

ATTACHMENT V

**California Integrated Waste Management Board's
May 22, 2008 Response to Task Force**



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SECRETARY FOR
ENVIRONMENTAL PROTECTION

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD



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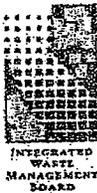
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May 22, 2008

Ms. Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and Council Member
900 South Fremont Avenue
Alhambra, California 91803

Subject: Response to the Los Angeles Task Force Letter of May 16, 2008

Dear Ms. Clark:

California Integrated Waste Management Board (CIWMB) staff is responding to your May 16, 2008 letter to Ms. Margo Reid Brown, CIWMB Chair.

At the Public Informational Meeting on March 25, 2008 in Grenada Hills that CIWMB staff conducted for the proposed permit action for the Sunshine Canyon City/County Landfill, Facility No. 19-AA-2000, Mr. Mike Mohajer, a member of the Los Angeles County Integrated Waste Management Task Force (Task Force), and speaking on its behalf, read a written statement which you have attached to your May 16 correspondence. In that statement, Mr. Mohajer asserted that:

"The proposal is not consistent with the requirements of the land use permits issued by the City and the County of Los Angeles as well as those specified in the Los Angeles County Countywide Siting Element. The requirements stipulated in the land use permits and those included in the Countywide Siting Element are formulated to protect the health and safety of our citizens as well as the environment and must not be ignored by the Waste Board: and

The proposed action by the Waste Board in re to (sic) issuance of the New Solid Waste Facility Permit is in violation of the California Code of Regulations, Title 14, Section 18756, Subdivisons (a), (b) and (d)."

With all due respect, we believe that Mr. Mohajer is not interpreting state law correctly. Indeed, CIWMB staff and Mr. Mohajer have "agreed to disagree" on this conformance issue for years. For your information, I am attaching three

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letters written from CIWMB legal staff to Mr. Mohajer on November 21, 2002, January 3, 2003 and January 21, 2003 in regards to this issue.

In a case such as this, where a facility has already been identified in the applicable Countywide Siting Element (CSE), the local Task Force simply has no role in the conformance process. The Sunshine Canyon City/County Landfill is identified in the CSE; there is nothing for the Task Force to do in connection with finding the landfill is in conformance with the CSE. As we explain below, the fact of conformance is satisfied by the presence of the landfill in the current CSE, a fact that is determined by CIWMB staff.

Public Resources Code (PRC) section 50001 sets forth the basic conformance requirement:

"... no person shall establish or expand a solid waste facility, ... unless

...

(1) The solid waste facility is a disposal facility or a transformation facility, the location of which is identified in the countywide siting element or amendment thereto, which has been approved pursuant to Section 41721.

(2) The solid waste facility is a facility which is designed to, and which as a condition of its permit, will recover for reuse or recycling at least 5 percent of the total volume of material received by the facility, and which is identified in the nondisposal facility element or amendment thereto, which has been approved pursuant to Section 41800 or 41801.5..." (emphasis added)

This requirement is implemented through the Board's permitting statutes. PRC 44009 provides among other things that:

"(a)... (2) If the board determines that the permit is not consistent with

... Division 31 (commencing with Section 50000), the board shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration..." (emphasis added)

To implement this statute, the Board's regulations require that an applicant provide information in its application regarding this issue:

"... (f) A complete and correct application package shall include..."

(5) Conformance finding information, including one of the following:

... (B) After a countywide or regional agency integrated waste management plan has been approved by the CIWMB, the application shall

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include a statement that: the facility is identified in either the countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling Element for the jurisdiction in which it is located; or, that the facility is not required to be identified in any of these elements pursuant to Public Resources Code section 50001; ..." (27 CCR 21570) (emphasis added)

Once an application is received, the Local Enforcement Agency (LEA) makes a determination on whether or not the application is complete and correct.

"... (a) ... If the EA finds the package meets the requirements of section 21570, the application package shall be accepted and stamped with the date of acceptance. ...

(d) If the EA determines that the application package does not meet the requirements of section 21570, it shall reject and not file the application, and it shall, within five days of determination, so notify the applicant, the CIWMB, and the RWQCB if applicable, enumerating the grounds for rejection. " (27 CCR 21650) (emphasis added)

Once the proposed permit and application are received by the Board, regulations provide, consistent with PRC 44009 quoted above, that:

"... (b) The CIWMB shall not concur in issuance of the proposed permit if the following information, if applicable, has not been submitted to the EA and the CIWMB pursuant to PRC section 44009:

... (4) ... (B) After a countywide or regional agency integrated waste management plan has been approved by the CIWMB, the EA's finding that the facility has met the requirements of PRC section 50001...." (27 CCR 21685). (emphasis added)

Thus, as noted above, in a situation where a facility has already been identified in a countywide siting element (CSE) or nondisposal facilities element (NDFE), the facility would simply include that information in its permit application, the LEA would verify that the information is correct, and the Board would make a finding that the facility meets the requirements of PRC 50001. Statute and regulations provide no role for the task force in this scenario at all.

The Sunshine Canyon Landfills (County and City sites) are located at 14747 San Fernando Road, in Sylmar, Los Angeles County, 91342. The proposed expansion to merge the sites in the unincorporated area and the site within the City limits is discussed and portrayed in a map in the County's June 1997 CSE. The permitted boundary around both existing sites will not change with the proposed expansion. BFI included in its application for a solid waste facilities permit information (an excerpt from the County's 1997 CSE) showing that its facility is

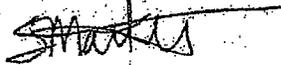
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identified in the CSE. (I enclose a copy of that material for your information.) CIWMB's Jurisdiction Compliance and Audit staff has found the proposed permit action to be in conformance with the County's CSE. (A copy of the conformance finding is attached.)

In addition, your letter observed that CIWMB staff has not yet responded to public comments made at the March 25 public meeting. Although not required by law, CIWMB staff indicated at the meeting that comments received would be compiled and responses would be placed on the CIWMB's website (<http://www.ciwmb.ca.gov/PermitToolBox/Notices/SunshineCnyn/default.htm#Public>) and would be included as part of the agenda item for the upcoming Permitting and Compliance Committee and CIWMB meetings in June, 2008. That is still our plan. I am hopeful the response document will be posted on or about May 30, 2008.

Please call me if you have any questions. I can be reached at 916.341.6324 or smarkie@ciwmb.ca.gov.

Sincerely,



Susan Markie, Manager
Permits South Branch
Permitting & LEA Support Division
Waste Compliance & Mitigation Program

Cc: CIWMB Board Members
Ted Rauh, Program Director, Waste Compliance & Mitigation Program
Mark Leary, Executive Director, CIWMB
Elliot Block, CIWMB Chief Counsel
Michael Bledsoe, CIWMB Legal Office
Los Angeles County Board of Supervisors
City of Los Angeles Mayor and City Council Members
Ken Murray, Los Angeles County LEA
Wayne Tsuda, City of Los Angeles LEA
Los Angeles County Integrated Waste Management Task Force

Attachments