



DONALD L. WOLFE
CHAIRMAN

LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
900 SOUTH FREMONT AVENUE, ALHAMBRA, CALIFORNIA 91803-1331
P.O. BOX 1460, ALHAMBRA, CALIFORNIA 91802-1460
www.lacountyiswmtf.org

May 9, 2006

TO: All City Mayors in Los Angeles County

Dear Mayor:

**PERMIT IMPLEMENTATION REGULATIONS (ASSEMBLY BILL 1497)
SPECIAL HEARING SET FOR JUNE 5, 2006 AND
WRITTEN COMMENTS DUE JUNE 6, 2006**

On April 7, 2006, the California Integrated Waste Management Board (CIWMB) officially released its proposed Permit Implementation Regulations for public comment. The promulgation of the proposed Regulations is in response to Assembly Bill 1497 (Montanez, 2003) which requires the CIWMB to, among other things, define "significant change in the design and operation of the solid waste facility" in order to ensure that residents living near a facility are properly notified in the event the facility's design/operation changes. The CIWMB has scheduled a hearing on the matter for June 5, 2006, at its Sacramento office at 1:30 p.m. In addition, all written comments are due to the CIWMB by June 6, 2006.

Currently, a solid waste facility operator must obtain a land use permit from the host jurisdiction and subsequently a Solid Waste Facility Permit (SWFP) from the CIWMB's Local Enforcement Agency. Prior to issuing a SWFP, the CIWMB's Local Enforcement Agency traditionally ensures that all information contained within the SWFP application is complete and correct, including demonstrating consistency with the land use permit. However, under pressure from facility operators, the CIWMB has drafted proposed regulations that no longer provide for this function.

On December 15, 2005, the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) forwarded you a copy of our letter to the CIWMB (copy enclosed) outlining our opposition to the proposed regulations since they would preempt local land use authority. As outlined in our letter, the land use permit conditions for the design and operation of a solid waste facility are often significantly more restrictive than the mitigation measures identified in the California Environmental Quality Act (CEQA) document. These conditions are the primary vehicle establishing the parameters for the "operation" of a solid waste facility. Therefore, it would be inappropriate for the CIWMB to only consider the CEQA document in considering approval of a SWFP or a revision there to without such verification. Without this verification, solid waste facilities will be issued a SWFP that is inconsistent with the local

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land use permit, creating enormous confusion and a legal quandary as to which permit governs. Despite our December 15, 2005, letter, the CIWMB has proceeded to promulgate the Regulations without addressing this issue.

We believe this issue is of paramount importance to all local governments, especially those cities or counties that now or in the future may host a solid waste facility within their boundary. Thus, we encourage you or a representative from your City to attend the above hearing to voice your **disapproval** with the proposed Regulations and/or write a letter to the CIWMB expressing your City's concerns (a sample letter is enclosed for your use).

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. 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 thank you for your consideration of this request. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,



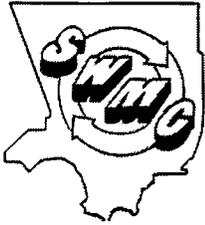
Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Councilmember, City of Rosemead

Attach.

WT:ro

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cc: Each Member of the Los Angeles County Board of Supervisors
Each Member of the Los Angeles County Integrated Waste Management Task Force
Each City Manager in Los Angeles County
Each City Director of Planning in Los Angeles County
Each City Recycling Coordinator in Los Angeles County



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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, wastered 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

MA:ro

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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

_____, 2006

Bobbie Garcia
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-16
Sacramento, CA 95812-4025

Dear Ms. Garcia:

PERMIT IMPLEMENTATION REGULATIONS (ASSEMBLY BILL 1497)

The City of _____ would like to express our **disapproval** of the proposed Permit Implementation Regulations. While we support the legislative intent of Assembly Bill 1497 (Montanez, 2003) of ensuring residents living near a solid waste facility are afforded proper notification regarding any significant changes to the facility's design and/or operation, we cannot support the proposed Regulations as currently drafted. We believe that the proposed Regulations do not address the importance of the California Integrated Waste Management Board's fiduciary responsibility to verify the facility's consistency with the host jurisdiction's land use permit prior to issuing a Solid Waste Facility Permit (SWFP) or a revision there to.

Without this direct verification (or indirectly by having the facility owner/operator to submit a letter from the host jurisdiction verifying that the proposed activity is consistent with the land use permit), we believe solid waste facilities will be issued a SWFP that may be inconsistent with criteria established for the design and operation of the facility by the host jurisdiction. This would create public confusion and a legal dilemma as to which permit governs. Ultimately, the proposed Regulations will weaken the host jurisdiction's land use authority.

Since land use authority is one of local government's most important tools to protect the public health, safety and welfare of its residents, we therefore urge the CIWMB not move forward in promulgating the proposed Regulations until it addresses this issue. We thank you for your consideration on this matter. If you have any questions, please contact _____.

Sincerely,

Mayor, City of _____

cc: Governor Arnold Schwarzenegger
Assembly Member Cindy Montanez
Undersecretary of Cal-EPA (Dan Skopec)
Each Member of the California Integrated Waste Management Board
Los Angeles County Integrated Waste Management Task Force