

Attachment E

Resolution No. PC2025-008

RESOLUTION NO. PC2025-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A LANDFILL-GAS-TO-ENERGY FACILITY AT 20662 NEWPORT COAST DRIVE (PA2022-063)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Biofuels Coyote Canyon Biogas LLC, on behalf of Archaea Energy Inc. ("Applicant"), concerning property located at 20662 Newport Coast Drive, and legally described as a Portion of Block 128, Tract No. 361 of Irvine's Subdivision ("Project Site"), requesting approval of a conditional use permit ("CUP").
2. The Project Site is located within the greater boundary of the closed Coyote Canyon Landfill ("CCL"), which received municipal solid waste from 1963 to 1990 and officially closed on May 7, 2003. CCL is owned by the County of Orange ("Owner") and is maintained by Orange County Waste & Recycling ("OCWR"). The CCL boundary occurs on both sides of Newport Coast Drive and consists of four distinct areas: (1) the main canyon landfill, located immediately west of Newport Coast Drive and addressed as 20661 Newport Coast Drive; (2) and (3) the east and south canyon landfilling areas, located east of Newport Coast Drive and with no specific address; and (4) the Project Site, also located east of Newport Coast Drive and at the top of a ridge. The Project Site has historically been the primary location for dealing with landfill gas ("LFG"), including a former LFG-to-energy operation.
3. The previous LFG-to-energy facility operated from 1988 to 2015. It was removed as part of the Coyote Canyon Gas Recovery Demolition and Telecom Update (PA2016-091) (SCH number 2016081012) as the quality of the LFG became inadequate for conversion to energy with the technology of the time.
4. The Project Site is currently improved with emergency generators, above ground storage tanks, two 65-foot faux eucalyptus cell towers ("Telecom Facilities"), power panel and switchgear, a blower pad, and flares that currently burn off the LFG generated by CCL. There is a small operational support building in the center of the site used by OCWR staff and three parking spaces. The Project Site is surrounded by a 12-foot-tall perimeter block wall, trees, with coastal sage scrub beyond.
5. The Applicant proposes the construction and operation of a new renewable natural gas ("RNG") processing plant and a pipeline interconnection facility (collectively referred to as the "RNG Facility"). The RNG Facility will convert LFG generated by CCL into a pipeline-quality natural gas equivalent. This RNG would be transferred from the facility into SoCal Gas infrastructure through an existing onsite tie-in point. Other project components include

a new control room building, new internal access routes, utility upgrades including installation of an additional fire hydrant, a water tank, a septic tank, oil/water separator, a storm drain for off-site disposal of stormwater, and new underground power and telecommunication lines. The RNG Facility would operate 24 hours per day, seven days a week, with an annual scheduled shutdown for plant maintenance. The Telecom Facilities would be protected in place and not affected by the current application ("Project").

6. The Project Site is categorized as Open Space (OS) by the Land Use Element of the General Plan and is located within the Open Space (OS) Zoning District.
7. The Project Site is not located within the coastal zone and no coastal development permit is required.
8. Additionally, the entire Coyote Canyon Landfill, including the Project Site, are located within the Central Subregion of the Natural Communities Conservation Plan/Habitat Conversation Plan (NCCP/HCP) for the Central and Coastal Subregions of Orange County. The NCCP/HCP is a multi-species habitat conservation plan designed to protect sensitive plant and animal species by preserving existing habitat areas in response to the construction of State Route 73. The Project Site is designated as an existing use by the NCCP/HCP.
9. A Public Hearing with the Planning Commission was previously scheduled and noticed for May 22, 2025, to review the Project. However, the Project was removed from the agenda and the meeting was cancelled.
10. A public hearing was held on July 17, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A draft Initial Study and Mitigated Negative Declaration (State Clearinghouse Number 2024120012) ("IS/MND") have been prepared in compliance with the California Environmental Quality Act ("CEQA") set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in Title 14 in the California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3.
2. The draft IS/MND were circulated for a 45-day comment period beginning on November 27, 2024, and ending on January 13, 2025.
3. Pursuant to Public Resources Code Section 21080.3.1, the City provided formal notice on December 5, 2023, to Native American tribes that are traditionally and culturally affiliated with the geographic area of the Project Site. The City received no responses within the 30-day period, however, a tribal contract for the Gabrieleño Band of Mission

Indians – Kizh Nation, requested consultation during the public comment period of the IS/MND. Mitigation Measures have been included in the Mitigation Monitoring and Reporting Program (“MMRP”) to the satisfaction of the tribe to address potential concerns regarding the protection of Tribal Cultural Resources.

4. The MND, which includes the IS, public comments, and responses to comments as of the public hearing date, is being considered by the Planning Commission in its review of the Project.
5. The Planning Commission finds that the MND has been prepared and completed in compliance with CEQA and City Council Policy K-3.
6. The Planning Commission finds that the MND reflects the independent judgment and analysis of the City.
7. Based on the entire environmental review record, the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings that would be caused. Additionally, there are no long-term environmental goals that would be compromised by the project, nor cumulative impacts anticipated in connection with the project. The MMRP are feasible and will reduce the potential environmental impacts to a less than significant level.
8. The IS/MND, MMRP, and Response to Comments attached as Exhibits “A”, “B,” and “C” respectively, are hereby adopted. The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Division, City Hall, 100 Civic Center Drive, Newport Beach, California.
9. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time-consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages that may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the General Plan and any applicable specific plan;

Facts in Support of Finding:

