

Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force

Minutes of July 15, 2010

County of Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, California

COMMITTEE MEMBERS PRESENT:

Margaret Clark, League of California Cities-Los Angeles Division
Betsey Landis, Environmental Organization Representative
Mary Ann Lutz, League of California Cities-Los Angeles Division
Mike Mohajer, General Public Representative
Sam Perdomo, Business/Commerce Representative
Ron Saldana, Los Angeles County Disposal Association (Formerly GLASWMA)
Eugene Sun, League of California Cities-Los Angeles Division

COMMITTEE MEMBERS REPRESENTED BY OTHERS:

Gail Farber, rep. by Carlos Ruiz, County of Los Angeles Department of Public Works
Stephen Maguin, rep. by Charles Boehmke, County Sanitation Districts of Los Angeles County
Dr. Jonathan Fielding, rep. by Cindy Chen, County of Los Angeles Department of Public Health

COMMITTEE MEMBERS NOT PRESENT:

Carl Clark, Institute of Scrap Recycling Industries, Inc.
Michael Conway, City of Long Beach
David Kim, City of Los Angeles
Gerry Miller, City of Los Angeles
Greig Smith, City of Los Angeles
Dr. Barry Wallerstein, South Coast Air Quality Management District
Enrique Zaldivar, City of Los Angeles Bureau of Sanitation

OTHERS PRESENT:

Tracey Anthony, ARI
Jinderpal Bhandel, City of Los Angeles
Jim Binder, ARI
Russell Bukoff, County of Los Angeles Department of Public Works
Antonia Castro, City of Pomona
Grace Chan, County Sanitation Districts of Los Angeles County
Connie Christian, County Sanitation Districts of Los Angeles County
Chip Clements, Clements Environmental
Judith Fries, Los Angeles County Counsel
Wayde Hunter, NVC/GHNNC
Linda Lee, County of Los Angeles Department of Public Works
Ben Lughe, City of Palmdale
David Perez, County of Los Angeles Department of Public Works
Pat Proano, County of Los Angeles Department of Public Works
Coby Skye, County of Los Angeles Department of Public Works
Steve Uselton, CalRecycle

I. CALL TO ORDER

Meeting called to order at 1:11 p.m.

II. APPROVAL OF MINUTES OF JUNE 27, 2010

A motion was made to approve the minutes of June 27, 2010, with minor revisions. The motion passed.

III. REPORT FROM THE ALTERNATIVE TECHNOLOGY ADVISORY SUBCOMMITTEE (ATAS)

Mr. Coby Skye reported the subcommittee has been very busy. They will attend Waste to Energy Plans and Investment Conference in San Diego next week, and Tobie Mitchell will give a presentation. They were updated on outreach activities by consultants for communications efforts with environmental organizations in support for AB 222. They were also updated on phase 3 and 4 contracts and discussed the work that Alternative Resources and their subcommittees are doing in support of the demonstration projects, specifically phase 3, and a number of interested parties wanting to partner with County and Task Force on commercial projects as part of phase 4. They received dozens of city request for commercial projects so far and they anticipate more. Several cities identified multiple sites with the potential for development of a project. They will review and report to Board of Supervisors by October.

Mr. Skye stated the subcommittee had two motions. The first was to send a letter to Congress to extend the deadline for ARRA Stimulus funding. Projects they are working on are eligibility to receive up to 30 percent in grants for construction cost for development for conversion technologies, but deadlines are fast approaching. The first is the end of the year to receive 25 percent of cost paid out. They are looking for a two-year extension. Mr. Mike Mohajer made the motion to send a letter to congress to extend the deadline for ARRA Stimulus projects. It was seconded by Mary Ann Lutz. It passed unanimously.

The second motion was for the Task Force to send a letter to the US EPA to reverse their decision of biogenic carbon being consider carbon neutral for the purpose of GHG emissions. The subcommittee wants them to reconsider their vote and take public comment into consideration. Mr. Mohajer made the motion to send a letter to US EPA to reconsider their rule for biogenic carbon definition and consider public comment in the future.

Mr. Skye also gave an update on the 3 demonstration projects stating they are meeting regularly with development teams and moving forward in different stages

of development. They are primarily focusing on financing and funding opportunities.

