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SOLID WASTE MANAGEMENT COMMITTEE/
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September 13, 2010

The Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

**ASSEMBLY BILL 737 (TO ENROLLMENT AUGUST 31, 2010)
SOLID WASTE: DIVERSION**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) requests that you **veto** Assembly Bill 737 (AB 737) for the reasons discussed in this letter. Briefly, if enacted AB 737 would;

1. Require local governments to enact and enforce a mandatory commercial recycling ordinance/policy imposing a significant financial burden on local governments, residents of multi-residential complexes, and California businesses for compliance with the mandate. Further, the proposal would essentially require that recyclable materials collected through this mandatory program go through a mixed processing system (i.e. a Materials Recovery Facility) thus preventing businesses from implementing source-separated recycling programs, which may be done at a cost lower than the mixed processing system.
2. Require the Department of Resources Recycling and Recovery (CalRecycle) to develop strategies for achieving 75 percent waste diversion without any consideration for alternatives to recycling and composting processes such as conversion technologies or the greenhouse gas emissions from existing processes. CalRecycle will be required to submit its findings to the Legislature by January 1, 2013. We are concerned that these findings may provide the Legislature with justification to impose additional mandates on local governments without any consideration for (a) alternatives to recycling and composting; (b) requiring a detailed life cycle analysis of alternatives including recycling and composting; (c) needed in-State manufacturing infrastructure to utilize the recovered materials; and (d) input from local governments.

3. Require a local enforcement agency to approve permits through a pro-forma approval process when significant changes are made in the design or operation of the solid waste facility regardless of whether those changes are authorized by the existing permit or whether they are consistent with the host jurisdiction's land use permit, and would eliminate current provisions in State law for the local task force (formed pursuant to AB 939 [Sher, 1989]) to comment and review updates to Non-Disposal Facility Elements (NDFE). The Task Force is extremely concerned that the proposal may supersede local governments' land use decisions.

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 the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, 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, 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.

If enacted, AB 737 would also require local governments to implement and enforce a mandatory commercial recycling ordinance/policy, thereby imposing a significant financial and resource burden on local governments, residents of multi-dwellings consisting of five units or more, and California businesses. This bill fails to consider the current economic downturn and record budget shortfalls experienced by all levels of government **while using the justification that local governments can impose fees to recover their costs from local businesses and residents** (emphasis added). Likewise, this bill fails to consider that local governments may find their constituent businesses unreceptive to the imposition of additional charges and fees. Further, the proposal would effectively require the processing of recyclable materials through a material recovery facility (MRF), thus imposing an additional cost on those businesses that want to conduct source separated diversion programs. Such a requirement may also provide an advantage to those waste management businesses that own MRFs compared to those that do not own such facilities and would only be able to offer source separated recycling programs.

We would also like to bring to your attention the precedent you established for vetoing bills that mandate multifamily residential recycling. Both AB 2206 (Montanez, 2006) and AB 473 (Blumenfield, 2009) mandated multifamily residential recycling like AB 737 proposes to do yet were vetoed. Your veto letters for these bills stated they were overly prescriptive in nature and “local governments already have the authority to mandate the action.” Like you, we encourage efforts to provide adequate tools and resources to local jurisdictions in order to make available increased recycling opportunities to multifamily dwellings. Unfortunately, while AB 737 mandates a more prescriptive program as compared to the two vetoed bills, it fails to provide any new tools and instead encourages local governments to charge tenants of multifamily dwellings and businesses for the implementation of the mandatory recycling programs. In the case of the multifamily dwellings, this would also mean that the vulnerable segments of the California population living in apartment buildings would be targeted by this bill, as they will ultimately bear whatever costs are imposed on multifamily dwelling owners and managers.

Existing State mandates for recycling have created an extensive supply of diverted materials but have failed to thoroughly address the market demand side of the “recycling equation.” Recycling is sustainable and justified only when there are sufficient markets for goods. To this end, the State needs to substantially expand its efforts by providing economic incentives and assistance to innovative businesses. Currently, MRFs in California have available capacity to recover additional materials from the waste stream, but they do not due to a lack of suitable markets. The result has been a substantial dependence on Eastern Asia and other foreign countries as markets for our diverted/recovered materials, bringing to light a long standing deficiency in the current model used for the diversion of materials. Worth noting is that recyclable goods shipped overseas are used/remanufactured under significantly less stringent or non-existent air/water pollution control and health and safety standards. At the same time, the recent economic downturn has significantly weakened consumer demand for materials and thus created an excess inventory of recycled materials including newspapers, corrugated cardboard, and plastics. As such, prior to mandating expanded commercial recycling and/or higher diversion rates, it is absolutely necessary to analyze the true life-cycle environmental and economic cost of recycling. While recycling offers many environmental benefits, it also has environmental impacts, particularly the unavoidable greenhouse gas emissions resulting from the processing and transporting of diverted materials. Unfortunately, while AB 737 mandates the recovery of recyclables and provides for additional recovery facilities, it completely fails to establish or address the necessary markets that demand the recovered goods. Just as California strives to be the largest **producer** of recyclable materials; it should equally strive to “**use/remanufacture**” those materials in California (emphasis added).