1. The Project Site is categorized as Open Space (OS) by the Land Use Element of the General Plan. The Open Space (OS) land use designation is intended to provide areas appropriate for a range of public and private uses to protect, maintain, and enhance the community's natural resources. This designation may also include incidental buildings, such as maintenance equipment and supply storage, which are not traditionally included in determining intensity limits.
2. The Project is consistent with the Open Space (OS) categorization, as it introduces new equipment and limited incidental structures within an already improved area of the CCL. The Project comprises less than one acre of the 375-acre CCL footprint and preserves the community's natural resources because it does not expand the footprint of the building pad and perimeter block wall at the top of the ridge. Additionally, the RNG Facility provides a net benefit to the existing Open Space (OS) by converting LFG generated by CCL into a pipeline-quality natural gas equivalent.
3. Additionally, the Project is consistent with the following policies of the General Plan:
 - a. **LU 1.3 (Natural Resources) and NR 17.1 (Open Space Protection):** *Requires the preservation of open space and habitat resources.* The Project comprises less than one acre of the 375-acre CCL site and preserves the community's natural resources because it does not develop current open space and instead sites the new improvements adjacent to existing improvements within the existing walled-off area. All Project components are proposed within the perimeter wall. Additionally, the RNG Facility provides a net benefit to the existing Open Space (OS) by converting LFG generated by CCL into a pipeline-quality natural gas equivalent.
 - b. **LU 1.6 (Public Views):** *Requires protection, and where feasible, enhancement of significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points* and **NR 21.1 (Signs and Utility Siting and Design)** *which requires signs, utilities, and antennas be designed and sited to minimize visual impacts:* The City's policies related to public reviews include Land Use Policy LU 1.3 which aims to preserve open space resources, beaches, harbors, parks, bluffs, preserves, and estuaries as visual, recreational, and habitat resources; Land Use Policy LU 1.6 which requires public views, including scenic and visual resources such as open space, mountains, canyons, ridges, the ocean, and the harbor, be preserved and where possible, enhanced from public vantage points; and Natural Resources Policy NR 23.1. The IS/MND analyzed views from three different viewpoints including looking southeast from Newport Coast Drive (just south of Sage Hill High School), northeast from Newport Coast Drive (just northeast of San Joaquin Hills Road), and north from the residences at Renata Street. Of note, Newport Coast Drive, the primary location for two of the three viewshed locations, is not a scenic highway and has motorists driving at higher rates of speed along this area. The viewshed simulations demonstrate that the Project design blends within the existing topography such that the Project complies with these policies. Additionally, Condition of Approval No. 5 requires the Applicant to provide enhanced aesthetic treatment of the equipment to ensure the RNG Facility blends in with its surroundings.

- c. **General Plan Policy LU 3.3 (Opportunities for Change - Coyote Canyon Landfill):** *Intends for the CCL to support a comprehensive vision that balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.* The Project is proposed within an area of CCL where there are existing utilities, such as telecom facilities, and existing infrastructure for LFG collection and flaring. The Project is not located in an area of the CCL that is conducive for redevelopment into any of the aforementioned uses without the removal of the existing infrastructure. The Project does not prohibit the implementation of Policy LU 3.3 within other areas of CCL and instead sites new improvements in a complementary fashion with existing improvements.
- d. **NR 3.9 (Water Quality Management Plan) and NR 4.4 (Erosion Minimization):** *Requires new development applications to include a Water Quality Management Plan ("WQMP") to demonstrate how runoff and erosion shall be minimized both during construction and post-construction.* A WQMP was prepared for the Project by BKF Engineers, dated December 14, 2023. The Project implements Best Management Practices and is designed to prevent surface water from flowing over slope faces.
- e. **NR 10.2 (Orange County Natural Communities Conservation Plan):** *Requires compliance with the policies of the NCCP/HCP.* The Project is within an area of the NCCP/HCP that is acknowledged as an existing use and does not expand the use beyond the existing perimeter wall. Temporary staging areas that will be used during construction of the Project for material deliveries and parking have been sited to avoid impacts to avoid coastal sage scrub, chaparral, and other native plant communities. The primary laydown area is proposed on the Project Site and the secondary laydown area is proposed within an already disturbed portion of the main landfill area, across Newport Coast Drive. Vehicle parking for construction employees will be provided in the secondary laydown area, and a shuttle would transport crews daily to and from the Project Site. A number of mitigation measures are incorporated in the MMRP, set forth in Exhibit B, to ensure the Project complies with the policies of the NCCP/HCP.

4. The Project is not located within a specific plan area.

Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

Facts in Support of Finding:

1. The Project Site is within the Open Space (OS) Zoning District. The OS District is intended to both provide areas to maintain and protect the community's natural open space resources; and maintain and protect landscaped open space areas located within residential and non-residential developments, where no further development is allowed.
2. Pursuant to Table 2-14 (Allowed Uses and Permit Requirements) of Section 20.26.020 (Special Purpose Zoning Districts Land Uses and Permit Requirements) of the NBMC, "Major Utilities" are allowed within the OS District, subject to the approval of a CUP. The Project meets the definition of a "Major Utility," as provided in Chapter 20.70 (Definitions) of the NBMC and is therefore allowed upon approval of this CUP.
3. Section 20.26.030 (Special Purpose Zoning Districts General Development Standards) of the NBMC specifies that development standards in the Open Space (OS) District shall be established during review of the required permit. The RNG Facility would have a total footprint of approximately 38,500 square feet and would be composed of pipe racks, various vessels and tanks, new flare tower, thermal oxidizer, and other miscellaneous processing equipment. Equipment ranges in height from approximately 5-foot, 6-inches above the existing grade to a maximum height of 60 feet above the existing grade. Apart from the vessels, tanks, flare, and pipe rack, which range in height from 30 feet to 40 feet above finish grade, most of the equipment will be screened by the existing perimeter wall. The tallest piece of RNG Facility equipment, the thermal oxidizer, is proposed at a height of 60 feet above finish grade. All equipment will be below the 65-foot height of the Telecom Facilities. Condition of Approval No. 4 has been included to set height limits for specific equipment that exceeds 35 feet in height.
4. Given the Project is entirely within the perimeter of the wall and most equipment is setback approximately 12 feet from the wall to allow sufficient site circulation, no additional setbacks are proposed. Requiring additional setbacks from the property line would further constrain the layout of the RNG Facility and would likely result in taller equipment. As such, it is most appropriate to allow development to span the entire Project Site behind the perimeter wall.
5. The approximately 500-square-foot control room building is the only enclosed floor area proposed with the Project. Given it is clearly incidental to the RNG Facility, no maximum floor-area-to-land ratio is proposed.
6. The control room building will be staffed by one to two employees, per shift. Two parking spaces are proposed to accommodate the anticipated parking demand. There are access roads within the Project Site which provide sufficient vehicle staging areas in the event additional workers are ever required during a maintenance event or plant shut down.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding:

