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Dear Mr. Santillano:

DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE STATEWIDE ADOPTION OF REGULATIONS FOR SHORT-LIVED CLIMATE POLLUTANTS (SLCP): ORGANIC WASTE METHANE EMISSION REDUCTION (SCH #2018122023)

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) would like to thank the California Department of Resources Recycling and Recovery (CalRecycle) for providing the opportunity to comment on the subject "Draft Program Environmental Impact Report" (Draft EIR) which was released for 45-day public comment period on July 30, 2019.

<https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/slcp/sb1383eir.pdf>

One of the Task Force priorities in addressing solid waste management issues is to ensure public health and safety as well as the protection of our natural resources. As such, the Task Force has been in support of efforts addressing the impacts of greenhouse gas (GHG) emissions and climate change. To this end, the Task Force would like to provide the following comments on the subject Draft EIR:

General Comments:

1. The subject Draft EIR attempts to address potential impacts of the Senate Bill 1383 (2016) implementing regulations which are still in a draft proposal format. It appears that the subject Draft EIR is prepared as if the 2nd formal draft of the proposed SB 1383 implementing regulations, released on June 17, 2019, were final. Such an assumption is inappropriate and, as such, the subject Draft EIR may have to be revised to address any and all changes to the June 17, 2019 version of the proposed SB 1383 implementing regulations, if any.
2. Pursuant to California Public Resources Code - PRC § 21003 (b), the Legislature has found and declared that it is the policy of the state that documents (Draft EIRs)

prepared pursuant to Division 13 of the PRC be organized and written in a manner that will be meaningful and useful to decision makers and to **the public** (emphasis added). Unfortunately, the subject Draft EIR fails to comply with this requirement of state law. For example, it is not clear to a member of the public as to (a) what the requirements of the final regulations would be, (b) what factors were initially used to establish the annual compost procurement of 0.7 tons/capita and the subsequent increase to 0.8 tons/capita, (c) why the annual compost procurement is applicable to cities and counties but not state agencies, (d) why the proposed regulations are attempting to disallow the state existing “good faith efforts” policy (PRC 41825), and if implemented what would be the mitigating measures to render the significant negative impacts of this decision to non-significant, etc.

3. The subject Draft EIR finds that the “No Project Alternative” is the environmentally preferred project, but it is not selected because it does not fulfill the project objectives. Unfortunately, the project (proposed regulations) objectives are too narrowly defined, too prescriptive, and extremely costly due to its significant data collection (bean-counting) requirements. State law requires a reduction in the landfill disposal of organic waste by 50 percent below the 2014 level by 2020 and 75 percent by 2025. However, as required by SB 1383, the Draft EIR analysis fails to consider the impact of reducing Short Lived Climate Pollutants (SLCPs). Utilizing emerging technologies that would reduce SLCPs may be as environmentally preferable as the “No Project Alternative”, while still consistent with SB 1383’s goals. This new alternative would be less prescriptive, and it would allow local government to minimize impacts based on local conditions.

As an Alternative to the project (the proposed regulations), the subject Draft EIR has failed to recognize the success of the California Integrated Waste Management Act of 1989 (AB 939). Similar to SB 1383, AB 939 requires jurisdictions divert 50 percent of waste generated in the jurisdictions while allowing jurisdictions to develop their own source reduction, composting and recycling plans that best suit their communities. Today, most of jurisdictions are meeting and exceeding the mandate; in fact, only seven jurisdictions have been fined for failure to comply since the enactment of AB 939 in 1989. Unfortunately, the Draft EIR fails to recognize the success of the AB 939 which was not accomplished based on a command and control procedure as the one being proposed by SB 1383 regulations. Further unlike the SB 1383 proposed regulation, AB 939 was consistent and in compliance with the provisions of Section 40059 of the PRC which unfortunately is being disregarded by the proposed SB 1383 regulations. Specifically, Section 40059 of the PRC indicates:

“40059 (a) Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine all of the following:

- (1) Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation,*

level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

(2) Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the governing body of the local governmental agency by resolution or ordinance.

(b) Nothing in this division modifies or abrogates in any manner either of the following:

(1) Any franchise previously granted or extended by any county or other local governmental agency.

(2) Any contract, license, or any permit to collect solid waste previously granted or extended by a city, county, or a city and county.”

The Draft EIR needs to consider a less restrictive set of regulations, similar to AB 939’s regulations and consistent with requirement of PRC 40059 as an “Alternative to the Project.”

