



GAIL FARBER
CHAIR

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SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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September 11, 2009

Ms. Margo Reid Brown, Chair
California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95812-2815

Dear Ms. Brown:

SEPT 15, 2009 CIWMB AGENDA ITEM 8 - PRESENTATION OF AND REQUEST FOR DIRECTION ON STAKEHOLDER INPUT ON AB 32 SCOPING PLAN MANDATORY COMMERCIAL RECYCLING MEASURE

On behalf of the Los Angeles County Integrated Waste Management Task Force (Task Force), I wish to express our concerns regarding the California Integrated Waste Management Board's (CIWMB) current efforts to mandate statewide mandatory commercial recycling regulations.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (AB 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 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, the County of Los Angeles Board of Supervisors, the City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

In response to the waste and recycling recommendations identified in the AB 32 Scoping Plan, which were adopted by the California Air Resources Board (CARB) based on recommendations provided by the CIWMB, the CIWMB is now developing regulations to implement mandatory commercial recycling statewide. We appreciate your consideration of the following comments and your response to our questions regarding statewide mandatory commercial recycling.

1. Concern with process leading to development of regulations

Initially the AB 32 Draft Scoping Plan stated that commercial recycling programs would be voluntary or a hybrid approach (please see our enclosed letter dated December 2, 2008). Although the CIWMB was involved in the development of the AB 32 Draft Scoping Plan, we were surprised that, at the November 20, 2008 CARB meeting, you as Chair of the CIWMB recommended that the hybrid approach be revised to be *mandatory*. This recommendation was not adopted by the CIWMB in a public meeting and thus there was no opportunity for stakeholders and members of the public to comment on this recommendation. Based on the adoption of this recommendation by the CARB, the CIWMB is now establishing regulations that would potentially have the force of law, while circumventing the legislative process as well as any open discussion of the recommendation. We have grave concerns that the impacts of this policy decision have not been fully vetted, as further discussed below.

2. Greenhouse gas reduction estimate is unsubstantiated

The regulations currently being developed by the CIWMB are intended to reduce greenhouse gas emissions (GHGs) by 5 million metric tons of carbon dioxide equivalent (MMT_{CO₂e}) to meet the State's climate change goals. The *Mandatory Commercial Recycling Workshop White Paper* developed by the CIWMB for the recent stakeholder workshops indicates that a statewide mandatory commercial recycling program diverting 2.7 million tons of certain materials (including cardboard, lumber, glass, plastic, paper and metals) would achieve the AB 32 Scoping Plan goal of a 5 MMT_{CO₂e} reduction.

We are unable to see how such significant GHG reductions can be claimed, when the vast majority of California's recyclables are shipped to Pacific Rim countries where environmental impacts are difficult to ascertain. While these materials are being diverted from California landfills, they are being shipped incredibly long distances to countries that have limited or no environmental oversight. Even the CIWMB's own draft "Life Cycle Assessment and Economic Analysis of Organic Waste Management and Greenhouse Gas Reduction Options" concedes that "...data characterizing the energy and emissions for manufacturing operations in East Asia is not available." In the absence of such data, we do not believe it is responsible to proceed with a mandatory regulation that would push additional materials towards foreign markets.

We also request your consideration of the enclosed letter from the South Coast Air Quality Management District to the California Natural Resources Agency (dated August 27, 2009) regarding Proposed CEQA Guidelines Amendments regarding Greenhouse Gas Emissions. It further supports the fact that we must consider potential GHGs from facilities in other countries due to processing our recycling exports in this analysis. The third paragraph of page 2 references the

Attorney General's opinion (58 Ops Cal. Atty. Gen. 614 (1975)) regarding the definition of a project's environment. To paraphrase the Attorney General's opinion, the effects from a project can't be restricted to California. CEQA must apply to a project wherever impacts occur.

3. Mandatory commercial recycling is an unfunded mandate for local governments

The *White Paper* and workshop discussions to date have yet to address how such regulations would be enforced. Statewide mandatory commercial recycling regulations would likely place a significant unfunded mandate on local governments at a time when every city and county in California is facing record budget shortfalls.

4. If additional materials will be added to the recycling markets, local markets and infrastructure needed to be expanded

Additionally, this new regulation would result in an increase in the amount of recyclables collected without addressing the need for markets that make use of the recyclables. The current global economic downturn and collapse of the global recycling market have negatively affected the State's already weakened recycling infrastructure and industries. With less demand for recycled materials, collecting more materials may further weaken the value of these commodities. It is therefore critical from an economic and environmental standpoint, as well as to make a positive impact on climate change, to establish local markets for recyclable materials.

If we want to truly reduce our GHG emissions, it is vital that we expand the local infrastructure so that it is capable of managing our recyclables in California. Working with local jurisdictions, the State can help create strong statewide and regional markets by providing economic incentives and assistance to innovative businesses. The Task Force looks forward to the opportunity to work with CIWMB in regard to this matter. Until that time, we do not support counting GHG reductions from materials collected through mandatory commercial if they are sent to a facility outside of California and/or outside of the United States *unless* the facility is developed and operated in a manner that is as protective of the human health and safety and the environment as a similar facility located in California. Otherwise, we are simply transferring the problem to "*somebody else's backyard*", including, but not limited to, Pacific Rim Countries.

5. Need for assessment of environmental impacts that may result from these regulations

Finally, we would like clarification as to whether this current mandatory commercial recycling proposal is subject to the California Environmental Quality

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Act (CEQA) and if so, whether the State has completed the appropriate environmental documentation? Additionally, would each individual city and county who adopt an ordinance also be subject to CEQA?

The Task Force has sent several letters to the CIWMB on this issue (copies enclosed); however, we have yet to receive a response. Given the substantial potential impact of this regulation on the various constituents represented by the Task Force, and the significance of the issues raised by our members, who include experts in their respective fields, we hope you will take this opportunity to review and address our comments. Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147. We look forward to your response.

Sincerely,

Margaret Clark

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

TM/CS:

Enc.

cc: Governor Arnold Schwarzenegger
Each Member of the California Integrated Waste Management Board
California Integrated Waste Management Board (Mark Leary, Howard Levenson & Tracey Harper)
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor in the County of Los Angeles
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
Gateway Cities Counsel of Governments
Southern California Association of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force