our State were the basis for California's participation in the land inventory. The State's involvement in the SCS inventory program led to the passage of AB 966 in 1981. The primary purpose of the bill was to create a map inventory of the State's crop and grazing lands, and set up an ongoing monitoring system to document the quantity of land put into production and land converted to urban usage in California. As a result, three key areas of local governmental involvement in the State's Farmland Mapping and Monitoring Program are: (1) identifying farmland of local importance, (2) identifying land committed to nonagricultural use, and (3) advising the Department each year of lands which have been converted to urban use.)
4. In designated areas of agricultural land, the County will encourage clustering, or grouping together, of allowable dwelling units on relatively small parcels instead of the dispersal of such dwelling units on larger parcels. Any changes to County zoning and/or subdivision regulations to allow clustering should be submitted by staff to the Planning Commission and Board of Supervisors by June 30, 1996.

7.7.5.3 Policy Eleven

In areas designated "Agriculture" on the Land Use Element, discourage land uses which are incompatible with agriculture.

7.7.5.4 Implementation Measures

1. All development proposals that require discretionary approval shall be reviewed to ensure that the project will not adversely affect an existing agricultural area.
2. The County shall continue to implement the strategies identified in the Agricultural Element to ensure that new development is compatible with agricultural uses.
3. The County shall continue to work with LAFCO to ensure that expansion of urban boundaries minimizes the area of conflict between urban and agricultural uses.

7.7.6 GOAL THREE - APPLICABILITY TO THE PROPOSED PROJECT

The project site’s parcel is designated as Agriculture in the Stanislaus County General Plan and is zoned A-2-40. The project will continue with agricultural land uses. The expansion of the

existing composting facility onto this 43-acre parcel is consistent with the zoning. The expansion of the existing composting operation will not significantly compromise the long-term productive agricultural capability of the subject property. The parcel is currently open field not used for agricultural purposes. The Grover Environmental Products operation that will be expanded onto the project site parcel produces high quality soil amendments utilized for the agricultural industry for application on vineyards, orchards, and other agricultural fields.

7.7.7 CONSERVATION/OPEN SPACE ELEMENT GOAL FOUR

Provide for the open-space recreational needs of the residents of the County.

7.7.7.1 Policy Twelve

Provide a system of local and regional parks which will serve the residents of the County.

7.7.8 GOAL FOUR - APPLICABILITY TO THE PROPOSED PROJECT

The project site is surrounded by private businesses. Access to the project site is through the existing Recology Grover Environmental Products operation. It is not the appropriate place for a park.

7.7.9 CONSERVATION/OPEN SPACE ELEMENT GOAL SEVEN

Support efforts to minimize the disposal of solid waste through source reduction, reuse, recycling, composting and transformation activities.

7.7.9.1 Policy Twenty-Two

The County will support the solid waste management hierarchy established by the California Public Resources Code, Section 40051, and actively promote the goals and objectives specified in the Countywide Integrated Waste Management Plan.

7.7.9.2 Implementation Measures

1. Encourage and promote activities, projects, legislation, business and industries that cause solid waste to be reduced at the source, reused, recycled and/or composted.
2. Complete and adopt the state-mandated Countywide Integrated Waste Management Plan by January 31, 1996.
3. Encourage the use of transformation facilities (such as waste-to-energy plants) as a component of the County's integrated waste management system.
4. Actively pursue the identification, siting, permitting and operation of additional landfill capacity to receive solid wastes that are not diverted from disposal and for the disposal of ash from transformation facilities.
5. Encourage and promote activities, projects, legislation, businesses and industries that cause special wastes (e.g., food processing residue, demolition/construction waste, inert wastes, tires, de-watered sludge, household hazardous waste, etc.) to be safely diverted from landfills or transformation facilities, including composting and co-composting operations.

7.7.10 GOAL SEVEN - APPLICABILITY TO THE PROPOSED PROJECT

The project site is proposed for the expansion of the existing Recology Grover Environmental Products composting facility. Expansion of an existing composting facility onto this parcel meets the objectives of Goal Seven.

7.7.11 CONSERVATION/OPEN SPACE ELEMENT GOAL TEN

Protect fish and wildlife species of the County.

7.7.11.1 Policy Thirty

Habitats of rare and endangered fish and wildlife species shall be protected. Information on rare and endangered species and habitats is constantly being updated in response to a 1982 state law by the California State Department of Fish and Game through various sources which include the Stanislaus Audubon Society, California Native Plant Society, and the Sierra Club.

7.7.11.2 Implementation Measures

1. The County shall utilize the California Environmental Quality Act (CEQA) process to ensure that development does not occur that would be detrimental to fish, plant life, or wildlife species.
2. The County shall maintain information regarding fish and wildlife habitats and rare and endangered flora and fauna species.
3. The County shall protect sensitive wildlife habitat and plant life through the strategies identified under Policy Three of this element.

7.7.12 GOAL 10 - APPLICABILITY TO THE PROPOSED PROJECT

This biological resources analysis has been prepared for inclusion in a CEQA review document to be prepared by Stanislaus County. This analysis includes a discussion on the project site's plant communities, wildlife habitats, and potentially occurring special-status species. Mitigation measures are provided in this analysis to offset potential project impacts to special-status plant and wildlife species and/or their habitats.

7.7.13 CONSERVATION/OPEN SPACE ELEMENT GOAL ELEVEN

Conserve resources through promotion of waste reduction, reuse, recycling, composting, ride share programs and alternative energy sources such as mini-hydroelectric plants, gas and oil exploration, and transformation facilities such as waste-to-energy plants.

7.7.13.1 Policy Thirty One

The County shall provide zoning mechanisms for locating material recovery facilities, recycling facilities, composting facilities, and new energy producers when the proposed location does not conflict with surrounding land uses.

7.7.13.2 Implementation Measures

1. The County shall include provisions in its zoning ordinance for siting material-recovery facilities, recycling facilities, composting facilities, mini-hydroelectric plants and transformation facilities by June 30, 1997.

2. The County shall actively pursue and implement projects, plans and programs that will effectively protect and conserve existing and future landfill capacity.

7.7.14 GOAL 11- APPLICABILITY TO THE PROPOSED PROJECT

Approving use of the project site for the expansion of the existing composting facility meets Goal 11's objectives.

7.8 County Tree Ordinance

Stanislaus County does not have a tree ordinance and does not oversee the pruning or removal of any trees located on private property. Street trees located on private property are the responsibility of the property owner.

7.8.1 APPLICABILITY TO THE PROPOSED PROJECT

There is no tree ordinance for Stanislaus County nor are there any trees on the project site. Therefore, the expansion of the existing composting operation will not significantly impact any trees nor require any mitigation pursuant to CEQA.

8. REGULATORY REQUIREMENTS PERTAINING TO WATERS OF THE UNITED STATES AND STATE

This section presents an overview of the criteria used by the U.S. Army Corps of Engineers, the California Regional Water Quality Control Board, the State Water Resources Control Board, and CDFW to determine those areas within a project area that would be subject to their regulation.

8.1 U.S. Army Corps of Engineers Jurisdiction and General Permitting

8.1.1 SECTION 404 OF THE CLEAN WATER ACT

Congress enacted the Clean Water Act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. §1251(a)). Pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), the U.S. Army Corps of Engineers (Corps) regulates the disposal of dredged or fill material into "waters of the United States" (33 CFR Parts 328 through 330). This requires project applicants to obtain authorization from the Corps prior to discharging dredged or fill materials into any water of the United States.

In the Federal Register "waters of the United States" are defined as, "...all interstate waters including interstate wetlands...intrastate lakes, rivers, streams (including intermittent streams), wetlands, [and] natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce..." (33 CFR Section 328.3).

Limits of Corps' jurisdiction:

(a) Territorial Seas. The limit of jurisdiction in the territorial seas is measured from the baseline in a seaward direction a distance of three nautical miles. (See 33 CFR 329.12)

(b) Tidal Waters of the United States. The landward limits of jurisdiction in tidal waters:

(1) Extends to the high tide line, or
(2) When adjacent non-tidal waters of the United States are present, the jurisdiction extends to the limits identified in paragraph (c) of this section.

(c) Non-Tidal Waters of the United States. The limits of jurisdiction in non-tidal waters:
(1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark, or
(2) When adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands.
(3) When the water of the United States consists only of wetlands the jurisdiction extends to the limit of the wetland.

Section 404 jurisdiction in "other waters" such as lakes, ponds, and streams, extends to the upward limit of the ordinary high water mark (OHWM) or the upward extent of any adjacent wetland. The OHWM on a non-tidal water is:

- the "line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter or debris; or other appropriate means that consider the characteristics of the surrounding areas" (33 CFR Section 328.3[e]).

Wetlands are defined as: "...those areas that are inundated or saturated by surface or ground water at a frequency and duration to support a prevalence of vegetation adapted for life in saturated soil conditions" (33 CFR Section 328.8 [b]). Wetlands usually must possess hydrophytic vegetation (i.e., plants adapted to inundated or saturated conditions), wetland hydrology (e.g., topographic low areas, exposed water tables, stream channels), and hydric soils (i.e., soils that are periodically or permanently saturated, inundated or flooded) to be regulated by the Corps pursuant to Section 404 of the Clean Water Act.

8.1.1.1 Significant Nexus of Tributaries

On December 2, 2008, the Corps and the Environmental Protection Agency (EPA) issued joint guidance on implementing the U.S. Supreme Court decision in the consolidated cases *Rapanos v. United States* and *Carabell v. United States* (herein referred to simply as "Rapanos") (Corps 2008b) which address the jurisdiction over waters of the United States under the Clean Water Act. In this joint guidance these agencies provide guidance on where they will assert jurisdiction over waters of the U.S.

The EPA and Corps will assert jurisdiction over the following waters:

- Traditional navigable waters
- Wetlands adjacent to traditional navigable waters
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (for example, typically three months).
- Wetlands that directly abut such tributaries.

The agencies generally will not assert jurisdiction over the following features:

- Swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow); and
- Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water.

The agencies will apply the significant nexus standard as follows:

- A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by all wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical and biological integrity of downstream traditional navigable waters; and

Significant nexus includes consideration of hydrologic and ecologic factors.

8.1.1.2 Isolated Areas Excluded from Section 404 Jurisdiction

In addition to areas that may be exempt from Section 404 jurisdiction, some isolated wetlands and waters may also be considered outside of Corps jurisdiction as a result of the Supreme Court's decision in Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers (531 U.S. 159 [2001]). Isolated wetlands and waters are those areas that do not have a surface or groundwater connection to, and are not adjacent to a navigable "Waters of the U.S.," and do not otherwise exhibit an interstate commerce connection.

8.1.1.3 Permitting Corps Jurisdictional Areas

To remain in compliance with Section 404 of the Clean Water Act, project proponents and property owners (applicants) are required to be permitted by the Corps prior to discharging or otherwise impacting waters of the United States. In many cases, the Corps must visit a proposed project area (to conduct a "jurisdictional determination") to confirm the extent of area falling under their jurisdiction prior to authorizing any permit for that project area. Typically, at the time the jurisdictional determination is conducted, applicants (or their representative) will discuss the appropriate permit application that would be filed with the Corps for permitting the proposed impact(s) to "waters of the United States."

Pursuant to Section 404 of the Clean Water Act, the Corps normally provides two alternatives for permitting impacts to the type of "waters of the United States" found in the project area. The first alternative would be to use Nationwide Permit(s) (NWP). The second alternative is to apply to the Corps for an Individual Permit (33 CFR Section 235.5(2)(b)). The application process for Individual Permits is extensive and includes public interest review procedures (i.e., public notice and receipt of public comments) and must contain an "alternatives analysis" that is prepared pursuant to Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). The alternatives analysis is also typically reviewed by the federal EPA and thus brings another resource agency into the permitting framework. Both the Corps and EPA take the initial viewpoint that there are practical alternatives to the proposed project if there would be impacts to waters of the U.S., and the proposed permitted action is not a water dependent project (e.g. a pier or a dredging project). Alternative analyses therefore must provide convincing reasons that the proposed permitted

impacts are unavoidable. Individual Permits may be available for use in the event that discharges into regulated waters fail to meet conditions of NWP(s).

NWPs are a type of general permit administered by the Corps and issued on a nationwide basis that authorize minor activities that affect Corps regulated waters. Under NWP, if certain conditions are met, the specified activities can take place without the need for an individual or regional permit from the Corps (33 CFR, Section 235.5[c][2]). In order to use NWP(s), a project must meet 27 general nationwide permit conditions, and all specific conditions pertaining to the NWP being used (as presented at 33 CFR Section 330, Appendices A and C). It is also important to note that pursuant to 33 CFR Section 330.4(e), there may be special regional conditions or modifications to NWPs that could have relevance to individual proposed projects. Finally, pursuant to 33 CFR Section 330.6(a), Nationwide permittees may, and in some cases must, request from the Corps confirmation that an activity complies with the terms and conditions of the NWP intended for use (*i.e.,* must receive "verification" from the Corps).

Prior to finalizing design plans, the applicant needs to be aware that the Corps maintains a policy of "no net loss" of wetlands (waters of the United States) from project area development. Therefore, it is incumbent upon applicants that propose to impact Corps regulated areas to submit a mitigation plan that demonstrates that impacted regulated areas would be recreated (*i.e.,* impacts would be mitigated). Typically, the Corps requires mitigation to be "in-kind" (i.e., if a stream channel would be filled, mitigation would include replacing it with a new stream channel), and at a minimum of a 1:1 replacement ratio (i.e., one acre or fraction there of recreated for each acre or fraction thereof lost). Often a 2:1 replacement ratio is required. Usually the 2:1 ratio is met by recreation or enhancement of an equivalent amount of wetland as is impacted, in addition to a requirement to preserve an equivalent amount of wetland as is impacted by the project. In some cases, the Corps allows "out-of-kind" mitigation if the compensation site has greater value than the impacted site. For example, if project designs call for filling an intermittent drainage, mitigation should include recreating the same approximate jurisdictional area (same drainage widths) at an offsite location or on a set-aside portion of the project area. Finally, there are many Corps approved wetland mitigation banks where wetland mitigation credits can be purchased by applicants to meet mitigation compensation requirements. Mitigation banks have defined service areas and the Corps may only allow their use when a project would have minimal impacts to wetlands.

8.1.2 Applicability to the Proposed Project

There are no waters of the U.S. on the project site that would be impacted by the proposed project. Qualified wetland biologists Mr. Geoff Monk and Ms. Sarah Lynch examined the project site to determine if there could be waters of the U.S. that could be impacted by the proposed project. An unnamed drainage ditch traverses the project site along the southeastern boundary between the existing Recology Facility and the proposed project site. This ditch would constitute a water of the U.S. (and State); however, would be avoided by the proposed project. This ditch receives water from two, 4-foot by 6-foot concrete box culverts that originate as an open box culvert traveling over the Delta-Mendota Canal. Once crossing over the canal, these box culverts are underground through the existing Grover Composting Facility and then daylight at the ditch. The applicant has no plans to alter or otherwise impact this ditch; hence, prior authorization from the Corps should not be necessary for this project. However, if project plans change, and impacts

to this ditch would occur (for example, from filling or placing the ditch in a culvert) prior authorization from the Corps would be necessary and mitigation would likely be required by this agency. See the Impacts and Mitigations Section for details.

8.2 State Water Resources Control Board (SWRCB) / California Regional Water Quality Control Board (RWQCB)

8.2.1 Section 401 of the Clean Water Act

The SWRCB and RWQCB regulate activities in "waters of the State" (which includes wetlands) through Section 401 of the Clean Water Act. While the Corps administers a permitting program that authorizes impacts to waters of the United States, including wetlands and other waters, any Corps permit authorized for a proposed project would be inoperative unless it is a NWP that has been certified for use in California by the SWRCB, or if the RWQCB has issued a project specific certification or waiver of water quality. Certification of NWPs requires a finding by the SWRCB that the activities permitted by the NWP will not violate water quality standards individually or cumulatively over the term of the permit (the term is typically for five years). Certification must be consistent with the requirements of the federal Clean Water Act, the California Environmental Quality Act, the California Endangered Species Act, and the SWRCB's mandate to protect beneficial uses of waters of the State. Any denied (i.e., not certified) NWPs, and all Individual Corps permits, would require a project specific RWQCB certification of water quality.

Additionally, if a proposed project would impact waters of the State, including wetlands, the project applicant must demonstrate that the project is unable to avoid these adverse impacts, or water quality certification will most likely be denied. Section 401 Certification may also be denied based on significant adverse impacts to waters of the United States/State, including wetlands. The RWQCB has also adopted the Corps' policy that there shall be "no net loss" of wetlands. Thus, prior to certifying water quality, the RWQCB will impose avoidance mitigation requirements on project proponents that impact waters of the State.

8.2.2 Applicability to the Proposed Project

There are no impacts anticipated to waters of the State from the proposed project. Qualified wetland biologists Mr. Geoff Monk and Ms. Sarah Lynch examined the project site to determine if there could be waters of the State that could be impacted by the proposed project. An unnamed drainage ditch traverses the project site along the southeastern boundary between the existing Recology Facility and the proposed project site. This ditch would constitute a water of the State (and U.S.); however, would be avoided by the proposed project. This ditch receives water from two, 4-foot by 6-foot concrete box culverts that originate as an open box culvert traveling over the Delta-Mendota Canal. Once crossing over the canal, these box culverts are underground through the existing Grover Composting Facility and then daylight at the ditch. The applicant has no plans to alter or otherwise impact this ditch; hence, prior authorization from the RWQCB should not be necessary for this project. However, if project plans change, and impacts to this ditch would occur (for example, from filling or placing the ditch in a culvert) prior authorization from the RWQCB would be necessary and mitigation would likely be required by this agency. See the Impacts and Mitigations Section for details.

8.2.3 PORTER-COLOGNE WATER QUALITY CONTROL ACT

The Porter-Cologne Water Quality Control Act, Water Code § 13260, requires that "any person discharging waste, or proposing to discharge waste, that could affect the waters of the State to file a report of discharge" with the RWQCB through an application for waste discharge (Water Code Section 13260(a)(1). The term "waters of the State" is defined as any surface water or groundwater, including saline waters, within the boundaries of the State (Water Code § 13050(e)). It should be noted that pursuant to the Porter-Cologne Water Quality Control Act, the RWQCB also regulates "isolated wetlands," or those wetlands considered to be outside of the Corps' jurisdiction pursuant to the SWANCC decision (see Corps Section above).

The RWQCB generally considers filling in waters of the State to constitute "pollution." Pollution is defined as an alteration of the quality of the waters of the state by waste that unreasonably affects its beneficial uses (Water Code §13050(1)). The RWQCB litmus test for determining if a project should be regulated pursuant to the Porter-Cologne Water Quality Control Act is if the action could result in any "threat" to water quality.