4. The subject Draft EIR fails to consider impacts to local government planning efforts such as general plans, conditional use permits, zoning, etc. However, the Draft EIR fails to recognize that the proposed regulations will impact every aspect of every local government activities as well as impacting every resident, business, etc., within the state. Each impact and the mitigation measures for each impact need to be identified in the Draft EIR. Unfortunately, the Draft EIR has taken a position that project impacts would be reviewed individually by local jurisdictions. Using this assumption, the subject Draft EIR has limited its analysis only to the potential impacts of the development of source-separated organic waste collection systems that transport all organic waste to composting and anaerobic digestion facilities for diversion. The subject Draft EIR must evaluate the impacts of **all compliance responses**, including each variation of organic waste collection, each activity, process, or technology that can be used to divert organic waste from landfills including thermal conversion technologies, and the full impacts of creating, procuring, storing, and utilizing recovered organic waste products (emphasis added).

Specific Comments

- **Section ES-4, Intended Uses of This EIR**, beginning on page ES-3 -- It has been stated on page ES-4 that,

“Like any proposed development project, organic waste and food waste recovery facilities would be reviewed individually by local jurisdictions, in response to applications submitted by project proponents. The goal of this Draft EIR is to consider the types of potential environmental effects of the reasonably foreseeable compliance responses that would be anticipated to meet the requirements included in the proposed SB 1383 regulation.”

However, as indicated in the General Comment No.4, the Draft EIR fails to recognize that the proposed regulations will impact every aspect of local governments' activities as well as the involved stakeholders. Therefore, each impact and the mitigation measures to address each negative impact need to be identified in the Draft EIR.

- **Section 2.4.3. Foster Recovery Programs and Markets**, beginning on page 2-10 -- The Draft EIR mentions that procurement requirements would support the markets for the produced compost, mulch, and renewable fuels and energy. The Draft EIR needs to address the potential economic impacts of the procurement requirements on local jurisdictions and impacted stakeholders. These impacts could include the substantial financial burden on local government agencies required to procure recovered organic waste products, such as compost, fuel, energy, etc., at a higher cost than comparable products not created from recovered organic waste. The impact analysis needs to thoroughly discuss negative impacts as well as identifying measures to mitigate the negative impacts.

The procurement of recycled materials by local governments is regulated by the Public Contract Code (PCC), Sec. 21150 et seq. The state law is considerate of local procurement processes and costs to local jurisdictions and thus requires products created from recycled materials to be purchased **only** when the recycled products are available at the same or a lessor cost than non-recycled products (emphasis added). The Draft EIR needs to analyze the financial impacts to local jurisdictions resulting from compliance with the procurement requirements of the proposed regulations as well as providing mitigation measures for those cases that local governments would be forced to disregard the requirements of the PCC, Section 21150 et seq. in order to be in compliance with the proposed regulations' procurement requirements.

Furthermore, the SB 1383 regulations only require local jurisdictions such as counties and cities, but not state agencies, to procure compost created from recovered organic waste. Therefore, the Draft EIR needs to be revised to sufficiently analyze the economic and environmental impact of placing the entirety of the procurement requirements on counties and cities. The analysis should include the potential cost impacts to local government agencies and the environmental impacts of using the recovered organic waste products while factoring in the emissions associated with creating and transporting these recovered organic waste products.

The Draft EIR needs to be further expanded to identify factors used to establish the proposed regulations' annual per capita procurement target, the impact of selected factors on regulated communities as well as mitigating measures to render the impacts non-significant. Additionally, the annual per capita procurement target was increased from 0.07 tons of organic waste per California resident per year to 0.08 tons in the second formal draft of the proposed regulations. The explanation needs to include a full cost-benefit analysis showing the additional financial impacts to counties and cities required to increase their annual procurement of recovered organic waste products and the environmental benefits of the increased annual procurement. In addition, the Draft EIR must also analyze the environmental impacts of requiring local jurisdictions to procure excess amounts of compost, including how the compost will be managed to mitigate impacts such as fires, harmful discharges into the water supply, and the potential for unfinished compost to be land-applied.

For example, piles of organic material easily combust, and temperatures must be carefully monitored. Even if monitoring is adequate for the loading and processing of the materials, combustion associated with dust in chippers and grinders can be a potential ignition source. Methane can be generated due to decomposition of organic materials. In a one-week period, organic materials in collection containers could become hot enough to combust or pose hazards when opened. Especially in drought-stricken areas such as Los Angeles County, which has experienced numerous devastating wildfires in recent years, these materials pose a fire risk when being transported in a truck. If the materials in a truck ignite, the common practice is to dump the load as quickly as possible, potentially along a roadway, which increases the risk of a wildfire. There are also increased risk of fires at facility sites. Methane gas produced at organic waste processing facilities can migrate underground and come up in unexpected areas, such as inside buildings, and can enter water systems. The presence of methane gas poses increased fire risks. This risk needs to be thoroughly analyzed by the Draft EIR and mitigating measures need to be identified.