1. The Project Site is located within the greater boundary of the closed CCL. The Project Site itself has historically been the primary location for dealing with LFG, including a former LFG-to-energy operation which operated from 1988 to 2015. While the quality of the LFG became inadequate for conversion to energy with the technology of the time, new technology is now available which allows for LFG to once again be utilized.
2. Land uses that are immediately adjacent to the Project Site include the landfill areas described above in Statement 2 of Section 1, an Irvine Ranch Water District ("IRWD") pumping station, and open space.
3. The nearest sensitive receptors to the Project Site are the existing Sage Hill School, located approximately 1,400 feet to the north, and single-unit residences in the Tesoro Community, located approximately 1,250 feet to the south.
4. A Noise Impact Analysis was prepared for the Project by LSA, dated July 17, 2024. The study found that neither the construction of the Project nor the long-term operation of the Project would result in noise impacts to the nearby sensitive receptors.
5. Long term operation of the Project will result in a negligible increase in the number of vehicles traveling to the Project Site. The Project is anticipated to generate eight average daily trips, well below the 300 average daily trip threshold provided in Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC to require the preparation of a traffic study.
6. Vehicle traffic will increase during the 9-to-12-month Project construction period. To reduce the temporary impacts to a less than significant level, the Project includes four traffic mitigation measures, which are included in the MMRP. For example, the Applicant must prepare a traffic control plan for demolition and construction which staggers truck trips throughout the day on Newport Coast Drive so that the minimum practicable number of truck trips will occur during the AM peak period (i.e., during student drop off for Sage Hill School). Through the implementation of these mitigation measures, the Project is not anticipated to negatively impact traffic within the surrounding area.
7. The Project is not anticipated to generate objectionable odors to the nearby community due to Project design and distance from sensitive receptors. While the RNG will be odorized prior to injection into SoCal Gas infrastructure, the odorization process is a sealed-loop system and there should be no release of odors. Construction activities may generate odors, but they would be temporary and typically confined to the immediate vicinity of the construction equipment. By the time any odorous emissions reach the nearby sensitive receptors, they would likely be diluted to be below the level of detection.
8. The Project introduces additional lighting for security purposes but is not anticipated to adversely affect ambient light conditions. The 12-foot perimeter wall and trees surrounding the project site should help shield lighting that could emanate from the Project Site. To ensure Section 20.30.070 (Outdoor Lighting) of the NBMC, which

requires all outdoor lighting be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways, is implemented, Condition of Approval No. 10 allows the Community Development Director to order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

9. The historic use of the Project Site is LFG collection and processing. The previous LFG-to-energy facility operated at the Project Site from 1988 to 2015 and without notable incidents or code enforcement issues. The historic use of the site suggests the RNG Facility should also operate in a compatible way with the surrounding uses.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities;*

Facts in Support of Finding:

1. The Project was reviewed by the City's Utilities Department, Public Works Department, and Building Division. All input and recommendations provided on implementation of the project if approved have either been incorporated into project design or have been included in the Conditions of Approval, attached as Exhibit "D."
2. The Project was also reviewed by the Newport Beach Fire Department ("NBFD"). The NBFD provided recommendations and conditions, including vegetation removal, to ensure that the necessary fire prevention and emergency response features are incorporated. All recommendations are included in the MMRP and the Conditions of Approval, attached as Exhibits "B" and "D," respectively.
3. OCWR currently maintains the planted area outside the perimeter wall. As required by the NBFD, the Project would likely remove 28 trees to reduce the risk of fire associated with the Project. Condition of Approval No. 29 requires a Fuel Modification Plan to be reviewed and approved by the NBFD prior to the issuance of a building permit.
4. An additional fire hydrant will be added to the Project Site to ensure the hydrant layout can meet hose-pull requirements and allow fire apparatus equipment and firefighting crews to deploy at a safe distance from the RNG Facility. The hydrant location was reviewed and accepted by the NBFD.
5. The Project includes a new, enclosed, flare tower to burn off-specification gas generated from the RNG refining process. The combustion of off-specification gas will occur within the flare tower, and no flames will be visible. The four existing OCWR flares will be protected in place and will be used to combust any excess LFG that is not sent to the RNG Facility or as a backup in the event the RNG Facility goes offline. The existing OCWR flares will not be retrofitted to conceal flames. The NBFD acknowledges that calls for service may be received related to the occasional visible flaring in the existing

OCWR flares but does not anticipate calls for service to increase over what they receive under existing conditions.

6. The Project is required to comply with the most current adopted fire codes, building codes, and nationally recognized fire and life safety standards. These codes impose design standards and requirements to minimize and mitigate fire and emergency response risk. Compliance with these codes and standards is ensured through the City's building permit review process. All construction would be subject to review and approval by the City's Building Division and NBFD prior to building permit and certificate of occupancy issuance.