The RWQCB requires complete pre- and post-development Best Management Practices Plan (BMPs) of any portion of the project site that is developed. This means that a water quality treatment plan for the pre- and post-developed project site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES). That is, a *Stormwater Pollution Prevention Plan* (SWPPP) must be developed prior to the time that a site is graded (see NPDES section below). In addition, a post construction BMPs plan, or a Stormwater Management Plan (SWMP) must be developed and incorporated into any site development plan.

8.2.4 APPLICABILITY TO PROPOSED PROJECT

There are no anticipated impacts to the project site's drainage (water of the State), from the proposed project. Regardless, precautionary measures would need to be in place to ensure that the proposed expansion project would not impact this offsite water. Since any "threat" to water quality could conceivably be regulated pursuant to the Porter-Cologne Water Quality Control Act, care will required be when implementing the expansion project to be sure that adequate pre and post construction Best Management Practices Plan (BMPs) are incorporated into the project implementation plans.

The project site does not have a stormwater drainage system, and no municipal provision for stormwater management exists on these project sites. Rather the project site under review herein relies on natural flow to convey stormwater runoff. Therefore, when the project expansion is initiated, a stormwater management plan/program will need to be implemented to address storm water run-off and treatment. A stormwater management system will likely need to be installed. If an outfall permit can be avoided, and there is no other permit required for impacts to Corps/ RWQCB Clean Water Act regulated areas, then there would be no formal RWQCB regulatory permitting loop that would require the provisions in a SWMP. Regardless, it should be noted that the RWQCB can visit the site at any time to verify that a SWPPP and a SWMP are being implemented by the project as necessary to comply with the NPDES and Stanislaus County's MS4 Phase II NPDES requirements.

8.2.5 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

In 1972 the Clean Water Act was amended to state that the discharge of pollutants to waters of the United States from any point source is unlawful unless the discharge is in compliance with an NPDES permit. The 1987 amendments to the Clean Water Act added Section 402(p) which establishes a framework for regulating municipal and industrial stormwater discharges under the NPDES Program.

While federal regulations allow two permitting options for stormwater discharges (individual permits and General Permits), the SWRCB has elected to adopt only one statewide General Permit at this time that will apply to all stormwater discharges associated with construction activity, except from those on Tribal Lands, in the Lake Tahoe Hydrologic Unit, and those performed by the California Department of Transportation (CalTrans). The General Permit requires all dischargers where construction activity disturbs greater than one acre of land or those sites less than one acre that are part of a common plan of development or sale that disturbs more than one acre of land surface to:

1. Develop and implement a Storm Water Pollution Prevention Plan (SWPPP) which specifies Best Management Practices (BMPs) that will prevent all construction pollutants from contacting stormwater with the intent of keeping all products of erosion from moving off site into receiving waters.

2. Eliminate or reduce non-stormwater discharges to storm sewer systems and other waters of the nation.

3. Perform inspections of all BMPs.

This General Permit is implemented and enforced by the nine California Regional Water Quality Control Boards (RWQCBs).

Types of Construction Activity Covered by the General Permit

Construction activity subject to this General Permit includes clearing, grading, and disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre or more of total land area. Construction activity that results in soil disturbances to a smaller area would still be subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses greater than one acre of soil disturbance, or if there is significant water quality impairment resulting from the activity. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety. Project proponents (landowners) should confirm with the local RWQCB whether or not a particular routine maintenance activity is subject to this General Permit.

8.2.6 2009 CHANGES TO THE NPDES PROGRAM AND USE OF THE GENERAL PERMIT

[This section excerpted in part from Morrison Foerster Legal Updates and News September 2009, by Robert L. Falk and Corinne Fratini]. The California State Water Resources Control

Board ("State Water Board") has adopted a new National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities ("Construction General Permit"). The new Construction General Permit which was issued pursuant to the federal Clean Water Act and is enforceable through citizens' suits, represents a dramatic shift in the State Water Board's approach to regulating new and redevelopment sites, imposing new affirmative duties and fixed standards on builders and developers. Changes to use of the General Permit became effective on July 1, 2010.

The new Construction General Permit does not completely carry forward the former qualitative and self-selected compliance approach based on preparation of a SWPPP. Instead, developers and construction contractors must implement specific BMPs, achieve quantitatively-defined (i.e., numeric) pollutant-specific discharge standards, and conduct much more rigorous monitoring based on the project's projected risk level.

The State Water Board's new quantitative standards take a two-tiered approach, depending on the risk level associated with the site in question. Exceedance of a benchmark Numeric Action Level ("NAL") measured in terms of pH and turbidity (a measure related to both the amount of sediment in and the velocity of site runoff) triggers an additional obligation to implement additional BMPs and corrective action to improve SWPPP performance. For medium- and high-risk sites, failure to meet more stringent numeric standards for pH and turbidity, known as Numeric Effluent Limitations ("NELs"), will also automatically result in a permit violation and be directly enforceable in administrative or, in the case of a citizens' group taking up the cause, judicial forums. New minimum BMPs include Active Treatment Systems, which may be necessary where traditional erosion and sediment controls do not effectively control accelerated erosion; where site constraints inhibit the ability to construct a correctly-sized sediment basin; where clay and/or highly erosive soils are present; or where the site has very steep or long slope lengths.

In addition, the new Construction General Permit includes several "post-construction" requirements. These requirements entail that site designs provide no net increase in overall site runoff and match pre-project hydrology by maintaining runoff volume and drainage concentrations. To achieve the required results where impervious surfaces such as roofs and paved surfaces are being increased, developers must implement non-structural off-setting BMPs, such as landform grading, site design BMPs, and distributed structural BMPs (bioretention cells, rain gardens, and rain cisterns). This "runoff reduction" approach is essentially a State Water Board-imposed regulatory requirement to implement Low Impact Development ("LID") design features. Volume that cannot be addressed using non-structural BMPs must be captured in structural BMPs that are approved by the Regional Water Board.

Finally, the new Construction General Permit requires electronic filing of all Permit Registration Documents, NOIs, SWPPPs, annual reports, Notices of Termination, and NAL/NEL Exceedance Reports. This information will be readily available to the Water Boards and citizen enforcers who can then determine whether to initiate enforcement actions—actions which can result in significant penalties and legal fees.

8.2.7 APPLICABILITY TO THE PROPOSED PROJECT

On September 2, 2009, the State Water Resources Control Board adopted Order No. 2009-0009-DWQ, which reissued the Construction General Permit (CGP) for projects disturbing one or more acres of land surface, or those sites less than one acre that are part of a common plan of development or sale that disturbs more than one acre of land surface. Effective July 1, 2010, the requirements of this order replaced and superseded State Water Board Orders No. 99-08-DWQ.

It is the responsibility of the applicant to obtain coverage under the General Permit prior to commencement of construction activities that disturb greater than one acre of area. As the process of receiving coverage under the General Permit became considerably more involved in July 2010, it is recommended that the project civil engineer start this permitting loop with the RWQCB 6 months in advance of the commencement of the proposed project.

8.3 RWQCB Municipal Storm Water Permitting Program

The Municipal Storm Water Permitting Program regulates storm water discharges from municipal separate storm sewer systems (MS4s). MS4 permits were issued in two phases. Under Phase I, which started in 1990, the RWQCBs have adopted NPDES storm water permits for medium (serving between 100,000 and 250,000 people) and large (serving 250,000 people) municipalities. Most of these permits are issued to a group of co-permittees encompassing an entire metropolitan area. These permits are reissued as the permits expire.

As part of Phase II, the SWRCB adopted a General Permit for the Discharge of Storm Water from Small MS4s (WQ Order No. 2003-0005-DWQ) to provide permit coverage for smaller municipalities, including non-traditional Small MS4s, which are governmental facilities such as military bases, public campuses, and prison and hospital complexes.

The MS4 permits require the discharger to develop and implement a Storm Water Management Plan/Program (SWMP) with the goal of reducing the discharge of pollutants to the maximum extent practicable (MEP). MEP is the performance standard specified in Section 402(p) of the Clean Water Act. The management programs specify what best management practices (BMPs) will be used to address certain program areas. The program areas include public education and outreach; illicit discharge detection and elimination; construction and post-construction; and good housekeeping for municipal operations. In general, medium and large municipalities are required to conduct chemical monitoring, though small municipalities are not.

8.3.1 RWQCB PHASE II PROGRAM REQUIREMENTS

The Federal Clean Water Act (CWA) provides that National Pollutant Discharge Elimination System (NPDES) permits for Municipal Separate Storm Sewer Systems (MS4) must require municipalities to reduce pollutants in their storm water discharges to the “maximum extent practicable” (CWA §402(p)(3)(B).) MS4 permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods.” Under the Phase II Requirements implemented by the RWQCB, permittees that operate an MS4 that serves 50,000 people or more, or that serve an area of high growth (which is defined as more than 25% over 10 years), must

comply with the Supplemental Provisions contained in Attachment 4 of the Small MS4 General Permit.

The General Permit for the Discharge of Storm Water from Small Municipal Separate Storm Sewer Systems WQO No. 2003-0005-DWQ (Small MS4 General Permit) requires that dischargers develop and implement a Storm Water Management Program (SWMP) that describes the best management practices (BMPs), measurable goals, and time schedules of implementation as well as assigns responsibility of each task. Also, as required by the Small MS4 General Permit, the SWMP must be available for public review and must be approved by the appropriate RWQCB, or its Executive Officer (EO), prior to permit coverage commencing. This information is provided to facilitate the process of an MS4 obtaining Small MS4 General Permit coverage.

The General Permit requires all Permittees to develop and implement a SWMP designed to reduce the discharge of pollutants through their MS4s to the maximum extent practicable. The General Permit requires the SWMP to be fully implemented by the end of the permit term (or five years after designation for those designated subsequent to General Permit adoption).

Permittees must have a Post Construction SWMP for new developments and redevelopment projects. The maximum extent practicable standard involves applying BMPs that are effective in reducing the discharge of pollutants in storm water runoff. In discussing the maximum extent practicable standard, the State Board has said the following: "There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that the maximum extent practicable has not been met. On the other hand, if a permittee employs all applicable BMPs, except those that are demonstrated to be not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard.

The MS4 municipality is required to develop and implement a program that provides local oversight of construction projects within the municipality to ensure that pollutants being discharged from construction sites into the MS4 are reduced. The program must include adopting an ordinance requiring storm water quality controls at construction sites, reviewing site plans, receiving comments from the public regarding the discharge of pollutants from construction sites, inspecting construction sites to ensure that pollutants are not being discharged in storm water runoff, and taking enforcement when necessary. In contrast, the General Construction Permit requires projects to have a site specific SWPPP and to implement BMPs specific to activities at the construction site. The General Construction Permit directly regulates landowners engaged in construction involving land disturbance of 10,000 square feet or more.

8.3.2 APPLICABILITY TO THE PROPOSED PROJECT

Stanislaus County is an MS4 permittee and has a Stormwater Management Program (SWMP) in place (revised May 18, 2004) that details pre and post-construction BMPs. These BMPs should be detailed in a project specific SWMP that can be implemented for the proposed composting expansion project.

8.4 California Department of Fish and Wildlife Protections

8.4.1 Section 1602 of California Fish and Game Code

Pursuant to Section 1602 of the California Fish and Game Code, California Department of Fish and Wildlife (CDFW) regulates activities that divert, obstruct, or alter stream flow, or substantially modify the bed, channel, or bank of a stream which CDFW typically considers to include its riparian vegetation. Any proposed activity in a natural stream channel that would substantially adversely affect an existing fish and/or wildlife resource, would require entering into a Streambed Alteration Agreement (SBAA) with CDFW prior to commencing with work in the stream. However, prior to authorizing such permits, CDFW typically reviews an analysis of the expected biological impacts, any proposed mitigation plans that would be implemented to offset biological impacts and engineering and erosion control plans.

8.4.2 Applicability to Proposed Project

An unnamed drainage ditch travels partially inside and partially outside the project site's southeastern boundary. This ditch has a defined bed, bank, and channel. If there would be any project-related plans that would require altering this drainage ditch in any way, including construction of a stormwater outfall into this ditch, bridging this ditch, etc., prior authorization from CDFW pursuant to 1602 of the Fish and Game Code would be necessary. At this time there are no plans to alter or otherwise impact this ditch. A 25-foot setback from this drainage ditch is currently proposed in the project plans. Thus, as currently planned, no permit is required from the CDFW. However, please see the Impacts and Mitigation Measures for a mitigation measure to offset a potential impact to this drainage ditch if any are anticipated.

9. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REGULATIONS

A CEQA lead agency must determine if a proposed activity constitutes a project requiring further review pursuant to the CEQA. Pursuant to CEQA, a lead agency would have to determine if there could be significant adverse impacts to the environment from a proposed project. Typically, if within the city limits, the city would be the CEQA lead agency. If a discretionary permit (i.e., conditional use permit) would be required for a project (e.g. an occupancy permit must be issued), the lead agency typically must determine if there could be significant environmental impacts. This is usually accomplished by an "Initial Study." If there could be significant environmental impacts, the lead agency must determine an appropriate level of environmental review prior to approving and/or otherwise permitting the impacts. In some cases, there are "Categorical Exemptions" that apply to the proposed activity; thus the activity is exempt from CEQA. The Categorical Exemptions are provided in CEQA. There are also Statutory Exemptions in CEQA that must be investigated for any proposed project. If the project is not exempt from CEQA, the lowest level of review typically reserved for projects with no significant effects on the environment would be for the lead agency to prepare a "Negative Declaration." If a proposed project would have only minimal impacts that can be mitigated to a level of no significance pursuant to the CEQA, then a "Mitigated Negative Declaration" is typically prepared by the lead agency. Finally those projects that may have significant effects on the environment, or that have impacts that can't be mitigated to a level considered less than significant pursuant to the CEQA, typically must be reviewed via an Environmental Impact

Report (EIR). All CEQA review documents are subject to public circulation, and comment periods.

Section 15380 of CEQA defines "endangered" species as those whose survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. "Rare" species are defined by CEQA as those who are in such low numbers that they could become endangered if their environment worsens; or the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in FESA. The CEQA Guidelines also state that a project will normally have a significant effect on the environment if it will "substantially affect a rare or endangered species of animal or plant or the habitat of the species." The significance of impacts to a species under CEQA, therefore, must be based on analyzing actual rarity and threat of extinction to that species despite its legal status or lack thereof.

9.1.1 APPLICABILITY TO THE PROPOSED PROJECT

This report has been prepared as a Biology Section that is suitable for incorporation into the biology section of a CEQA review document such as a Mitigated Negative Declaration or EIR. This document addresses potential impacts to sensitive biological resources including waters of the U.S. and/or State, and species that are defined as endangered or rare pursuant to Section 15380 of the CEQA. Accordingly, this biology report is suitable for use by the CEQA lead agency (in this case Stanislaus County) for preparation of any CEQA review document prepared for the proposed project.

10. IMPACTS ANALYSIS

In this section we discuss potential impacts to sensitive biological resources including special-status plant and animal species. We follow each impact with a mitigation prescription that when implemented would reduce impacts to the greatest extent possible. This impact analysis is based a written description of the proposed composting expansion project prepared by Recology on April 12, 2012.

10.1 Significance Criteria

A significant impact is determined using CEQA and CEQA Guidelines. Pursuant to CEQA §21068, a significant effect on the environment means a substantial, or potentially substantial, adverse change in the environment. Pursuant to CEQA Guideline §15382, a significant effect on the environment is further defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. Other Federal, State, and local agencies' considerations and regulations are also used in the evaluation of significance of proposed actions.

Direct and indirect adverse impacts to biological resources are classified as "significant," "potentially significant," or "less than significant." Biological resources are broken down into four categories: vegetation, wildlife, threatened and endangered species, and regulated "waters of the United States" and/or stream channels.

10.1.1 THRESHOLDS OF SIGNIFICANCE

10.1.1.1 Plants, Wildlife, Waters

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the project would have a significant biological impact if it would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.

- Have a substantial adverse effect on federally protected "wetlands" as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

10.1.1.2 Waters of the United States and State.

Pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), the U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged or fill material into waters of the United States, which includes wetlands, as discussed in the bulleted item above, and also includes "other waters" (stream channels, rivers) (33 CFR Parts 328 through 330). Substantial impacts to Corps regulated areas on a project site would be considered a significant adverse impact. Similarly, pursuant to Section 401 of the Clean Water Act, and to the Porter-Cologne Water Quality Control Act, the RWQCB regulates impacts to waters of the state. Thus, substantial impacts to RWQCB regulated areas on a project site would also be considered a significant adverse impact.

10.1.1.3 Stream Channels

Pursuant to Section 1602 of the California Fish and Game Code, CDFW regulates activities that divert, obstruct, or alter stream flow, or substantially modify the bed, channel, or bank of a stream which CDFW typically considers to include riparian vegetation. Any proposed activity that would

result in substantial modifications to a natural stream channel would be considered a significant adverse impact.

11. IMPACT ASSESSMENT AND PROPOSED MITIGATION

This impact assessment is based on M&A's review of Recology's written Project Description (revised April 12, 2012) and M&A's understanding of the proposed project as discussed with Recology personnel. Following each potential biological impact is a mitigation measure that, when implemented, would reduce each impact to a less than significant level pursuant to CEQA.

11.1 Impact BIO-1. Development of the project could have a potentially significant adverse impact on western burrowing owl (Potentially Significant)

While western burrowing owls have not been observed on the project site and their likelihood of presence is owl, suitable nesting and foraging habitat (e.g., California ground squirrel burrows) occurs on the project site. Since the western burrowing owl is a mobile species impact avoidance measures are warranted. The closest known record is 4 miles southwest of the project site. In September of 1992, a burrowing owl was seen at the entrance to a burrow along Hospital Creek, 2.7 miles southwest of I-580 junction with I-5, 7 miles southwest of Vernalis. Although no burrowing owls or their sign have been detected on the project site, this owl is known from the area and thus could move onto the project site in the future. The western burrowing owl is a California Species of Special Concern. This raptor (that is, bird of prey) is also protected under the Migratory Bird Treaty Act (50 CFR 10.13) and its nest, eggs, and young are protected under California Fish and Game Code Sections 3503, 3503.5. As such, the project may result in impacts to the western burrowing owl that would be **potentially significant.** This impact could be mitigated to a level considered less than significant pursuant to CEQA.

11.2 Mitigation Measure BIO-1. Western Burrowing Owl

Based on the presence for this species in the project vicinity and the potential habitat found on the project site, a preconstruction survey for burrowing owls should be conducted.

