

Table 1
Summary of Permit Actions and Litigation

Permit Number	Year	Applicant	Activity
U-76-58	1976	Solano Garbage Co	County use permit (before SMPA enacted) authorizes expansion of landfill from 40-65 acres on Kildeer Road
U-79-08	1979	William Smith and Delta Associates	County authorizes expansion of existing quarry operation in Potrero Hills; Appeal 1-79 to BCDC raised substantial issue; BCDC issues Permit No. 38-79
BCDC Permit 38-79	1979	Same	BCDC permits 45-acre quarry expansion in Potrero Hills for 5 yrs.
MD-80-03	1980	Solano Garbage Company	County approves landfill expansion on Kildeer Road from 40 to 65 acres – BCDC Appeal 1-80 withdrawn
BCDC Permit 38-79 Amendment 1	1983	Same	BCDC approves relocation of landfill to quarry in Potrero Hills
Measure E enacted	1984	Solano County voters	Limits importation of out-of-county solid waste to 95,000 tons/yr – never enforced by the County
MD-82-19 (U-82-56)	1984	Potrero Hills Landfill	County approves relocation of landfill to 190 acres on 320 acre former quarry site in Potrero Hills for 15 years (Phase I) – no appeal
BCDC Permit 38-79 Amendment 2	1985	Same	BCDC extends permit for landfill/quarry operations in Potrero Hills until 1999
MD-88-09	1989	Same	County authorizes Phase I: 85,000 tons/yr for 3 yrs from Contra Costa Co, increases capacity from 400 to 2,500 tons/day, allows night operations, recycling, and asbestos and infectious waste; BCDC Appeal 1-89 raised no substantial issue
MD-90-01	1996	Same	County authorizes new road (Potrero Hills Lane) to landfill; BCDC Appeal 1-96 raised substantial issue and BCDC issues Permit No. 6-96 to authorize Potrero Hills Lane, remove existing road, and mitigate/restore habitat
MD-91-01	1996	Same	County authorizes closure of Solano Garbage Company landfill; prepares EIR; BCDC Appeal 1-96 raised no substantial issue

Permit Number	Year	Applicant	Activity
MD-88-09 Amendment 1	1996	Same	County modifies Phase I: authorizes changes to Landfill operations, increases nighttime operations, expands composting/wood processing; prepares EIR; BCDC finds Appeal 2-96 raises no substantial issue
MD-88-09 Amendment 2 (U-88-33)	2005	Same	County authorizes Phase II 168-acre expansion; increases height from 220 to 345 feet, relocates creek, increases operating hours, authorizes new power plant, etc.; BCDC finds Appeal 1-05 raises substantial issue.
CEQA Ruling	2006	Protect the Marsh	Held: EIR inadequately analyzed air quality, groundwater quality, and alternatives; <u>Protect the Marsh v. Solano Co.</u> FCS026839 (2/26/06).
CEQA Ruling	2008	Protect the Marsh	Held: EIR inadequately analyzed Hay Road alternative (10/14/08).
Divestiture Ruling	2008	Waste Connections	Held: Republic Services must divest Potrero Hills Landfill to Waste Connections
CEQA Ruling	2009	Protect the Marsh	Held: FEIR approved (11/3/09).
Measure E Ruling	2010	No. Cal. Recycling, Sierra Club, SPRAWLDF	Held: Measure E (limiting out-of-county solid waste to 95,000 tons/yr.) is constitutional and enforceable; <u>Northern California Recycling v. Solano Co.</u> FCS033700 (5/12/10).

**Table 2:
Proposed Mitigation Table and Ratios**

MITIGATION AREA	HABITAT TYPE								TOTAL (acres)
	CTS Upland Habitat	Grassland **	CTS Pond Habitat		Seasonal Wetlands		Swale/Channel		
			Preserve (acres)	Create (acres)	Preserve (acres)	Create (acres)	Preserve (acres)	Create (acres)	
Southern Hills	420.76	0.00	3.77	1.05	1.47	0.00	1.65	0.00	428.70
Pond 5 Buffer Area	40.78	0.00	0.45	0.00	0.00	0.00	0.00	0.00	41.23
Eastern Valley	296.37	0.00	0.50	0.00	0.22	0.00	0.30	0.00	297.39
Griffith Ranch	106.06	0.00	0.00	0.73	0.27	4.07	0.00	1.03	112.16
Director's Guild	0.00	20.47	0.00	0.00	61.93	0.42	0.21	0.77	83.80
TOTAL (acres)	863.97	20.47	4.72	1.78	63.89	4.49	2.16	1.80	963.28
Mitigation Ratio*	5.3:1	na	7.7:1	2.9:1	26.4:1	1.9:1	4.9:1	4.1:1	5.8:1

* Preserved/created:impacted

** Grassland on Director's Guild site is not occupied by CTS and not counted toward CTS mitigation.

Total Impact Area = 167.63 ac, Wetland Impact area = 2.42 ac, Pond Impact Area = 0.61 ac (Ponds 1 and 4), Upland Impact Area =164.60 ac

Source: Mitigation and Monitoring Plan, Potrero Hills Landfill Phase II Expansion, Solano County, California, 3rd Revision September 8, 2009.