Finding:

- E. *Operation of the use at the proposed location would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. LFG is currently being flared off by existing site infrastructure. The Project will divert the LFG from the flares and into the RNG Facility to convert it into RNG through a proprietary process. The LFG will undergo moisture, particulate, and contaminant removal to be upgraded and compressed into pipeline quality RNG. Contaminants removed from the LFG will be destroyed in the thermal oxidizer. While the Project generally replaces existing LFG flaring, the Project still has the potential to release gaseous emissions of criteria pollutants and dust into the ambient air.
2. An Air Quality Impact Analysis ("AQIA") was prepared for the Project by SCS Engineers, dated December 2023. The AQIA evaluated the offsite concentrations of criteria air pollutants that would be emitted by the Project. The net change in emissions from implementation of the Project would be lower than significance thresholds established by the South Coast Air Quality Management District ("SCAQMD"). Projects below the SCAQMD significance thresholds are not expected to generate sufficient criteria pollutant emissions to violate any air quality standards and should not be a risk to the health or general welfare of people residing or working nearby.
3. The operation of the Project would require the use of hazardous materials such as maintenance products, oils, acids, and gases. A full list of materials and quantities are included in Table 10 of the IS/MND. The Project will store hazardous materials in small enough quantities as to not require registration with the California Accidental Release Program and is not anticipated to endanger, jeopardize, or otherwise constitute a hazard to the public. Furthermore, specific protocols for the storage of hazardous materials are provided in Appendix H of the IS/MND and incorporate the use of double-walled tanks and secondary containment to conform with existing hazardous materials and hazardous waste laws and regulations set at the State and Federal level.

4. Construction activities would use hazardous materials including gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. The materials used would be in small enough quantities and stored in accordance with best management practices, such as secondary containment, to not pose a significant safety hazard. Additionally, these activities would also be short-term, or once off, and would cease upon completion of the Project's construction phase.
5. A Preliminary Site Consequence Assessment was prepared for the Project to outline the potential for flammable vapor clouds, jet fire, and toxic vapor clouds and the possible effect they pose on the surrounding vegetation; public; the control room, and the existing OCWR building. The analysis found that through the implementation of emergency response procedures and compliance with applicable laws and regulations, potential impacts would be less than significant.
6. To help lessen any impacts to the surrounding area, the Applicant is required to notify neighboring residential community members at least one week prior to the start of construction. Broader notifications will be made through various means, including placing signs at road crossings in advance of construction.
7. Facts 4 and 7 in Support of Finding C are hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby adopts the Mitigated Negative Declaration (SCH NO. 2024120012) attached hereto as Exhibit "A", the Mitigation Monitoring and Reporting Program attached hereto as Exhibit "B", and the Response to Comments attached hereto as Exhibit "C", all of which are attached hereto and incorporated herein by reference.
2. The Planning Commission of the City of Newport Beach hereby approves the CUP filed as PA2022-063, subject to the conditions set forth in Exhibit "D," which is attached hereto and incorporated herein by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 17TH DAY OF JULY 2025.

AYES: Harris, Langford, Reed, and Salene

NOES: None

ABSTAIN: None

ABSENT: Ellmore, Gazzano, and Rosene

BY: Tristan Harris
Tristan Harris, Chair

BY: 
Jonathan Langford, Secretary

EXHIBIT A

**INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
SCH NO. 2024120012**

File available via link due to size:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3088533&dbid=0&repo=CNB>

EXHIBIT B

MITIGATION MONITORING AND REPORTING PROGRAM

May 2025 | Mitigation Monitoring and Reporting Program
State Clearinghouse No. 2024120012

Landfill Gas to Energy Plant Project

City of Newport Beach

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City of Newport Beach

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1. Introduction

1.1 PURPOSE OF MITIGATION MONITORING PROGRAM

This Mitigation Monitoring Program (MMRP) has been developed to provide a vehicle by which to monitor mitigation measures and conditions of approval outlined in the Landfill Gas to Energy Plant Project Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2024120012. The MMRP has been prepared in conformance with Section 21081.6 of the Public Resources Code and the City of Newport Beach Monitoring Requirements. Section 21081.6 states:

- (a) When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:
 - (1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.
 - (2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

The State CEQA Guidelines Section 15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. The reporting or monitoring program must be designed to ensure compliance during project implementation. The City of Newport Beach is the lead agency for the Landfill Gas to Energy Plant Project (proposed project) and is therefore responsible for implementing the MMRP. The MMRP has been drafted to meet the requirements of Public Resources Code Section 21081.6 as a fully enforceable monitoring program.

The MMRP consists of the mitigation program and the measures to implement and monitor the mitigation program. The MMRP defines the following for the mitigation measures outlined in Table 2-1, *Mitigation Monitoring Requirements*:

- **Definition of Mitigation.** The mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to take for mitigation.

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- **Responsibility for Implementation.** Unless otherwise indicated, the project applicant (Archaea Energy) is the party responsible for implementing the mitigation.
- **Responsibility for Oversight.** Since the project site is owned by the County of Orange and operated by OCWR, OCWR will have oversight responsibility for implementation of the project's mitigation measures. OCWR's technical consultants will perform related monitoring tasks in their respective areas of expertise and under the direction of the environmental monitor manager. OCWR's mitigation monitoring team, consisting of the environmental monitor manager and technical subconsultants, is responsible for monitoring the implementation/compliance with all adopted mitigation measures. A major portion of the team's work is in-field monitoring and compliance report preparation. OCWR will also be responsible for first phase dispute resolution. Once OCWR prepares compliance reports, the reports will be submitted to the City for review and final approval.
- **Responsibility for Monitoring.** The City of Newport Beach will have the final responsibility for monitoring the performance and implementation of the mitigation measures. The City will be responsible for overall program administration, final compliance report review, dispute resolution, and document/report clearinghouse. If disputes cannot be resolved between OCWR and the project applicant, the City will arbitrate the final resolution of disputes. To guarantee that the mitigation measure will not be inadvertently overlooked, the City will be the official entity who grants the permit or authorization called for in the mitigation measure. All activities are subject to the approval of all required permits from local, state, and federal agencies with permitting authority over the specific activity.
- **Time Frame.** A time frame is provided for performance of each mitigation measure and/or documentation of implementation.