- **Section 2.5.7. Food Waste Collection Programs and Processing Facilities**, beginning on page 2-28 -- This section describes reasonably foreseeable compliance measures that jurisdictions must implement pursuant to the proposed regulations to collect organic waste. The Draft EIR must be expanded to analyze the impact of the proposed regulations on local jurisdictions' authority for solid waste collection and management services. Changing waste collection methods and recycling services will impose a tremendous burden and responsibility on counties and cities, more than any other stakeholder group. The Draft EIR needs to thoroughly analyze the implications of the waste collection requirements and recycling services being inconsistent with the provisions of the Article XI of the California Constitution in re to general law and charter cities and counties as well as provisions of the PRC 40059 (a) which, in part, states, *“each county, city, district, or other local governmental agency may determine all the following:*

Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.” (emphasis added)

State law, Section 40001 (a) of the PRC, declares that “*the responsibility for solid waste management is a shared responsibility between the state and local governments*” (emphasis added). Therefore, the Draft EIR should describe the legal implications of disregarding provisions of Section 40001 (a) of the PRC in order to allow the state to dictate local jurisdictions’ solid waste collection and management practices through the SB 1383 regulations.

Furthermore, SB 1383 does not preclude CalRecycle from considering a county or a city’s “good faith efforts” to comply with the regulations. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825.” Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a “good faith effort” to comply with the law, it is clear that CalRecycle is required to consider “good faith effort” in making its determination of a jurisdiction’s progress and compliance with the requirements of the proposed regulations. Therefore, the Draft EIR needs to be expanded to include a cost-benefit analysis, demonstrating the economic impacts to counties and cities, required to implement the majority of the regulatory requirements and the environmental impacts of neglecting to include “good faith effort” provisions in the proposed regulations. The analysis should also include a description of the measures used to mitigate any negative impacts to counties and cities resulting from not including “good faith effort” provisions in the proposed regulations.

- **Section 3.2. Agricultural and Forestry Resources**, beginning on page 3.2-1 -- The discussion needs to be expanded to analyze the impacts to agricultural resources and land resulting from the significant amounts of chip and grind materials, mulch, and compost that will be used by businesses engaged in agricultural activities, including cost, emissions of GHG and other air pollutants, discharges into the stormwater and groundwater supply, and other impacts. Needless to say, mitigating measures need to be provided to address the resulting negative impacts.
- **Section 3.3. Air Quality**, beginning on page 3.3-1 -- The analysis in this section needs to be expanded to analyze the impacts to Long-Term Operational Emissions of ROG, NOx, PM10, and PM2.5 (beginning on page 3.3-17); Compliance with Air Quality Management Plans (beginning on page 3.3-23); and Exposure of Sensitive Receptors to Odors (beginning on page 3.3-28) resulting from the

operation of high-diversion organic waste recovery facilities compared to source-separated organic waste recovery facilities.

- **Environmental Impacts and Mitigating Measures - Impact 3.3-2. Long-Term Operational Emissions of ROG, NOX, PM10, and PM2.5**, beginning on page 3.3-17 -- The discussion includes a faulty analysis of nitrous oxide (NOx) and particulate matter (PM2.5) emissions resulting from organics recycling facilities. Table 3.3-3. "Summary of NOx and PM2.5 Inventory for New Organic Waste Recovery Facilities (Tons per Year)", beginning on page 3.3-19, assumes that all emissions of NOx and PM2.5 from landfills will be eliminated through the implementation of SB 1383 organics recycling. This assumption is unrealistic because SB 1383 has a target to only reduce organics disposal in landfills by 75 percent by the year 2025, not 100 percent. Furthermore, NOx and PM2.5 emissions from landfills are not solely caused by organic waste as defined under SB 1383. Therefore, this section of the Draft EIR needs to be revised to accurately reflect the reduction in NOx and PM2.5 emissions resulting from the implementation of the regulations, together with calculations as well as a discussion on potential mitigating measures
- **Environmental Impacts and Mitigating Measures - Impact 3.3-3 Compliance with Air Quality Management Plans**, beginning on page 3.3-23 -- The discussion needs to be expanded to consider conflicts between the requirements for local jurisdictions' compliance with the proposed regulations vs. their local climate action plans.
- **Environmental Impacts and Mitigating Measures – Impact 3.3-4 Exposure of Sensitive Receptors to TAC Emissions**, beginning on page 3.3-24 -- The Draft EIR assumes that organic recycling facilities will not be sited within 1,000 feet of sensitive receptors (stated on page 3.3-26). However, in densely populated and highly urbanized areas such as Los Angeles County, a sufficient number of such sites may not be available, requiring the facilities to be sited significant distances from organic waste generators, resulting in air quality impacts from increased transportation of organic waste.
- **Environmental Impacts and mitigating Measures - Impact 3.3-6: Exposure of Sensitive Receptors to Mobile-Source CO Concentrations**, beginning on page 3.3-31 -- It has been stated that the impact of sensitive receptors being exposed to mobile-source carbon monoxide concentrations is less than significant because the increase in vehicle miles traveled (VMT) would be dispersed throughout the state. However, certain areas of the state, such as those with a high concentration of organic waste generators or those with a high number of organic recycling facilities, will see higher increases in VMT compared to other parts of the state, potentially exposing sensitive receptors to significant and unavoidable concentrations of mobile-source carbon monoxide emissions. The impacts in the Draft EIR need to be re-analyzed to consider that certain impacts may be more

