



DONALD L. WOLFE
CHAIRMAN

LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
900 SOUTH FREMONT AVENUE, ALHAMBRA, CALIFORNIA 91803-1331
P.O. BOX 1460, ALHAMBRA, CALIFORNIA 91802-1460
www.lacountyiswmtf.org

September 26, 2006

Margo Reid Brown, Chair
California Integrated Waste Management Board
Cal-EPA Building
1001 "I" Street
Sacramento, CA 95812-4025

Dear Chairperson Brown:

PROPOSED PERMIT IMPLEMENTATION REGULATIONS (ASSEMBLY BILL 1497)

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), thank you for the opportunity to provide comments on the proposed Permit Implementation Regulations, dated September 5, 2006. The Task Force **strongly** recommends that the proposed regulations avoid promoting/creating any conflict between the host jurisdiction's land use permit/entitlement and the State's Solid Waste Facility Permit (SWFP).

As currently written, the proposed regulations would allow a SWFP be issued to a solid waste facility even though the SWFP may be in **direct conflict** with the design/operational parameters (e.g., hours of operation, daily capacity, type of waste accepted, etc.) established by the host jurisdiction through the land use permit process. More distressing, the proposed regulations would **delete existing** regulations which require facility applicant/operators to provide a copy of the land use permit/entitlement when applying for a SWFP. Instead, the proposal would allow the issuance of a SWFP (once the enforcement agency [EA] accepts the application as "**Complete**") even in situations where the facility has **not** yet been issued a new or revised local land use permit/entitlement. Such a conflict is contrary to Public Resources Code Section 40053 which is designed to ensure that the California Integrated Waste Management Board (CIWMB) does not adopt any regulations which may limit or weaken local government authority to impose a more restrictive standard on solid waste facilities within their jurisdiction.

Due to the proposed regulations' far-reaching public policy consequences, we **strongly** request the CIWMB address this issue prior to the final adoption of the proposed regulations. We believe that if this issue is not addressed, it would give the perception that State government has abdicated its fiduciary responsibility to protect public health, safety, and the environment by not collaborating with local governments on one of its most

important functions-- permit consistency; create public confusion and a legal dilemma as to which permit governs; and, weaken the host jurisdiction's land use authority. Furthermore, we believe the proposed regulations impact will fall disproportionately on poor and disenfranchised communities because they lack the necessary resources to defend their interests. Ultimately, the proposed regulations would undermine the intent of AB 1497 which is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues" [Assembly Bill 1497, Montanez, 2003].

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939, as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and its 88 cities in Los Angeles County with a combined population in excess of 10 million. Consistent with these responsibilities and to ensure a coordinated and cost-effective solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a Countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

Specific Comments:

1. Title 27, Division 2, Chapter 4, Subchapter 3, Article 1, Section 21563(d)(6), Page 2, Line 15.

Specific Request – Delete the proposed new text: "The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for making determinations relative to the California Environmental Quality Act (CEQA), Title 14, CCR Section 15000 et seq."

Discussion – The proposed new text is unnecessary, ambiguous, ill-defined, confusing, and may be interpreted to mean that a significant change activity is not subject to CEQA, or that the Local Enforcement Agency does not have the authority to require a new CEQA process and documentation for the proposed significant change activity.

2. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21570(f)(9), Page 4, Line 5.

Specific Request – Do not delete and instead revise to indicate "Land Use and/or entitlements for the facility (e.g., Conditional Use Permits or zoning ordinance). The EA is not responsible to verify the correctness of information contained in the land use permit and/or conditional use permit submitted by the applicant and/or the facility operator;" **OR** substitute the deleted text with the following: "a written confirmation by the host jurisdiction's planning agency or commission verifying that the proposed SWFP activities are consistent with the land use entitlements for the facility;"

Discussion – Pursuant to Section 44012 of the Public Resources Code, the primary purpose of the SWFP is to ensure the protection of public health and safety and the environment. If the proposed regulations are adopted in their current form, we believe solid waste facilities will be issued a SWFP that may be inconsistent with facility's design/operational parameters established by the host jurisdiction via the land use permit/entitlement. The criteria are often significantly more restrictive than the mitigation measures identified in the CEQA document. Since the land use permit is the primary vehicle for establishing the parameters for the "operation" of a solid waste facility, we do not believe it is possible for the EA/CIWMB to determine if a SWFP application is **complete** without ensuring consistency with the local land use permit. In addition, the proposed regulations would undermine local governments' land use authority since it would create a legal quandary as to which permit conditions govern. Such a conflict is contrary to Public Resources Code Section 40053 which is designed to ensure that the CIWMB does not adopt any regulations which may limit or weaken local government authority to impose a more restrictive standard on solid waste facilities within their jurisdiction.

