



LOS ANGELES COUNTY  
SOLID WASTE MANAGEMENT COMMITTEE/  
INTEGRATED WASTE MANAGEMENT TASK FORCE  
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GAIL FARBER  
CHAIR

June 11, 2009

EPD-2

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

Dear Chairperson Brown:

**CONSIDERATION OF ADOPTION OF THE RECOMMENDATION TO THE  
LEGISLATURE IN FULFILLMENT OF ASSEMBLY BILL 2296  
JUNE 16, 2009-BOARD MEETING AGENDA ITEM NO. 8**

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, I would like to extend our support for the California Integrated Waste Management Board (CIWMB) direction to strengthen the financial assurance mechanism for solid waste landfills. However, we continue to have a concern regarding the creation of a combined pooled fund.

As referenced in the draft report entitled "Report of the Board's Actions to Enhance Long-Term Postclosure and Corrective Action Financial Assurances", the CIWMB is recommending that the Legislature consider a statutory change to create a statewide "pooled fund" to be used for residual financial exposure that cannot be addressed through regulation, and to account for extraordinary corrective action at solid waste landfills. Representatives of cities and counties have consistently expressed their strong opposition to the formation of a "pooled fund" funded by public and private landfills to provide for landfill closure, postclosure maintenance, and corrective actions in case of a default by landfill owners and/or operators.

The Task Force remains opposed to a combined "pooled fund" since private landfills can shirk their fiduciary and legal responsibility to maintain and/or remediate their site by filing for bankruptcy at any time. In contrast, public agencies do not have this option and have and will continue to be held liable. Among other things, this is due to the fact that as a part of their responsibility to ensure the protection of their residents' public

health and safety as well as the environment, local governments provide and/or make arrangement for proper refuse collection, recycling and management of residuals solid waste generated by their residents. Since, public agencies are already held responsible for the maintenance of their landfills and, therefore, it is unreasonable to charge public landfills and their rate payers additional fees to be deposited in a "pooled fund" which solely benefit private landfill operators who abdicated their responsibilities by not prudently setting aside sufficient resources to remediate the site until it is deemed safe. "Double-charging" rate payers of public landfills not only subsidizes private landfills, it also establishes a dual legal standard benefiting private landfills.

However, if the Report to the Legislature ultimately does include a recommendation to establish a "pooled fund", we recommend the Report include proposal to indemnify or release local governments from any liability for closure, postclosure maintenance, and corrective action, should a landfill owner/operator abandon or walk away from their responsibility regardless of being a public or a private landfill. This indemnification, would serve to protect local governments and their "rate payers" from being "double charged", since it is the "rate payers" that ultimately pays for the "pooled fund" and when local governments are held liable as potential responsible parties when private landfill owners/operators files for bankruptcy protection or walks away.

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 ten million. Consistent with these responsibilities and to ensure a coordinated and 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.

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The Task Force appreciates your consideration and looks forward to working with you and your staff to strengthen public confidence in the proper operation and the long-term maintenance of disposal facilities in order to protect public health and safety and the environment. 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

MA:ca

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cc: Governor Arnold Schwarzenegger  
Each member of the California Integrated Waste Management Board  
California Integrated Waste Management Board (Mark Leary, Bill Or, Ted Rauh,  
Bernie Vlach)  
California State Association of Counties  
League of California Cities  
League of California Cities, Los Angeles County Division  
Regional Council of Rural Counties  
Assembly Bill 2296 Consulting Group  
Each member of the Los Angeles County Board of Supervisors  
Each City Mayor in Los Angeles County  
San Gabriel Valley Council of Governments  
South Bay Cities Council of Governments  
Gateway Cities Council of Governments  
Each member of the Los Angeles County Integrated Waste Management Task  
Force