IV. REPORT FROM THE FACILITY PLAN REVIEW SUBCOMMITTEE

Ms. Betsey Landis reported on the discussion this morning at the Subcommittee meeting regarding Amendment to City of Pomona Nondisposal Facility Element to add Pomona Valley Transfer Station and the monthly Report on Sunshine Canyon Landfill Revegetation efforts.

After further discussion, the Subcommittee concurred to add Pomona Valley Transfer Station to the City of Pomona NDFE. Ms. Betsey Landis made a motion for the Task Force to send a letter to City of Pomona stating concurrence with their NDFE amendment. Mr. Mike Mohajer seconded the motion. The motion passed with one abstention from Mr. Ron Saldana.

Staff provided an update to the Subcommittee on the status of the re-vegetation efforts at Sunshine Canyon Landfill. The Subcommittee discussed the various reports and proposals Republic Services/Browning-Ferris Industries (BFI) submitted to the South Coast Air Quality Management District (SCAQMD) and recommended that the Task Force send a comment letter. Ms. Betsy Landis made a motion which was seconded by Mr. Mike Mohajer for the Task Force to send a comment letter on the Draft Vegetation Planting Plan to SCQAMD with a copy to BFI, BFI's consultant (Environmental Science Associates), County of Los Angeles Department of Regional Planning, and the Sunshine Canyon Landfill City/County Local Enforcement Agency. The motion passed unanimously.

V. STATUS ON AB 222, CONVERSION TECHNOLOGIES

Mr. Mike Mohajer reported that AB 222 was considered by the Senate Environmental Committee on June 28. Mr. Mohajer attended the hearing and spoke out in support of the bill along with several other agencies. The analysis by the Committee staff misrepresented the facts regarding the intent of AB 222 and conversion technologies. Senator Simitian, the Chair of the Committee, stated his belief that there are 3 issues involved with AB 222: (1) subsidize conversion technology by providing diversion credit, (2) subsidize conversion technology by considering energy or fuel produced by the facility renewable energy, and (3) technical/permitting difficulties. The Chair expressed sympathy with the third objective but did not support the first two, and indicated the bill as drafted was unlikely to receive sufficient votes for passage. The Committee therefore voted unanimously to approve AB 222 and to amend the bill based on the recommendations in the staff report.

Unfortunately, these recommendations aren't even consistent with the Senator's assurances during the meeting that the revised bill would be a small step forward

for conversion technologies, as the staff recommendations would further close the door to development of conversion technologies in California. Mr. Mohajer felt this decision undermines what the Task Force has worked on for the past 11 years. There are efforts to come up with revised language before it goes to the Senate Floor. More meetings are coming to establish the new language. Depending on whether or not the meetings are successful, the Task Force may need to oppose AB 222, dependent on what the new language reads, and to support amending the bill back to the current language as approved by the Assembly and Senate Energy, Utilities and Commerce Committee last year. The ruling will happen before the next Task Force meeting. Ms. Mary Ann Lutz made a motion to send a letter to oppose or support AB 222 based on the recommendation of appointed Task Force Committee members after the new language comes out.

Calls to all the cities in the County will be made to inform them of the new language and help mobilize them to stand with the Task Force and send letters as well.

VI. PRESENTATION ON MESQUITE REGIONAL LANDFILL DRAFT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

Ms. Connie Christian and Ms. Grace Chan gave a presentation on the Mesquite Rail Yard Landfill progress and proposal to allow trucking to Mesquite from the Puente Hills Landfill ([see attached](#)).

There was discussion about a backup plan if Imperial County did not approve the EIR for the project to allow trucking. Ms. Christian stated if the EIR wasn't approved, they would depend solely on the waste by rail project, which would be completed in 2012.

A motion was made by Mr. Mike Mohajer to send a letter to show the Task Force's support of the waste by rail project to the Imperial County Board of Supervisors. Mr. Eugene Sun seconded. The motion passed unanimously.

A discussion question was asked about tonnage fees going to Imperial County, and it was confirmed that a host fee prorated at \$1 per ton would go to Imperial County whether the refuse came in by rail or truck.