The intent of Assembly Bill 1497 (Montanez, 2003) is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues." If the proposed text is adopted, it would also undermine the intent of AB 1497 since it would prohibit the CIWMB-approved local enforcement agencies from verifying if the applicant (or the facility operator) has the approval of the host jurisdiction. This is critical since local land use conditions are often the mechanism by which jurisdictions address environmental justice concerns and other issues raised by the community.

Our proposal would ensure consistency without imposing/recommending any additional duties to the CIWMB and/or EAs.

3. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21620(a)(4), Revised Permit, Page 9.

Specific Request – Expand the Subsection to read as follows: "(E) Increase in the facility's permitted site life and/or closure date."

Discussion – The above change will help address our concern expressed in item 2 above due to its potential significant impact on the community and the environment.

4. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21650(i), Page 12, Lines 16-19.

Specific Request – Expand the Subsection to read as follows: The EA should be aware of and take into consideration other permits/**entitlements (e.g., Conditional Use Permit or Zoning ordinance)** and approvals when writing terms and conditions]

Discussion – The above change will help address our concern expressed in item 2 above due to its potential significant impact on the community and the environment.

5. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21660.1(a)(7), Page 13, Lines 42 and 43.

Specific Request – Do not delete ". . . (date, time, and location) for public review."

Discussion – By retaining the above text, it will help address the concerns expressed in item 2 since it would provide interested parties with key logistical information. Our request is consistent with similar requirements already incorporated in other sections of the proposed regulations, including Section 21660.3(a)(7) and Section 21660.3(a)(7).

6. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3.1, Section 21685(b)(6), Page 21, Line 27.

Specific Request – Do not and instead revise to indicate "Land Use and/or entitlements for the facility (e.g., Conditional Use Permits or zoning ordinance). The EA and the CIWMB are not responsible to verify the correctness of information contained in the land use permit and/or conditional use permit submitted by the applicant and/or the facility operator." **OR** substitute the deleted text with the following: "a written confirmation by the host jurisdiction's planning agency or

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commission verifying that the proposed SWFP activities are consistent with the land use entitlements for the facility;"

Discussion – The above language will help address our concerns expressed in item 2 above.

We thank you for your consideration of this request regarding issues that are of great importance to local governments. The continued development/operation of solid waste facilities rests on keeping the public's faith that these facilities are safe and that government has placed the protection of public health and safety and the environment as its number one priority. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,



Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Councilmember, City of Rosemead

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cc: Assembly Member Montanez
Assembly Member Diaz
Assembly Member Levine
Assembly Member Nunez
Senator Alarcon
Each Member of the California Integrated Waste Management Board
Executive Director, California Integrated Waste Management Board (Mark Leary)
California Integrated Waste Management Board (Howard Levenson, Mark De Bie,
Bobbie Garcia)
Each Member of the Los Angeles County Board of Supervisors
Each City Mayor in Los Angeles County
Each City Manager in Los Angeles County
Each City Director of Planning in Los Angeles County
Each Member of the Los Angeles City Council
Each Member of the Los Angeles County Regional Planning Commission
League of California Cities, Los Angeles County Division
Southern California Association of Governments

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San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
North Valley Coalition
Sun Valley Area Neighborhood Council
Sun Valley Neighborhood Improvement Organization
East Valley Coalition
Hacienda Heights Improvement Association
Each Member of the Los Angeles County Integrated Waste Management Task
Force
Each Member of the Facility and Plan Review Subcommittee of the Los Angeles
County Integrated Waste Management Task Force
Each City Recycling Coordinator in Los Angeles County