The CDFW Staff Report 2012 states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. As burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.

a. Burrowing owl surveys should be conducted by walking the entire project site and (where possible) in areas within 150 meters (approx. 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As all areas that are within 150 meters of the project site are orchard or commercially operated composting facilities, it is most unlikely that this owl would be found outside the project site limits. Thus, surveys should be limited to the project site and the visible areas adjacent to the project site.

Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approx. 160 ft.) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.

b. If burrowing owls are detected on the site, the following restricted activity dates and setback distances are recommended per the CDFW Staff Report (2012).

- From April 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests.
- From October 16 through March 31, low disturbance activities should have a 50 meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests.
- No earth-moving activities or other disturbance should occur within the afore-mentioned buffer zones of occupied burrows. These buffer zones should be fenced as well. If burrowing owls were found in the project area, a qualified biologist would also need to delineate the extent of burrowing owl habitat on the site.

c. Finally, in accordance with the 2012 Staff Report, if burrowing owls were found nesting onsite, credits would have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owl. This would be developed in coordination with CDFW and Stanislaus County.

These mitigation measures would reduce impacts to western burrowing owl to a level considered less than significant.

11.3 Impact BIO-2. Development of the project could have a potentially significant adverse impact on nesting Swainson's Hawks (Potentially Significant)

The Swainson's hawk is a state listed threatened species. It is also protected from direct take under the Federal Migratory Bird Treaty Act. Swainson's hawks are not known to currently nest on or near enough to the project site to be impacted from the proposed project. The project site also does not provide likely foraging habitat for the Swainson's hawk owing to its isolation within a vast area of orchards and as wedged between these orchards and two adjacent commercial composting facilities that otherwise create high levels of disturbance.

The project site does not have trees; hence, there is no place for a Swainson's hawk to nest on the project site. Adjacent orchards would be most unlikely to be used by Swainson's hawk for nesting owing to high levels of human disturbance associated with orchard maintenance and owing to the small stature of the orchard trees. However, since earth-moving and ground

disturbance can disturb Swainson's hawks nesting up to a one-quarter mile (0.25-mile) away, preconstruction nesting surveys should be conducted if such work would occur during the nesting season (February 1 through September 15). In the absence of such surveys, impacts to nesting Swainson's hawks from the proposed project are considered potentially significant. This impact could be mitigated to a less than significant level pursuant to CEQA.

11.4 Mitigation Measure BIO-2. Swainson's Hawk

To avoid impacts to nesting Swainson's hawks, CDFW has prepared guidelines for conducting surveys for Swainson's hawk entitled: *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFW's recommendations for mitigation and protection of Swainson's hawks in this guideline, surveys should be conducted by a qualified raptor biologist for a 0.25-mile radius around all project activities and should be completed for at least two survey periods as is found in the CDFG's 2000 survey guidelines. The guidelines provide specific recommendations regarding the number of surveys based on when the project is scheduled to begin and the time of year the surveys are conducted. A copy of this survey report should be provided to the local CDFW biologist.

If the project could impact the Swainson's hawk, its nest, or eggs, typically assumed to be the case if a nest is detected within a 0.25-mile of the project site, a Swainson's hawk Monitoring and Habitat Management Plan should be developed in coordination with CDFW and Stanislaus County. In addition, if it is determined that a nest site could be impacted or project activities could otherwise cause take of the Swainson's hawk, its eggs, or young, as determined in coordination with the CDFW, a 2081 permit may be required for the project by the CDFW. The Monitoring and Habitat Management Plan could include protection and/or enhancement of locally or regionally available property provided it would the benefit nesting Swainson's hawks. If no other feasible measures are available, compensation measures may be developed in coordination with CDFW and Stanislaus County. This mitigation would reduce impacts to nesting Swainson's hawks to a less than significant level.

11.5 Impact BIO-3. Development of the project could have a potentially significant adverse impact on nesting passerine birds (Potentially Significant)

Ground nesting passerine (perching) birds could be impacted by the proposed project. Birds and their nests are protected under California Fish and Game Code (Sections 3503, 3503.5), and the Federal Migratory Bird Treaty Act. Impacts to nesting birds, their eggs, and/or young caused by implementation of the proposed project would be regarded as potentially significant. This impact could be mitigated to a level considered less-than-significant pursuant to CEQA.

11.6 Mitigation Measure BIO-3. Nesting Passerine Birds

If site disturbance would occur between February 1 and August 31, a nesting survey for ground nesting birds should be conducted on the project site prior to the disturbance. The nesting surveys should be completed 15 days prior to commencing with the work. If nesting passerine

birds are identified nesting on or near the project site, a 75-foot radius around the nest must be staked with orange construction fencing. If an active nest is found offsite, the portion of the buffer that is onsite must be staked. No construction or earth-moving activity shall occur within this 75-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.

Typically, most passerine birds in the region of the project site are expected to complete nesting by August 1st. However, in the region many species can complete nesting by mid-June to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of buffers. This report shall be submitted to the Stanislaus County Planning Department prior to the time that buffers are removed if the date is before August 1st.

This mitigation measure would reduce impacts to nesting passerine bird species to a level considered less-than-significant.

11.7 Impact BIO-4. Development of the project could have a potentially significant adverse impact on San Joaquin kit fox (Potentially Significant)

The San Joaquin kit fox is a state listed threatened and federally listed endangered species. ICF International biologists, following CDFW and USFWS guidance, conducted modified protocol level surveys for kit fox on the project site. During these surveys no burrows of suitable size for kit fox (entrances greater than 4 inches diameter) were observed on the project site nor was kit fox sign (e.g., scat or tracks) observed. Very few small mammal burrows were noted. Thus, it can be concluded that kit fox are currently not residing on the project site and the likelihood that the proposed project will impact the San Joaquin kit fox is remote and unlikely.. However, since this mammal is highly mobile and could move onto the project site prior to implementation of the proposed project, preconstruction den surveys should be conducted prior to project initiation. In the absence of such surveys, impacts to the kit fox are considered potentially significant. This impact could be mitigated to a less than significant level.

11.8 Mitigation Measure BIO-4. San Joaquin Kit Fox

To avoid and minimize impacts to San Joaquin kit fox, preconstruction surveys should be conducted by qualified wildlife biologists no fewer than 14 days prior to the onset of any ground-disturbing activity. The survey area shall include all areas subject to disturbance and a 250-foot buffer area extending beyond areas subject to disturbance. Preconstruction survey methods would include den surveys and use of surveillance cameras at questionable burrow sites. Proposed survey methods should follow the USFWS' *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 2011). In addition, survey results should be prepared and submitted to Stanislaus County prior to initiation of disturbance.

If surveys identify potential dens (potential dens are defined as burrows at least four inches in diameter which open up wider within two feet), potential den entrances should be dusted for three calendar days to register tracks of any San Joaquin kit fox present. Infrared triggered cameras could be set over the potential dens in lieu of or in combination with application of a clay tracking medium. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. In the event that an active San Joaquin kit fox den is detected during preconstruction surveys, CDFW and USFWS should be contacted immediately and no project activity should begin until appropriate avoidance measures have been implemented and CDFW and USFWS have provided written authorization that project construction may proceed. Additionally, if the project site is found to support denning San Joaquin kit fox then land preservation mitigation compensation may be necessary and would have to be developed in coordination with CDFW, USFWS, and Stanislaus County.

This mitigation measure would reduce impacts to the San Joaquin kit fox to a less-than-significant level.

11.9 Impact BIO-5. Development of the project could have a potentially significant adverse impact on American Badger (Potentially Significant)

The American badger is a California species of special concern. It has no Federal status. During M&A's field reconnaissance and ICF International's modified protocol level kit fox surveys, no American badgers or their distinctive burrows/diggings were observed onsite. However, since the American badger has a wide home range there is a slight possibility that this animal could move onto the project site. Thus, preconstruction surveys would be necessary to ensure that no impacts occur to this animal from site disturbance. In the absence of preconstruction surveys, impacts to the American badger from the proposed project are considered potentially significant pursuant to CEQA. This impact could be mitigated to a less than significant level.

11.10 Mitigation Measure BIO-5. American Badger

Since the American badger is not a state or federally listed threatened or endangered species, there are no agency specific survey and mitigation protocols prescribed for this species. Mitigation measures are determined and prescribed on a project by project basis.

To ensure that potential impacts to American badger are avoided by the proposed Grover Facility expansion, the following mitigation measures will be implemented:

a. A preconstruction survey for the American badger should be conducted on the project site within 14 days of site disturbance. These surveys could be conducted concurrently with San Joaquin kit fox surveys. Surveys should be conducted by a wildlife biologist with experience identifying badgers and badger burrows. Survey methods would include walking parallel transects through the project site looking for badger burrows. Any badger burrow identified would be mapped with a global positioning system (GPS) and shown on project site plans.

b. If active badger burrows are identified on the project site they should be avoided. If avoidance is not feasible, a biologist should determine if the burrow is being used for

breeding. This may require repeat visits to the burrow or placement of a remote camera near the burrow. If young are determined to be present, the burrow should be avoided until young vacate the burrow and are mature enough to survive outside the burrow. If the burrow is simply being used as refugia by an adult or subadult badger, then, as approved by CDFW, a one way eviction door should be installed to passively relocate the badger from its burrow. If it digs back into the burrow, live traps should be established at the burrow entrances, as approved by CDFW, to trap and remove badgers from the area of impact.

This mitigation measure would reduce the project's impact on the American badger to a less-than-significant level.

11.11 Impact BIO-6. Development of the proposed project could have a potentially significant impact on waters of the United States and/or State (Potentially Significant)

A drainage ditch traverses the project site's southeastern boundary. This drainage is partially on and partially off of the project site. The Grover Facility expansion project as currently proposed would not impact this potential water of the U.S./State and CDFW regulated stream channel. Additionally, a 25-foot non-disturbance setback is proposed from this existing drainage. If the project plans change and impacting this drainage becomes necessary (for example, a culvert needs to be placed in the drainage), any impact to this drainage/water of the U.S./State/stream channel without prior authorization from the Corps, the RWQCB, and CDFW would be a significant adverse impact. However, since there are no plans at this time for such an impact, this impact is only considered "potentially significant" in this analysis. Such an impact could be mitigated to a level considered less-than-significant.

11.12 Mitigation Measure BIO-6. Impacts to Waters of the United States and/or State

If impacts to the project site drainage are anticipated, the following mitigation measure would reduce this impact to a less-than-significant level. Because only the Corps can determine the extent of its jurisdiction on any site, a wetland delineation would need to be conducted according to the 1987 Corps' Wetland Delineation Manual (U.S. Army Corps of Engineers 1987) and the Regional Supplement to the Corps' Wetland Delineation Manual: Arid West Region (U.S. Army Corps of Engineers 2008). The preliminary wetland delineation map would need to be submitted to the Corps for confirmation. Once that map is confirmed, the full extent of waters of the United States would be known and the extent of impacts to regulated areas ascertained. Since at this time the RWQCB does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps' determination. M&A anticipates that CDFW would require a Streambed Alteration Agreement for any impacts to the bed, bank, or channel of the drainage onsite.

If avoidance of all Corps jurisdictional areas is not possible, which at this point is believed only to be the drainage onsite, potential impacts should be minimized to the extent feasible through changes to project design. Impacts should also be minimized by the use of Best Management Practices to protect the drainage and ensure water quality in other waters within the watershed.

These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures.

For those waters that cannot be avoided (i.e., the drainage onsite), permits from the Corps, RWQCB, and CDFW should be acquired that allows impacts to the drainage (and any other regulated waters onsite). Mitigation compensation should be at a minimum 1:1 ratio or as otherwise required by the Corps, RWQCB, and CDFW at the time permits/authorizations are issued.

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Figure 1. Grover Environmental Products
Compost Facility Regional Map
3909 Gaffery Road, Vernalis, California

County: Stanislaus
Map Preparation Date: August 23, 2012

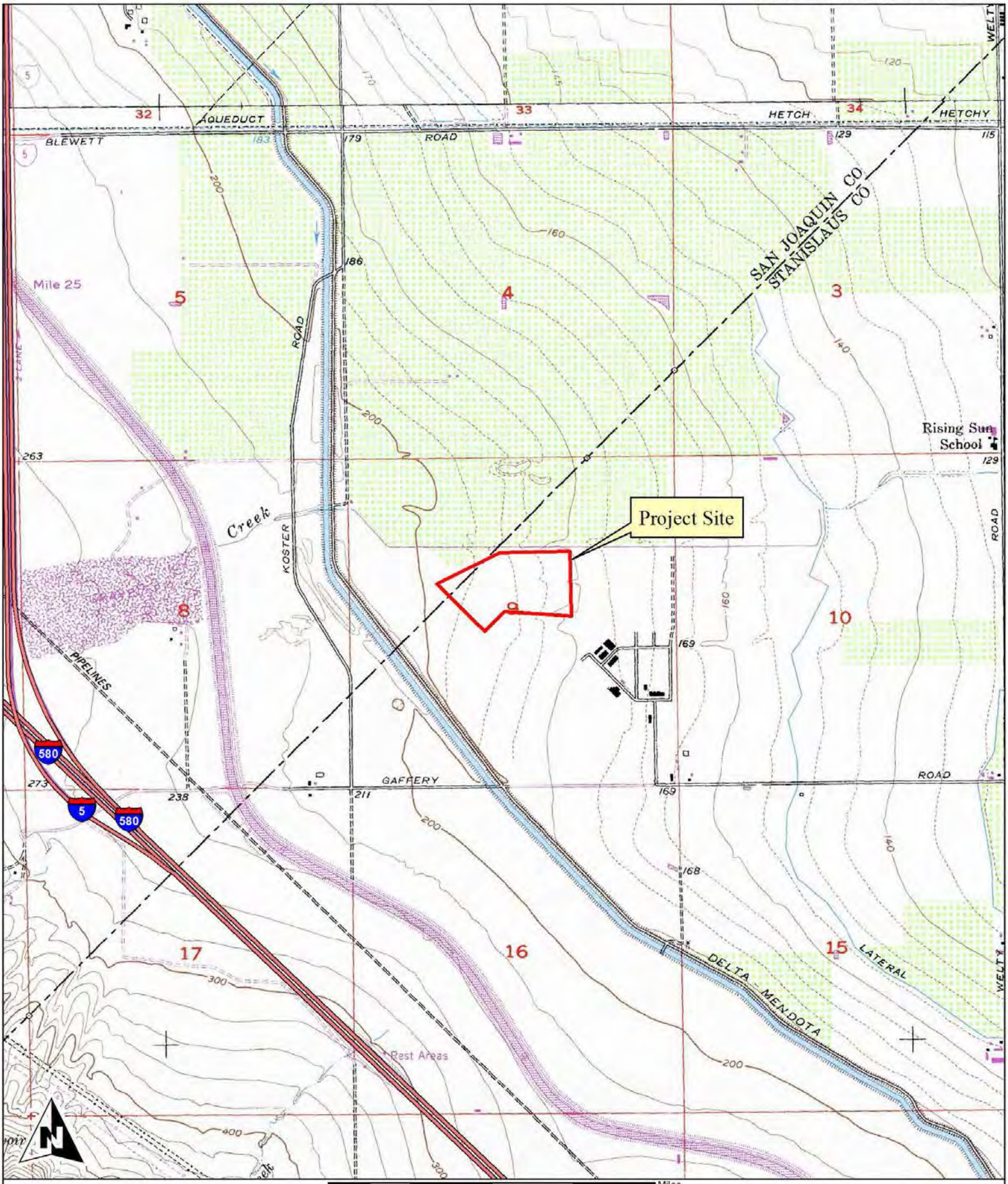

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Figure 2. Grover Environmental Products
Compost Facility Location Map
3909 Gaffery Road, Vernalis, California

7.5-Minute Solyo quadrangle
Topography Source: http://gis.ca.gov
Map Preparation Date: August 23, 2012

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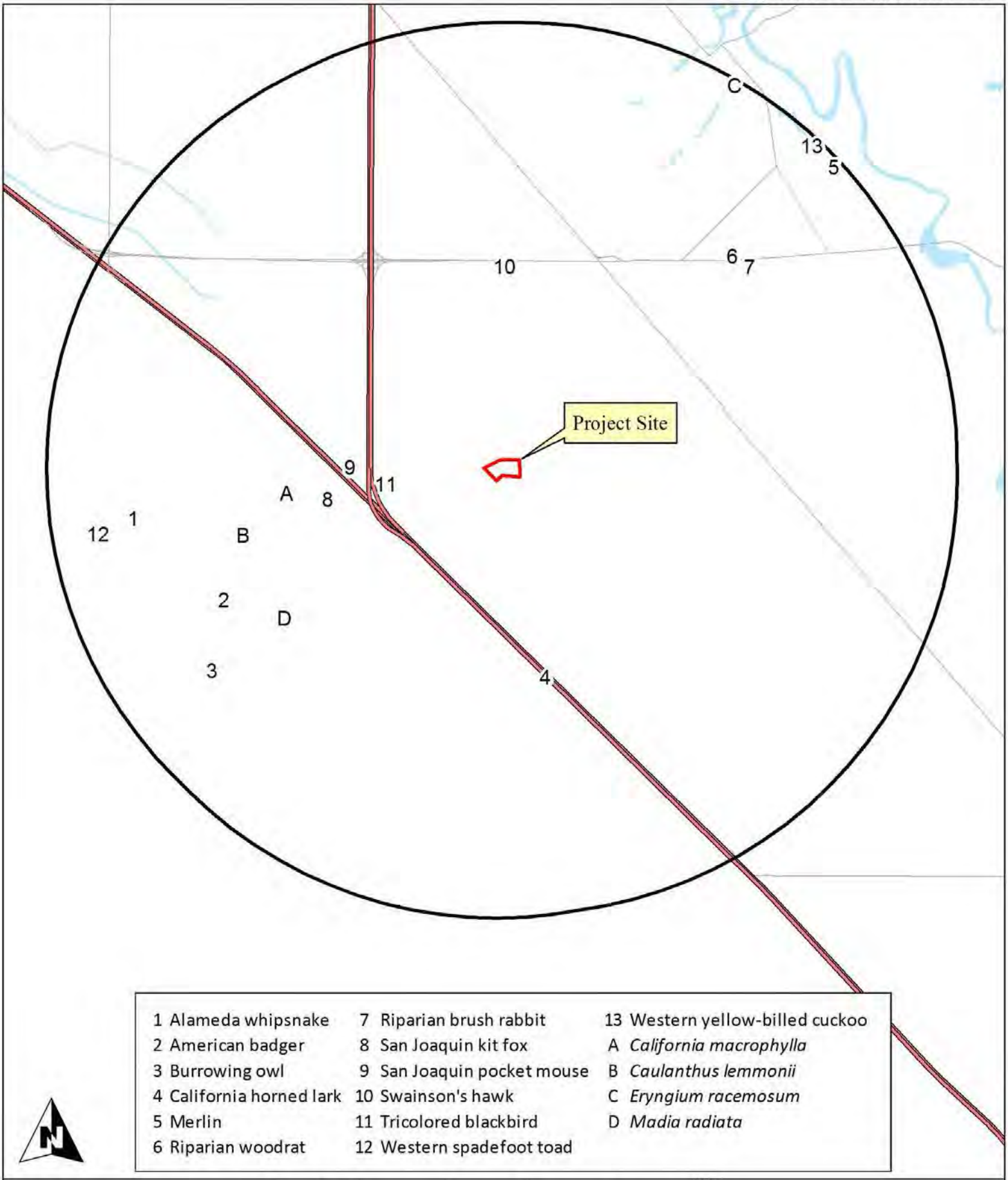
Figure 3. Aerial Photograph of the
Grover Environmental Products Compost Facility
3909 Gaffery Road, Vernalis, California