The numbering system in Table 1 corresponds with the numbering system used in the IS/MND. The last column of the MMRP table will be used by the parties responsible for documenting when implementation of the mitigation measure has been completed. The ongoing documentation and monitoring of mitigation compliance will be completed by the City of Newport Beach. The completed MMRP and supplemental documents will be kept on file at the City of Newport Community Development Department.

1.2 PROJECT SUMMARY

The Landfill Gas to Energy Plant project (proposed project) involves the installation and operation of a new renewable natural gas (RNG) processing plant and a pipeline interconnection facility (collectively referred to as the RNG facility). The proposed RNG facility would be constructed under a lease agreement with OC Waste & Recycling (OCWR), within the boundary of the closed Coyote Canyon Landfill (CCL), which is owned by the County of Orange and operated by OCWR. The project site is 4.14 acres and surrounded by a 12-foot perimeter wall. The proposed RNG facility would have a total footprint of 38,500 square feet (0.88 acres) and would convert existing landfill gas into a pipeline-quality natural gas equivalent. The pipeline interconnection facility would be approximately 6,000 square feet, and the RNG processing plant would be approximately 32,500 square feet. The interconnection facility would include a point of receipt (POR) skid to monitor the quality of the RNG and an 8-inch pipeline extension dedicated to transfer of the RNG from the POR to the

1. Introduction

existing fossil natural gas pipeline tie-in point, owned by SoCalGas, in the western part of the site. Other project components include new internal access routes and utility and infrastructure improvements. These improvements would include installation of a fire hydrant, an on-site water tank, a septic tank system for the proposed control room, a storm drain for off-site disposal of stormwater, and new underground power and telecommunication lines. Project implementation requires a conditional use permit (CUP) from the City of Newport Beach (City).

1. Introduction

1.3 PROJECT LOCATION

The project site is in the northeastern portion of Newport Beach in Orange County, California. The 4.14-acre project site is at the top of a hill at 20662 Newport Coast Drive within the boundary of the closed CCL. The project site is on a previously established level building pad, enclosed by a 12-foot perimeter wall with surrounding trees on all sides. The pad was previously developed with a landfill gas-to-energy plant which has since been demolished. The area immediately outside the perimeter wall that could be affected by the implementation of the proposed project includes understory species and viewshed trees. The trees are a mix of native and non-native species consisting of eucalyptus, Peruvian peppers, myporiums, white alders, western sycamores, and coast live oak. The project site can be accessed from State Route (SR-) 73, approximately 0.2 mile to the east via Newport Coast Drive, and from SR-1, approximately 2.7 miles to the south via Newport Coast Drive.

1.4 ENVIRONMENTAL IMPACTS

The level of significance is identified for each impact in the MND. Although the criteria for determining significance are different for each topic area, the environmental analysis applies a uniform classification of the impacts based on definitions consistent with CEQA and the CEQA Guidelines:

- **No impact.** The project would not change the environment.
- **Less than significant.** The project would not cause any substantial, adverse change in the environment.
- **Less than significant with mitigation incorporated.** The Initial Study includes mitigation measures that avoid substantial adverse impacts on the environment.
- **Significant and unavoidable.** The project would cause a substantial adverse effect on the environment, and no feasible mitigation measures are available to reduce the impact to a less than significant level.

1.4.1 Impacts Considered Less Than Significant

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Energy
- Greenhouse Gas Emissions
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Recreation
- Utilities and Serves Systems

1. Introduction

1.4.2 Potentially Significant Adverse Impacts That Can Be Mitigated, Avoided, or Substantially Lessened

- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Waste
- Hydrology and Water Quality
- Public Services
- Transportation
- Tribal Cultural Resources
- Wildfire

2. Mitigation Monitoring and Reporting Requirements

Project-specific mitigation measures have been categorized in matrix format, as shown in Table 2-1. The matrix identifies the environmental factor, specific mitigation measures, schedule, and responsible monitor. The mitigation matrix will serve as the basis for scheduling the implementation of, and compliance with, all mitigation measures.

