

# NOTICE OF PREPARATION

To: State Clearinghouse  
PO Box 3044/ 1400 Tenth St  
Sacramento CA 95814

From: County of Tulare – RMA  
5961 S Mooney Blvd  
Visalia CA 93277

Date: October 2, 2012

Subject: **Notice of Preparation of a Draft Environmental Impact Report**

Project Title: Harvest-Tulare Anaerobic Digester and Compressed Natural Gas Facility Project (Harvest-Tulare AD and CNG Project)

Project Applicant: Harvest Power California, LLC

Project Location: 24487 Road 140, Tulare, CA 93274,  
Section/Township Range: 33/19S/25E MDB&M

Tulare County Resource Management Agency (RMA) will be the Lead Agency and will prepare an environmental impact report of the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

The project description, location, and the potential environmental effects are contained in the attached materials.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

A scoping meeting is scheduled for Thursday November 1, 2012 at 1:30 pm in the Main Conference Room of the Tulare County Resource Management Agency at the address shown above.

Please direct your response to Hector Guerra, Chief Environmental Planner at the address shown above. He may be contacted by e-mail at hguerra@co.tulare.ca.us or by telephone at 559-624-7121.

Please provide us with the name of a contact person in your agency.

Date 10/02/12

Signature   
Title Chief Environmental Planner

Date 10/2/12

Signature   
Title Assistant Director, Planning

Reference: California Code of Regulations, Title 14, (CEQA Guidelines) Sections 15082(a), 15103, 15375.

## **Project Description:**

Harvest Power California LLC is proposing to add an anaerobic digester on the site to process organic materials into fuel and digestate that will contribute to soil amendment production. At this time, it has not been determined if this facility will be a high solids digester (processing food and green material) or a low solids digester (processing primarily food material). As such, both alternatives will be evaluated in the environmental document. The facility will produce transportation fuel either through a compressed natural gas (CNG) refueling station or by injecting directly into a nearby natural gas pipeline. Therefore, both a CNG refueling station and direct injection to the natural gas pipeline will be evaluated in the environmental document. The CNG) refueling station will be constructed on the existing Harvest-Tulare composting operations on 35 acres of an existing 87.6 acre site. The project will also include a CNG refueling station on an adjacent 5 acre parcel.

The existing facility has been operational since 1996. The Harvest-Tulare composting facility currently holds operating permits to compost green material, food, and dairy manure. All material produced at the facility has organic certification. The proposed Project will increase and shift types of materials and quantities accepted at the facility. All material will continue to be handled, processed and stored to prevent odor, vectors or other public nuisances. The finished product markets will continue to include local nurseries, landscape services and farmers.

The proposed project will increase total tonnage at the site from 86,000 tons per year to a potential 216,000 tons per year. The increase includes both the proposed anaerobic digester and increasing tonnages at the composting facility. Of this amount, 156,000 tons per year will be food and yard material used in the anaerobic digester and composting operations, and 60,000 tons per year will be manure composting. It is not anticipated that the total amount will be attained at the site; however, the breakdown of the tonnages will allow for flexibility in materials handling.

Construction-related activities of the proposed Project will require approximately 15 to 20 construction workers resulting in an average of approximately 25 construction vehicle trips per day. These construction-related vehicle trips will be temporary and short in duration.

The proposed Project is anticipated to result in an increase of total vehicle trips per day as a result of additional haul trucks, employee trips, and customer trips. The environmental document will evaluate existing vehicle trips and project-related vehicle trip increases. Seasonal peak vehicle trips will also be evaluated.

### **Project Objectives:**

- To increase energy production capabilities on the current footprint of the composting facility pad;
- To provide fuel for trucks using the facility;
- To generate additional renewable energy resources to the County of Tulare while continuing to produce high quality organically certified compost;

- To implement the company's strategic business plan by planning, designing, constructing and operating a facility which is economically, technologically and environmentally feasible.

### **Location:**

The project site is located at 24487 Road 140, Tulare, CA 93274, on the west side of Road 140, with the entrance located approximately 0.6 miles north of the intersection of Road 140 with Avenue 240, 1.3 miles east of the City of Tulare, in Tulare County, California.

The proposed Project will be located on approximately 35 acres of two parcels totaling 35 acres: APN 150-140-014 and 150-140-016. The proposed CNG fueling station is located on a 3<sup>rd</sup> APN: 150-130-004. Section/Township Range: 33/19S/25E MDB&M. Latitude/ Longitude: N36 13' 56.5782/W 119 16' 10.5414.

