

Attachment H

City Appeal Response Letter

TECHNICAL MEMORANDUM

DATE	September 26, 2025
TO	Joselyn Perez, Senior Planner
ADDRESS	Community Development Department 100 Civic Center Drive Newport Beach, CA 92660
CONTACT	949.644.3312 jperez@newportbeachca.gov
FROM	Dina El Chammas Gass, Senior Associate
SUBJECT	Response to Adams, Broadwell, Joseph & Cardozo 7/30/25 Appeal Letter Regarding the Coyote Canyon Landfill Gas to Energy Plant Project
PROJECT NUMBER	CNB-25.0

This memorandum has been prepared to address the letter dated July 30, 2025, from Adams, Broadwell, Joseph and Cardozo (ABJ&C) appealing the Newport Beach Planning Commission's July 17, 2025, decision to approve the Coyote Canyon Landfill Gas to Energy Project (PA2022-063) and adopt the project's Initial Study/Mitigated Negative Declaration (SCH No. 2024120012).

The draft IS/MND was circulated for a 45-day public review and comment period beginning on November 27, 2024, and ending on January 13, 2025. ABJ&C submitted two letters dated December 23, 2024, and January 13, 2025. Responses to the comments raised in those letters were included in the Response to Comment (RTC) document dated May 2025. In response to a public hearing notice for the May 22, 2025, Planning Commission meeting, ABJ&C then submitted an additional comment letter dated May 21, 2025. This letter was submitted outside the public review period for the IS/MND, and therefore the responses were not included in the formal RTC, however a response to this letter was included as Attachment 6 to the Planning Commission staff report dated July 17, 2025. The majority of issues raised in the May 21, 2025, letter were already raised in the previous letters, for which responses were provided in the RTC.

Similarly, the majority of issues raised in the July 30, 2025, appeal letter were already raised in the previous ABJ&C letters detailed above and responses have already been provided.

The following responses refer to the original responses provided in the RTC, which is available on the City's website at <https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3162801&repo=CNB&dbid=0>; and in Attachment 6 of the July 17, 2025, staff report, available at <https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3175862&dbid=0&repo=CNB>.

Air Quality Impacts from Fugitive Emissions and Leaks

ABJ&C once again notes that the proposed project would result in significant impacts from fugitive greenhouse gas emissions. This comment was addressed in the response to comment O2-11 in the RTC, and no additional issues were raised or substantiated. The RTC response describes the purpose of the project's Emergency Action Plan and South Coast Air Quality Management District's Rule 466 (Pumps and Compressors) which mitigate potential impacts from leaks through personal training; an inspection and monitoring program, including daily inspection rounds; and ongoing preventative maintenance. The site will also be equipped with leak detection sensors located throughout the site, alarms, and an automatic shutdown system.

Public Health and Hazards Impacts

ABJ&C again states that the risk of upset from fire, vapor clouds, and other accidents or operational upsets in systems such as the thermal oxidizer and flaring systems could result in significant impacts to public health. This comment was addressed in the response to comment O2-13 in the RTC.

ABJ&C noted that a Preliminary Site Consequence Assessment was referenced in the IS/MND and that this document was not provided to the public until the Planning Commission's July 2025 Staff Report. This is not in violation of CEQA because the public did have access to the document before the Planning Commission public hearing, where they had the opportunity to voice comments on the document. The public can comment on the IS/MND during the public review period and at public hearings. The Preliminary Site Consequence Analysis was uploaded to the City's website and available for public review at: <https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3185637&dbid=0&repo=CNB>.

ABJ&C notes that the IS/MND underreported impacts on sensitive receptors by omitting them from its analysis. The Preliminary Site Consequence Assessment addresses impacts to the Sage Hill High School, car passengers on Newport Coast Drive, and car passengers on State Route (SR) 73. Car passengers on SR-73 are closer to the project site than the closest residential receptors. Since there would be no impacts to car passengers on SR-73, there would be no impacts to residential receptors.