3. Mitigation Monitoring Requirements

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2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
3.4 Biological Resources						
BIO-1	Preconstruction Nesting Bird Surveys and Avoidance. Construction activities shall avoid the migratory bird nesting season (typically February 1 through August 31) to reduce any potential significant impact to birds that may be nesting in the project site. Additionally, vegetation within the proposed impact area can be removed outside of the nesting season to minimize the potential for birds to nest in the impact footprint. If construction activities must occur during the migratory bird nesting season, an avian nesting survey of the project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans, along with an appropriate buffer established around the nest, which shall be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall be conducted when construction occurs in close proximity to an active nest buffer. No project activities shall encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined that the nestlings have fledged and the nest is no longer active.	Project Applicant's Qualified Wildlife Biologist & Construction Contractors	72 hours prior to the construction start date. If construction activities must occur during the migratory bird nesting season.	OCWR	City of Newport Beach Community Development Department	
BIO-2	Preconstruction Bat Survey and Avoidance. Prior to the removal of trees that could support roosting bats during the maternity roosting season (March through August), a bat biologist shall survey the areas that could provide suitable roosting habitat for bats to confirm they contain no potential maternity roosts. If a potential maternity roost is	Project Applicant's Qualified Biologist &	Prior to the removal of trees that could support roosting bats during the	OCWR	City of Newport Beach Community	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
present, the following measures shall be implemented to reduce the potential impact to special-status bat species to a less-than-significant level: Maternity Roosting Season Avoidance. All proposed construction activities that could impact suitable roosting habitat, including bat roost exclusion, shall occur outside the general bat maternity roosting season of March through August to reduce any potentially significant impact to maternity roosting bats. If the maternity roosting season cannot be avoided, then implement Items 2 and 3 below, prior to the maternity roosting season, to ensure no impacts occur to roosting bats during the exclusion process. Replacement Roost Installation. If there is a potential or known maternity roost within a tree to be removed, replacement roost installation shall occur outside of the maternity roosting season. At least one month prior to the exclusion of bats from a roost, the biologist shall procure and install bat boxes from a reputable vendor, such as Bat Conservation and Management, to allow bats sufficient time to acclimate to a new potential roost location. The bat boxes shall be installed in close proximity to the trees and in an area that is in close proximity to suitable foraging habitat (i.e., near coast live oak woodland). Additionally, the bat boxes shall be oriented to the south or southwest, and the area chosen for the bat boxes must receive sufficient sunlight (at least 6 hours) to allow the bat boxes to reach an optimum internal temperature (approximately 90°F) to mimic the existing bat roost. The bat boxes shall be suitable to house crevice-roosting bat species and large enough to contain a minimum of 50 bats (e.g., Four Chamber Premium Bat House or Bat Bunker Plus). The bat boxes shall be installed on a minimum 20-foot-tall steel pole. The bat boxes should be installed under the guidance of the bat biologist. Roost Exclusion. Roost exclusion must only occur outside of the maternity roosting season, and during the time when bats are	Construction Contractors	maternity roosting season		Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
most active (early spring or fall) to increase the potential to exclude all bats from roosts and minimize the potential for a significant impact to occur by avoiding the maternity roosting season. Approximately 1 month after bat boxes have been installed, exclusion of the existing roost shall occur. The primary exit points for roosting bats shall be identified, and all secondary ingress/egress locations shall be covered with a tarp, wood planks, or other methods, as directed by the bat biologist, to prevent bats from leaving from other locations. The primary exit point shall remain uncovered to allow exclusion devices to be installed. Exclusion devices may consist of a screen (poly netting, window screen, or fiberglass screening), foam, wood, or backer rods installed at the primary exit point, so bats are not able to return to the roost after emerging. The exclusion devices shall be installed under the direction of the bat biologist and shall be installed at night to increase the potential that bats have already left the roost and are less likely to return. Once it is confirmed by the bat biologist that all primary and secondary exit/entrance points have been covered and the exclusion devices are properly in place, a one-week exclusion period shall commence. A passive acoustic monitoring detector shall be deployed during the one-week exclusion period to monitor if bat activity has decreased during the exclusion period. Periodic monitoring (one or two evenings) by the bat biologist during the exclusion period should also be conducted to observe if any bats are still emerging from trees to be removed. On the final night of the exclusion period, an active monitoring survey should be conducted to ensure that no bats are emerging from trees to be removed and to confirm that exclusion has been successful. Continued presence of roosting bats in trees that are to be removed shall require an adjustment to the exclusion devices and schedule. The exclusion devices may remain in place until the start of tree removal. After the initial bat survey, if any additional bats are found roosting in any proposed tree removal					

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
locations, additional exclusion shall be required and follow the same methodology described in this mitigation measure.						
BIO-3	Standard Mandatory Construction Conditions Mitigation Measures. - To the extent practicable, no clearing of coastal sage scrub (CSS) habitat that is occupied by nesting gnatcatchers shall occur during the breeding and nesting season (February 15 through July 15). It is expressly understood that this provision and the remaining provisions of these "construction minimization measures" are subject to public health and safety considerations. These considerations include unexpected slope stabilization, erosion control, and emergency facility repairs. In the event of such public health and safety circumstances, the applicant shall provide United States Fish and Wildlife Service (USFWS)/California Department of Fish and Wildlife (CDFW) with the maximum practicable notice (or such notice as is specified in the NCCP/HCP) to allow for capture of gnatcatchers, cactus wrens, and any other CSS Identified Species that are not otherwise flushed and shall carry out the following measures only to the extent practicable in the context of the public health and safety considerations. - Prior to the commencement of clearing operations or other activities involving significant soil disturbance, all areas of CSS habitat to be avoided under the provisions of the NCCP/HCP, shall be identified with temporary fencing or other markers clearly visible to construction personnel. Additionally, prior to the commencement of clearing operations or other activities involving disturbance of CSS, a survey shall be conducted to locate gnatcatchers and cactus wrens within 100 feet of the outer extent of projected soil disturbance activities and the locations of	Project Applicant's Monitoring Biologist & Construction Contractors	Prior and during construction activities	OCWR	City of Newport Beach Community Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
any such species shall be clearly marked and identified on the construction/grading plans. 3. A monitoring biologist, acceptable to the USFWS/CDFW shall be on site during any clearing of CSS. The applicant shall advise USFWS/CDFW at least 7 calendar days (and preferably 14 calendar days) prior to the clearing of any habitat occupied by identified species to allow USFWS/CDFW to work with the monitoring biologist in connection with bird flushing/capture activities. The monitoring biologist shall flush identified species (avian or other mobile identified species) from occupied habitat areas immediately prior to brush-clearing and earth-moving activities. If birds cannot be flushed, they shall be captured in mist nets, if feasible, and relocated to areas of the site to be protected or to the NCCP/HCP Reserve system. It shall be the responsibility of the monitoring biologist to ensure that identified bird species shall not be directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities on a timely basis. 4. Following the completion of initial clearing/earth movement activities, all areas of CSS habitat to be avoided by construction equipment and personnel shall be marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access, parking, or storage of equipment or materials shall be permitted within such marked areas. 5. In areas bordering the NCCP Reserve System or Special Linkage/Special Management areas containing significant CSS identified in the NCCP/HCP for protection, vehicle transportation routes between cut-and-fill locations shall be restricted to a minimum number during consistent with project construction requirements. Waste dirt or rubble shall not be deposited on adjacent CSS identified in the NCCP/HCP for protection. Preconstruction meetings involving the monitoring biologist, construction supervisors,					

