



LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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DEAN D. EFSTATHIOU
CHAIRMAN

September 25, 2008

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

Dear Ms. Brown:

**PROPOSED PHASE II DRAFT REGULATIONS FOR LANDFILL CLOSURE,
POSTCLOSURE MAINTENANCE, AND CORRECTIVE ACTIONS COST ESTIMATES
AUGUST 19, 2008, WASTE BOARD AGENDA, ITEM 6**

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), I would like to commend the California Integrated Management Waste Board (Waste Board) for its efforts in developing the proposed regulations to strengthen the existing financial assurance mechanisms. As an active participant of the AB 2296 Consulting Group and in communication with the Waste Board and its staff (see enclosures), the Task Force continues to be concerned with the Waste Board's direction discussed at its meeting of August 19, 2008, regarding the proposed draft regulations.

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 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.

We would like to offer the following comments regarding the Waste Board's direction for the proposed draft regulations:

1. Representatives of cities and counties have consistently expressed their strong opposition to the formation of a "pooled fund" to provide for landfill closure, postclosure maintenance, and corrective actions in case of a default by landfill owners and operators. As directed by the Waste Board, the proposed draft regulations appear to solely benefit private landfill owners and operators since they can shirk their legal responsibilities to maintain and/or remediate their site by filing for bankruptcy at any time. In contrast, cities, counties, and other public agencies do not have this option and ultimately will be held liable since their primary responsibility is to ensure the protection of their residents' public health and safety as well as the environment.
2. The proposed draft regulations fail to clearly define and list those activities that are considered postclosure maintenance and those that are corrective actions. Failure to make a distinction between "repair" and "replacement" activities including those relating to landfill gas control and monitoring systems creates confusion for both the regulator and the regulated industry.
3. The proposed regulations provide a "step-down" mechanism for landfill owners and operators to be rewarded with a less stringent financial assurance requirement if their performance meets certain criteria. However, the proposal fails to include a "step-up" mechanism in the case that owners and operators fail to keep up with good performance. This is a critical issue as a "step-up" situation could happen several years after landfill closure, and a break in the financial assurance requirement may burden the State and local agencies.

Ms. Margo Brown
September 25, 2008
Page 3

The Task Force appreciates your consideration and looks forward working with you and your staff to ensure the proper operation and the long-term maintenance of disposal facilities in order to protect public health and safety and the environment while ensuring that they would not become a financial burden to the State and local governments. 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
Councilmember, City of Rosemead

LL:kp

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Enc.

cc: Governor Arnold Schwarzenegger
Each member of the California Integrated Waste Management Board
California Integrated Waste Management Board (Mark Leary, Bill Or, Ted Rauh)
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
Each member of the Los Angeles County Integrated Waste Management Task Force
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
Gateway Cities Council of Governments

From: Mike Mohajer [mikemohajer@yahoo.com]
Sent: Monday, August 18, 2008 3:23 PM
To: 'Margo Reid Brown'; 'Wesley Chesbro'; 'Rosalie Mule'; 'Cheryl Peace'; 'Gary Petersen'
Cc: Mark Leary; Ted Rauh; Bill Orr
Subject: 8/19/08 CIWMB Agenda Item 6 -- Request For Rule Making For PCM, CA & FA (Class III Landfills)
Attachments: RE: PCM & CA ITEMS and CONTENGENCIES (Class III Landfills)

Madam Chair and Members of the Board,

As a member of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force serving on the Waste Board AB 2296 Consulting Group, I want to commend your staff for their hard work to insure compliance with deadlines established by the Board and AB 2296 as well as their efforts to be responsive to stakeholders representing various interest groups. I would like to reiterate the following concerns that were expressed at the Working Group's meetings (see the attachment) and have yet to be addressed by staff.

1. Representatives of cities and counties have been adamantly opposed to the formation of a "pooled fund" to provide for a landfill closure, postclosure maintenance (PCM) and corrective actions (CA) in case of a default by landfill owners/operators. The purpose of the proposed pooled fund appears to be solely for financial protection of private landfill owners/operator since they can simply file for bankruptcy and walk away from their responsibilities. This is an option not available to cities, counties and other public agencies since they cannot walk away from their responsibilities while insuring their citizens' health and safety, and ultimately they are held liable.
2. The staff proposal continues to fail to clearly define and list those activities that are considered to be a part of the PCM and those that are a part of CA activities. There is a need to make a distinction between "repair" and "replacement" activities including those relating to landfill gas control and monitoring systems.
3. As drafted, the PCM financial assurance and its proposed "Step Down" component provide a mechanism for release of money to a landfill owner/operator from the landfill PCM funds. However, the proposal fails to include any requirement to insure the financial assurance in case of a "Step Up" situation. This is a critical issue as it relates to private landfill owners/operators since a "Step Up" situation could happen several years after the landfill closure and thus there would be no revenue sources.