Map Preparation Date: August 23, 2012
Aerial Photograph Source: Bing Maps



1 Alameda whipsnake	7 Riparian brush rabbit	13 Western yellow-billed cuckoo
2 American badger	8 San Joaquin kit fox	A *California macrophylla*
3 Burrowing owl	9 San Joaquin pocket mouse	B *Caulanthus lemmonii*
4 California horned lark	10 Swainson's hawk	C *Eryngium racemosum*
5 Merlin	11 Tricolored blackbird	D *Madia radiata*
6 Riparian woodrat	12 Western spadefoot toad	

0 0.475 0.95 1.9 2.85 3.8 4.75 Miles

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Figure 4. Closest Known Special-Status Species within 5 Miles of the Grover Environmental Products Compost Facility

Map Preparation Date: August 23, 2012
5-Mile Radius
Source: CDFG, California Natural Diversity Data Base, 2012

Table 1

Plants Observed at Grover Environmental Products Expansion August 28, 2012

Angiosperms - Dicots

Asteraceae

**Dittrichia graveolens*	Stinkwort
Erigeron canadensis	Horseweed
Grindelia camporum	Great Valley gumplant
Helianthus annuus	Sunflower
**Lactuca serriola*	Prickly lettuce

Brassicaceae

**Lepidium latifolium*	Broadleaf pepperweed
**Sinapis arvensis*	Wild mustard

Caryophyllaceae

**Spergularia sp.*	Spergularia

Chenopodiaceae

**Atriplex rosea*	Tumbling oracle
**Chenopodium sp.*	Goosefoot
**Salsola tragus*	Russian-thistle

Fabaceae

**Melilotus sp.*	Melilotus

Lamiaceae

**Marrubium vulgare*	Horehound

Onagraceae

Epilobium brachycarpum	Summer cottonweed

Solanaceae

Datura wrightii	Thornapple
**Nicotiana glauca*	Tree tobacco

Angiosperms -Monocots

Poaceae

**Bromus diandrus*	Ripgut grass
**Bromus hordeaceus*	Soft chess
**Bromus madritensis subsp. rubens*	Red brome
**Hordeum murinum subsp. leporinum*	Hare barley
**Polypogon monspeliensis*	Annual beard grass

* Indicates a non-native species

Table 2
Wildlife Observed at the Grover Products Expansion Site, August 28, 2012

Reptiles	
Western fence lizard	*Sceloporus occidentalis*
Sagebrush lizard	*Sceloporus graciosus*
Birds	
Turkey vulture	*Cathartes aura*
Northern harrier	*Circus cyaneus*
Rock pigeon	*Columba livia*
American crow	*Corvus brachyrhynchos*
Common raven	*Corvus corax*
Mammals	
Audubon's cottontail	*Sylvilagus audubonii*
Black-tailed hare	*Lepus californicus*
Botta's pocket gopher	*Thomomys bottae*
Coyote	*Canis latrans*
Red fox	*Vulpes vulpes*
Feral cat	*Felis catus*

Table 3

Special-Status Plants Known to Occur in the Vicinity of the Grover Products Expansion Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Apiaceae					
Eryngium racemosum Delta button-celery	Fed: - State: CE CNPS: List 1B.1	June-August	Riparian scrub (vernally mesic clay depressions).	Closest record for this species located 4.9 miles northeast of the project site (Occurrence No. 8).	None. No haibtat onsite. No impact expected.
Asteraceae					
Madia radiata Showy madia	Fed: - State: - CNPS: List 1B.1	March-May	Cismontane woodland; valley and foothill grassland.	Closest record for this species located 2.5 miles southwest of the project site (Occurrence No. 23).	None. No haibtat onsite. No impact expected.
Brassicaceae					
Caulanthus lemmonii Jewelflower	Fed: State: CNPS: List 1B.2	March-May	Pinyon and juniper woodland; Valley and foothill grassland	Closest record for this species located 2.7 miles west of the project site (Occurrence No. 41).	None. No haibtat onsite. No impact expected.
Geraniaceae					
California macrophylla Large-leaf storksbill	Fed: - State: - CNPS: List 1B.1	March-May	Cismontane woodland; valley and foothill grassland/clay.	Closest record for this species located 2.2 miles west of the project site (Occurrence No. 160).	None. No haibtat onsite. No impact expected.

Table 3

Special-Status Plants Known to Occur in the Vicinity of the Grover Products Expansion Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site

***Status**

Federal:
- FE - Federal Endangered
- FT - Federal Threatened
- FPE - Federal Proposed Endangered
- FPT - Federal Proposed Threatened
- FC - Federal Candidate

State:
- CE - California Endangered
- CT - California Threatened
- CR - California Rare
- CC - California Candidate
- CSC - California Species of Special Concern

CNPS:
- List 1A - Presumed extinct in California
- List 1B - Plants rare, threatened, or endangered in California and elsewhere
- List 1B.1 - Seriously endangered in California (over 80% occurrences threatened/ high degree and immediacy of threat)
- List 1B.2 - Fairly endangered in California (20-80% occurrences threatened)
- List 1B.3 - Not very endangered in California (<20% of occurrences threatened or no current threats known)

CNPS Continued:
- List 2 - Plants rare, threatened, or endangered in California, but more common elsewhere
- List 2.1 - Seriously endangered in California, but more common elsewhere
- List 2.2 - Fairly endangered in California, but more common elsewhere
- List 2.3 - Not very endangered in California, but more common elsewhere
- List 3 - Plants about which we need more information (Review List)
- List 3.1 - Plants about which we need more information (Review List) Seriously endangered in California
- List 3.2 - Plants about which we need more information (Review List) Fairly endangered in California
- List 4 - Plants of limited distribution - a watch list

Table 4

Special-Status Animals Known to Occur Within 5 Miles of the Grover Expansion Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Amphibians				
Western spadefoot toad *Spea hammondii*	Fed: -- State: CSC Other:	Found primarily in grassland habitats, but may occur in valley and foothill woodlands. Requires vernal pools, seasonal wetlands, or stock ponds for breeding and egg laying. Eggs are typically laid in March. Eggs hatch and larval metamorphose quickly.	Closest record for this species located 4.4 miles west of the project site (Occurrence No. 349).	None. No suitable habitat. No impact expected.
Reptiles				
Alameda whipsnake *Masticophis lateralis euryxanthus*	Fed: FT State: CT Other:	Coastal scrub and chaparral habitats of Contra Costa and Alameda Counties. Prefers south-facing slopes with a mosaic of shrubs, trees, and grassland.	Closest record for this species located 4.1 miles west of the project site (Occurrence No. 108).	None. No habitat onsite. Not expected to occur. No impact expected.
Birds				
Swainson's hawk *Buteo swainsoni*	Fed: - State: CT Other: *	Migratory and resident raptor that breeds in open areas with scattered trees. Prefers riparian and sparse oak woodland habitats for nesting. Requires nearby grasslands, grain fields, or alfalfa for foraging.	Closest record for this species located 2.2 miles north of the project site (Occurrence No. 1666).	Low. No trees onsite for nesting. Site does not provide good foraging habitat. See text.
Merlin *Falco columbarius*	Fed: State: WL Other:	Seacoast, tidal estuaries, open woodlands, savannahs, edges of grasslands and deserts, farms and ranches. Clumps of trees or windbreaks are required for roosting in open country.	Closest record for this species located 4.9 miles northeast of the project site (Occurrence No. 18).	None. While this bird will migrate through the area it would not nest onsite. No impact to nesting merlins expected.
Yellow-billed cuckoo *Coccyzus americanus*	Fed: - State: CE Other: *	Inhabits riparian forests along the broad, lower floodplains of larger rivers. Nests in thickets of willows and cottonwoods with an understory of blackberry, nettle, or wild grape.	Closest record for this species located 4.9 miles northeast of the project site (Occurrence No. 141).	None. No suitable habitat. No impact expected.

Table 4

Special-Status Animals Known to Occur Within 5 Miles of the Grover Expansion Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Western burrowing owl *Athene cunicularia hypugaea*	Fed: -- State: CSC Other:	Found in open, dry annual or perennial grasslands, deserts and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.	Closest record for this species located 4.0 miles southwest of the project site (Occurrence No. 167).	Low. Very few mammal burrows onsite. Yet this mobile raptor could move onsite in the future prior to site development. Surveys necessary. See text.
California horned lark *Eremophila alpestris actia*	Fed: - State: WL Other:	Occurs from Sonoma County to San Diego County and the main part of the San Joaquin Valley and eastern foothills. Prefers short grass prairie, bald hills, meadows, and open coastal plains.	Closest record for this species located 2.2 miles south of the project site (Occurrence No. 11).	Moderate. The project site's flat terrain provides suitable nesting habitat. Preconstruction nesting surveys necessary. See text.
Tricolored blackbird *Agelaius tricolor*	Fed: -- State: CSC Other:	Colonial nester in dense cattails, tules, brambles or other dense vegetation. Requires open water, dense vegetation, and open grassy areas for foraging.	Closest record for this species located 1.1 miles west of the project site (Occurrence No. 320).	None. No suitable habitat onsite or in the drainage. Additionally, no impacts to the drainage anticipated. No impact expected.
Mammals				
Riparian brush rabbit *Sylvilagus bachmani riparius*	Fed: FE State: CE Other:	There are only three known populations of this subspecies. One population occurs in Caswell Memorial State Park in Stanislaus County, two populations occur in San Joaquin County. One in Paradise Cut. And in a SJRiver oxbow west of the City of Lathrop.	Closest record for this species located 3.3 miles northeast of the project site (Occurrence No. 1).	None. No suitable habitat. No impact expected.
San Joaquin pocket mouse *Perognathus inornatus inornatus*	Fed: -- State: - Other:	Found in grasslands and open blue oak woodlands. Needs friable soils.	Closest record for this species located 1.3 miles west of the project site (Occurrence No. 61).	None. The project site is not within the range of this subspecies. Recent genetic work has shown that it is McKittrick's pocket mouse in the area. No impact expected.
Riparian woodrat *Neotoma fuscipes riparia*	Fed: FE State: CSC Other:	Found only in riparian habitats along the San Joaquin, Stanislaus, and Tuolumne Rivers. Requires areas with a mix of trees and shrubs.	Closest record for this species located 3.3 miles northeast of the project site (Occurrence No. 2).	None. No suitable habitat. No impact expected.

Table 4

Special-Status Animals Known to Occur Within 5 Miles of the Grover Expansion Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
San Joaquin kit fox *Vulpes macrotis mutica*	Fed: FE State: CT Other:	Inhabits open grasslands with scattered shrubs. Needs loose-textured sand soils for burrowing.	Closest record for this species located 1.7 miles west of the project site (Occurrence No. 566).	Low. Not observed during surveys. Preconstruction surveys necessary prior to site development. See text.
American badger *Taxidea taxus*	Fed: - State: CSC Other:	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Need sufficient food, friable soils & open, uncultivated ground. Prey on burrowing rodents. Dig burrows.	Closest record for this species located 3.5 miles southwest of the project site (Occurrence No. 77).	Low. While no distinctive badger diggings were observed onsite this animal could move onto this site in the future prior to use. Preconstruction surveys necessary. See text.

***Status**

Federal:
FE - Federal Endangered
FT - Federal Threatened
FPE - Federal Proposed Endangered
FPT - Federal Proposed Threatened
FC - Federal Candidate
FPD - Federally Proposed for delisting

State:
CE - California Endangered
CT - California Threatened
CR - California Rare
CC - California Candidate
CSC - California Species of Special Concern
WL - Watch List. Not protected persuant to CEQA

*Other:
Most birds have protection under the Migratory Bird Treaty Act. Raptors and their nests are protected by provisions of the California Fish and Game Code. A few species, such as the monarch butterfly and "California Fully Protected Animals," may be protected by policies of the California Department of Fish and Game.

Memorandum

Date:	November 5, 2012
To:	Vince Tye, General Manager Recology Grover Environmental Products 3909 Gaffery Road Vernalis, CA 95385
From:	Troy Rahmig, Project Manager ICF International
Subject:	**Recology Grover Environmental Products Facility – Agency Coordination and Partial Kit Fox Survey**

Introduction

On September 28, 2012, Recology Environmental Solutions (hereafter Recology) contracted ICF International to complete protocol-level San Joaquin kit fox (*Vulpes macrotis mutica*) presence/absence surveys at the Recology Grover Environmental Products Facility in Stanislaus County (hereafter "Grover site"). Completion of the survey was requested by the California Department of Fish and Game (CDFG) in a letter date May 23, 2012. ICF initiated the survey effort following an initial site assessment. The details of the survey and the results are discussed below.

Agency Coordination

Track plate and camera trap surveys were initiated on October 5, 2012. Concurrent with the initiation of track plate and camera trap surveys ICF initiated contact with the CDFG and the U.S. Fish and Wildlife Service (USFWS) to gain approval of the San Joaquin kit fox spotlight survey protocol and staff that would be conducting the surveys. During that approval process Josh Emery, Biologist (USFWS) questioned whether the protocol surveys were necessary since the Grover site was isolated; surrounded by active compost facility, apricot orchard, and water conveyance canal. Mr. Emery was of the opinion that protocol surveys would not be necessary provided Recology follows the USFWS avoidance measures described in the 2011 memo issued from the Sacramento Office of the USFWS (Attached) during construction. ICF extended this question to Jim Vang, CDFG Environmental Scientist in an email dated October 12, 2012. On October 15, 2012, ICF received an email from Mr. Vang stating that protocol surveys were not necessary provided Recology follows the USFWS avoidance measures (email chain attached). At that point 10 days of track plate and camera trap surveys had been conducted but spot light

surveys had not commenced. On October 15, 2012, all surveys were ceased and all survey equipment was removed from the site. The decision to cease the surveys was based on the comments received from Mr. Vang and Mr. Emery.

Methods of Surveys Conducted

Pedestrian Transect Surveys

On October 3, 2012, ICF biologist Will Kohn met with Recology representatives Sean O'Rourke and Steve Boynton at the Grover site. They gave a tour of the existing facility and told Mr. Kohn the history of the site and what Recology was planning to use the site for. Following the tour, Mr. Kohn conducted a pedestrian transect survey of the Grover site to determine suitability for San Joaquin kit fox. Mr. Kohn walked transects spaced approximately 10-20 meters apart throughout the expansion area and looked for evidence of potential kit fox use of the Grover site (suitable dens, tracks, and scat). Existing conditions of the site and surrounding areas were noted as were things that might preclude kit foxes from using the site.

Camera Station Surveys

On October 5, 2012, ICF biologist Kailash Mozumder installed three camera stations at locations within the expansion area that were judged to have a high potential for movement of medium to large mammals (e.g., along game trails, abandoned roadways, and existing roads) (Figure 1). Camera station sampling was conducted for a period of ten days from October 5-15, 2012. Each station consisted of a single Moultrie 4MP Game Spy I-40 Infrared Digital Game Camera. Cameras were programmed to record an image every time the motion sensor was triggered. Each image includes an information tag that records the date, time, temperature, camera id, and moon phase. Once in place, the cameras were periodically checked and all recorded images were downloaded to a portable hard drive. Digital images were interpreted and all animals were identified to the species level.

Scent Station (Track Plate) Surveys

On October 5, 2012, Mr. Mozumder installed three scent stations spread throughout the expansion area (Figure 1). These stations were monitored by biologists Eric Christensen and Kailash Mozumder for a 10 day period from October 5-15, 2012. Metal track plates, approximately 1 meter in diameter, were laid down and gypsum was used as the tracking medium. Stations were set each evening at dusk and baited using a fish based bait (cat food). Each station was checked the following morning for visitation and all tracks were recorded. Date, temperature, and weather information was also documented at this time, and the stations were re-baited for the next day.

Survey Results

Pedestrian Transect Surveys

During the tour, Mr. O'Rourke said that the Grover site had once been in used for vermicomposting. Currently the Grover site consists of ruderal grassland with large areas covered with thick bunches of Russian thistle (*Salsola iberica*). The Grover site is bordered to the north by an established apricot orchard and to the east and south by Sun Dry Products, an organic waste recycling facility, and to the west by Recology's active composting facility. Several dirt roads bisect the site and a drainage channel bisects the eastern edge. There was no water in the drainage channel at the time of the survey. No burrows of suitable size for San Joaquin kit fox (entrances greater than 4 inches in diameter) were observed on the site and very few small mammal burrows were observed. No sign of kit fox (i.e. scat, tracks) were observed in the Grover site. Domestic dogs (*Canis lupus familiaris*) were observed on the site during the survey.

Camera Station Surveys

No kit fox images were captured during the camera station monitoring. Other species recorded included ground squirrel (*Spermophilus beecheyi*), feral cat (*Felis catus*), domestic dog, brush rabbit (*Sylvilagus bachmani cinerascens*), and black tailed jackrabbit (*Lepus californicus*) (Attached photos).

Scent Station (Track Plate) Surveys

No kit fox tracks were observed or detected during scent station monitoring. Other species' tracks that were recorded include ground squirrel, feral cat, brush rabbit, opossum (*Didelphis virginiana*), jackrabbit, common raven (*Corvus corax*), lizards, and insects.

Conclusions

The Grover site is located approximately 2,000 feet east of the Delta-Mendota Canal, which provides a suitable north-south migration corridor for San Joaquin kit foxes. Active orchards and the existing composting facility occur between the canal and the Grover site. Though there is potential for kit foxes to move from the canal and through the Grover site, there is no evidence that kit foxes are residing within the Grover site, based on the pedestrian survey and the camera and scent station results. It is highly unlikely that San Joaquin kit foxes would reside on the Grover site because of the existing habitat conditions of the site, presence of domestic dog on the site, and the existing activities of the surrounding composting facility.