significant in certain parts of the state and that the dispersion of impacts throughout the state does not render them insignificant.

Additionally, the Draft EIR states “the proposed regulation would result in an increase in VMT related to the movement of organics to organic waste recovery facilities; however, VMT would be distributed statewide. It would not be expected that the increase in VMT would result in additional vehicle trips per hour to the degree that a CO impact would occur as compared to existing baseline conditions.” However, the said conclusion has not been quantified, and for the purpose of this Draft EIR it needs to be. Similarly, all emissions analysis throughout the subject Draft EIR, including, but not limited to, those surrounding operations-related matters are to be quantified even though claims have been made that they are not expected to cause additional impacts as compared to the existing baselines.

- **Section 3.6. Energy**, beginning on page 3.6-1 -- The analysis needs to be expanded to analyze the impacts to Wasteful, Inefficient, or Unnecessary Consumption of Energy during Project Construction or Operation (beginning on page 3.6-10), resulting from the operation of high-diversion organic waste recovery facilities compared to source-separated organic waste recovery facilities.
- **Section 3.6. Energy**, beginning on page 3.6-1 -- The analysis needs to be expanded to address the potential impacts to energy usage resulting from the transportation of organic waste. The analysis needs to cover from the urbanized areas of the state where organic waste is generated to rural areas where compost facilities are usually located and where recovered organic products such as compost are used for agriculture and land application.
- **Section 3.7, Geology and Soils, beginning on page 3.7-1** -- It should be noted that while Best Management Practices and engineering design often mitigate impacts from erosion, landslide, seismic activities, etc. to below a level of significance, the impact mitigation comes after careful consideration of the conditions at the particular site, and it cannot be assumed in advance. This is a critical factor that needs to be recognized by the Draft EIR.
- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The Draft EIR needs to be expanded to include a life-cycle analysis regarding the GHG emission reduction resulting from use of thermal conversion technologies such as gasification and pyrolysis to divert organic waste, not limited to only biomass as defined under PRC 40106, from “landfill disposal.” The analysis of the environmental impacts, beginning on page 3.8-10, focuses on composting and anaerobic digestion only, although other processes are considered reductions in landfill disposal under the second formal draft of the SB 1383 regulations and there are other landfill disposal reduction technologies, such as thermal conversion technologies, that will also result in GHG emissions reductions when used to recycle organic waste.

Further, the Draft EIR needs to be expanded to provide an explanation of why the activities that constitute a reduction in landfill disposal are limited to anaerobic digestion and composting, even though it has been established that conversion technologies are not incineration, achieve the same greenhouse gas reduction goals as anaerobic digestion and composting, and can process additional types of organic waste. The subject Draft EIR needs to recognize activities conducted by the former California Integrated Waste Management Board (CIWMB - now CalRecycle) on conversion technologies which have been summarized in their *Conversion Technology Report to The Legislature*, and formally submitted to the Legislature by the CIWMB via their Resolution No. 2005-78 in March 2005, a copy enclosed.

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The analysis needs to be expanded to provide legal justifications and the necessity for the proposed regulations to require new technologies that may constitute a reduction in landfill disposal (such as thermal conversion technologies) to demonstrate a permanent lifecycle GHG emissions reduction equivalent to the emissions reduction from composting organic waste (0.30 MTCO₂e/short ton organic waste), when the SB 1383 mandates is to reduce the landfill disposal of organic waste (emphasis added). Contrary to the statutes' requirement, the proposed regulations establish more stringent requirements for new technologies than for composting and anaerobic digestion, which without a thorough life cycle analysis have already been identified as acceptable activities that constitute a reduction in landfill disposal of organic waste. The Draft EIR must provide all data and analysis used to reach the said conclusion as well as providing mitigation measures to address the proposed regulations negative impacts on development of thermal conversion technologies together with potential delay in achieving the SB 1383 landfill disposal and SLCP reductions.