Based on the foregoing and considering the failure of AB 2886, it is recommended that your Board adopt Option III.3 of the staff proposal.

Thank you for your consideration. Should you have any questions, please contact me at 909-592-1147.

Regards,

Mike Mohajer, Member
Los Angeles County IWM Task Force
MikeMohajer@yahoo.com

Cc: Task Force Members & Alternates
Members of the AB 2296 Consulting Group & staff

From: Mike Mohajer [mikemohajer@yahoo.com]
Sent: Sunday, August 03, 2008 9:44 PM
To: 'Adams, Garth'; 'Bill Magavern'; 'Peter Anderson'; scottsmithline@cawrecycles.org; 'Brigitta Corsello'; 'David Tieu'; 'Larry Sweetzer'; 'Mary Pitto'; 'Susan Klassen'; 'Karen Keene'; 'Kyra Ross'; Aiyetiwa, Martins; 'Michael Miller'; 'Chuck Helget'; cwhite1@wm.com; 'Drew Lehman'; 'Evan Edgar'; 'George Larson'; 'Glenn Acosta'; 'Lory Rising'; 'Rachel Oster'; 'Tony Pelletier'; 'David Tieu'; 'Pierre, Ron [IWMD]'; VMChan@SolanoCounty.com; ja.cupps@hotmail.com; davidtieu92685@yahoo.com; 'Larry Sweetser'; hermanr@co.kern.ca.us; 'Mark Aprea'; 'Quinones, Justine'; 'Bax, Beth'; 'Jeff Gow'; 'Ferrier, Dennis'; wall.steve@epa.gov; Mike Mohajer; Bill Orr; Ted Rauh
Cc: EWosika@waterboards.ca.gov; LBabcock@waterboards.ca.gov; 'Castle, Richard'; 'Marino, Andy'; 'Orr, Bill'; 'Packard, Rubia'; 'Vlach, Bernie'; 'Wochnick, Michael'; 'Bromberg, Shelly'; 'Bajurin, Jonalyn'; 'Byrne, JoAnne'; 'Jestreby, Nancy'; lgraves@waterboards.ca.gov; 'Rauh, Ted'; 'Levine, Steve'; 'Castaneda, Elizabeth'
Subject: RE: PCM & CA ITEMS and CONTENGENCIES (Class III Landfills)

Ted Rauh/Bill Orr,

Unfortunately, I have a conflicting schedule and will not be able to attend the meeting in Sacramento, tomorrow.

I fully recognized that there are a number of deadlines that CIWMB staff must meet but the issues listed below are critical to insure public health and safety and as such cannot continue to be ignored and must be addressed. Thanks

Mike Mohajer

MikeMohajer@yahoo.com

From: Mike Mohajer [mailto:mikemohajer@yahoo.com]
Sent: Monday, July 21, 2008 1:10 PM
To: 'Mike Mohajer'; 'Adams, Garth'; 'Bill Magavern'; 'Peter Anderson'; 'scottsmithline@cawrecycles.org'; 'Brigitta Corsello'; 'David Tieu'; 'Larry Sweetzer'; 'Mary Pitto'; 'Susan Klassen'; 'Karen Keene'; 'Kyra Ross'; 'Martins Aiyetiwa'; 'Michael Miller (millereviron@earthlink.net)'; 'Chuck Helget'; 'cwhite1@wm.com'; 'Drew Lehman'; 'Evan Edgar'; 'George Larson'; 'Glenn Acosta'; 'Lory Rising'; 'Rachel Oster'; 'Tony Pelletier'; 'David Tieu'; 'Pierre, Ron [IWMD]'; 'VMChan@SolanoCounty.com'; 'ja.cupps@hotmail.com'; 'davidtieu92685@yahoo.com'; 'Larry Sweetser (sweetser@aol.com)'; 'hermanr@co.kern.ca.us'; 'Mark Aprea (maprea@apreamicheli.com)'; 'Quinones, Justine'; 'Bax, Beth'; 'Jeff Gow'; 'Ferrier, Dennis'; 'wall.steve@epa.gov'
Cc: ' (EWosika@waterboards.ca.gov)'; ' (LBabcock@waterboards.ca.gov)'; 'Castle, Richard'; 'Marino, Andy'; 'Orr, Bill'; 'Packard, Rubia'; 'Vlach, Bernie'; 'Wochnick, Michael'; 'Bromberg, Shelly'; 'Bajurin, Jonalyn'; 'Byrne, JoAnne'; 'Jestreby, Nancy'; 'lgraves@waterboards.ca.gov'; 'Rauh, Ted'; 'Levine, Steve'; 'Castaneda, Elizabeth'
Subject: PCM & CA ITEMS and CONTENGENCIES (Class III Landfills)