### **Maps**

See following pages for vicinity and project site maps.

### **Land Use:**

The existing facility has been operational since 1996. The Harvest-Tulare composting facility currently holds operating permits (PSP 92-091) to compost green material, food, and dairy manure. The Project site is zoned AE-40 (Exclusive Agriculture, 40 acre minimum). The General Plan designation is Rural Valley Lands Plan (RVLP). The two larger parcels in the Project site are subject to Land Conservation (Williamson Act) contracts.

Surrounding land uses primarily agricultural mixture of orange orchards, row crops and farmed lands; rural residences located less than 1 mile south and east of the site. Rural residences are located less than one (1) mile south and east of the site. Commercial businesses located to the N and SE of the proposed project site. The Sundale Preschool and Elementary School are located less than 1 mile SE of the site, at the NW corner of the intersection of Road 140 and Avenue 240.

### **Potential Environmental Impacts:**

It is anticipated that potential environmental impacts may occur to include biological resources, cultural resources, air quality, hydrology and water quality, land use and planning, noise, and traffic.

### **Reviewing Agencies**

#### **State and Federal:**

- California Department of Conservation – Division of Land Resource Protection)
- California Department of Fish and Game Region #4
- California Water Resources Control Board #5

- California Department of Toxic Substance Control
- California Energy Commission
- Cal/Environmental Protection Agency
- Caltrans District #6
- Native American Heritage Commission
- San Joaquin Valley Air Pollution Control District
- U.S. Fish & Wildlife

**Local:**

Tulare County Resource Management Agency:

- Environmental Health
- Flood
- Fire
- Planning: Project Review and Building

## 2.0 PROJECT DESCRIPTION



**PROVOST & PRITCHARD**  
130 N. Garden Street  
Visalia, CA 93291  
(559) 636-1166  
An Equal Opportunity Employer

**Legend**

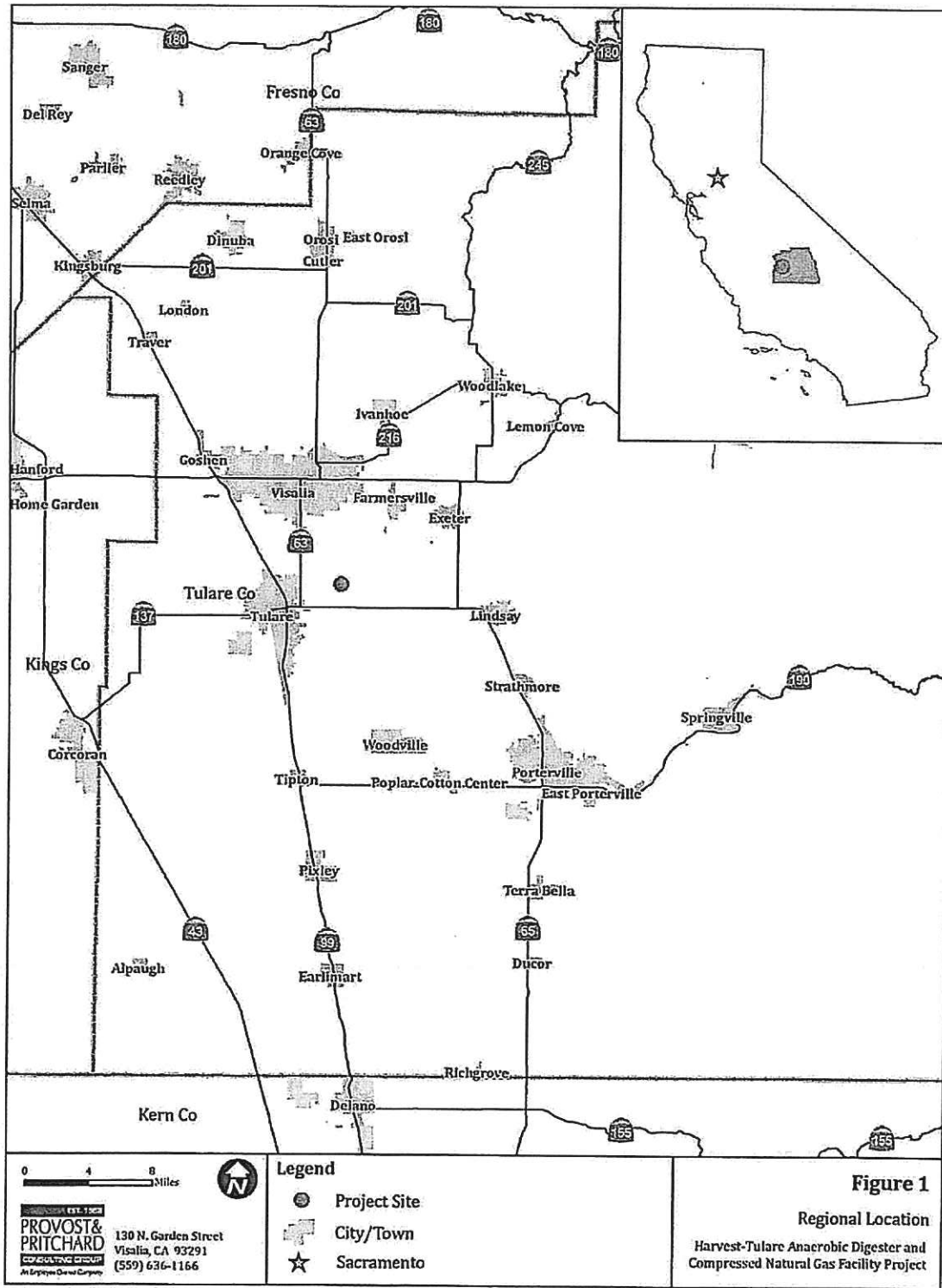
- Part of Project
- Not Part of Project
- City of Tulare Boundary

