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LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
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December 2, 2004

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

Dear Chairwoman Marin:

DRAFT CONVERSION TECHNOLOGY REGULATIONS

After reviewing the October 2004 draft regulatory text regarding conversion technologies as proposed by the California Integrated Waste Management Board (Waste Board), the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) voted to oppose the regulations as currently written. The reasons for the Task Force's action include:

- **Timing**—The timing of the draft regulations is premature given the near-completion of the AB 2770 (2002 Statutes) Report to the legislature on this issue and the preliminary findings of the Life Cycle and Market Impact Analysis reports. The preliminary findings place many alternative technologies on par with composting and recycling in terms of environmental impacts and the ability to complement the diversion infrastructure in the State and, essentially, divert more materials from landfills and incineration. These findings challenge the fundamental assumptions regarding the way alternative technologies are regulated, especially the assumption that all conversion technologies should be regarded as disposal. Instead of developing language to incorporate AB 2770's potentially inappropriate definition of conversion, the Waste Board should be making a recommendation to the Legislature via the AB 2770 Report to refine the statutes based on sound science and the data so far accumulated.
- **Contradictory efforts**—The Waste Board's current efforts to learn more about new alternative technologies, and its policies to promote zero waste and reduce landfill disposal and incineration all contradict the direction laid out in the regulations, which stifle these emerging technologies and ignores the potential for these technologies to complement and enhance recycling and divert materials from landfills and incineration. These regulations represent the status quo of an anachronistic solid waste management system at the expense of a move towards 21 century resource management ideals. Even the findings of the Waste Board's own recently completed studies of alternative technologies conclude that these technologies

should be further researched and promoted. However, the current regulations as drafted would severely stifle the development, or even research, of alternatives to disposal, as further described below.

- **Lack of data**—The regulations as currently written are bound by definitions set in statute that preceded the collection and analysis of scientific data. The current statutes were an initial attempt to classify a host of technologies for which not enough data were available. As a result, the regulations create unrealistic barriers to the research development of these new and emerging technologies. New policy and decision-makers in Sacramento and around the State should be given the opportunity to review the findings of the AB 2770 studies and make reasonable decisions regarding these technologies based on sound science and the best available data. Statute, and especially regulations, should follow the collection and analysis of scientific and accurate data, not the other way around.
- **Impossible restrictions**—The draft regulations impose restrictions on some technologies that are scientifically impossible to accomplish, for instance achieving zero air emissions, along with other daunting restrictions such as barring a facility from accepting waste from jurisdictions not already meeting an arbitrary diversion rate. Such restrictions create impediments to the ability of technology vendors to negotiate contracts for the feedstock needed to operate a facility, and are especially problematic since jurisdiction diversion rates measured by the current diversion rate measurement system are approximations at best and sometimes unreliable, often fluctuating significantly from year to year. Understandably, these regulations are an outgrowth of the current statutes, however as explained above, it does not make sense to memorialize enabling regulations for initially developed statutes that are not based on sound science.
- **Impairing research**—The Task Force Alternative Technology Advisory Subcommittee's current efforts towards development of a *demonstration scale* facility in Southern California, in order to gather necessary data regarding these emerging technologies, have adopted a goal of developing a 100 tons per day facility. This scale was determined to be barely adequate in order to accurately analyze both the economic feasibility of the technology as well as to more closely examine the real-world operational impacts of the facility. The draft regulations would require these facilities to fall under the Large Volume Transfer facility tier, although they are deemed to be disposal facilities and all materials processed are counted as disposal. This classification requires obtaining a full Solid Waste Facility Permit (SWFP), just as any incinerator or landfill disposing several orders of magnitude more material. Furthermore, by requiring an SWFP, any new conversion technology facility would be required to be included in the Countywide Siting Element (CSE), and as we are learning now a revision to the Los Angeles County CSE takes at least two years and costs as much as half a million dollars. This level of regulation impairs the ability of stakeholders to develop demonstration facilities

and obtain the data necessary to adequately assess the potential of these technologies.

- **Potential confusion**—As found in the two studies commissioned by the Waste Board, there is some ambiguity as to how to classify different types of technologies and even what label is most appropriate. The draft regulations do not consider the relative impacts or benefits of the particular technology when classifying them. Even now, statute has applied a definition for “conversion” that is decidedly distinct from its application in other States or countries. Memorializing regulatory language based on this confusing and at times contradictory statute, understandably a first attempt to address conversion technologies would worsen this problem.
- **Impact on business**—When Governor Schwarzenegger applied a moratorium on the implementation of regulations in the Fall of 2003, he did so with a clear direction that California agencies consider the impact of adopting regulations on California businesses and the ability of this State to compete and attract jobs in a globalized and more technologically complex market. We believe these regulations are inconsistent with the spirit of that moratorium by unnecessarily inhibiting businesses and the technology sector in California, contrary to the Waste Board staff analysis that it would not impact California businesses to compete with businesses in other States.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (AB 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 in the County of Los Angeles, the Task Force also addresses issues impacting the solid waste management system on a Countywide basis. The Task Force membership includes representatives of the League of California Cities (Los Angeles County Division), the County of Los Angeles Board of Supervisors, the City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

Since 1999, the Task Force has been a consistent advocate for finding and implementing alternatives to landfilling and incineration. Recognizing the potential for alternative technologies, including conversion technologies as would be defined by the draft regulations, to divert significant quantities of material from landfills and incinerators, the Task Force adopted a series of recommendations in 1999 that included support for the research and development of these technologies. With the creation of the Alternative Technology Advisory Subcommittee, the Task Force has broken new ground in collaboration between local government, facility operators, consultants and experts in the field of alternative resource management technologies toward the ultimate goal of developing a demonstration facility in Southern California to obtain real world data on the feasibility of these technologies.

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With so many developments in the field of alternative technology taking place--developments that will shed light on the appropriate perspective for regulating these technologies--adopting the current version of the regulations would be a serious setback to the goal of AB 939 to reduce the amount of waste disposed in California. We feel implementing these regulations now would be inappropriate.

We therefore urge the Waste Board to terminate the regulation process and take a leadership role in revising current statute, based on the information obtained in the Life Cycle and Market Impact Analysis reports as well as input from affected stakeholders. The AB 2770 Reports to the Legislature is the ideal and appropriate vehicle to lay the groundwork for what should be a reasonable and equitable definition of alternative technologies, based on sound data and the true impacts of these technologies relative to other waste/resource management options.

I appreciate your consideration and look forward to working with you and your staff to promote a sustainable waste management system for Los Angeles and the rest of California. Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,



Michael Miller, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force, and
Mayor, City of West Covina

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cc: Each Member of the California Integrated Waste Management Board
Mr. Mark Leary, Executive Director, California Integrated Waste Management Board
Each Member of the County of Los Angeles Legislative Delegation
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor in the County of Los Angeles
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
Each Member of the Los Angeles County Integrated Waste Management Task Force
Each Member of the Alternative Technology Advisory Subcommittee