ABJ&C also notes that the Preliminary Site Consequence Assessment found significant impacts on the occupied county landfill building and surrounding vegetation. The Preliminary Site Consequence Assessment includes blast overpressure design requirements that mitigate impacts to the county building to less than significant. These measures will be implemented as part of the proposed project. Additionally, as shown in the response to comment O2-13 in the RTC, the fire risk to nearby vegetation is less than significant. The IS/MND includes mitigation measure HAZ-1 to reduce impacts from fires to less than significant. Mitigation HAZ-1 requires that a Conceptual Fuel Modification Plan (CFMP) be submitted to the Newport Beach Fire Department (NBFD) for review and approval in concurrence with project plan approval and prior to any site disturbances. The CFMP for the project was prepared and included as Attachment 4 of the July 17, 2025, Staff Report. The NBFD has reviewed and approved the CFMP and since the proposed project does not include any new landscaping, a Precise Fuel Modification Plan is not required. Additionally, the non-combustible wall, which will function as both a radiant and convective heat barrier, provides an additional mitigating factor alongside the vegetation management measures.

Greenhouse Gas Emission from Shutdowns

ABJ&C notes that emissions associated with the annual shutdown and 10 potential shutdown days per year may result in significant GHG emissions. This comment was addressed in the response to comment O2-13 in the RTC. In the event of unplanned shutdowns, the system is designed so that all valves close, and landfill

gas (LFG) would be rerouted to the existing LFG enclosed flares, which are separately owned and operated by OC Waste and Recycling. This scenario is the equivalent of reverting to baseline conditions.

Health Risk Impacts from Construction Emissions Are Underreported

ABJ&C once again asserts that the health risk analysis relied on a 9-month completion timeline instead of 12 months, thus truncating the analysis of emissions exposure by 3 months. This comment was addressed in the responses to comments O2-11 and O2-20 in the RTC.

Construction Noise Impacts

ABJ&C once again notes that the proposed project would result in excessive noise levels to nearby sensitive receptors. This comment was addressed in the response to comment O2-24 in the RTC, and no additional issues were raised or substantiated in the most recent letter.

Municipal Code Violations

ABJ&C states that the Planning Commission lacked substantial evidence to support the findings required for approval of the Conditional Use Permit for the proposed project. ABJ&C notes that they provided substantial evidence supporting a fair argument that the project results in significant air quality, health risk, greenhouse gas emissions, and noise impacts. These comments have been addressed above.

ABJ&C also notes that the project may not be adequately served by fire protection services and that NBFD may not be able to extinguish worst-case scenario jet fires because the fire protection measures that will be implemented as part of the project are not enforceable mitigation. Fire protection features that are federal, state, and local regulatory requirements or are part of the project design do not need to be included in the CEQA document as mitigation measures. However, the preparation of the Fuel Modification Plan was included as Mitigation Measure HAZ-1 in the IS/MND.

NBFD was consulted during the CEQA process and visited the site to mark the trees that need to be removed to ensure fire safety. The recommendation for the removal of trees is based on spacing, health, and species per direction from the Fire Marshal. A tree information matrix is in Appendix C of the IS/MND that shows which trees will remain and which will be removed. The CFMP prepared for the project was based on the Fire Marshal's tree removal directions and follows NBFD's Guideline G.02. The IS/MND and the CFMP were both reviewed by NBFD, and the final Fuel Modification Plan will be approved by the NBFD as part of the plan check process. Additionally, the preliminary Emergency Action Plan (EAP), which outlines fire hazards, techniques to control or extinguish fires, and emergency evacuation and response procedures, was included as Appendix H of the IS/MND. The final EAP would be reviewed and approved by NBFD as provided pursuant to Condition of Approval No. 32. NBFD is also involved in the development review process to ensure that necessary fire prevention and emergency response features are incorporated with the design of the project. Also, all site improvements and building construction would be reviewed and approved by NBFD before the City issues building permits and the certificate of occupancy.

The Appellant identified that Condition of Approval No. 33 of the Planning Commission resolution No. PC2025-008 allowed trucks and heavy equipment idling up to 30 minutes, conflicting with Policy NR 8.1 of the General Plan. **Condition of Approval no. 33 was a standard condition, intended to implement best available control measures during construction. As described in response to comment O2-16, nonessential idling of off-road equipment shall be limited to five minutes, consistent with California Air Resources Board Rule 2485, and the Conditions of Approval have been updated.**