Additionally, the Draft EIR needs to examine the impacts of all pollutants, not limiting the analysis to GHG emissions only. For example, composting organic waste may reduce GHG emissions but it may also generate nitrogen dioxide and other hazardous air emissions, and surface and ground water pollutants, so it may not be preferable overall compared to other technologies such as thermal conversion technologies.

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The Draft EIR needs to be expanded to address the potential for the generation and emission of methane from incomplete composting (aerobic) activities and chip and grind operations. Although the methane generated from these processes is from biogenic sources, the effects must be considered because there is no difference between methane generated in a landfill, which is also biogenic, and methane generated from a compost or a mulch pile.

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The analysis needs to be expanded to address the potential impacts to GHG emissions resulting from the transportation of organic waste from generally urbanized areas of the state where organic waste is generated to rural areas where compost facilities are usually located and where recovered organic products such as compost are used for agriculture and land application.
- **Section 3.9. Hazards and Hazardous Materials - Impact 3.9-3: Generation of Vectors and Pathogens That Would Exceed Regulatory Thresholds and Create a Significant Health or Environmental Hazard**, beginning on page 3.9-17 -- The Draft EIR needs to be expanded to fully address the impacts of the potential importation and exportation of contaminated organic waste from quarantined areas of state to non-quarantined areas. On Page 3.9-18 of the Draft EIR, a statement has been made that:

“Agricultural officials have the power to restrict the movement of green material (CalRecycle 2019). They may prohibit materials from leaving the quarantine zone or may attach conditions to ensure that pests do not move along with restricted materials, which could include green material or food wastes. Every entity in the chain of custody for handling green material from a quarantine zone, including haulers, transfer stations, chip-and-grind facilities, and composting facilities or landfills, must have the appropriate compliance agreements from the county Agricultural Commissioner’s office in place to handle these materials.”

However, millions of additional tons of organic waste will be collected, transported, processed, and recycled due to the proposed regulations. Local agricultural commissioners and every entity in the chain of custody may not be able to successfully prevent all quarantined materials from being transported erroneously outside of the quarantine zone. A significant amount of organic waste will be mulched or composted and used by farmers or otherwise land-applied. Pathogens and microorganisms may be present in mulch compost that is not processed appropriately. The Draft EIR needs to identify the impacts of using compost containing pathogens and/or microorganisms as well as listing possible mitigation measures in the event that quarantined material is accidentally commingled with non-quarantined material and/or transported outside the quarantine zone.

In addition, this section needs to be further expanded to analyze the impacts of dust suppression stimulating the population of fungal organisms causing Valley Fever and the impacts of flies who may be attracted to food waste being source-separated for collection and who may spread disease in all areas of the state with separate food waste collection.

- **Section 3.11. Land Use and Planning - Impact 3.11-1. Significant Environmental Impact from a Conflict with a Land Use Plan, Policy, or Regulation Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect**, beginning on page 3.11-4 - - A statement has been made that:

“Organic waste recovery facilities would be reasonably expected to co-locate with existing, permitted solid waste facilities or wastewater treatment plants or locate in areas zoned for industrial or solid waste-handling activities and are thus anticipated to comply with land use planning and zoning requirements.”

However, the Draft EIR did not include an analysis of land use planning and zoning requirements throughout the state to determine if a sufficient number of suitable sites exist to locate organics recovery facilities, especially in urban areas such as Los Angeles County. Furthermore, even a site that has an existing, and fully permitted facility or has suitable zoning may experience significant impacts due to an increased amount of traffic, odors, noise, air pollutants, etc., resulting from organics recycling activities. Therefore, the Draft EIR needs to be revised and expanded to analyze all environmental impacts of siting a significant number of organics recycling facilities including, but not limited to, composting facilities, anaerobic digestion facilities, chipping and grinding facilities, recycling facilities, biomass conversion facilities, and potential emerging technology facilities throughout the state.