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	and equipment operators shall be conducted and documented to ensure maximum practicable adherence to these measures. 6. CSS identified in the NCCP/HCP for protection and within the likely dust drift radius of construction areas shall be periodically sprayed with water to reduce accumulated dust on the leaves, as recommended by the monitoring biologist.					
BIO-4	Education Program. An education program (Worker Environmental Awareness Program [WEAP]) for all persons employed or otherwise working in the project area shall be administered before performing impacts. The WEAP shall consist of a presentation from the designated biologist that includes a discussion of the biological resources and mitigation measures described in the California Environmental Quality Act (CEQA) document. Interpretation for non-English-speaking workers shall be provided, and the same instruction shall be provided to all new workers before they are authorized to perform work in the project area. After completion of the WEAP, employees shall sign a form stating they attended the program and understand all protection measures.	Project Applicant's Qualified Biologist & Construction Contractors	Prior to construction	OCWR	City of Newport Beach Community Development Department	
BIO-5	Hazardous Waste. The applicant shall immediately stop work and, pursuant to pertinent State and federal statutes and regulations, arrange for repair and cleanup by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so.	Project Applicant's & Construction Contractors	During construction	OCWR	City of Newport Beach Community Development Department	
BIO-6	BMPs to Avoid Indirect Impacts to Special-Status Resources. To reduce any indirect impacts to special-status biological resources adjacent to construction and due to tree removals, best management practices (BMPs) shall be implemented to control dust pollution, prevent discharge of potentially harmful chemicals, and prevent changes in hydrology. BMPs shall include, but not be limited to,	Construction Contractors	During construction	OCWR	City of Newport Beach Community Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
installing erosion and sedimentation control devices, applying water to control dust, placing drip pans under equipment when not in use, refueling in designated areas, and containing concrete washout properly, among other practices.						
3.5 Cultural Resources						
CUL-1	The project applicant shall retain an archaeological and paleontological resource monitor to monitor the project's subsurface areas during land disturbance from demolition and construction activities. If any archaeological or paleontological resources are discovered, the archaeological/paleontological monitor shall have the authority to stop work, assess the resources found, and implement a plan for the removal of the archaeological/paleontological resources if deemed significant.	Project Applicant's Archaeological and Paleontological Resource Monitor	During ground disturbance and construction activities.	OCWR	City of Newport Beach Community Development Department Enforcement; or the Director's Designee	
3.7 Geology and Soils						
BIO-6	Refer to Mitigation Measure BIO-6 above.					
3.9 Hazards and Hazardous Materials						
HAZ-1	A Fuel Modification Plan shall be prepared by the project applicant and submitted to Newport Beach Fire Department (NBFD) for review and approval in concurrence with project plan approval and prior to any site disturbances. The Fuel Modification Plan shall follow NBFD Guideline G.02, including: a. Site Assessment conducted prior to conducting fire behavior modeling and/or evaluations of potential wildfire hazard. b. Fire behavior evaluation that incorporates site-specific fuel, terrain, and weather inputs and may include modeling to support fuel modification zone specifications. c. Preparation of a Conceptual Fuel Modification Plan (CFMP) that provides the delineated zones, widths, planting requirements,	Project Applicant	Concurrent with project plan approval and prior to any site disturbances	OCWR	City of Newport Beach Community Development Department & Newport Beach Fire Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
topographic information, existing vegetation/fuels locations, proposed structure locations, proposed fuel modification zone locations, proposed treatment prescriptions, site photographs, results from fire behavior modeling efforts, and other information required under NBFD's Guidelines. This CFMP will be submitted to NBFD for review and comment. Once accepted, the Precise Fuel Modification Plan (PFMP) can be created. d. The PFMP will follow NBFD's Guidelines and include: i. Location and detail of permanent zone markers ii. Plant palette and spacing design in accordance with approved guidelines iii. Irrigation plans and specifications iv. Structure footprint or delineation of proposed development v. All applicable maintenance requirements and assignment of responsibility vi. Additional notes, as required by NBFD vii. Three sets of plans will be submitted for NBFD review e. A Technical Report shall accompany the CFMP and provide fire risk assessment information, fire behavior modeling results, WindNinja wind pattern analysis, and technical analysis of any proposed alternative approaches. f. If necessary, an Alternative Materials & Methods (AM&M) report justifying any alternative approach or reduced fuel modification zone widths associated shall be required. The AM&M report examines the requirements, the deviation from the requirements, other mitigating site features (terrain, structure location, earthen berms, overall structural exposure, etc.) and provides additional measures, as necessary, to justify that the intent of the code requirements are being satisfied. AM&M reports provide scientific justifications that the proposed fuel modification shall provide equivalent function as the standard NBFD fuel modification area with the addition of proposed mitigation measures, per NBFD Guideline A-01.					