Also, without a suite of solid waste management options, increasing the statewide mandatory diversion rate will have profound detrimental impacts on local governments. AB 737 ignores the need for the development of emerging technologies such as solid waste conversion technologies, which are capable of converting post-recycled residual solid waste into renewable energy, biofuels, and useful products. These technologies complement recycling and composting further reducing our dependence on landfills. To date, California has failed to pass comprehensive legislation that would alleviate regulatory uncertainty regarding these technologies. The most recent legislative attempt was Assembly Bill 222 (Adams/Ma) during the 2009-10 Legislative Session. This legislation received bipartisan support amongst the business, environmental, labor, and government sectors. The legislation would have removed from statute a scientifically inaccurate definition of gasification, established a new regulatory category for a "biorefinery" and confirmed that the biogenic portion of the municipal waste stream qualifies as a feedstock for renewable electricity under the Renewable Portfolio Standard. Without regard to the strong endorsement by many cities and counties (including the City and the County of Los Angeles), special districts and other organizations including a rare, jointly issued endorsement by the **California Energy Commission, Air Resources Board, and the Department of Resource Recycling and Recovery** (emphasis added), the Senate Environmental Quality Committee voted to incorporate amendments to the bill that discourage the development of conversion technologies in California. The bill was eventually amended to remove all reference to solid waste.

With regard to the possible future increase to a 75 percent waste diversion rate, it should be noted that local governments across the State have already invested hundreds of millions of dollars in recycling infrastructure, development and implementation of waste reduction programs, and mathematical accounting and documentation required to meet the current 50 percent waste disposal reduction mandate. The most cost-effective programs have already been implemented along with a variety of feasible niche programs. Although the Task Force supports efforts to increase diversion of waste materials from landfill disposal, we have been grappling with numerous proposals to increase the mandate on local governments without providing them with the means to achieve these goals. We must insist that such efforts take a collaborative, solutions-oriented approach. To start with, strategies to be developed by CalRecycle must consider alternative diversion approaches, such as conversion technologies, rather than focusing solely on recycling and composting as current CalRecycle policy (such policy would be perpetuated by AB 737). Secondly, such strategies must be established based on a true life-cycle analysis of each alternative including recycling and composting. Thirdly, the selected strategies must identify and provide for the tools needed to develop the State's infrastructure to use/remanufacture the diverted/recovered materials. Finally, we strongly believe that Jurisdictions are in

the best position to formulate and select programs that work best for the community and have been doing so since the enactment of AB 939, which is why statewide diversion is well above 50 percent. As such, it is not clear why AB 737 would mandate the development of strategies to increase diversion solely to CalRecycle and without requiring the involvement of local governments in the strategy development process. Thus, the Task Force is in strong opposition to the proposal.

Lastly, AB 737 would require a local enforcement agency to approve solid waste facility permits through a pro-forma approval process when significant amendments are made in the design or operation of a solid waste facility, regardless of whether those changes are authorized by the existing permit **or whether they are consistent with the host jurisdiction's land use permit** (emphasis added). AB 737 will further repeal the current requirement for a local task force to review and comment on NDFE amendments. This Task Force strongly opposes this bill's elimination of such provisions in State law since (1) the proposal may supersede the host jurisdiction's land use decisions by failing to require LEA/CalRecycle to ensure consistency with the host jurisdiction's land use permit, and (2) a local task force's review is essential towards ensuring that projects conform with their governing Countywide or Regional Integrated Waste Management Plan and would not impair countywide solid waste management activities or have other unforeseen region-wide impacts.

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For the foregoing reasons, the Task Force respectfully request that you **veto** AB 737. Should 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
Council Member, City of Rosemead

PGT:MS:ts

cc: Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor in the County of Los Angeles
Chief Executive Officer of the County of Los Angeles
Each City Manager in the County of Los Angeles
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
Southern California Association of Governments
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
Gateway Cities Council of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task
Force