- **Section 3.13. Transportation**, beginning on page 3.13-1 - - This section needs to be expanded to address the potential economic and environmental impacts resulting from the significant shortage of infrastructure capacity to collect, store, process, and manage the amount of organic waste required to achieve the SB 1383 targets. The Draft EIR must identify where organic waste will go and how far it will have to be transported. The analysis must provide a comprehensive transportation impact analysis and potential mitigation measures. This section of the Draft EIR focuses mostly on food waste and green waste and does not address the additional economic and environmental impacts that will result from diverting other types of organic waste, such as food-soiled paper, paper products, green waste, textiles, carpets, digestate, biosolids, and manure.
- **Section 3.13. Transportation - Impact 3.13-4: Reasonably Anticipated Increase in VMT**, beginning on page 3.13-11 -- The analysis in this section needs to be expanded to detail how the collection of organic waste such as food waste may result in an increase in VMT by collection vehicles, especially if a jurisdiction intends to collect food waste in a brown container separate from green waste or if a jurisdiction intends to conduct weekly pickup frequencies for the blue container or gray container. It is not sufficient for the Draft EIR without any verifiable/quantified data to simply state that, “Residential generators that separate green material would

likely comply with the proposed regulation by commingling food waste and green material in the same container” and “collection modifications would not substantially change the amount of travel needed,” considering multiple variations of organic waste collection systems. Further the analysis must recognize that many jurisdictions that currently use chipping and grinding to process green waste would not be able to collect food waste commingled with green waste.

In addition, the Draft EIR should fully analyze the economic impacts of each collection system allowed under the regulations. For example, in a system where green material would be commingled with food waste in the same container, the Draft EIR should analyze the economic impacts of composting grass instead of processing it through chipping and grinding to determine if this system would be economically viable. As another example, for a system where food waste is collected separately in a fourth container, the impacts to wildlife and litter should be analyzed as well. Separation of food materials is an invitation for wildlife such as bears, racoons, possums, and vermin to break into food waste containers and possibly dump food and litter into the street and the stormwater collection system, resulting in significant health and safety issues and requiring local jurisdictions to invest significant additional resources to clean up and mitigate these health and safety issues.

Additionally, the Draft EIR must analyze and address public safety issues associated with bears, which in Los Angeles County have been visiting neighborhoods located at elevations as low as 400 feet above mean sea level (MSL). It is common knowledge that bears are attracted to garbage and food waste, and implementation of the proposed regulations with food waste containers will further the public safety problem. As such, the Draft EIR needs to recognize this public safety concern and address the issue with the California Department of Fish and Wildlife (DFW) and other appropriate state agencies. It should also be noted that the DFW’s regulations (Section 251.1) prohibit the harassment of wild animals. Feeding wild animals (invitation via a food waste container) disrupts the animals’ normal behavior patterns and is considered “harassment” subject to penalties. Therefore, the Draft EIR needs to develop plans with appropriate state agencies and provide potential mitigating measures to address these issues.

Furthermore, this section needs to also analyze the global VMT impacts resulting from transporting materials such as paper, carpets, and textiles to foreign markets for recycling due to the significant lack of domestic recycling and/or thermal conversion technology facilities to process these materials. The Draft EIR must also identify potential mitigation measure to address the negative impacts.

- **Section 3.14. Utilities and Service Systems – Impact 3.14-1: Increased Demand for Water Supplies**, beginning on page 3.14.6 - - Composting, digestion, and other organic waste management processes require large amounts of water. Considering the on-going drought condition in California, the implementation of the proposed

regulations would result in the development of many types of organics management facilities with higher water demand, as compared to waste management under existing conditions. As a result, demand for water would be increasing. This may result in a potentially “*significant impact*” on water demand which is contrary to the Draft EIR claim of “less than significant” (emphasis added).

- **Section 5.2. Consideration for Selection of Alternatives**, beginning on page 5-2 - - This section needs to be expanded to explain how the alternatives were selected and justify whether the selection of the alternatives aligns with California Environmental Quality Act (CEQA) guidelines. Further, one alternative to be considered is to have an alternative set of regulations which are not as excessive, prescriptive, restrictive, and costly as the proposed regulations currently under consideration.
- **Section 5.2.1. Attainment of Project Objectives**, beginning on page 5-2 - - It has been indicated that one of the two major implementation objectives of the proposed regulation is to “reduce the level of statewide disposal of organic waste to 50 percent of the 2014 levels by 2020 and 75 percent by 2025”. This statement is incorrect and it is contrary to Section 39730.6 of the Health and Safety Code, which specifically calls for reduction in the level of statewide landfill disposal of organic waste to 50 percent of the 2014 levels by 2014 and 75 percent by 2025 (emphasis added). This is a significant error by the proposed regulations and the subject Draft EIR resulting to overestimate the quantities of organic waste “disposal” in 2014 since not all organic waste generated in 2014 was disposed of in landfills. Therefore, the subject documents and related analysis must be revised to address this deficiency.
- **Section 5.3. Alternatives Considered but not Evaluated Further - Subsection 5.3.2. Landfill Gas Collection Efficiency Alternative**, beginning on page 5-5 - - The analysis without providing any data and technical documentation substantiating the claim, has eliminated this alternative from consideration. However, the analysis based on existing and publically available technical documents needs to be reconsidered for inclusion of this alternative in the Draft EIR. Currently, the Draft EIR states that the goal would be to require landfill gas collection systems to have nearly 100-percent collection efficiency, which may not be feasible, and because installing highly efficient landfill gas collection systems would be expensive and possibly financially unfeasible for landfill operators. However, the acceptable landfill diversion activities, processes, and technologies will not reduce GHG emissions 100 percent, so the landfill gas collection alternative should not have a goal to reduce landfill gas emissions by 100 percent. For example, composting does not recover any energy from organic waste and surely does not reduce GHG emissions 100 percent compared to landfilling. In addition, the reasonable compliance measures will be extremely costly for local jurisdictions, waste haulers, solid waste facilities, and organics recycling facilities, so the Draft EIR should also consider these costs when considering the impacts of complying with the regulations.