Table 3
Special-Status Species Potentially Occurring in the Potrero Hills Landfill Expansion Area

Species	FWS	CDFG	CNPS	Habitat	Potential for Occurrence
Plants					
Alkali milkvetch <i>Astragalus tener</i> var. <i>tener</i>	--	--	1B	Playas, grasslands (adobe clay), vernal pools (alkaline)	Unlikely to occur; not found during surveys.
Heartscale <i>Atriplex cordulata</i>	--	--	1B	Meadows, grasslands (sandy)/saline or alkaline	Unlikely to occur; not found during surveys.
Brittlescale <i>Atriplex depressa</i>	--	--	1B	Meadows, playas, grasslands, vernal pools/alkaline, clay	Not found during surveys of expansion area, but observed elsewhere in the valley.
San Joaquin spearscale <i>Atriplex joaquiniana</i>	--	--	1B	Meadows, playas, grasslands/ alkaline	Not found during year 2000 or 2003 surveys, however this species was found in 1998 within the proposed project area.
Hispid birds-beak <i>Cordylanthus mollis</i> ssp. <i>Hispidus</i>	--	--	1B	Meadows, playas, grasslands/ alkaline	Unlikely to occur; not found during surveys.
Recurved larkspur <i>Delphinium recurvatum</i>	--	--	1B	Grasslands, vernal pools/ alkaline	Unlikely to occur; not found during surveys.
Dwarf downingia <i>Downingia pusilla</i>	--	--	2	Grasslands (mesic), vernal pools	Unlikely to occur; not found during surveys.
Adobe lily <i>Fritillaria pluriflora</i>	--	--	1B	Grasslands/often adobe	Unlikely to occur; not found during surveys.
Brewer's western flax <i>Hesperolinon breweri</i>	--	--	1B	Grassland, mostly serpentinite	Unlikely to occur; no serpentinite present and not found during surveys.
Carquinez goldenbush <i>Isocoma arguta</i>	--	--	1B	Grasslands, alkaline	Unlikely to occur; not found during surveys.
Contra Costa goldfields <i>Lasthenia conjugens</i>	E	--	1B	Playas (alkaline), grasslands, vernal pools/mesic	Unlikely to occur; not found during surveys.
Legenere <i>Legenere limos</i>	--	--	1B	Vernal pools	Unlikely to occur; not found during surveys.
Showy Indian clover <i>Trifolium amoenum</i>	E	--	1B	Grasslands, sometimes serpentinite	Unlikely to occur; not found during surveys.

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Invertebrates					
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	T	--	--	Vernal pools and other seasonal wetlands	Could occur; suitable habitat present, but not found during surveys.
Conservancy fairy shrimp <i>Branchinecta conservation</i>	E	--	--	Vernal pools and other seasonal wetlands	Could occur; suitable habitat present, but not found during surveys.
California linderiella <i>Linderiella occidentalis</i>	FSC	--	--	Vernal pools and other seasonal wetlands	Known to occur.
Vernal pool tadpole shrimp <i>Lepidurus packardii</i>	E	--	--	Vernal pools and other seasonal wetlands	Could occur; suitable habitat present, but not found during surveys.
Valley elderberry longhorn beetle <i>Desmocerus californicus dimorphus</i>	T	--	--	Elderberry shrubs	Could occur; elderberry shrubs present.
Callippe silverspot butterfly <i>Speyeria callippe callippe</i>	E	--	--	Grasslands with hills, nectar plants, and larval food plants (<i>Viola pedunculata</i>)	Unlikely to occur; not found during surveys.
Amphibians					
California tiger salamander <i>Ambystoma californiense</i>	C PT	CSC	--	Vernal pools and small ponds for breeding; seek cover in burrows, rock crevices, and under logs	Known to occur.
California red-legged frog <i>Rana aurora draytonii</i>	T	CSC	--	Deep, still or slow-moving water with dense shrubby riparian and/or emergent vegetation.	Unlikely to occur; not found during surveys.
Reptiles					
Western pond turtle <i>Clemmys marmorata</i>	FSC	CSC	--	Still waters, ponds, slow streams with instream or bank resting sites	Unlikely to occur; not found during surveys.