**Figure 2**  
Project Location  
Harvest-Tulare Anaerobic Digester and  
Compressed Natural Gas Facility Project

Aerial Imagery: USDA NAIP 2010

2012-07-24 V:\Clients\Harvest Power-350350312V1-Tulare Facility Expansion\GIS\Map\Figure 2 Project Location.mxd

## 2.0 PROJECT DESCRIPTION





November 1, 2012

Hector Guerra  
County of Tulare - RMA  
5961 S. Mooney Blvd.  
Visalia, CA 93277

**Project: Harvest-Tulare Anaerobic Digester and Compressed Natural Gas Facility  
Project (Harvest-Tulare AD and CNG Project)**

**District CEQA Reference No: 20120634**

Dear Mr. Guerra:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) for the Harvest-Tulare project. The proposed project consists of composting facility proposing to add an anaerobic digester to the existing composting operations to process organic materials. The District offers the following comments:

**Emissions Analysis**

- 1) The District is currently designated as extreme nonattainment for the 8-hour ozone standard, attainment for PM10 and CO, and nonattainment for PM2.5 for the federal air quality standards. At the state level, the District is designated as nonattainment for the 8-hour ozone, PM10, and PM2.5 air quality standards. The District recommends that the Air Quality section of the Environmental Impact Report (EIR) include a discussion of the following impacts:
  - a) **Criteria Pollutants:** Project related criteria pollutant emissions should be identified and quantified. The discussion should include existing and post-project emissions.

**Seyed Sadredin**  
Executive Director/Air Pollution Control Officer

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**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: 661-392-5500 FAX: 661-392-5585

- i) **Construction Emissions:** Construction emissions are short-term emissions and should be evaluated separate from operational emissions. The District recommends preparation of an Environmental Impact Report (EIR) if annual construction emissions cannot be reduced or mitigated to below the following levels of significance: 10 tons per year of oxides of nitrogen (NO<sub>x</sub>), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM<sub>10</sub>).
- ii) **Operational Emissions:** Permitted (stationary sources) and non-permitted (mobile sources) sources should be analyzed separately. The District recommends preparation of an Environmental Impact Report (EIR) if the sum of annual permitted and non-permitted emissions cannot be reduced or mitigated to below the following levels of significance: 10 tons per year of oxides of nitrogen (NO<sub>x</sub>), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM<sub>10</sub>).
- b) **Nuisance Odors:** The project should be evaluated to determine the likelihood that the project would result in nuisance odors. Nuisance odors are subjective, thus the District has not established thresholds of significance for nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration of project design elements and proximity to off-site receptors that potentially would be exposed objectionable odors.
- c) **Health Impacts:** Project related health impacts should be evaluated to determine if emissions of toxic air contaminants (TAC) will pose a significant health risk to nearby sensitive receptors. TACs are defined as air pollutants that which may cause or contribute to an increase in mortality or serious illness, or which may pose a hazard to human health. The most common source of TACs can be attributed to diesel exhaust fumes that are emitted from both stationary and mobile sources. Health impacts may require a detailed health risk assessment (HRA).