Requirements During Construction

Though protocol surveys were not required, both the CDFG and USFWS requested that the standardized avoidance and minimization measures (AMMs) be employed on the site during the planned expansion project. These AMMs are described in a 2011 memo issued from the

Sacramento Office of the USFWS. They generally include a pre-construction survey for kit foxes or active dens site and a few additional measure to reduce potential effects to the species should they occur on site during construction. ICF recommends that the AMMs written in the 2011 USFWS Guidance are included as mitigation measures in the CEQA document and mitigation and monitoring plan being prepared for the project by Stanislaus County.

Figure 1
Camera and Track Monitoring Locations

Grover Environmental Materials Facility Camera Survey
October 2012

Photo 1 – domestic dog detected at Camera Station #1.

Photo 2 – ground squirrel detected at Camera Station #1.

Photo 3 – feral cat detected at Camera Station #3.

Photo 4 – black-tailed jackrabbit detected at Camera Station #2.

Photo 5 – brush rabbit detected at Camera Station #2.

Photo 6 – feral cat detected at Camera Station #2.

From:	Jim Vang
To:	Rahmig, Troy
Cc:	joshua.emery@fws.gov; Kohn, William
Subject:	Re: FW: Recology Grover Environmental Materials Site - SFJK ProtocolSurveys
Date:	Monday, October 15, 2012 8:43:45 AM

Good morning Troy,

I do agree with USFWS findings that survey protocols for SJKF might not be needed and that the AMM from the 2011 memo should be used. Please let me know if you have any further questions. Thanks.

Jim Vang
Environmental Scientist
Department of Fish and Game
Central Region
1234 E. Shaw Avenue
Fresno, CA 93710
(559) 243-4014 x 254

>>> "Rahmig, Troy" <Troy.Rahmig@icfi.com> 10/12/2012 4:22 PM >>>
Hi Jim,

Can we touch base on this first thing Monday morning. I would like to avoid wasting staff time on the spotlight surveys, which are set to beginning on Monday evening, if I can help it. It's that time of year when a lot of field work is running simultaneously and unless these protocol spotlight surveys are required we would prefer to use staff elsewhere. Please see the email below for the options as I see them.

If the Department is requiring protocol level spotlight surveys at this site, and not just the Standardize Avoidance Measures outlined in the 2011 memo, which is referenced in your letter and in your email, we will conduct the surveys. I would encourage you to call Josh Emery to discuss whether these spotlight surveys are necessary. When you sent your email approving the biologists you noted that the updated 2011 protocol should be use. This sent a mixed message because that 2011 memo (attached) is not a survey protocol, but rather standard permitting guidance and avoidance measures.

Can you please clear this up for me. Should we conduct the 10 days worth of spotlight surveys or not?

Thank you,
Troy

Troy Rahmig | Conservation Planning | (o) 408.216.2814 | (m) 916.317.5972 | troy.rahmig@icfi.com
ICF INTERNATIONAL | 75 E. Santa Clara Street, Suite 300, San Jose, CA 95113 | www.icfi.com

From: Rahmig, Troy
Sent: Thursday, October 11, 2012 9:41 AM
To: 'jvang@dfg.ca.gov'
Cc: 'Josh_Emery@fws.gov'
Subject: RE: Recology Grover Environmental Materials Site - SFJK Protocol Surveys

Hi Jim,

I talked with Josh Emery (USFWS) this morning regarding the protocol kit fox surveys at the Recology site. I left you a voice mail this morning detailing our discussion. I'm wondering if we can have a conference call today to discuss the need for the surveys. In your letter to Josh Mann at Stanislaus County (May 23, 2012) you mention following the 2011 USFWS Standard Recommendations. Recology assumed this meant protocol surveys though as I read it again it could just mean employ the standard avoidance measures and make sure they are memorialized in the final CEQA document.

Recology has given us the green light to proceed with surveys and we started camera work and track plates already. The USFWS is of the opinion that surveys would not be necessary provided Recology follows the Service and DFG approved avoidance measures during construction, unless the DFG requires them. Josh can expand on that position if needed. Can you offer some clarification here?

I believe the options are as follows:

1. Continue protocol surveys (we will need approval of staff etc.) and include Standard AMMs in CEQA document.
2. Discontinue surveys and ensure Standard AMMs are in the CEQA document.
3. Continue a minimal survey effort where we just run the cameras until Nov 1st and see what we come up with and include AMMs in CEQA document.

Please let me know your availability for a quick call today to discuss if needed.

Thanks,
Troy

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From: Rahmig, Troy
Sent: Wednesday, October 10, 2012 2:24 PM
To: Thomas_Leeman@fws.gov; 'jvang@dfg.ca.gov'
Cc: Kohn, William
Subject: Recology Grover Environmental Materials Site - SFJK Protocol Surveys

Hi Thomas and Jim,

I just wanted to pull this back to the top of your inbox. I never got a bouncy back but I did realize that one of the maps that I included in the original email (below) was 7MB and may have clogged your inbox. We are looking to commence spotlight surveys for kit fox on Monday, October 15th and are looking for approval of staff and survey effort before that day. Please see let me know if you have any additional questions.

Thanks,
Troy

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From: Rahmig, Troy
Sent: Friday, October 05, 2012 2:42 PM
To: Thomas_Leeman@fws.gov; jvang@dfg.ca.gov
Cc: Kohn, William
Subject: Recology Grover Environmental Materials Site - SFJK Protocol Surveys

Hello,

Recology has contracted with ICF to conduct protocol presence/absence surveys for San Joaquin kit fox at the Grover Environmental Materials Facility in Stanislaus County (kmz attached). These surveys were requested by the CDFG in the letter dated May 23 (attached). The surveys will be conducted per the 1999 USFWS Survey Protocol. As such the survey effort needs to be complete by November 1 of this calendar year.

Recology plans a facility expansion in an area just over 40 acres in size, shown as Proposed Expansion Area on the attached site plan. The SJKF surveys would include placement of two motion activated cameras and two track plates, which will run consecutively for 10 days. That will be followed by 10 days of spotlight surveys. In order to meet the November 1 deadline we have initiated the camera stations and track plates today, Friday October 6th. We assume that this passive survey effort can proceed while we await authorization from CDFG and FWS. Spotlight surveys will not commence until authorization is granted.

I have also attached the resumes of four biologists. Will Kohn and Russell Sweet are the lead surveyors on this project. Both have ample experience with SJKF surveys in the recent past. Will and Russell will be leading the spotlight effort. Kailash Mozumder and Eric Christensen will serve in a support role. Kailash will be leading the camera station and track plate effort, support by Will, Russell and Eric as needed.

Any SJKF sightings or sign will be reported within 24 hours to the USFWS and CDFG. The final report of the survey effort and findings will be submitted to both agencies.

Please let me know if we are authorized to proceed with these surveys or if you need additional information.

Thank you,
Troy

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U.S. FISH AND WILDLIFE SERVICE
STANDARDIZED RECOMMENDATIONS
FOR PROTECTION OF THE ENDANGERED SAN JOAQUIN KIT FOX
PRIOR TO OR DURING GROUND DISTURBANCE

Prepared by the Sacramento Fish and Wildlife Office
January 2011

INTRODUCTION

The following document includes many of the San Joaquin kit fox (*Vulpes macrotis mutica*) protection measures typically recommended by the U. S. Fish and Wildlife Service (Service), prior to and during ground disturbance activities. **However, incorporating relevant sections of these guidelines into the proposed project is not the only action required under the Endangered Species Act of 1973, as amended (Act) and does not preclude the need for section 7 consultation or a section 10 incidental take permit for the proposed project.** Project applicants should contact the Service in Sacramento to determine the full range of requirements that apply to your project; the address and telephone number are given at the end of this document. Implementation of the measures presented in this document may be necessary to avoid violating the provisions of the Act, including the prohibition against "take" (defined as killing, harming, or harassing a listed species, including actions that damage or destroy its habitat). These protection measures may also be required under the terms of a biological opinion pursuant to section 7 of the Act resulting in incidental take authorization (authorization), or an incidental take permit (permit) pursuant to section 10 of the Act. The specific measures implemented to protect kit fox for any given project shall be determined by the Service based upon the applicant's consultation with the Service.

The purpose of this document is to make information on kit fox protection strategies readily available and to help standardize the methods and definitions currently employed to achieve kit fox protection. The measures outlined in this document are subject to modification or revision at the discretion of the Service.

IS A PERMIT NECESSARY?

Certain acts need a permit from the Service which includes destruction of any known (occupied or unoccupied) or natal/pupping kit fox dens. Determination of the presence or absence of kit foxes and /or their dens should be made during the environmental review process. All surveys and monitoring described in this document must be conducted by a qualified biologist and these activities do not require a permit. A qualified biologist (biologist) means any person who has completed at least four years of university training in wildlife biology or a related science and/or has demonstrated field experience in the identification and life history of the San Joaquin kit fox. In addition, the biologist(s) must be able to identify coyote, red fox,

gray fox, and kit fox tracks, and to have seen a kit fox in the wild, at a zoo, or as a museum mount. Resumes of biologists should be submitted to the Service for review and approval prior to an6y survey or monitoring work occurring.

SMALL PROJECTS

Small projects are considered to be those projects with small foot prints, of approximately one acre or less, such as an individual in-fill oil well, communication tower, or bridge repairs. These projects must stand alone and not be part of, or in any way connected to larger projects (i.e., bridge repair or improvement to serve a future urban development). The Service recommends that on these small projects, the biologist survey the proposed project boundary and a 200-foot area outside of the project footprint to identify habitat features and utilize this information as guidance to situate the project to minimize or avoid impacts. If habitat features cannot be completely avoided, then surveys should be conducted and the Service should be contacted for technical assistance to determine the extent of possible take.

Preconstruction/preactivity surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity likely to impact the San Joaquin kit fox. Kit foxes change dens four or five times during the summer months, and change natal dens one or two times per month (Morrell 1972). Surveys should identify kit fox habitat features on the project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens should be determined and mapped (see Survey Protocol). Written results of preconstruction/preactivity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.

If a natal/pupping den is discovered within the project area or within 200-feet of the project boundary, the Service shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the preconstruction/preactivity survey reveals an active natal pupping or new information, the project applicant should contact the Service immediately to obtain the necessary take authorization/permit.

If the take authorization/permit has already been issued, then the biologist may proceed with den destruction within the project boundary, except natal/pupping den which may not be destroyed while occupied. A take authorization/permit is required to destroy these dens even after they are vacated. Protective exclusion zones can be placed around all known and potential dens which occur outside the project footprint (conversely, the project boundary can be demarcated, see den destruction section).

OTHER PROJECTS

It is likely that all other projects occurring within kit fox habitat will require a take authorization/permit from the Service. This determination would be made by the Service during the early evaluation process (see Survey Protocol). These other projects would include, but are not limited to: Linear projects; projects with large footprints such as urban development; and projects which in themselves may be small but have far reaching impacts (i.e., water storage or conveyance facilities that promote urban growth or agriculture, etc.).

The take authorization/permit issued by the Service may incorporate some or all of the protection measures presented in this document. The take authorization/permit may include measures specific to the needs of the project and those requirements supersede any requirements found in this document.

EXCLUSION ZONES

In order to avoid impacts, construction activities must avoid their dens. The configuration of exclusion zones around the kit fox dens should have a radius measured outward from the entrance or cluster of entrances due to the length of dens underground. The following distances are **minimums**, and if they cannot be followed the Service must be contacted. Adult and pup kit foxes are known to sometimes rest and play near the den entrance in the afternoon, but most above-ground activities begin near sunset and continue sporadically throughout the night. Den definitions are attached as Exhibit A.

Potential den**	50 feet
Atypical den**	50 feet
Known den*	100 feet
Natal/pupping den (occupied and unoccupied)	Service must be contacted

*Known den: To ensure protection, the exclusion zone should be demarcated by fencing that encircles each den at the appropriate distance and does not prevent access to the den by kit foxes. Acceptable fencing includes untreated wood particle-board, silt fencing, orange construction fencing or other fencing as approved by the Service as long as it has openings for kit fox ingress/egress and keeps humans and equipment out. Exclusion zone fencing should be maintained until all construction related or operational disturbances have been terminated. At that time, all fencing shall be removed to avoid attracting subsequent attention to the dens.

**Potential and Atypical dens: Placement of 4-5 flagged stakes 50 feet from the den entrance(s) will suffice to identify the den location; fencing will not be required, but the exclusion zone must be observed.

Only essential vehicle operation on existing roads and foot traffic should be permitted. Otherwise, all construction, vehicle operation, material storage, or any other type of surface-disturbing activity should be prohibited or greatly restricted within the exclusion zones.

DESTRUCTION OF DENS

Limited destruction of kit fox dens may be allowed, if avoidance is not a reasonable alternative, provided the following procedures are observed. The value to kit foxes of potential, known, and natal/pupping dens differ and therefore, each den type needs a different level of protection. **Destruction of any known or natal/pupping kit fox den requires take authorization/permit from the Service**.

Destruction of the den should be accomplished by careful excavation until it is certain that no kit foxes are inside. The den should be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period. If at any point during excavation, a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den as described above should be resumed. Destruction of the den may be completed when in the judgment of the biologist, the animal has escaped, without further disturbance, from the partially destroyed den.

Natal/pupping dens: Natal or pupping dens which are occupied will not be destroyed until the pups and adults have vacated and then only after consultation with the Service. Therefore, project activities at some den sites may have to be postponed.

Known Dens: Known dens occurring within the footprint of the activity must be monitored for three days with tracking medium or an infra-red beam camera to determine the current use. If no kit fox activity is observed during this period, the den should be destroyed immediately to preclude subsequent use.

If kit fox activity is observed at the den during this period, the den should be monitored for at least five consecutive days from the time of the observation to allow any resident animal to move to another den during its normal activity. Use of the den can be discouraged during this period by partially plugging its entrances(s) with soil in such a manner that any resident animal can escape easily. Only when the den is determined to be unoccupied may the den be excavated under the direction of the biologist. If the animal is still present after five 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, for example during the animal's normal foraging activities.

The Service encourages hand excavation, but realizes that soil conditions may necessitate the use of excavating equipment. However, extreme caution must be exercised.

Potential Dens: If a take authorization/permit has been obtained from the Service, den destruction may proceed without monitoring, unless other restrictions were issued with the take authorization/permit. If no take authorization/permit has been issued, then potential dens should be monitored as if they were known dens. If any den was considered to be a potential den, but is later determined during monitoring or destruction to be currently, or previously used by kit fox (e.g., if kit fox sign is found inside), then all construction activities shall cease and the Service shall be notified immediately.

CONSTRUCTION AND ON-GOING OPERATIONAL REQUIREMENTS

Habitat subject to permanent and temporary construction disturbances and other types of ongoing project-related disturbance activities should be minimized by adhering to the following activities. Project designs should limit or cluster permanent project features to the smallest area possible while still permitting achievement of project goals. To minimize temporary disturbances, all project-related vehicle traffic should be restricted to established roads, construction areas, and other designated areas. These areas should also be included in preconstruction surveys and, to the extent possible, should be established in locations disturbed by previous activities to prevent further impacts.

1. Project-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However if it does occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.

2. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Game (CDFG) shall be contacted as noted under measure 13 referenced below.

3. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is

discovered inside a pipe, that section of pipe should not be moved until the Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.

4. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.

5. No firearms shall be allowed on the project site.

6. No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.

7. Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the Service. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.

8. A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the Service.

9. An employee education program should be conducted for any project that has anticipated impacts to kit fox or other endangered species. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program should include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information should be prepared for distribution to the previously referenced people and anyone else who may enter the project site.

10. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. should be

re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the Service, California Department of Fish and Game (CDFG), and revegetation experts.

11. In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the Service should be contacted for guidance.

12. Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFG immediately in the case of a dead, injured or entrapped kit fox. The CDFG contact for immediate assistance is State Dispatch at (916)445-0045. They will contact the local warden or Mr. Paul Hoffman, the wildlife biologist, at (530)934-9309. The Service should be contacted at the numbers below.

13. The Sacramento Fish and Wildlife Office and CDFG shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Service contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below. The CDFG contact is Mr. Paul Hoffman at 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670, (530) 934-9309.

14. New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the Service at the address below.

Any project-related information required by the Service or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife Service at:

Endangered Species Division
2800 Cottage Way, Suite W2605
Sacramento, California 95825-1846
(916) 414-6620 or (916) 414-6600

EXHIBIT “A” - DEFINITIONS

"Take" - Section 9 of the Endangered Species Act of 1973, as amended (Act) prohibits the "take" of any federally listed endangered species by any person (an individual, corporation, partnership, trust, association, etc.) subject to the jurisdiction of the United States. As defined in the Act, take means " . . . to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct". Thus, not only is a listed animal protected from activities such as hunting, but also from actions that damage or destroy its habitat.

"Dens" - San Joaquin kit fox dens may be located in areas of low, moderate, or steep topography. Den characteristics are listed below, however, the specific characteristics of individual dens may vary and occupied dens may lack some or all of these features. Therefore, caution must be exercised in determining the status of any den. Typical dens may include the following: (1) one or more entrances that are approximately 5 to 8 inches in diameter; (2) dirt berms adjacent to the entrances; (3) kit fox tracks, scat, or prey remains in the vicinity of the den; (4) matted vegetation adjacent to the den entrances; and (5) manmade features such as culverts, pipes, and canal banks.

"Known den" - Any existing natural den or manmade structure that is used or has been used at any time in the past by a San Joaquin kit fox. Evidence of use may include historical records, past or current radiotelemetry or spotlighting data, kit fox sign such as tracks, scat, and/or prey remains, or other reasonable proof that a given den is being or has been used by a kit fox. The Service discourages use of the terms ”active” and “inactive” when referring to any kit fox den because a great percentage of occupied dens show no evidence of use, and because kit foxes change dens often, with the result that the status of a given den may change frequently and abruptly.

"Potential Den" - Any subterranean hole within the species’ range that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a kit fox. Potential dens shall include the following: (1) any suitable subterranean hole; or (2) any den or burrow of another species (e.g., coyote, badger, red fox, or ground squirrel) that otherwise has appropriate characteristics for kit fox use.

"Natal or Pupping Den" - Any den used by kit foxes to whelp and/or rear their pups. Natal/pupping dens may be larger with more numerous entrances than dens occupied exclusively by adults. These dens typically have more kit fox tracks, scat, and prey remains in the vicinity of the den, and may have a broader apron of matted dirt and/or vegetation at one or more entrances. A natal den, defined as a den in which kit fox pups are actually whelped but not necessarily reared, is a more restrictive version of the pupping den. In practice, however, it is difficult to distinguish between the two, therefore, for purposes of this definition either term applies.

"Atypical Den" - Any manmade structure which has been or is being occupied by a San Joaquin kit fox. Atypical dens may include pipes, culverts, and diggings beneath concrete slabs and buildings.

Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, CA 95354

Phone: (209) 525-6330
Fax: (209) 525-5911

Mitigation Monitoring Plan

Adapted from CEQA Guidelines sec. 15097 Final Text, October 26, 1998

April 10, 2013

1. Project title and location: Use Permit Application No. 2012-04 - Recology - Grover Environmental Products

   Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area. APN: 016-003-010 and 016-003-014

2. Project Applicant name and address: Erin Merrill
   Environmental Planning Manager
   Recology, Inc.
   50 California Street, 24th Floor
   San Francisco, CA 94111

3. Person Responsible for Implementing Mitigation Program (Applicant Representative): Vince Tye, General Manager - Recology, Inc.

4. Contact person at County: Joshua Mann, Associate Planner, (209) 525-6330

MITIGATION MEASURES AND MONITORING PROGRAM:

List all Mitigation Measures by topic as identified in the Mitigated Negative Declaration and complete the form for each measure.

IV. BIOLOGICAL RESOURCES

No. 1 Mitigation Measure: The CDFW (California Department of Fish and Wildlife) Staff Report 2012, states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. Any burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including, but not limited to, a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.

Burrowing owl survey should be conducted by walking the entire project and (where possible) in areas within 150 meters (approximately 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As all areas that are within 150 meters of the project site are orchard or commercially operated composting facilities, it is most unlikely that this would be found outside the project site limits. Thus, surveys should be limited to the project site and the visible areas adjacent to the project site.

Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus,

avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approximately 160 feet) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.

Who Implements the Measure: Applicant.

When should the measure be implemented: Prior to any ground disturbance.

When should it be completed: Prior to any ground disturbance.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 2 Mitigation Measure: If burrowing owls are detected on site, the following restricted activity dates and setback distances are recommended, per CDFW Staff Report (2012):

- From April 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests.
- From October 16 through March 31, low disturbance activities should have a 50-meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests.
- No earth-moving activities or other disturbance should occur within the aforementioned buffer zones and occupied burrows. These buffer zones should be fenced as well. If burrowing owls were found in the project area, a qualified biologist would also need to delineate the extent of burrowing owl habitat on the site.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Prior to ground disturbance.

When should it be completed: On going.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 3 Mitigation Measure: In accordance with the CDFW Staff Report 2012, if burrowing owls are found nesting on site, credits would have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owls. This would be developed in coordination with the CDFW and Stanislaus County.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Prior to facility expansion.

When should it be completed: On going.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 4 Mitigation Measure: To avoid impacts to nesting Swainson's hawks, CDFW has prepared guidelines for conducting surveys for Swainson's hawks entitled: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFW's recommendations for mitigation and protection of Swainson's hawks in this guideline, surveys should be conducted by a qualified biologist for a 0.25 mile radius around all project activities and should be completed for at least two survey periods as is found in the CDFG's 2000 survey guidelines. The guidelines provide specific recommendations regarding the number of surveys based on when the project is scheduled to begin and the time of year the surveys are conducted. A copy of this survey report should be provided to the local CDFW biologist.

If the project could impact the Swainson's hawk, its nest, or eggs, typically assumed to be the case if a nest is detected within 0.25-mile of the project site, a Swainson hawk Monitoring and Habitat Management plan should be developed in coordination with CDFW and Stanislaus County. In addition, if it is determined that a nest site could be impacted or project activities could otherwise cause take of the Swainson's hawk, its eggs, or young, as determined in coordination with the CDFW, a 2081 permit may be required for the project by the CDFW. The Monitoring and Habitat Management Plan could include protection and/or enhancement of locally or regionally available property provided it would benefit nesting Swainson's hawks. If no other feasible measures are available, compensation measures may be developed in coordination with CDFW and Stanislaus County.

Who Implements the Measure:	Applicant/Owner.
When should the measure be implemented:	Prior to ground disturbance.
When should it be completed:	On going.
Who verifies compliance:	California Department of Fish and Wildlife.
Other Responsible Agencies:	Planning Department.

No. 5 Mitigation Measure: If site disturbance would occur between February 1 and August 31, a nesting survey for ground nesting birds should be conducted on the project site prior to the disturbance. The nesting surveys should be completed 15 days prior to commencing with the work. If nesting passerine birds are identified nesting on or near the project site, a 75-foot radius around the nest must be staked with orange construction fencing. If an active nest is found offsite, the portion of the buffer that is onsite must be staked. No construction or earth moving activity shall occur within this 75-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.

Typically, most passerine birds in the region of the project site are expected to complete nesting by August 1st; however, in the region, many species can complete nesting by mid-June to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist

determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of the buffers. This report shall be submitted to the Stanislaus County Planning Department prior to the time that buffers are removed if the date is before August 1st.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Any site disturbance between February 1 and August 31.

When should it be completed: On going.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 6 Mitigation Measure: To avoid and minimize impacts to San Joaquin kit fox, preconstruction surveys should be conducted by qualified wildlife biologists no fewer than 14 days prior to the onset of any ground disturbing activity. The survey area shall include all areas subject to disturbance and a 250-foot buffer area extending beyond areas subject to the disturbance. Preconstruction survey methods would include den surveys and use of surveillance cameras at questionable burrow sites. Proposed survey methods should follow the USFWS' Standardized Recommendations for Protection of Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011). In addition, survey results should be prepared and submitted to Stanislaus County prior to initiation of disturbance.

If surveys identify potential dens (potential dens are defined as burrows at least four inches in diameter which open up wider within two feet), potential den entrances should be dusted for three calendar days to register tracks of any San Joaquin kit fox present. Infrared triggered cameras could be set over the potential dens in lieu of or in combination with application of a clay tracking medium. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. In the event that an active San Joaquin kit fox den is detected during preconstruction surveys, CDFW and USFWS should be contracted immediately and no project activity should begin until appropriate avoidance measures have been implemented and CDFW and USFWS have provided written authorization that project construction may proceed. Additionally, if the project site is found to support denning San Joaquin kit fox, then land preservation mitigation compensation may be necessary and would have to be developed in coordination with CDFW, USFWS, and Stanislaus County.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Prior to ground disturbance.

When should it be completed: On going.

Who verifies compliance: U.S. Fish and Wildlife Service and California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 7 Mitigation Measure: A preconstruction survey for the American badger should be conducted on the project site within 14 days of site disturbance. These surveys could be conducted concurrently with San Joaquin kit fox surveys. Surveys should be conducted by a wildlife biologist with experience identifying badgers and badger burrows. Survey methods would include walking parallel transects through the project site looking for badger burrows. Any badger burrow identified would be mapped with a global positioning system (GPS) and shown on the project site plans.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Within 14 days of site disturbance.

When should it be completed: On going.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 8 Mitigation Measure: If active badger burrows are identified on the project site, they should be avoided. If avoidance is not feasible, a biologist should determine if the burrow is being used for breeding. This may require repeat visits to the burrow or replacement of a remote camera near the burrow. If young are determined to be present, the burrow should be avoided until young vacate the burrow and are mature enough to survive outside the burrow. If the burrow is simply being used as refugia by an adult or subadult badger then, as approved by CDFW, a one way eviction door should be installed to possibly relocate the badger from its burrow. If it digs back into the burrow, live traps should be established at the burrow entrances, as approved by CDFW, to trap and remove badgers from the area of impact.

Who Implements the Measure: Applicant/Owner.

When should the measure be implemented: Prior to ground disturbance.

When should it be completed: On going.

Who verifies compliance: California Department of Fish and Wildlife.

Other Responsible Agencies: Planning Department.

No. 9 Mitigation Measure: If a 25-foot non-disturbance setback from the project site drainage is not established, then a wetland delineation would need to be conducted. Because only the Corps can determine the extent of its jurisdiction on any site, a wetland delineation would need to be conducted according to the 1987 Corps' Wetland Delineation Manual (U.S. Army Corps of engineers 1987) and the Regional Supplement to the Corps' Wetland Delineation Manual: ARID West Region (U.S. Army Corps of Engineers 2008). The preliminary wetland delineation map would need to be submitted to the Corps for confirmation. Once that map is confirmed, the full extent of waters of the United States would be known and the extent of impacts to regulated area ascertained. M&A (Monk & Associates) anticipates that CDFW would require a Streambed Alteration Agreement for any impacts to the bed, bank, or channel of the drainage onsite. Since at this time, the RWQCB (Regional Water Quality Control Board) does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps' determination.

If avoidance of all Corps jurisdictional areas is not possible, which at this point is believed only to be the drainage onsite, potential impacts should be minimized to the extent feasible through changes to project design. Impacts should also be minimized by the use of Best Management Practices to protect the drainage and ensure water quality in other waters within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures.

For those waters that cannot be avoided (i.e., the drainage on site) permits from the Corps, RWQCB, and CDFW should be acquired that allows impacts to the drainage (and any other regulated waters onsite). Mitigation compensation should be at a minimum 1:1 ratio or as otherwise required by the Corps, RWQCB, and CDFW at the time permits/authorization are issued.

Who Implements the Measure:	Applicant/Owner.
When should the measure be implemented:	Prior to any ground disturbance.
When should it be completed:	On going.
Who verifies compliance:	United States Corps of Engineers, California Department of Fish and Wildlife, Regional Water Quality Control Board.
Other Responsible Agencies:	Planning Department.

I, the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project.

Signature on file.	April 10, 2013
Person Responsible for Implementing Mitigation Program	Date

(I:\Planning\Staff Reports\UP\2012\UP 2012-04 - Recology - Grover Env. Products\Final_Revised_Mitigation Monitoring Plan.wpd)

MITIGATED NEGATIVE DECLARATION

NAME OF PROJECT: Use Permit Application No. 2012-04 - Recology - Grover Environmental Products

LOCATION OF PROJECT: Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area. APN: 016-003-010 and 016-003-014

PROJECT DEVELOPER: Erin Merrill
Environmental Planning Manager
Recology, Inc.
50 California Street, 24th Floor
San Francisco, CA 94111

DESCRIPTION OF PROJECT: This is a request to expand an existing composting operation to an adjacent 42.87-acre parcel (APN: 016-003-014). 11± acres of the original project site are located in San Joaquin County (APN: 265-010-021) and 112± acres on APN: 016-003-010. This use permit proposes to add street sweepings and urban organics to the feedstocks processed and composted on both parcels. This modification will allow for the expansion of the compost facility and the addition of feedstocks to the overall operation. (An expanded description is attached).

Use Permit No. 2006-37 was approved for waste types processed at this facility including green yard material, leaves, brush, wood chips, municipal clean green waste, Christmas trees, fresh agricultural products (fruits, olives, pumice, manure, and vegetables), and, potentially, contaminant-free post-consumer food waste. No publicly owned treatment plant sludges or residues are processed. The business composts green material feedstocks, originating in the residential and light commercial waste streams, to be processed for use as soil amendments and top-dressing. Grover Landscape Services also receives green material from several cities and strives to maintain standards of clean non-contaminated material for feedstocks that will help in quality control of the finished product.

Based upon the Initial Study, dated **April 10, 2013**, the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.

2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.

3. This project will not have impacts which are individually limited but cumulatively considerable.

4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The aforementioned findings are contingent upon the following mitigation measures (if indicated) which shall be incorporated into this project:

1. The CDFW (California Department of Fish and Wildlife) Staff Report 2012, states that take avoidance (preconstruction) surveys should be conducted 14 days prior or less to initiating ground disturbance. Any burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including, but

not limited to, a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.

Burrowing owl survey should be conducted by walking the entire project and (where possible) in areas within 150 meters (approximately 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As all areas that are within 150 meters of the project site are orchard or commercially operated composting facilities, it is most unlikely that this would be found outside the project site limits. Thus, surveys should be limited to the project site and the visible areas adjacent to the project site.

Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows should be avoided by a minimum of 50 meters (approximately 160 feet) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows should be avoided during all seasons.

2. If burrowing owls are detected on site, the following restricted activity dates and setback distances are recommended, per CDFW Staff Report (2012):
   - From April 1 through October 15, low disturbance and medium disturbance activities should have a 200 meter buffer while high disturbance activities should have a 500 meter buffer from occupied nests.
   - From October 16 through March 31, low disturbance activities should have a 50-meter buffer, medium disturbance activities should have a 100 meter buffer, and high disturbance activities should have a 500 meter buffer from occupied nests.
   - No earth-moving activities or other disturbance should occur within the aforementioned buffer zones and occupied burrows. These buffer zones should be fenced as well. If burrowing owls were found in the project area, a qualified biologist would also need to delineate the extent of burrowing owl habitat on the site.

3. In accordance with the CDFW Staff Report 2012, if burrowing owls are found nesting on site, credits would have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owls. This would be developed in coordination with the CDFW and Stanislaus County.

4. To avoid impacts to nesting Swainson's hawks, CDFW has prepared guidelines for conducting surveys for Swainson's hawks entitled: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFW's recommendations for mitigation and protection of Swainson's hawks

in this guideline, surveys should be conducted by a qualified biologist for a 0.25 mile radius around all project activities and should be completed for at least two survey periods as is found in the CDFG's 2000 survey guidelines. The guidelines provide specific recommendations regarding the number of surveys based on when the project is scheduled to begin and the time of year the surveys are conducted. A copy of this survey report should be provided to the local CDFW biologist.

If the project could impact the Swainson's hawk, its nest, or eggs, typically assumed to be the case if a nest is detected within 0.25-mile of the project site, a Swainson hawk Monitoring and Habitat Management plan should be developed in coordination with CDFW and Stanislaus County. In addition, if it is determined that a nest site could be impacted or project activities could otherwise cause take of the Swainson's hawk, its eggs, or young, as determined in coordination with the CDFW, a 2081 permit may be required for the project by the CDFW. The Monitoring and Habitat Management Plan could include protection and/or enhancement of locally or regionally available property provided it would benefit nesting Swainson's hawks. If no other feasible measures are available, compensation measures may be developed in coordination with CDFW and Stanislaus County.

5. If site disturbance would occur between February 1 and August 31, a nesting survey for ground nesting birds should be conducted on the project site prior to the disturbance. The nesting surveys should be completed 15 days prior to commencing with the work. If nesting passerine birds are identified nesting on or near the project site, a 75-foot radius around the nest must be staked with orange construction fencing. If an active nest is found offsite, the portion of the buffer that is onsite must be staked. No construction or earth moving activity shall occur within this 75-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones.

   Typically, most passerine birds in the region of the project site are expected to complete nesting by August 1st; however, in the region, many species can complete nesting by mid-June to mid-July. Regardless, nesting buffers should be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1st, the qualified biologist conducting the nesting surveys should prepare a report that provides details about the nesting outcome and the removal of the buffers. This report shall be submitted to the Stanislaus County Planning Department prior to the time that buffers are removed if the date is before August 1st.

6. To avoid and minimize impacts to San Joaquin kit fox, preconstruction surveys should be conducted by qualified wildlife biologists no fewer than 14 days prior to the onset of any ground disturbing activity. The survey area shall include all areas subject to disturbance and a 250-foot buffer area extending beyond areas subject to the disturbance. Preconstruction survey methods would include den surveys and use of surveillance cameras at questionable burrow sites. Proposed survey methods should follow the USFWS' Standardized Recommendations for Protection of Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011). In addition, survey results should be prepared and submitted to Stanislaus County prior to initiation of disturbance.

If surveys identify potential dens (potential dens are defined as burrows at least four inches in diameter which open up wider within two feet), potential den entrances should be dusted for three calendar days to register tracks of any San Joaquin kit fox present. Infrared triggered cameras could be set over the potential dens in lieu of or in combination with application of a clay tracking medium. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. In the event that an active San Joaquin kit fox den is detected during preconstruction surveys, CDFW and USFWS should be contracted immediately and no project activity should begin until appropriate avoidance measures have been implemented and CDFW and USFWS have provided written authorization that project construction may proceed. Additionally, if the project site is found to support denning San Joaquin kit fox, then land preservation mitigation compensation may be necessary and would have to be developed in coordination with CDFW, USFWS, and Stanislaus County.

7. A preconstruction survey for the American badger should be conducted on the project site within 14 days of site disturbance. These surveys could be conducted concurrently with San Joaquin kit fox surveys. Surveys should be conducted by a wildlife biologist with experience identifying badgers and badger burrows. Survey methods would include walking parallel transects through the project site looking for badger burrows. Any badger burrow identified would be mapped with a global positioning system (GPS) and shown on the project site plans.

8. If active badger burrows are identified on the project site, they should be avoided. If avoidance is not feasible, a biologist should determine if the burrow is being used for breeding. This may require repeat visits to the burrow or replacement of a remote camera near the burrow. If young are determined to be present, the burrow should be avoided until young vacate the burrow and are mature enough to survive outside the burrow. If the burrow is simply being used as refugia by an adult or subadult badger then, as approved by CDFW, a one way eviction door should be installed to possibly relocate the badger from its burrow. If it digs back into the burrow, live traps should be established at the burrow entrances, as approved by CDFW, to trap and remove badgers from the area of impact.

9. If a 25-foot non-disturbance setback from the project site drainage is not established, then a wetland delineation would need to be conducted. Because only the Corps can determine the extent of its jurisdiction on any site, a wetland delineation would need to be conducted according to the 1987 Corps' Wetland Delineation Manual (U.S. Army Corps of engineers 1987) and the Regional Supplement to the Corps' Wetland Delineation Manual: ARID West Region (U.S. Army Corps of Engineers 2008). The preliminary wetland delineation map would need to be submitted to the Corps for confirmation. Once that map is confirmed, the full extent of waters of the United States would be known and the extent of impacts to regulated area ascertained. M&A (Monk & Associates) anticipates that CDFW would require a Streambed Alteration Agreement for any impacts to the bed, bank, or channel of the drainage onsite. Since at this time, the RWQCB (Regional Water Quality Control Board) does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps' determination.

   If avoidance of all Corps jurisdictional areas is not possible, which at this point is believed only to be the drainage onsite, potential impacts should be minimized to the extent feasible through changes to project design. Impacts should also be minimized by the use of Best Management Practices to protect the drainage and ensure water quality in other waters

within the watershed. These practices can include installing orange construction fencing, hay or gravel waddles, and other protective measures.

For those waters that cannot be avoided (i.e., the drainage on site) permits from the Corps, RWQCB, and CDFW should be acquired that allows impacts to the drainage (and any other regulated waters onsite). Mitigation compensation should be at a minimum 1:1 ratio or as otherwise required by the Corps, RWQCB, and CDFW at the time permits/authorization are issued.