- **Section 5.5. Environmentally Superior Alternative**, beginning on page 5-10 -- The Draft EIR states that, “Because the No Project Alternative would avoid all adverse impacts resulting from the construction and operation of the foreseeable compliance responses associated with the proposed regulation, it would be the environmentally superior alternative, although it would not achieve the objectives of the proposed regulation.” Therefore, the Task Force recommends that CalRecycle revise the proposed regulations to achieve the state-mandated landfill disposal reduction and edible food recovery targets without mandating excessively prescriptive, restrictive, punitive and costly requirements.
- **Section 6. Other CEQA Considerations**, beginning on page 6-1 -- This section needs to be expanded to include the economic impacts and legal ramifications of CalRecycle requiring local jurisdictions such as counties and cities to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance.

This requirement as stipulated by CalRecycle exceeds the authority granted to CalRecycle by State law. While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only states that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance” {see Section 42652.5. (a) (1) of the Public Resources Code (PRC)} (emphasis added). However, the proposed regulations specify that jurisdictions “shall adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2.” (emphasis added).

In requiring counties and cities to impose steep civil penalties of up to \$500 per offense on residents and businesses for non-compliance with each requirement of the proposed regulations, CalRecycle would exceed its authority under the law. Therefore, the Task Force strongly recommends the Draft EIR be expanded to analyze the economic impacts to local jurisdictions, residents, and businesses and provide appropriate mitigation measures to render the impact as non-significant. Further, the analysis needs to consider the legal implications of changing existing state law, including Section 42652.5. (a) (1) of the PRC, to be consistent with the proposed regulations.

In addition, this section of the Draft EIR must be expanded to consider the economic impacts of developing the needed organics recycling infrastructure capacity. In the Statement of Regulatory Impact Analysis (SRIA), CalRecycle previously estimated that achieving SB 1383 mandates would require a capital investment of over \$3 billion with a substantial financial impact on California’s jurisdictions. This impact must be addressed in the Draft EIR along with potential mitigation measures. Furthermore, the Draft EIR must consider the availability of markets to handle

recovered organic products and mitigation measures to address potential impacts from policies such as the “China National Sword.”

Lastly, this section of the Draft EIR needs to be expanded to address all probable effects of the project, including but not limited to identifying all potential options for organic waste collection processing, recycling, and disposal technologies, along with their potential beneficial and adverse impacts on human and natural resources as well as the necessary mitigation measures to achieve the SB 1383 mandates.

- **Section 6, Other CEQA Consideration - Subsection 6.2. Growth Inducement**, beginning on page 6-3 -- The Draft EIR partially addresses the economic impacts of the regulations regarding increases in employment. However, this section needs to be expanded to fully address the potential impacts of growth as a result of implementing the regulations, including the impacts of increased demand on community and public services and infrastructure such as water, electricity, natural gas, wastewater treatment plants, etc., increased traffic and noise, and degradation of air and water quality. This section also needs to include all potential significant economic impacts resulting from implementing the regulations, which this section acknowledges “would apply to approximately 540 jurisdictions in California; millions of households; thousands of businesses; hundreds of haulers and food recovery organizations; hundreds of material recovery facilities, processors, recyclers, and landfills; dozens of local government environmental enforcement agencies; and all schools, federal agencies, and state agencies.”