Prior to conducting an HRA, an applicant may perform a prioritization on all sources of emissions to determine if it is necessary to conduct an HRA. A prioritization is a screening tool used to identify projects that may have significant health impacts. If the project has a prioritization score of 1.0 or more, the project has the potential to exceed the District's significance threshold for health impacts of 10 in a million and an HRA should be performed.

If an HRA is to be performed, it is recommended that the project proponent contact the District to review the proposed modeling approach. The project would be considered to have a significant health risk if the HRA demonstrates that project related health impacts would exceed the District's significance threshold of 10 in a million.



More information on TACs, prioritizations and HRAs can be obtained by:

- E-mailing inquiries to: [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org); or
- Visiting the District's website at:

[http://www.valleyair.org/busind/pto/Tox\\_Resources/AirQualityMonitoring.htm](http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm).

2) In addition to the discussions on potential impacts identified above, the District recommends the EIR also include the following discussions:

- a) A discussion of the methodology, model assumptions, inputs and results used in characterizing the project's impact on air quality. To comply with CEQA requirements for full disclosure, the District recommends that the modeling outputs be provided as appendices to the EIR. The District further recommends that the District be provided with an electronic copy of all input and output files for all modeling.
- b) A discussion of the components and phases of the project and the associated emission projections, including ongoing emissions from each previous phase.
- c) A discussion of project design elements and mitigation measures, including characterization of the effectiveness of each mitigation measure incorporated into the project.
- d) A discussion of whether the project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment. More information on the District's attainment status can be found online by visiting the District's website at:

<http://valleyair.org/aqinfo/attainment.htm>.

### **District Rules and Regulations**

- 3) The proposed project may be subject to District rules and regulations, including: Regulation VIII (Fugitive PM<sub>10</sub> Prohibitions), Rule 4102 (Nuisance), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- 4) This project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

- 5) As stated above, the project will be subject to District Rule 2010 and Rule 2201. Per Section 4.4.3 of District Rule 9510 (Indirect Source Review), any project whose primary functions are subject to District Rule 2010 and Rule 2201 is exempted from Rule 9510. Therefore, the District concludes that the proposed project is not subject to District Rule 9510.
- 6) The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888. Current District rules can be found online at the District's website at:

[www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm).

The District recommends that a copy of the District's comments be provided to the project proponent. If you have any questions or require further information, please call Mark Montelongo at (559) 230-5905.

Sincerely,

David Warner  
Director of Permit Services



for: Arnaud Marjollet  
Permit Services Manager

DW:mm

cc: File

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • [WWW.CALRECYCLE.CA.GOV](http://WWW.CALRECYCLE.CA.GOV) • (916) 322-4027

P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

October 29, 2012

Hector Guerra  
Tulare County Resource Management Agency  
5961 S. Mooney Blvd.  
Visalia, CA 93277

**Subject:** SCH No 2012101010 - Notice of Preparation for an Environmental Impact Report for Harvest –Tulare Anaerobic Digestion (AD) and Compressed Natural Gas (CNG) Facility Project, d.b.a. Tulare County Compost and Biomass Facility No. 54-AA-0026

Dear Mr. Guerra:

Thank you for allowing the Department of Resources Recycling and Recovery (CalRecycle) staff to provide comments for this proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

**Project Description**

The Tulare County Resource Management Agency, acting as Lead Agency, has prepared and circulated a Notice of Preparation for a Draft EIR in order to comply with the CEQA and to provide information to, and solicit consultation with, Responsible Agencies in the approval of the proposed project.

The proposed project is located at 24487 Road 140 in Tulare County. The proposed project would: (1) allow the addition of an anaerobic digester at Tulare County Compost and Biomass; (2) allow the processing of organic material into fuel and digestate to be used as a soil amendment; and (3) increase the total annual tonnage limit for the new anaerobic digester and compost facility tonnage from 86,000 tons per year to 216,000 tons per year. The facility will be either a high solids digester (food and green waste) or a low solids digester (primarily food). Both feedstock options will be evaluated in the EIR. The facility would produce transportation fuel through compressed natural gas (CNG) and a refueling station would be constructed, or the gas would be directly injected into a nearby gas pipeline. Both gas options will be evaluated in the EIR.