VII. OVERVIEW OF CALRECYCLE'S JURISDICTIONAL REVIEW TOOL

Mr. David Perez reported on the adoption of AB 1016 in 2008 that changed the system by which jurisdictions are to measure compliance with the waste reduction mandate of AB 939 by placing greater emphasis on program implementation instead of number crunching. For example, if a jurisdiction disposes less than its 50 percent equivalent per capita disposal target and is implementing its recycling and related programs, it has met the mandate.

The Enforcement Policy is used by CalRecycle to determine whether or not a jurisdiction has adequately implemented its Source Reduction and Recycling Element and Household Hazardous Waste Element. This is the core guidance document that CalRecycle staff uses in determining a jurisdiction's performance and compliance status with regards to meeting diversion mandates.

Unfortunately, despite its importance, there was a significant lack of local government involvement and input into recent changes to this policy. Revisions to the Enforcement Policy were recently adopted by the State despite Task Force's concerns on the lack of adequate outreach to cities and counties, and how mandatory commercial recycling fits into the Enforcement Policy.

Currently, the State is proceeding with implementation of Mandatory Commercial Recycling (MCR) per the proposed regulations. If a jurisdiction does not comply with the Mandatory Commercial Recycling (AB 32) regulations, then it would be subject to a compliance order and potential fines under AB 939 as well as under AB 32. This change in regulation is not addressed in the Enforcement Policy.

More recently, staff was made aware of a Jurisdictional Review Tool (JRT) used by CalRecycle staff to evaluate a jurisdiction's diversion program implementation and identify program gaps. The information needed by JRT would be pulled from past Annual Reports, site visit notes, and other available files. Depending on the result, a jurisdiction could be referred to the Jurisdictional Compliance and Audit Section for action. Unfortunately, this tool was not circulated to the regulated communities for comment.

Mr. Perez provided a handout ([see attached](#)) that gave some additional details on the JRT on page 3 and referenced a recently adopted Green Building Code on page 2, which also gave some concern.

Mr. Perez concluded that these series of actions by CalRecycle appear to be related to SB 1016. Unfortunately, CalRecycle has not clearly communicated its intention to local jurisdictions with respect to the JRT and the Enforcement Policy. Depending on how this tool is applied, it could potentially impact a jurisdiction's compliance with AB 939.

Mr. Carlos Ruiz commented that there have been a number of independent actions by CalRecycle that appear related to SB 1016 implementation, such as MCR, and if a jurisdiction fails to comply with these new regulations, they may be subject to fines under AB 939 and AB 32. The Task Force sought clarification on numerous occasions as to how CalRecycle is going to use these requirements in assessing noncompliance since they actually overlap and the way data is being used will affect all jurisdictions. Unfortunately, State's response was that they were separate issues.

Mr. Mike Mohajer made a motion to send a letter to CalRecycle asking them to conduct workshops throughout the Southern California region to go over SB 1016, Enforcement Policy II, JRT Mandatory Commercial Recycling, Green Building Code, and seek regulated community input. Further discussion ensued.

Mr. Ron Saldana stated the current draft of AB 32 threatens a \$10,000 a day fine for noncompliance but the definition of noncompliance is ambiguous and rests on good faith effort in his opinion. The good faith effort is unclear and is a poor approach to the regulatory component of the draft.

Mr. Steve Uselton stated the newsletter was not an official publication of CalRecycle and was published by a branch from their headquarters office. He added that the JRT is not a new tool and has been used by the Staff to assist them when doing site visits to gather updates on the local jurisdictions. This tool helps prompt the staff with information they should consider in their jurisdiction. Mr. Uselton re-emphasized that the tool has always been around and its intent is for note gathering and add consistency to what should be looked at by staff. The results could lead to issuance of compliance orders, but that would have to go through the regular process of holding public hearings, reviews, etc.

After further discussions, Mr. Ron Saldana seconded the motion. The motion passed unanimously.

