



GAIL FARBER
CHAIR

MARGARET CLARK
VICE-CHAIR

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

June 24, 2010

The Honorable Anthony Portantino
State Capitol, Room 2003
Sacramento, CA 94249-0044

Dear Assembly Member Portantino:

**ASSEMBLY BILL 1004 (AMENDED JUNE 2, 2010)
VOLUNTARY STATE SOLID WASTE POSTCLOSURE AND CORRECTIVE ACTION
TRUST FUND**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) continues to **oppose unless amended** Assembly Bill 1004 (AB 1004) amended June 2, 2010. AB 1004 would amend relevant sections of the Public Resource Code that govern the voluntary State Solid Waste Postclosure and Corrective Action Trust Fund (Trust Fund) enacted in 2009 (AB 274, Chapter 318 of the 2009 State Statutes). The Task Force concurs with the proposed requirement for letters of participation from landfill owners rather than operators. However, the proposed legislation still does not provide a mechanism for the State to recover expended funds which were utilized from the Trust Fund. Additionally, the proposal should be revised to specify a threshold at which the creation of the proposed Trust Fund would be warranted.

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 the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound 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.

The Trust Fund attempts to cover the residual liability that the State may be exposed to in the event that a landfill operator's financial assurance has been exhausted and postclosure maintenance or corrective actions are required of the landfill operator.

Under existing law, landfill operators may elect to participate in the Trust Fund by notifying the Department of Resources Recycling and Recovery (CalRecycle) and paying an additional \$0.12 of the Integrated Waste Management Fee per ton of disposed waste. As provided by AB 274, the Trust Fund will be operative on and after January 1, 2012, only if CalRecycle receives, on or before July 1, 2011, letters of participation in the Trust Fund from landfill operators representing at least 50 percent of the total annual waste disposal tonnage in 2010. If enacted, AB 1004 would extend these deadlines by one year.

As expressed in the Task Force's previous letter dated April 28, 2010 (copy enclosed), the Task Force continues to have strong concerns that the provisions established by AB 274 do not address how CalRecycle will be able to recover expended funds in the event a private landfill owner/operator files for bankruptcy. Unlike a public landfill owner/operator, a private landfill owner/operator could walk away from their fiduciary responsibility leaving the State unable to recover the funds except from those cities and counties that had used the facility prior to its closure. AB 1004 needs to establish a mechanism to protect local governments and local rate payers from such situations.

Furthermore, AB 1004, as proposed, will remove the 50 percent threshold established by AB 274 by allowing CalRecycle to determine if there is sufficient participation to warrant the creation of the Trust Fund. Given the concerns discussed above, the Task Force believes that the regulations need to clearly specify a threshold to avoid any complications as a result of subjective and arbitrary factors. AB 1004 needs to be revised to either specify a new threshold or retain the existing 50 percent threshold.

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Therefore, the Task Force **opposes AB 1004 unless amended**, and respectfully requests that you amend AB 1004 to address the above concerns. 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
Council Member, City of Rosemead

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Enc.

cc: Senate President Pro Tem Darrell Steinberg
Assembly Speaker John A. Perez
Senator Dennis Hollingsworth, Minority Leader
Assembly Member Martin Garrick, Minority Leader
Each Member of the Senate Environmental Quality Committee
Each Member of the Los Angeles County Legislative Delegation
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor in the County of Los Angeles
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
Gateway Cities Council of Governments
County Sanitation Districts of Los Angeles County
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force



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April 28, 2010

The Honorable Anthony Portantino
State Capitol, Room 2003
Sacramento, CA 94249-0044

Dear Assembly Member Portantino:

**ASSEMBLY BILL 1004 (AMENDED JANUARY 20, 2010)
VOLUNTARY STATE SOLID WASTE POSTCLOSURE AND CORRECTIVE ACTION
TRUST FUND**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) **opposes unless amended** Assembly Bill 1004 (AB 1004). AB 1004 would amend relevant sections of the Public Resource Code that govern the voluntary State Solid Waste Postclosure and Corrective Action Trust Fund (Trust Fund) enacted in 2009 (AB 274, Chapter 318 of the 2009 State Statutes). The proposed legislation needs to be amended to provide a mechanism to recover expended funds and require a letter of participation from both the landfill owner and operator in order for a landfill to qualify for participation in the Trust Fund.

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 the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound 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.

The Trust Fund attempts to cover the residual liability that the State may be exposed to in the event that a landfill operator's financial assurance has been exhausted and postclosure maintenance or corrective actions are required of the landfill operator.

Under existing law, landfill operators may elect to participate in the Trust Fund by notifying the Department of Resources Recycling and Recovery (CalRecycle) and pay an additional \$0.12 of the Integrated Waste Management Fee per ton of disposed waste. The act will be operative on and after January 1, 2012, only if CalRecycle receives, on or before July 1, 2011, letters of participation in the Trust Fund from landfill operators representing at least 50 percent of the total annual waste disposal tonnage in 2010. If enacted, AB 1004 would extend these deadlines by six months.

The Task Force continues to have strong concerns that the provisions established by AB 274 do not address how CalRecycle will be able to recover expended funds in the event a private landfill owner/operator files for bankruptcy. Unlike a public landfill owner/operator, a private landfill owner/operator could walk away from their fiduciary responsibility leaving the State unable to recover the funds except from those cities and counties that had used the facility before its closure. AB 1004 needs to establish a mechanism to protect local governments and local rate payers from such situations.

In addition, the Task Force believes that the provisions established by AB 274 create a conflict between a landfill owner and the operator by requiring the letter of participation only from the operator. While both owner and operator are required to meet legal obligations to fund postclosure maintenance and corrective actions, existing provisions could subject the owner to the irrevocable Trust Fund requirements without the owner's knowledge or concurrence. AB 1004 should revise the existing provisions to require a letter of participation from both the owner and operator or a concurrence letter from the owner.

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Therefore, the Task Force **opposes AB 1004 unless amended**, and respectfully requests that you amend AB 1004 to address the above concerns. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

Margaret Clark

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

PGT/LL:kp
P:\SEC\AB 1004

cc: Senate President Pro Tem Darrell Steinberg
Assembly Speaker John A. Perez
Senator Dennis Hollingsworth, Minority Leader
Assembly Member Martin Garrick, Minority Leader
Each Member of the Senate Rules Committee
Each Member of the Los Angeles County Legislative Delegation
Each Member of the County of Los Angeles Board of Supervisors
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