**RECEIVED**

OCT 30 2012

STATE CLEARING HOUSE





## **Comments**

The Tulare County Department of Health Services, Division of Environmental Health (as the Local Enforcement Agency (LEA) for Tulare County) and CalRecycle are responsible for providing regulatory oversight of solid waste handling activities such as compost and anaerobic digestion (AD) facilities. The permitting and regulatory requirements for compost and AD facilities are contained in Title 14 and Title 27 of the California Code of Regulations (14 or 27 CCR). CalRecycle staff encourages the lead agency to utilize the Program EIR, Statewide Anaerobic Digester Facilities for the Treatment of Municipal Organic Solid Waste, dated June 2011, certified by CalRecycle as a resource to assist the lead agency in preparing the Draft EIR. The Final Program EIR can be viewed on CalRecycle's webpage at: <http://www.calrecycle.ca.gov/SWFacilities/Compostables/AnaerobicDig/default.htm>.

### Project Description

Please provide a detailed description of how the waste materials that will be digested will be handled onsite prior to being placed in the digester. Please describe any changes to the design and operations of the existing compost facility as a result of receiving and handling the digested material discharged from the digester. Will all of the digestate be aerobically composted onsite? Will new measures need to be made to manage the windrows to ensure there is adequate pathogen reduction? Any digestate composted onsite will need to be sampled and meet the requirements of 14 CCR Section 17868. Any un-composted digestate or composted digestate that does not meet the requirements of 14 CCR Section 17868 is considered solid waste and must be handled as solid waste. What methods will be used to handle digestate or composted digestate considered to be solid waste that is not composted on site and will be removed from the site?

### Feedstock

Please provide a more detailed description of the amounts or types of feedstocks that will be part of the new project as well as their sources. Does the food waste consist of pre-consumer waste, post-consumer, from restaurants, groceries, or residents? Waste materials taken out of the waste stream at different stages, or from different sources, can have more contaminants (non-digestible fraction) than at other stages or sources. How are the waste materials handled before entering the digester stage of the process? Will the waste require grinding or shredding or other processing prior to placement in the digester? How will contaminants be removed, stored and disposed?

### Air Quality/Odor

What specific mitigations will be used to reduce potential odors to less than significant during the pre-digestion phase? It will not be appropriate to defer this discussion to the development of the required odor impact minimization plan (OIMP) per 14 CCR Section 17863.4; this information should be discussed in the environmental review. What are the operational considerations or design aspects of the facility that will be required to minimize and mitigate odor impacts? Will a biofilter be used? What contingencies will be in place to address odors if the control system(s) fails?

CalRecycle developed a list of potential mitigation measures in our Program EIR for AD facilities. See the link above referencing the Program EIR to assist the lead agency in determining appropriate odor mitigations for the project.

#### Vectors

Food waste often attracts vectors including rodents and birds. What are the operational considerations to reduce potential impacts resulting from the attraction of vectors to the food waste?

#### Litter

Describe the litter control measures that will be implemented to address the increase in volume and types of feedstocks that may have large amounts of contaminants.

#### Tonnage

The project description states that up to 156,000 tons/year of green material and food waste, plus 60,000 tons/year of manure will be processed by the project. The compost facility is currently permitted for 500 tons/day. How much will the daily tonnage increase as a result of the project? What will be the total daily design capacity for the AD operation (in tons)? What will be the total daily design capacity for the entire facility (in tons)?

#### Traffic

The composting facility is currently permitted for 85 vehicles entering the site each day. What will be the total number of vehicle trips per day as a result of the project? Will there be any changes in design or operation to accommodate an increase in traffic?

#### Hours of Operation

The composting facility is currently permitted to operate from 7:00 a.m. to 4:30 p.m. Monday through Friday and 8:00 a.m. to 4:00 p.m. Saturdays, closed on Sundays. What will be the change in operating hours resulting from the project?

#### Permitted Boundary

The composting facility is currently permitted to operate on 35 acres. Part of the project description describes constructing a refueling station on the existing composting facility's 35 acres. Will there be a change in the permitted boundary? If so, what design changes would occur? The acreage calculation in a solid waste facilities permit takes into account the amount of material being handled on the site at any one time. Will the operational area available for windrow composting be reduced to allow for the establishment of the AD activities?