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
3.10 Hydrology and Water Quality						
BIO-6	Refer to Mitigation Measure BIO-6 above.					
3.15 Public Services						
HAZ-1	Refer to Mitigation Measure HAZ-1 above.					
3.17 Transportation						
TRANS-1	Prior to the initiation of demolition activities at the project site, the applicant shall prepare a traffic control plan for demolition and construction. The traffic control plan shall include the staggering of truck trips throughout the day on Newport Coast Drive, so that the minimum practicable number of truck trips will occur during the AM peak period, to reduce impacts as much as possible to Sage Hill High School and both the State Route 73 on and off-ramps at Newport Coast Drive. The traffic control plan shall also include measures that address safety hazards to bicyclists and pedestrians.	Project Applicant & Construction Contractor	Prior to construction activities	OCWR	City of Newport Beach Community Development Department	
TRANS-2	All demolition and construction vehicle drivers shall be informed that turning right on the red light at the traffic signal at the intersection of the project site access road and Newport Coast Drive shall be prohibited for the duration of demolition and construction activities. A sign shall be posted at the entrance to the intersection to remind drivers that they are prohibited from making a right-turn at the red light onto Newport Coast Drive.	Construction Contractor	During construction activities	OCWR	City of Newport Beach Community Development Department	
TRANS-3	For the duration of the demolition and construction activities, electronic signage shall be placed near Sage Hill High School to inform drivers regarding the duration of the demolition and construction activities and to indicate that large trucks may be present for the duration of construction and demolition activities.	Construction Contractor	During construction activities	OCWR	City of Newport Beach Community Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
TRANS-4	Construction spotters with walkie-talkies shall be assigned on both ends of the project site access road to guide trucks during project demolition and construction activities. Trucks shall only be able to travel in one direction on the one lane paved access road at a time. Trucks that are waiting to go up the access road shall wait across the street on the main canyon landfill property until the spotter informs them that it is safe to proceed up the access road to the project site.	Construction Contractor	During construction activities	OCWR	City of Newport Beach Community Development Department	
3.17 Tribal Cultural Resources						
TCR-1	Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities: The project applicant shall retain a Native American Monitor from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation. The monitor shall be retained prior to the commencement of any “ground-disturbing activity” for the subject project at all project locations. “Ground-disturbing activity” shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity. The monitor shall complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs shall identify and describe any discovered tribal cultural resources (TCR), including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs shall be provided to the project applicant/lead agency upon written request to the Tribe.	Kizh Nation Monitor, Project Applicant, City of Newport Beach Community Development Department, & Construction Contractors	Prior to the commencement of any ground-disturbing activity and then during these activities	OCWR	City of Newport Beach Community Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant and lead agency that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.					
TCR-2	Unanticipated Discovery of Tribal Cultural Resource Objects (Non-Funerary/Non-Ceremonial): Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor and/or Kizh archaeologist. The Kizh shall recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe's sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.	Kizh Nation Monitor and/or Kizh Archaeologist & Construction Contractors	During construction activities	OCWR	City of Newport Beach Community Development Department	
TCR-3	Unanticipated Discovery of Human Remains and Associated Funerary or Ceremonial Objects: Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute. If Native American human remains and/or grave goods are discovered or recognized on the project site, then Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5 shall be followed. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any	Kizh Nation Monitor and/or Kizh Archaeologist, Project Applicant & Construction Contractors	During construction activities	OCWR	City of Newport Beach Community Development Department	

2. Mitigation Monitoring and Reporting Requirements

Table 2-1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Oversight	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.						
3.20 Wildfire						
HAZ-1	Refer to Mitigation Measure HAZ-1 above.					

EXHIBIT C

Response to Comments

File available via link due to size:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3162801&repo=CNB&dbid=0>

EXHIBIT D**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may cause the revocation of this Conditional Use Permit.
4. *No equipment shall exceed 35 feet in height above the finish grade, with the exception of the thermal oxidizer and the flare tower, which shall be limited to 60 feet and 40 feet above finish grade respectively.*
5. *RNG Facility equipment shall be coated with camouflage paint as an enhanced aesthetic treatment.*
6. *Prior to final building permit inspection, the Applicant shall schedule an inspection with the Planning Division to verify the aesthetic treatment applied to the RNG Facility is acceptable.*
7. *Two parking spaces shall be provided for control room employees.*
8. *Secure and functional short-term bike parking shall be provided for control room employees.*
9. *Prior to building permit final inspection, the Applicant shall schedule an evening inspection with the Code Enforcement Division to confirm the facility is not excessively lit, except as deemed necessary for security lighting.*
10. *If in the opinion of the Director of Community Development, site illumination creates an unacceptable negative impact on surrounding land uses or environmental resources, the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.*
11. Project signage shall be in conformance with Chapter 20.42 (Signs) of the NBMC.

12. PA2022-063 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
13. This Conditional Use Permit may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
14. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent Planning Division review and may require the processing of an amendment to this Use Permit or the processing of a new Use Permit.
15. Prior to the issuance of a building permit, a copy of the Resolution, including Conditions of Approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
16. Prior to the issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
17. *All landscape materials and irrigation systems shall be maintained by the approved fuel modification plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
18. Prior to the issuance of a building permit, the Applicant shall prepare a photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all property lines.
19. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the NBMC.

21. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.
22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or leasing agent.
23. All trash shall be stored within the building or within dumpsters stored in a trash enclosure (three walls and a self-latching gate) or otherwise screened from the view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Conditional Use Permit.
25. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
26. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Coyote Canyon Landfill Gas to Energy Facility** including, but not limited to, the **Conditional Use Permit filed as PA2022-063**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

27. *The Applicant is required to obtain all applicable permits from the City's Fire Department.*
28. *Prior to the issuance of a building permit, a Fire Master Plan showing fire department vehicle access, turn-around, fire hydrants, and other Fire Department appliances as applicable shall be submitted for review and approval.*
29. *The Project is located within a Very High Fire Hazard Severity Zone (VHFHSZ). The Project is required to comply with the following for development in a wildland fire prone area:*
- a. All new structures shall comply with Chapter 7A of the California Building Code for construction in a designated wildland area.*
 - b. A defensible space landscape plan/fuel modification plan is required to protect the facility from wildfires in accordance with City Guideline G.02 (Fuel Modification Plans and Maintenance Standards for Developments). The plan must include the area immediately outside the 12-foot perimeter wall.*
30. *A Hazardous Materials Inventory document is required. Both a paper and electronic version will be required for review by NBFD.*
31. *The flare tower shall be designed so that flames are not visible above the structure nor visible from the public right of way including Newport Coast Drive and State Route 73.*

Building Division

32. The Applicant is required to obtain all applicable permits from the City's Building Division. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
33. The Applicant shall employ the following best available control measures ("BACMs") during construction:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-stockpiles of debris, dirt, or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off-road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10% soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

34. Prior to the issuance of a building permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
35. Prior to the issuance of a building permit, the applicant shall prepare and submit a final Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
36. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored, or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of stormwater away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.