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Joshua Mann, Associate Planner

Submit comments to: Stanislaus County
Planning and Community Development Department
1010 10th Street, Suite 3400
Modesto, California 95354

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SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: USE PERMIT APPLICATION NO. 2012-04 - RECOLOGY – GROVER ENVIRONMENTAL PRODUCTS

REFERRED TO:				RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	30 DAY	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPT OF CONSERVATION: Land Resources	X	X	X		X							
CA DEPT OF FISH & WILDLIFE	X	X	X	X		X				X		X
CA DEPT OF TRANSPORTATION DIST 10	X	X	X		X							
CA OPR STATE CLEARINGHOUSE	X	X	X	X		X				X		X
CA RWQCB CENTRAL VALLEY REGION	X	X	X	X		X				X	X	
CAL RECYCLE	X	X	X	X		X				X	X	
COOPERATIVE EXTENSION	X	X			X							
COUNTY OF: SAN JOAQUIN	X	X	X		X							
FIRE PROTECTION DIST: W STAN	X	X	X	X		X				X	X	
HOSPITAL DISTRICT: DEL PUERTO	X	X	X		X							
MODESTO REGIONAL FIRE AUTHORITY	X	X		X		X				X		X
MOSQUITO DISTRICT: TURLOCK	X	X	X		X							
MT VALLEY EMERGENCY MEDICAL	X	X	X		X							
PACIFIC GAS & ELECTRIC	X	X	X		X							
SAN JOAQUIN VALLEY APCD	X	X	X	X		X				X	X	
SCHOOL DISTRICT 1: PATTERSON	X	X	X		X							
STAN CO AG COMMISSIONER	X	X			X							
STAN CO BUILDING PERMITS DIVISION	X	X		X				X		X		X
STAN CO CEO	X	X			X							
STAN CO DER	X	X			X							
STAN CO ERC	X	X			X							
STAN CO FARM BUREAU	X	X	X		X							
STAN CO HAZARDOUS MATERIALS	X	X		X				X		X		X
STAN CO PUBLIC WORKS	X	X		X		X				X	X	
STAN CO SHERIFF	X	X			X							
STAN CO SUP. DIST 5: DEMARTINI	X	X			X							
STAN COUNTY COUNSEL	X	X			X							
StanCOG	X	X			X							
STANISLAUS LAFCO	X	X	X		X							
SURROUNDING LAND OWNERS			X		X							
US FISH & WILDLIFE	X	X	X		X							
USDA NRCS	X	X	X		X							
WATER DISTRICT: DEL PUERTO	X	X	X	X		X				X	X	

B. **USE PERMIT APPLICATION NO. 2012-04 - RECOLOGY - GROVER ENVIRONMENTAL PRODUCTS** - Request to expand an existing 112± acre composting business to an adjacent 42.87± acre parcel in the A-2-40 (General Agriculture) zoning district. This use permit proposes to add street sweepings and urban organics to the feedstocks processed and composted on both parcels. The project site is located at 3401 Gaffery Road, east of Koster Road and west of Welty Road, in the Vernalis area. The Planning Commission will consider adoption of a Mitigated Negative Declaration for the Project.
APN: 016-003-010 & 014 (a portion of the project site is located on APN: 265-010-021 in San Joaquin County)
Staff Report: Javier Camarena Recommends **APPROVAL.**
Staff Report Presented By: Joshua Mann
Public hearing opened.
OPPOSITION: No one spoke.
FAVOR: Vince Tye, 940 Columbia Way, Modesto; Sean O'Rourke, Recology
Public hearing closed.
MOTION TO APPROVE:
Pires/Etchebarne, 3/3, (Gibson, Ramos, Buehner)
MOTION TO DENY:
Buehner/Gibson, 3/3, (Peterson, Pires, Etchebarne),
DENIED DUE TO A LACK OF MAJORITY VOTE

EXCERPT

PLANNING COMMISSION

MINUTES

Secretary, Planning Commission

7-24-2013

Date

From: "Anthea Hansen" <ahansen@delpuertowd.org>
To: <planning@stancounty.com>
CC: "'William Harrison'" <wharrison@delpuertowd.org>
Date: 6/3/2013 3:53 PM
Subject: Recology Grover UPA No. 2012-04

Attention: Mr. Joshua Mann

Dear Joshua,

Regarding Use Permit Application No. 2012-04 - Recology Grover Environmental Products, a few questions have arisen after our review of the Initial Study documents:

1. The APN's and acreage being used in the application documents are close but do not quite correlate to the most recent Stan Cty and SJ County APN maps. i.e., APN 265-01-22 is not mentioned, however I believe it is part of the applicants area proposed for the Use Permit.

2. The District's previous request to address conflicts with neighboring agricultural land uses, as well as suggestion of set-backs, appears to have been found by your office as "not required" because of the A-2 Tier II use category. We noted, however that a condition of approval will be added to "re-enforce previously applied conditions of approval so that the project site is required to maintain "materials" on site". You further go on to add that the ".condition of approval will require the applicant/site operator to coordinate any material containment proposals with DPWD.", subject to the your office's final authorization. While this is helpful, there is no timeline for these efforts to commence or be completed by, which makes its mitigation value somewhat ambiguous, especially since these were previously applied conditions which were not fully addressed.

3. We would note, as a condition of Agricultural Water deliveries from the District, the subject APN's & Property Owner is part of the membership of the Westside San Joaquin Watershed Coalition. As such, the landowners will be responsible for any requirements of the State's General Order for Agricultural Discharges, which is currently being drafted for the Westside.

4. Initial Study documents, Part XVII., reports that "Limitations on providing services have not been identified.", and that "Water needs will be met via on-site wells." However, the Projects' Application Questionaire indicates that the "Del Puerto Irrigation District/Private Well" will provide services for Water, and the "Del Puerto Irrigation District" will

provide services for Irrigation. The Application indicates that a "will-serve" letter is required if the water source is a "..City, Irrigation District, Water District, etc." To date, the Del Puerto Water District has received no such request, nor would provide one for any use of water that is not for an Agricultural purpose as determined under the District's contract with the United States Bureau of Reclamation. (Incidentally, the project proponent currently relies both on the private well and service from the District to meet their water needs.)

5. Of additional note and ongoing concern to the District, is the fact that the Planning Commission's Development Standards and Mitigation Measure number 55 from GPA 2007-04, RA 2007-04, PM 2008-11 and WAC 2007-03 which required initiation of detachment proceedings within 30-days of Project approval on two of the four parcels in this development area, has not been completed.

Please accept my apologies for the late submission of these thoughts. I would appreciate your feedback, and if possible your response as to whether these issues can be addressed prior to Thursday's discussion.

Sincerely,

Anthea

Anthea G. Hansen

Assistant Manager/Financial Accountant

Del Puerto Water District

PH 209-892-4470/FAX 209-892-4469

Y & L Farms, LLC
P.O. Box 55
Westley, Ca. 95387

Tel: (209) 832-2441
Fax: (209) 832-2905

July 3, 2013

Recology Grover Environmental Products
3909 Gaffery Rd.
Vernalis, Calif. 95387

RE: Damage to our Crops

To Whom It May Concern:

I am writing to inform you that your nearby operation is producing waste that is causing damage to our crops. The dust particles and various pollutants are coming across the road and coating our almond trees. Because you also deal with garbage, it draws the seagulls, creating a potential e/coli and salmonella contamination which could result in a food safety issue.

Composting Operating Standards require all handling activities to be conducted in a manner that minimizes vectors, odor impacts, litter, hazards, nuisances, and noise impacts; and minimizes human contact with, inhalation, ingestion, and transportation of dust, particulates, and pathogenic organisms. What containment measures, if any, are in place for the dust, paper and garbage that your facility produces?

Attached are photos where damage is clearly visible.

Sincerely,

Bobby Yamamoto
t 209.832.2441 ext. 101
f 209.832.2905

Enclosure(s): 4

BY:lb

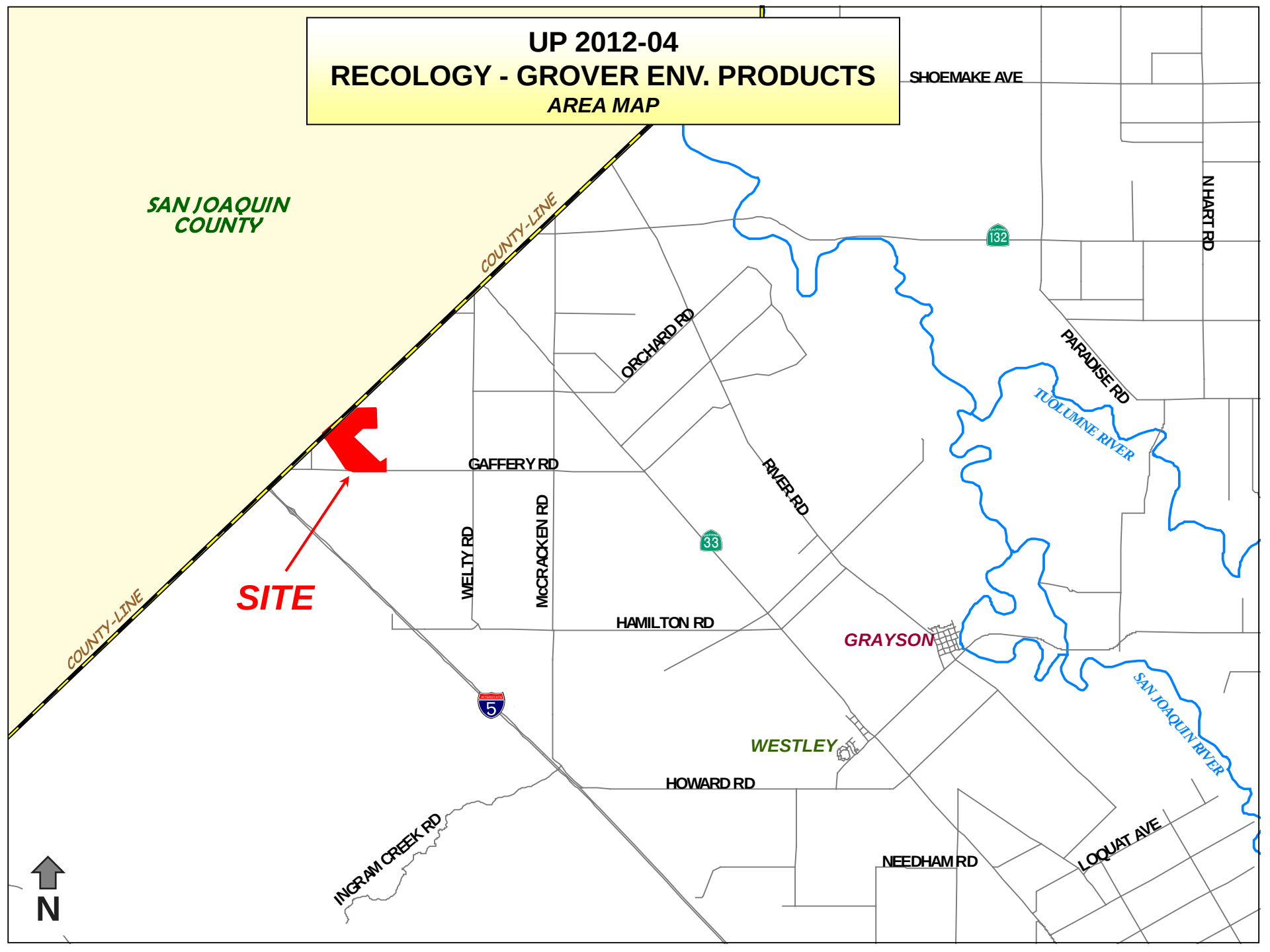
cc: Jim DeMartini, Stanislaus County Board of Supervisors
John Hansen, Del Puerto Water District
Bobby Pierce, West Stanislaus Irrigation District
Michael Lara, Y&L Farms

APPEAL OF THE PLANNING COMMISSION'S DECISION ON JUNE 6, 2013 TO DENY USE PERMIT APPLICATION NO. 2012-04

RECOLOGY-GROVER ENVIRONMENTAL PRODUCTS

Stanislaus County
Striving to be the Best

Planning Department


UP 2012-04
RECOLOGY - GROVER ENV. PRODUCTS
AREA MAP
SAN JOAQUIN COUNTY
COUNTY-LINE
COUNTY-LINE
SHOEMAKE AVE
N HART RD
I32
ORCHARD RD
PARADISE RD
TUOLUMNE RIVER
GAFFERY RD
RIVER RD
WELTY RD
McCRACKEN RD
33
SITE
HAMILTON RD
GRAYSON
SAN JOAQUIN RIVER
5
WESTLEY
HOWARD RD
INGRAM CREEK RD
NEEDHAM RD
LOQUAT AVE
N

BOS - OPTIONS

A) Return Item to the Planning Commission, as requested by the Applicant (RGEP), to be reconsidered along with analyzing the additional information submitted by RGEP

B) Uphold the Planning Commission's Denial, Denying the Use Permit Application

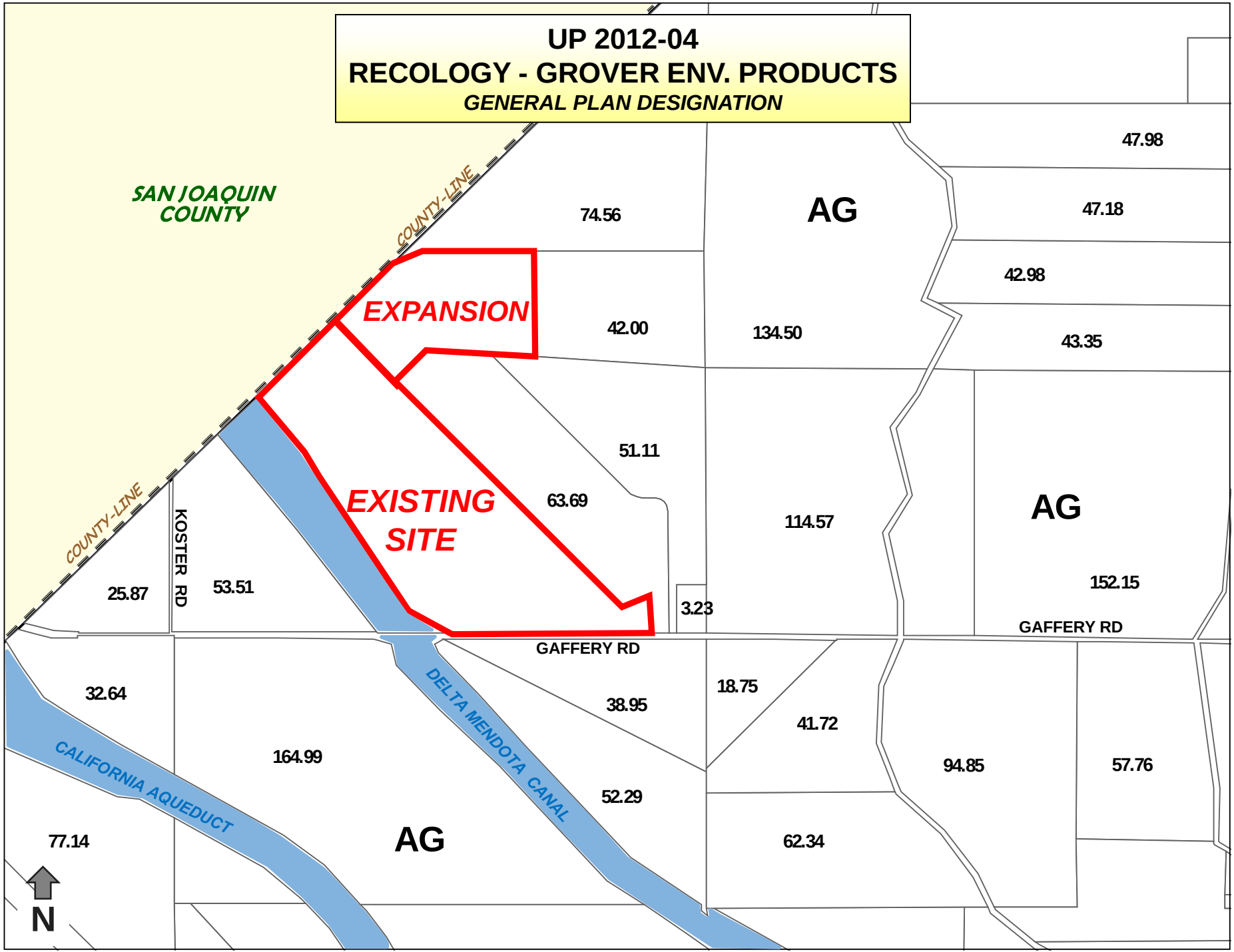
C) Overturn the Planning Commission's Decision, Grant the Applicant's Appeal and Approve the Use Permit as outlined on Pages 2 & 3 of the Board Report

PROJECT DESCRIPTION

REQUEST TO EXPAND AN EXISTING COMPOSTING BUSINESS (*EST. IN 1999*) BY ADDING AN ADDITIONAL 42± ACRES OF LAND TO BE USED FOR COMPOSTING AS WELL AS ALLOWING THE ABILITY TO UTILIZE "URBAN ORGANICS" AS COMPOSTING FEEDSTOCK

PROJECT DESCRIPTION
(Cont'd)