#### Permits

The Local Enforcement Agency of this proposed project is the Tulare County Department of Health Services, Division of Environmental Health (Keith Jahnke (559) 624-7430 or [kjahnke@tularehhsa.org](mailto:kjahnke@tularehhsa.org)). Please contact the Local Enforcement Agency to discuss permit requirements for the project and the existing composting facility.



## Conclusions

CalRecycle staff thanks the Lead Agency for the opportunity to review and comment on this environmental document and hopes that this comment letter will be useful to the Lead Agency in preparing the draft EIR and carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of any subsequent environmental documents, copies of public notices and any Notices of Determination for this project. Refer to 14CCR, Section 15094(c) that states:

If the project requires discretionary approval from any state agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with the Office of Planning and Research [State Clearinghouse].

If the environmental document is adopted during a public hearing, CalRecycle staff requests ten days advance notice of this hearing. If the document is adopted without a public hearing, CalRecycle staff requests ten days advance notification of the date of the adoption and project approval by the decision-making body.

If you have any questions regarding these comments, please contact me at (916) 341-6772 or by e-mail at [joy.isaacson@calrecycle.ca.gov](mailto:joy.isaacson@calrecycle.ca.gov).

Sincerely,



Joy Isaacson, Waste Management Specialist  
Permitting & Assistance Branch  
Waste Permitting, Compliance & Mitigation Division  
CalRecycle

Enclosure

cc: Ken Decio, CalRecycle  
Virginia Rosales, CalRecycle

Keith Jahnke, LEA  
Tulare County Department of Health Services  
[kjahnke@tularehhsa.org](mailto:kjahnke@tularehhsa.org)



**DEPARTMENT OF TRANSPORTATION****DISTRICT 6**

1352 WEST OLIVE AVENUE

P.O. BOX 12616

FRESNO, CA 93778-2616

PHONE (559) 488-7396

FAX (559) 488-4088

TTY (559) 488-4066

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October 23, 2012

2135-IGR/CEQA  
6-TUL-137-22.22 +/-  
NOTICE OF PREPARATION (NOP)  
HARVEST-TULARE COMPOSTING FACILITY  
SCH # 2012101010

Mr. Hector Guerra  
Chief Environmental Planner  
County of Tulare  
Resource Management Agency  
5961 S. Mooney Boulevard  
Visalia, CA 93277

Dear Mr. Guerra:

Thank you for the opportunity to review the Notice of Preparation (NOP) for the Draft Environmental Impact Report (DEIR) for the expansion of the Harvest-Tulare Composting Facility. The project proposes to add an anaerobic digester to the existing facility which has been operating since 1996. The project will also increase the tonnage produced at the facility from 86,000 ton per year to approximately 216,000 tons per year. The project is located at 24487 Road 140 at the Avenue 245 intersection, approximately 1.6 miles north of the State Route (SR) 137/Road 140 intersection. Caltrans has the following comments:

As indicated in the NOP - Project Description, the project "...is anticipated to result in an *increase* of total vehicle trips per day...". Caltrans anticipates that a significant number of vehicle trips will use the SR 137/Road 140 intersection as a preferred route to and from the composting facility. Caltrans acknowledges that the EIR will need to evaluate the facilities existing vehicle trips compared to the increase in projects-related trips, including seasonal peak trips.

To assess the project-related impact on SR 137 and quantify mitigation if necessary, Caltrans recommends peak-hour Trip Generation and Trip Distribution estimates be provided in the DEIR, which could be accomplished through a focused analysis (specific intersections) or a Traffic Impact Study.

Please be advised that any future development in the vicinity of a State Route, whether the entitlement is deemed by the lead agency to be discretionary or ministerial should be sent to Caltrans for review. If you have any questions, please call me at (559) 488-7396.

Sincerely,

DAVID DEEL  
Associate Transportation Planner  
District 6



**TULARE COUNTY  
HEALTH & HUMAN SERVICES AGENCY**

DEPARTMENT OF ADMINISTRATION • KEVIN MARKS • DIRECTOR  
ENVIRONMENTAL HEALTH SERVICES • VIVIAN NELSON, MSCE REHS • DIVISION MANAGER

Cheryl L. Duerksen, Ph.D.,  
Agency Director

October 22, 2012

HECTOR GUERRA  
RESOURCE MANAGEMENT AGENCY  
5961 SOUTH MOONEY BLVD  
VISALIA CA 93277



Re: Notice of Preparation of DEIR- Harvest Power California, LLC

Dear Mr. Guerra:

The Tulare County Environmental Health Services Division (TCEHSD) has received the Notice of Preparation of a Draft Environmental Impact Report for the above referenced facility.