Existing state law and regulations restrict any increase in the amount of solid waste generation by cities and counties beyond the **2006 average tonnages** (emphasis added). However, the population and economy of California continues to grow, along with solid waste generation and disposal. This impacts the state’s ability to achieve the SB 1383 mandates, which impose a fixed cap of no more than 5.7 million tons per year of organic waste disposed in landfills statewide that will not be adjusted for population and/or economic growth. The economic and environmental challenges that will be caused by attempting to comply with the SB 1383 regulations and develop the necessary organic waste collection and processing infrastructure and end use markets in the face of a growing population and economy was not but needs to be analyzed and discussed in this section of the Draft EIR along with potential mitigation measures.

Based on the foregoing General and Specific Comments enlisted above, the Task Force finds the subject Draft EIR deficient in the areas listed.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 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

Mr. Marcus Santillano
September 11, 2019
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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, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

Should you have any questions regarding these comments, please contact Mr. Mike Mohajer, a member of the Task Force, at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,



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

KV:cso

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Enc.

cc: CalRecycle (Howard Levenson, Mark de Bie, Cara Morgan, Hank Brady, Georgianne Turner, Chris Bria, Marshall Graham)
California Air Resources Board (Mary Nichols, David Mallory)
California Department of Fish and Wildlife (Chuck Bonham)
California Department of Food and Agriculture (Secretary Karen Ross)
California Department of Public Health (Director Karen Smith)
League of California Cities
League of California Cities, Los Angeles County Division
California State Association of Counties
Each Member of the Los Angeles County Board of Supervisors
Sachi A. Hamai, Los Angeles County Chief Executive Officer
Each City Mayor/Manager in the County of Los Angeles
South Coast Air Quality Management District
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
Gateway Cities Council of Governments
Southern California Association of Governments (Frank Wen)
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Each Member of the Task Force Alternative Technology Advisory Subcommittee
Each Member of the Task Force Facility and Plan Review Subcommittee

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Resolution 2005-78 (Revised)

Discussion And Consideration Of Conversion Technology Report To The Legislature

WHEREAS, the 2003-2004 Waste Composition Study indicates that approximately 40 million tons of waste is landfilled in California; and

WHEREAS, Zero Waste is a primary goal of the Board's strategic plan; and

WHEREAS, Assembly Bill 2770, Chapter 740, Statutes of 2002, was signed by Governor Davis in September 2002 and required the CIWMB to research and evaluate new and emerging non-combustion thermal, chemical, and biological technologies and submit a report to the Legislature; and

WHEREAS, The CIWMB contracted with the University of California to conduct an analysis of conversion technology processes and products; and

WHEREAS, The CIWMB also contracted with RTI, International to conduct life cycle and market impact analyses of conversion technologies; and

WHEREAS, these peer reviewed reports served as the major source of information for the CIWMB Conversion Technology Report to the Legislature, which support the following major findings:

1. Conversion technologies are distinct from landfills and incineration, and can result in substantial environmental benefits for California, including the production of renewable energy, reduced dependency on fossil fuels, and reduction of greenhouse gases.
2. Conversion technologies can enhance landfill diversion efforts and can be complementary to the existing recycling infrastructure. The Board requirements for diversion eligibility for such facilities require that conversion technology facilities complement the local infrastructure and that they maintain or enhance the environmental benefits and economic sustainability of the integrated waste management system.
3. Conversion technologies would be expected to meet federal, state, and local air emissions requirements. Local air districts in California are best equipped to review and condition conversion technology facilities.
4. Definitions of conversion technologies in current statute are scientifically inaccurate, and should be amended.

WHEREAS, CIWMB staff conducted stakeholder workshops to discuss prior to preparation of the *Conversion Technology Report To The Legislature*; and

(over)

WHEREAS, CIWMB staff accepted written comments and has considered stakeholder comments and amended the Report based on the stakeholders comments.

NOW, THEREFORE, BE IT RESOLVED, that the Board adopts Option 1 and the *Conversion Technology Report To The Legislature*, including the following policy recommendations:

1. The definition of “conversion technology” approved by the Board in Resolution Number 2002-177 be promulgated in law, and that more specific definitions of various conversion technologies be developed during a regulatory process.
2. The existing definition of “gasification” is scientifically inaccurate and should be deleted.
3. The “transformation” definition be amended to mean the combustion or incineration of solid waste.
4. Conversion technologies are distinct from landfills and incineration.
5. The Legislature should consider some level of diversion credit for conversion technology facilities in accordance with the conditions set forth in Resolution 2002-177; and

BE IT FURTHER RESOLVED, that the Board directs staff to forward the Report through Cal/EPA and the Governor to the Legislature; and

CERTIFICATION

The undersigned Executive Director, or his designee, of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on March 15-16, 2005.

Dated: March 15, 2005

ORIGINAL SIGNED BY

Mark Leary
Executive Director