Hi Bill,

I am still hoping for a resolution of the items I had listed in my 5/23/08 email, see below. While these items were discussed subsequently, no clear and defined resolution was arrived at. So, for the record, I would ask that the CIWMB clearly define and list those activities that are considered to be a part of the PCM and those that are a part of CA. Also, the list should clearly make a distinction between "repair" and "replacement" activities including those relating to landfill gas control and monitoring systems. Additionally, is the proposed 10% contingency applicable to all PCM activities, including but not limited to "repair" and "replacement" costs? Further, what formula is proposed to be used in providing contingencies for the Correction Action's activities?

In re to the "pooled fund", during the past meetings, I have raised the issue that if a State pooled fund is established, would the State be willing to indemnify cities and counties from any further personal and/or environmental contamination resulting from landfill activities (for those items under the purview of the CIWMB and the Water Board) . As you know, local governments are responsible for the protection of their citizens' health and safety and as such without any indemnification from the State, local governments will ultimately be responsible (deep pockets) while the same is not applicable to the private sector since they can file for bankruptcy and walk away from their responsibilities, e.g. EMRON, BKK, IndyMac, etc. As such, the purpose of the "pooled fund" appears to be solely for the financial protection of private landfill owners and operators, and therefore, should such a mechanism be adopted by the State, then all private landfill owners/operators should be allowed only the use of the "trust fund" mechanism in providing financial assurance of the landfill Closure, Post Closure Maintenance as well as the Correction Action for both water and non-water related activities.

At our July 17th meeting after the presentation by Mike Houlihan of Geosyntec Consultants, I indicated the existence of a

09/25/2008

number of landfills in Los Angeles County that even though they have ceased operation for over 40 years, they still continue to generate landfill gas at levels that may potentially be hazardous to public health and safety. To the best of my knowledge, the data may be reviewed at the County of Los Angeles Department of Public Works, Environmental Programs Division, 900 South Fremont, Alhambra, CA 91803.

Mike Mohajer

MikeMohajer@yahoo.com

From: Mike Mohajer [mailto:mikemohajer@yahoo.com]

Sent: Friday, May 23, 2008 1:55 PM

To: Adams, Garth; 'Bill Magavern'; 'Peter Anderson'; 'scottsmithline@cawrecycles.org'; 'Brigitta Corsello'; 'David Tieu'; 'Larry Sweetzer'; 'Mary Pitto'; 'Susan Klassen'; 'Karen Keene'; 'Kyra Ross'; 'Martins Aiyetiwa'; 'Michael Miller (millereviron@earthlink.net)'; 'Chuck Helget'; 'cwhite1@wm.com'; 'Drew Lehman'; 'Evan Edgar'; 'George Larson'; 'Glenn Acosta'; 'Lory Rising'; 'Rachel Oster'; 'Tony Pelletier'; 'David Tieu'; 'Pierre, Ron [IWMD]'; 'VMChan@SolanoCounty.com'; 'ja.cupps@hotmail.com'; 'davidtieu92685@yahoo.com'; 'Larry Sweetser (sweetser@aol.com)'; 'hermanr@co.kern.ca.us'; 'Mark Aprea (maprea@apreamicheli.com)'; 'Quinones, Justine'; 'Bax, Beth'; 'Jeff Gow'; 'Ferrier, Dennis'; 'wall.steve@epa.gov'; Mike Mohajer

Cc: ' (EWosika@waterboards.ca.gov)'; ' (LBabcock@waterboards.ca.gov)'; Castle, Richard; Marino, Andy; Orr, Bill; Packard, Rubia; Vlach, Bernie; Wochnick, Michael; Bromberg, Shelly; Bajurin, Jonalyn; Byrne, JoAnne; Jestreby, Nancy; 'lgraves@waterboards.ca.gov'; Rauh, Ted; Levine, Steve; Castaneda, Elizabeth

Subject: RE: Additional Attachments forCIWMB- 5/27/08 Phase II Informal Rulemaking Workshop

I am looking forward to finalize the definition of PCM, non-water related CA and clearly define all activities that would fall within each categories. The issue has been very dynamic in that each person has its own definition for the activities that would fall under PCM and CA which varies from a meeting to another. I clearly understand that there may be a need for a flexibility and I support that. However, one should not expect to have a system that a train load of uncertainties can be driven through it at any time and/or for any cause

MIKE MOHAJER

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