The TCEHSD submitted a letter dated July 16, 2012, with our recommended conditions to be incorporated with the Special Use Permit. With the assurance that these conditions will be incorporated in the Special Use Permit, the TCEHSD has no further comments for this project.

Please contact me at (559) 624-7429 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allison".

Allison Shuklian  
Environmental Health Specialist  
Environmental Health Services Division

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
[ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



October 4, 2012

Mr. Hector Guerra, Chief, Environmental Planning

**County of Tulare Resource Management Agency**

5961 South Mooney Boulevard  
Visalia, CA 93277-9394

Re: SCH#2012101010; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR); for the "Harvest-Tulare Anaerobic Digester and Compressed Natural Gas Facility Project;" located in the City of Tulare area; Tulare County, California

Dear Mr. Guerra:

The Native American Heritage Commission (NAHC) is the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3<sup>rd</sup> 604).

This letter includes state and federal statutes relating to Native American historic properties or resources of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9. This project is also subject to California Government Code Section 65352.3.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC recommends that the lead agency request that the NAHC do a Sacred Lands File search as part of the careful planning for the proposed project.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway.

Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties, including archaeological studies. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq.*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254( r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

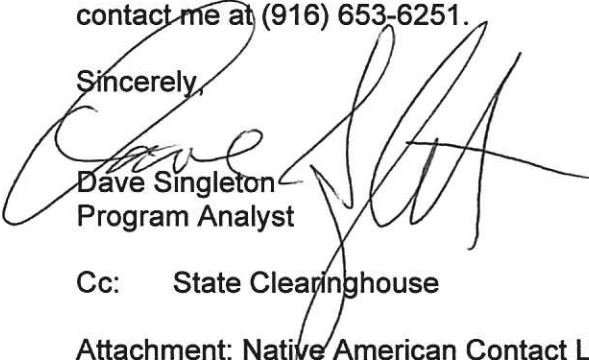
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton  
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

**Native American Contacts  
Tulare County  
October 4, 2012**

Santa Rosa Rancheria  
Rueben Barrios Sr., Chairperson  
P.O. Box 8  
Lemoore , CA 93245  
(559) 924-1278  
(559) 924-3583 Fax

Tache  
Tachi  
Yokut

Wuksache Indian Tribe/Eshom Valley Band  
Kenneth Woodrow, Chairperson  
1179 Rock Haven Ct.  
Salinas , CA 93906  
kwood8934@aol.com  
831-443-9702

Foothill Yokuts  
Mono  
Wuksache

Tule River Indian Tribe  
Neil Peyron, Chairperson  
P.O. Box 589  
Porterville , CA 93258  
chairman@tulerivertribe-nsn.  
(559) 781-4271  
(559) 781-4610 FAX

Yokuts

Tubatulabals of Kern Valley  
Robert L. Gomez, Jr., Tribal Chairperson  
P.O. Box 226  
Lake Isabella, CA 93240  
(760) 379-4590  
(760) 379-4592 FAX

Tubatulabal

Ron Wermuth  
P.O. Box 168  
Kernville , CA 93238  
warmoose@earthlink.net  
(760) 376-4240 - Home  
(916) 717-1176 - Cell

Tubatulabal  
Kawaiisu  
Koso  
Yokuts

Wuksache Tribe  
John Sartuche  
1028 East "K" Avenue  
Visalia , CA 93292  
signsbysarch@aol.com  
(559) 636-1136

Wuksache

Sierra Nevada Native American Coalition  
Lawrence Bill, Interim Chairperson  
P.O. 125  
Dunlap , CA 93621  
(559) 338-2354

Mono  
Foothill Yokuts  
Choinumni

Jennifer Malone  
637 E Lakeview  
Woodlake , CA 93286  
indianpopup@sbcglobal.net  
559-564-2146 - home  
559-280-0712 - cell

Wukchumni  
Tachi  
Yowlumni

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012101010; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Harvest AD and CNG Project; located in the City of Tulare area; Tulare County, California.



**Native American Contacts  
Tulare County  
October 4, 2012**

Santa Rosa Tachi Rancheria  
Lalo Franco, Cultural Coordinator  
P.O. Box 8                      Tachi  
Lemoore        , CA 93245      Tache  
(559) 924-1278 - Ext. 5       Yokut  
(559) 924-3583 - FAX

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

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