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CHAIRMAN

LOS ANGELES COUNTY  
SOLID WASTE MANAGEMENT COMMITTEE/  
INTEGRATED WASTE MANAGEMENT TASK FORCE  
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December 15, 2005

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

Dear Chairwoman Marin:

### **PROPOSED REVISIONS TO THE PERMIT IMPLEMENTATION REGULATIONS**

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), I would like to thank the California Integrated Waste Management Board (Waste Board) for the opportunity to provide comments on the proposed draft revisions to the Permit Implementation Regulations. The Task Force also appreciates the Waste Board's efforts in conducting stakeholder meetings among selected stakeholders on November 21, and 29, 2005, to discuss improving the solid waste facility permitting process.

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 by the County and the 88 cities in the County of Los Angeles. Consistent with these responsibilities and to ensure a coordinated and cost-effective solid waste management system, the Task Force addresses issues impacting the solid waste management system on a Countywide basis. As part of its responsibilities, the Task Force also oversees preparation of the Los Angeles County Countywide Siting Element and enforcement of its Finding of Conformance requirements. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, Los Angeles County Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

In February 2003, Assembly Member Montanez introduced AB 1497 to address concerns raised by residents and businesses surrounding solid waste facilities that had made changes in their design and/or operation without any notification to those residents and businesses by the Local Enforcement Agency (LEA) and/or the Waste Board prior to their

approval of such changes. As a part of the legislative proposal, AB 1497 also required the Waste Board to define the term 'significant change' through a regulatory process. The proposed draft regulations are prepared in response to the requirements of AB 1497. While the Task Force supports the goal of AB 1497, we are very concerned that **the proposed regulatory process considered by the Waste Board to implement AB 1497** (Agenda Item 13, November 15, and 16, 2005) **has inadvertently become a mechanism to usurp local land use authority, which is contrary to the intent of AB1497**. The Task Force strongly opposes any measure that would preempt local land use authority since this authority is one of local government's most important tools to protect the public health, safety, and welfare of its residents.

Prior to granting its land use permit for a solid waste facility, the local government conducts an extensive environmental review of the proposal, including but not limited to preparation and certification of the California Environmental Quality Act (CEQA) document, establishes mitigating measures to reduce negative impacts and sets specific criteria for design and operation of the facility with the ultimate goals of protecting public health, safety, and the environment. The local government's specific criteria (parameters) for design and operation of the facility may include, but not limited to, the capacity, allowable daily tonnage, odor control, operating hours, wasteshed boundaries, prohibition on acceptance of certain categories of solid waste, number of vehicles entering and leaving the facility, a landfill footprint and elevation, etc. Staff's draft proposal, while it provides for the LEA to use the CEQA document prepared and certified by the host jurisdiction as a basis for its issuance of the Solid Waste Facility Permit (SWFP), **fails** to recognize the critical need for consistency with the host jurisdiction's land use permit and the criteria specifically set for design and operation of the facility which may be **more** restrictive than those factors used in preparation of the facility's CEQA document. As such, staff's draft proposal essentially **requires** the LEA and the Waste Board to ignore the host jurisdiction's criteria set for design and operation of the facility even though the criteria are more restrictive than those listed in the CEQA document. This proposal gives the LEA and the Waste Board virtual "veto power" over the host jurisdiction's land use authority, which is inconsistent with the California Constitution. The Task Force strongly opposes such "veto power" as well as any attempt by the Waste Board to weaken the local government land use authority.

The Task Force recognizes that the Waste Board or their LEAs do not have the authority to "enforce" local land use permits or ordinances and should not be burdened with such a responsibility. However, "verifying consistency" with the host jurisdiction's land use permit is not the same as "enforcement" of the host jurisdiction's land use permit. Thus, it is difficult for us to understand why the Waste Board would unnecessarily pursue to delete its traditional requirement that the SWFP information be consistent with the land use permit. More than any other permit, the land use permit defines the criteria/parameters for the

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design and operation of the facility. Allowing development of a solid waste facility or a change to the design and/or operation of an existing facility that is inconsistent with the land use permit would not only create confusion among decision makers and residents most impacted by the project, but also create a legal quandary as to which permit governs. To correct this serious flaw, we strongly recommend this staff proposal be revised to insure that the SWFP information is consistent with the host jurisdiction's land use permit requirements unless such requirements are less restrictive than those set by the Waste Board.

In addition, we strongly recommend that the Waste Board make a concerted effort to reach out to local jurisdictions, public interest groups (such as the North Valley Coalition and the East Valley Coalition), and other stakeholders who had a stake in AB 1497 to increase public participation in this regulatory process. It appears that the current group of invited stakeholders to these workshops are primarily facility operators and LEAs.

Thank you for the opportunity to provide our initial comments on the proposed draft regulations that are very important to local governments. 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  
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 the County of Los Angeles  
Each Member of the Los Angeles City Council

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Each Member of the Los Angeles County Regional Planning Commission  
League of California Cities, Los Angeles County Division  
Southern California Association of Governments  
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 Home Improvement Association  
Californians Against Waste  
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