- FINISHED COMPOST IS SOLD PRIMARILY AS A SOIL AMENDMENT FOR VINEYARDS, ORCHARDS & OTHER AGRICULTURAL CROPS IN STANISLAUS & S.J. COUNTY
- THE FACILITY IS PERMITTED WITH THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CalRecycle) WHICH ALSO CONDUCTS REGULAR INSPECTIONS
- NO CHANGE IN THE NUMBER OF EMPLOYEES OR THE HOURS OF OPERATION, ESTABLISHED UNDER PREVIOUS USE PERMITS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RECOLOGY - GROVER ENV. PRODUCTS
GENERAL PLAN DESIGNATION
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COUNTY-LINE
COUNTY-LINE
EXPANSION
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CALIFORNIA AQUEDUCT
DELTA MENDOTA CANAL
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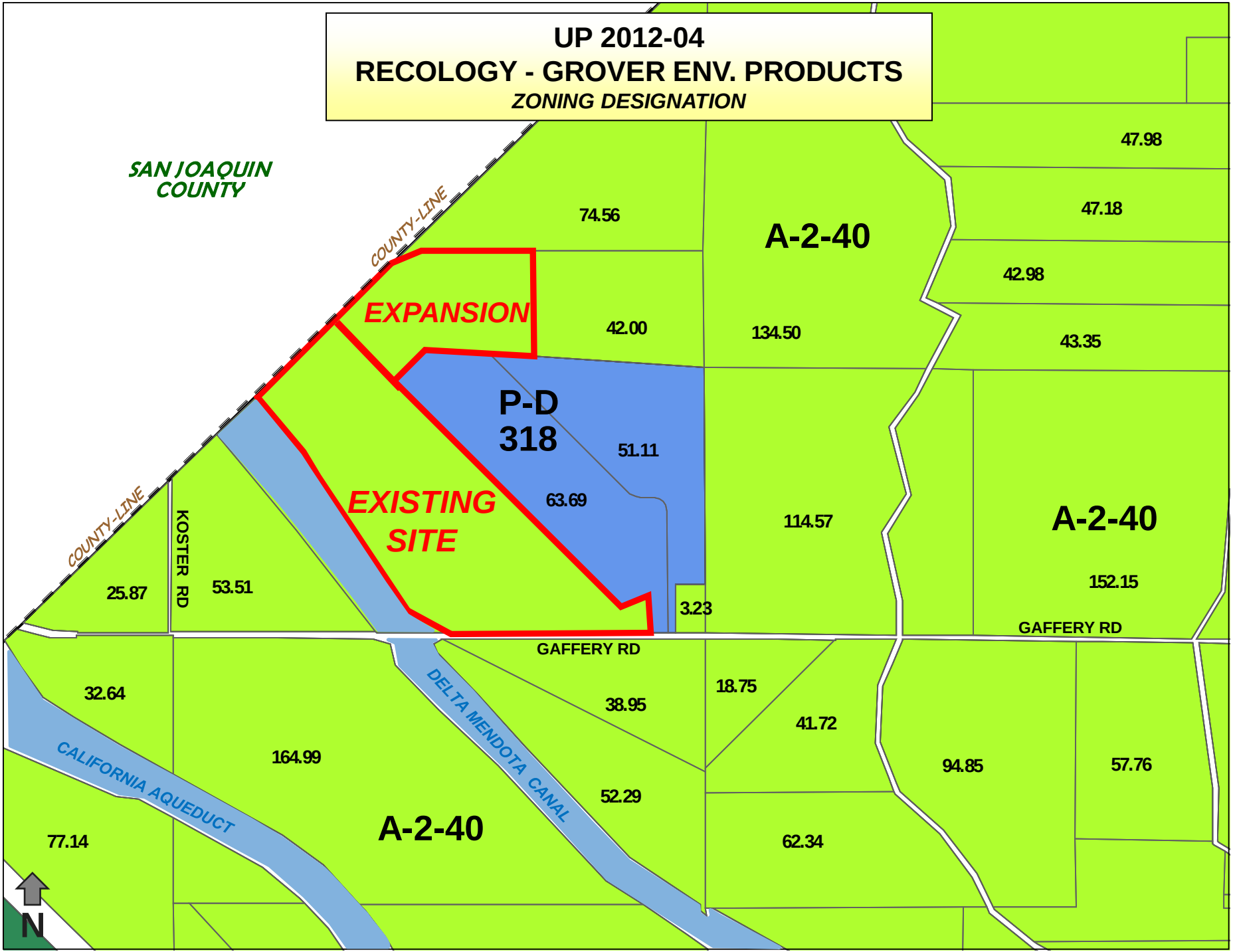
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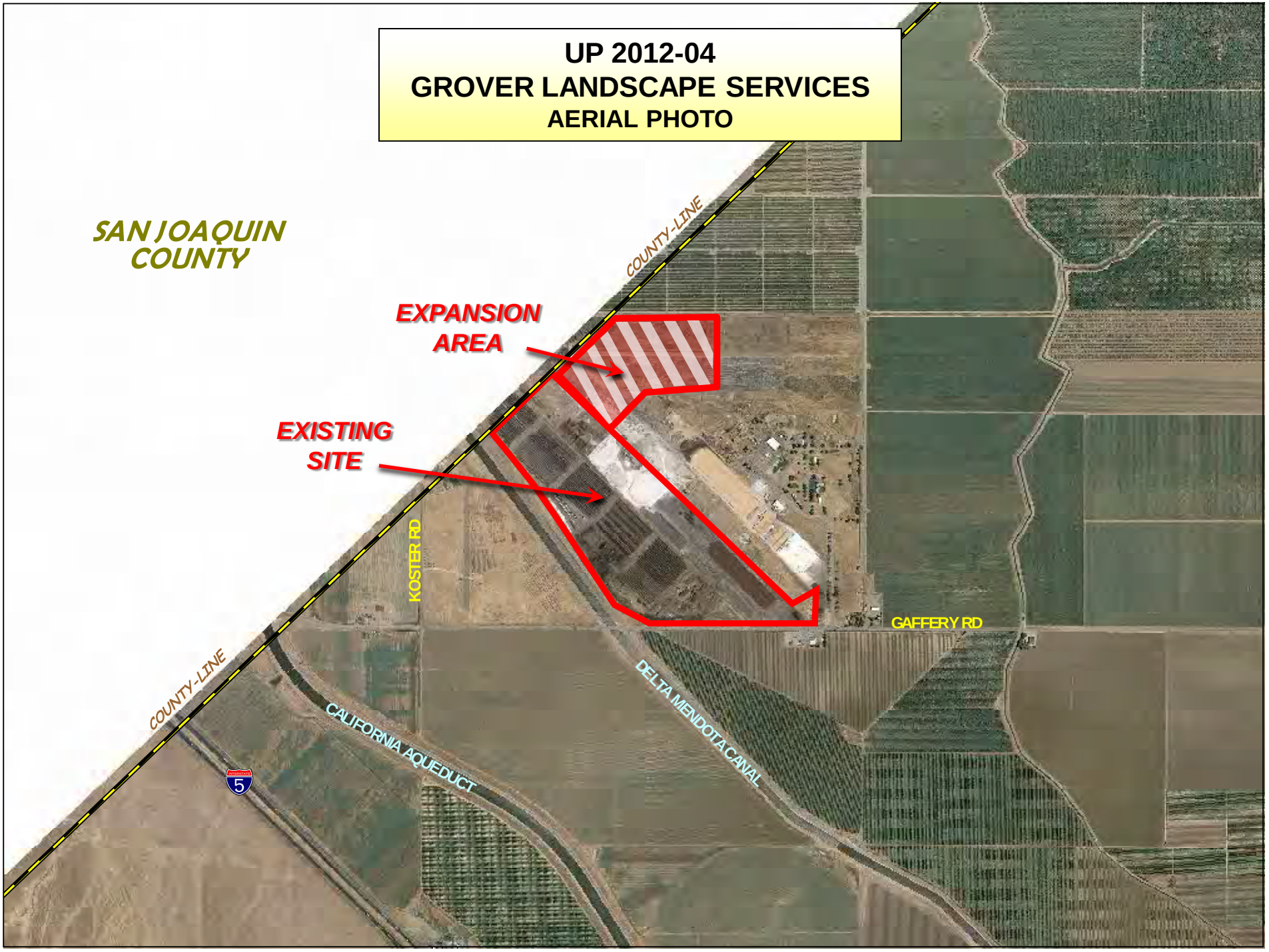
TIER TWO USE

THE PROPOSED COMPOST FACILITY IS ALLOWED UNDER A TIER TWO USE PERMIT, SECTION 21.20.030(e) OF THE A-2 ZONING ORDINANCE

e. Commercial or municipal composting, processing and/or spreading of whey, treated sludge or biosolids (including Class A and Class B), or other organic matter when the matter to be composted, processed and/or spread is not generated on site and the composting, processing and/or spreading is not part of routine farming practice…….


UP 2012-04
GROVER LANDSCAPE SERVICES
AERIAL PHOTO
SAN JOAQUIN COUNTY
COUNTY-LINE
EXPANSION AREA
EXISTING SITE
KOSTER RD
GAFFERY RD
COUNTY-LINE
CALIFORNIA AQUEDUCT
DELTA MENDOTA CANAL
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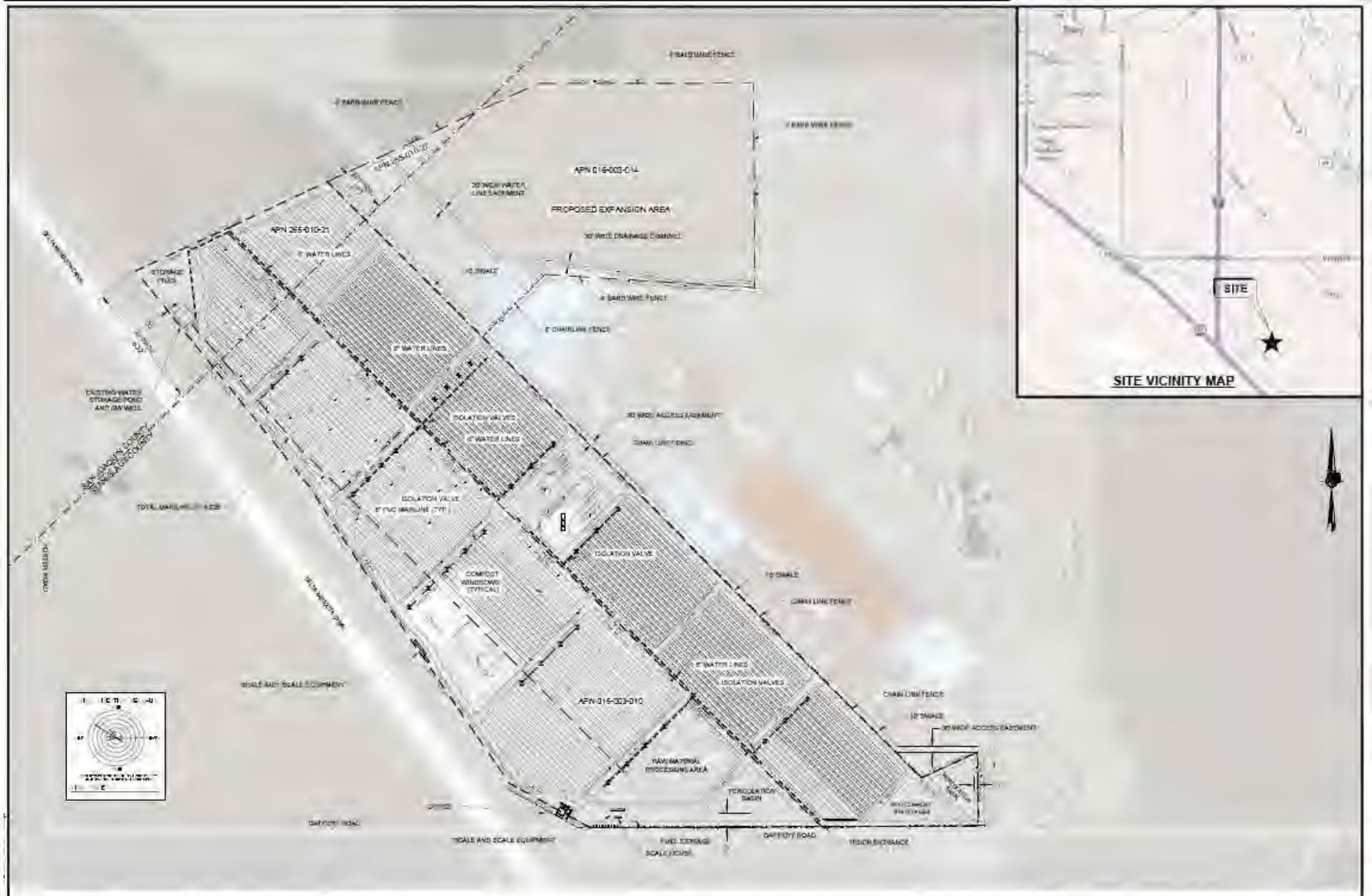


NOTES

1. SITE INFORMATION OBTAINED FROM THE DESIGN GROUP DRAWING TITLED SITE PLAN NEW EXPANDED PROPOSED. DATE OF INFORMATION: MARCH 19, 2007.
2. MAIN AERIAL IMAGERY OBTAINED FROM USGS NATIONAL MAP VIEWER WEBSITE (http://viewer.nationalmap.gov/). BASED ON IMAP. DATE OF IMAGERY: SEPTEMBER 16, 2010.
3. SITE VICINITY MAP IMAGE OBTAINED FROM ESRI BASEMAP TITLED BING MAPS ROAD, BASED ON MICROSOFT BING MAPS. DATE OF MAP: 2010.

Golder Associates
Sacramento, CA

SITE PLAN

RECOLOGY GROVER
ENVIRONMENTAL PRODUCTS
3909 GAFFERY RD., VERNALIS, CA

PLANNING COMMISSION
June 6, 2013

- **Staff felt the necessary Tier Two – Use Permit Findings could be made to Approve**
- **On a 3-3 Vote the Request was Denied**
- **Due to a lack of a Majority Vote, the Proposal shall be considered Denied** ***(Article 4, Section 14(1) of StanCounty-PC Rules & Regulations)***

ISSUES – P.C.

- Groundwater / Water Quality
- Materials
- Trash / Litter Containment
- Truck Trips

GROUNDWATER / WATER QUALITY

- Commissioners had concerns with water use during composting activities and if compost run-off could contaminate groundwater

- Regional Water Quality Control Board is currently developing Waste Discharge Requirements, specific to Compost Facilities, which RGEP will have to comply with once in place

MATERIALS

- Commissioners had concerns with the types of and quality of the materials used for Composting by RGEP, including:
  - Street Sweepings
  - Urban Organics

MATERIALS

- Street Sweepings would consist of high content green/organic material
- Urban Organics – material diverted from regular trash stream, food scrapes & organic material
- Same materials currently composted, method of collection differs

TRASH / LITTER CONTAINMENT

- Planning Commission - concerns with litter containment
- Del Puerto Water District provided a letter outlining concerns with material entering their water delivery system
- Condition of Approval #13 was added to require site to maintain materials on-site and establish a containment plan with the DPWD

TRASH / LITTER CONTAINMENT

- Litter Containment Plan submitted as part of Appeal – *Attachment "2"*
- Identifies existing and planned efforts including 20-foot wind screen
- Site reorganization
- San Joaquin Valley Air Pollution Control District and CalRecycle permits also address litter issues

TRUCK TRIPS

- Concerns with Truck Trips to the facility
- Application and “CEQA” Mitigated Negative Declaration identified 60-80 trips per day
- SWFP - Solid Waste Facility Permit (*CalRecycle*) allows a maximum of 2,000 tons/day
- Maximum amount of trips per day – *83 trips based on a 24-ton trailer*

TRUCK TRIPS

- **Mitigation established by UP 2006-37 requires $0.055 per ton – *Public Works***
- **Any increase above 2,000 tons/day would require modification to CalRecycle (SWFP) Permit and additional CEQA annalysis**
- **No changes requested as part of this Use Permit Application**

CORRESPONDENCE

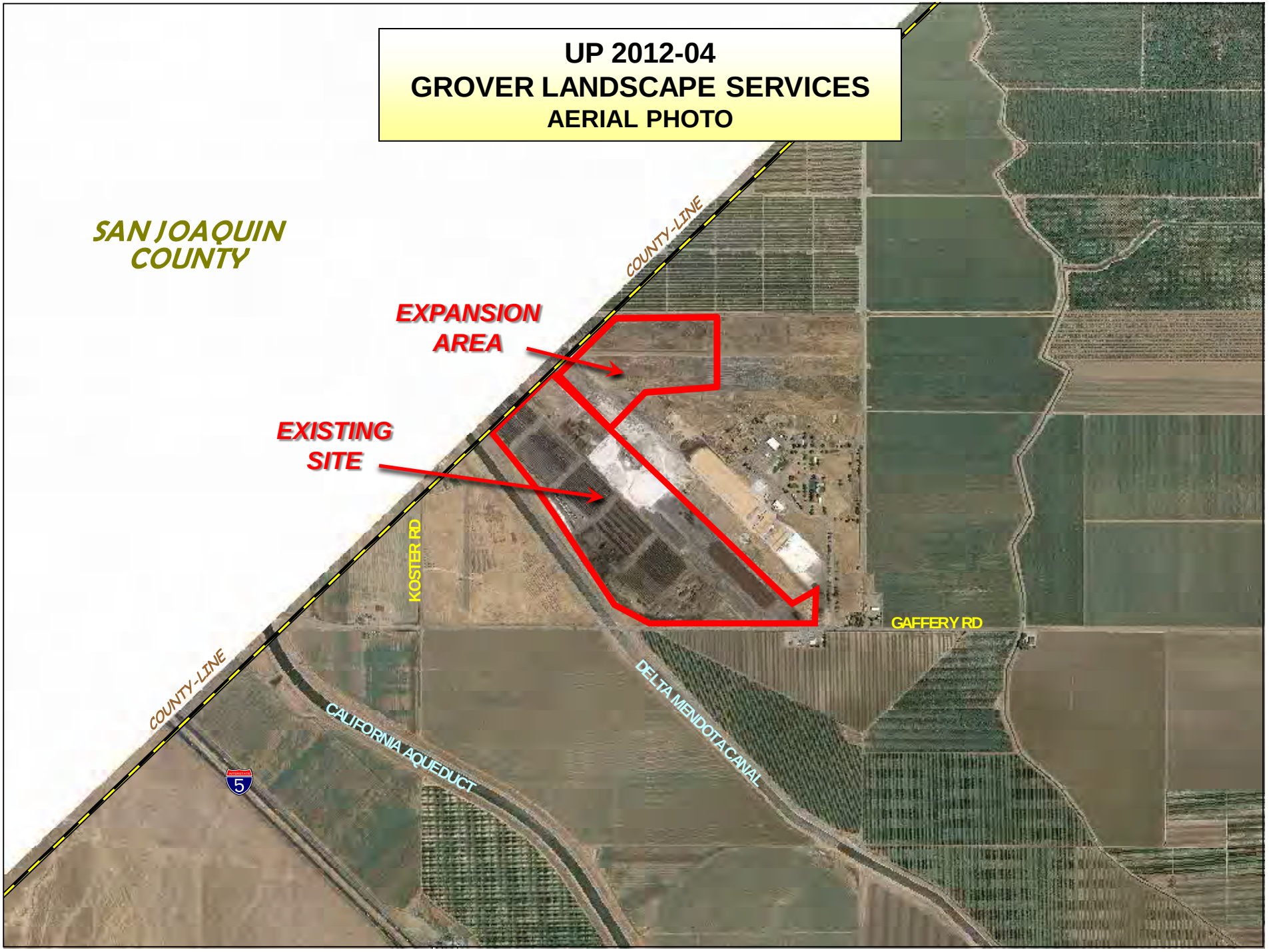
- Del Puerto Water District provided a letter outlining concerns with material entering their water delivery system
- Adjacent Landowner – letter outlining concerns with dust and bird droppings
- Letters – Attachment “5”

BOS - OPTIONS

A) Return Item to the Planning Commission, as requested by the Applicant (RGEP), to be reconsidered along with analyzing the additional information submitted by RGEP

B) Uphold the Planning Commission's Denial, Denying the Use Permit Application

C) Overturn the Planning Commission's Decision, Grant the Applicant's Appeal and Approve the Use Permit as outlined on Pages 2 & 3 of the Board Report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