VIII. UPDATE ON COURT DECISION REGARDING LAWSUIT BROUGHT AGAINST REGIONAL WATER BOARD

Ms. Judith Fries, Deputy County Council for the County of Los Angeles, provided an update on the Basin Plan lawsuit against the Regional Water Board (Regional Board). Ms. Fries gave the case background stating the Regional Board adopted a Basin Plan, which is a general plan to discuss water quality issues and all permits issued must be in conformance with the Basin plan. The Basin plan was adopted by the Water Board several years ago. The Regional Board is governed by both the State and Federal laws and must adhere to the Clean Water Act (Federal) and the Water Code (State). Whenever a plan is adopted or amended that will be permanent, it must comply with the Water Code and consider certain standards one of which is the economic impacts to cities.

When the Basin plan was adopted, the storm waters weren't included until years later. A number of cities believe the economic impact related to the treatment of storm waters weren't considered at the time of adoption of the Basin Plan. Amendments to and regulatory enforcement of the plan regarding storm water began to financially affect cities. Cities are arguing the economic factors need to be addressed before amendments to enforcement requirements are approved. The Regional Board's position is that those factors were considered. Around

2007-08, the cities filed a lawsuit against the Water Board after asking the Regional Board declined review the factors they believed were not considered.

In November 2008, the trial court in Orange County issued a judgment that the Regional Board was required to consider those factors claimed by the cities. The judgment issued addressed two major factors which were economic and the language interpretation of “potential future use” vs. “probable future use.” The Regional Board uses “potential future use” and cities claim that is much broader than “probable future use,” and the language of the statute should be revised to accordingly. The initial judgment issued agreed the use of “potential” was inaccurate and required the Regional Board not to enforce any of the standards until they reconsidered them under the new training order review. The Regional Board asked the courts to modify their decision because it would interrupt too much of their business including issuing permits. The ultimate judgment invalidated the tri-annual review and required the Regional Board to do another one and specifically consider the economic factors and deal with “potential usage.” The Regional and State Boards appealed and are waiting a court date. To date, a hearing date has not been set.

Ms. Fries also mentioned two other lawsuits against the Regional Board not specifically related to the Task Force.

Mr. Mike Mohajer asked if the current regulations are being operated under the language of “potential” vs. “probable.” Ms. Fries confirmed they are operating under the term “potential” because the new regulations are standards that apply to existing and probable uses. The reason they can do this is because they are adopting standards not uses, and the uses are ongoing and still apply.

IX. LEGISLATIVE UPDATE

Mr. Rogelio Gamiño reported on following legislative bill ([see attachment](#)):

1. AB 2565—introduced by Senator Ammiano - amended June 17, 2010

This bill would authorize a public agency to charge and collect a reasonable fee from members of the public for a digital copy of an “environmental document”, as defined, that does not exceed the cost of reproducing the document. This bill defines “environmental document” to mean an initial study, negative declaration, mitigated negative declaration, draft and final environmental impact reports, and qualified substitute documents.

Mr. Gamiño suggested the Task Force continue to support this bill. No action was taken.

Mr. Gamiño also gave a status of the legislative time line as follows:

- August 2 - Legislature Reconvenes
- August 19 - Next Task Force meeting
- August 20 - Last day to amend a bill on the Floor
- August 31 - Last day for any bill to be passed by either house
- September 30 - Last day for Governor to sign or veto bills

Mr. Mike Mohajer discussed changing the Task Forces' position on SB 1100 from Support and Amend to Support because it could increase the likelihood of establishing a battery related product stewardship program.

After discussion, a motion was made by Mr. Mike Mohajer to send a letter changing the Task Forces' position from support if amended to support only. Ms. Betsey Landis seconded. It passed unanimously.

Mr. Mohajer also discussed AB 1004, a bill that would allow Landfill Operators to pay 12 cents per ton into the trust fund to operate landfills. One of the questions of the Task Force was who will backfill the funds when CalRecycle uses the money. The bill went before the Environmental Quality Committee on June 28, and Mr. Mohajer was there to restate the Task Force's position. The author stated he did not receive a letter from the Task Force, so the Committee did not know or consider the position. As a result, letters needed to be resent stating the Task Force's position on this bill.

X. REPORT FROM CALRECYCLE

No report was given.

XI. NEXT MEETING DATE

The next meeting was scheduled for Thursday, August 19, 2010, at 1 p.m. in Conference Room C.

XII. OPEN DISCUSSION/PUBLIC COMMENT

None.

The meeting adjourned at 3:10 p.m.

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