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Birds					
White-tailed kite <i>Elanus leucurus</i>	--	CSC FP	--	Forage in grasslands and agricultural fields; nest in isolated trees or small woodland patches	Could occur; suitable foraging and nesting habitat present.
Northern harrier <i>Circus cyaneus</i>	--	CSC	--	Grasslands and freshwater marsh	Could occur; suitable foraging habitat present, but no suitable nesting habitat present.
Ferruginous hawk <i>Buteo regalis</i>	FSC	CSC	--	Forages in grasslands, agricultural fields, and other open habitats	Could occur; suitable foraging habitat present, but not within breeding range.
Golden eagle <i>Aquila chrysaetos</i>	--	CSC FP	--	Forages in grasslands and other open habitats; nests on cliffs and in tall trees.	Suitable foraging habitat present, known to nest in eucalyptus grove approximately 1,500 feet south of landfill (JSA, 1995).
Merlin <i>Falco columbarius</i>	--	CSC	--	Forages in grasslands, agricultural fields, marshes, and other open habitats	Could occur; suitable foraging habitat present, but not within breeding range.
Prairie falcon <i>Falco mexicanus</i>	--		--	Forages in grasslands, agricultural fields, marshes, and other open habitats	Could occur; suitable foraging habitat present, but not expected to nest nearby.
Peregrine falcon <i>Falco peregrinus</i>	--	E	--	Forages in marshes and grasslands.	Could occur; suitable foraging habitat present, but not expected to nest nearby.
Long-billed curlew <i>Numenius americanus</i>	--	CSC	--	Marshes, grasslands, irrigated, pastures, alfalfa, and fallow fields	Known to occur; suitable foraging habitat present, but not within breeding range.
Short-eared owl <i>Asio flammeus</i>	--	CSC	--	Forages in open habitats; nests in marsh and grasslands	Could occur; suitable foraging habitat present, but no suitable nesting habitat.

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Burrowing owl <i>Athene cunicularia</i>	FSC	CSC	--	Grasslands and agricultural fields	Known to occur; suitable foraging and nesting habitat present.
Loggerhead shrike <i>Lanius ludovicianus</i>	FSC	CSC	--	Forages in grasslands, and agricultural fields; nests in scattered shrubs and trees	Known to occur; suitable foraging habitat present, but nesting habitat very limited.
Tricolored blackbird <i>Agelaius tricolor</i>	FSC	CSC	--	Forages in grasslands and agricultural fields; nests in freshwater marsh with dense cattails and tules, and dense riparian scrub	Known to occur; suitable foraging habitat present, but no suitable nesting habitat.

U.S. Fish and Wildlife Service (FWS) Federal Listing Categories:

- E Federal Endangered
- T Federal Threatened
- C Federal Candidate Species
- FSC Federal Species of Concern
- PT Proposed for Listing as Threatened

California Department of Fish and Game (CDFG) State Listing Categories:

- E California Endangered
- T California Threatened
- CSC California Species of Concern

California Native Plant Society (CNPS) Categories:

- 1B Plant rare or endangered in California and elsewhere
- 2 Plant rare or endangered in California, but more common elsewhere

Source: EDAW 2002

**Table 4:
Regulatory Requirements for Phase II Potrero Hills Landfill Expansion**

Regulatory Action	Agency	Status¹
Solid Waste Facilities Permit (SWFP)	Solano County Local Enforcement Agency (LEA), Concurrence by Cal Recycle	Technical Application is being finalized for submittal in 2Q; Includes Closure/Post-Closure Plan and Financial Assurance documents
Waste Discharge Requirements (WDRs)	Regional Water Quality Control Board San Francisco Bay Region (RWQCB)	RWQCB will issue updated WDR based on Joint Technical Application document
Section 401 Water Quality Certification	RWQCB	Application complete; staff review for certification in process
National Pollutant Discharge Elimination System Permit (Storm Water)	State Water Resources Control Board and San Francisco Bay Region RWQCB	Draft SWPPP submitted and will be finalized in response to SWRCB and RWQCB direction
Air Pollution Control /Permit to Operate (Landfill Gas System)	Bay Area Air Quality Management District (BAAQMD)	Application filed for expansion, landfill gas-to-energy facility
Streambed Alteration Agreement (for Spring Branch Creek)	California Department of Fish and Game (CDFG)	Current permit for expansion issued in November 2009 as matter of law
Section 404 Fill Permit	U.S. Army Corps of Engineers, San Francisco District	Application complete, public notice posted and permit in process
Federal Endangered Species Act	U.S. Fish and Wildlife Service (USFWS)	Draft Biological Opinion issued, under review by relevant agencies
California Endangered Species Act	CDFG	Biological Opinion Consistency Determination review underway, in collaboration with USFWS
Land Use Permit	Solano County, Department of Resources Management	Issued in June 2009

¹ As of May 28, 2010.

Regulatory Action	Agency	Status¹
	(DRM)	
Marsh Development Permit	BCDC/Solano County, DRM	On Appeal to BCDC
Reclamation Plan Quarry Area	Department of Conservation Mining Office	Permit is active for life of site
Closure/Post-Closure Plan	Solano County, LEA	Final plans approved in 1996; revision pending
Corrective Action Financial Assurance	RWQCB	Estimate submitted in 1994; revision pending
Financial Assurance for Offsite Pollution	Cal Recycle (formerly California Integrated Waste Management Board)	Potrero Hills Landfill program established in 1994
Composting Facilities Permit	Solano County, LEA	Permit revision pending
Various Construction Permits	Solano County, Building Division	To be obtained before commencing construction activities for individual project components