

## DIRECTOR ACTION REQUEST

**To:** Caroll Mortensen, Director  
Department of Resources Recycling and Recovery

**From:**   
Mark De Bie, Deputy Director  
Waste Permitting, Compliance and Mitigation Division

**Reviewed By:** Lorraine Van Kekerix/Georgianne Turner   
Waste Evaluation and Enforcement Brach

**Prepared By:** Jeff Hackett, Solid Waste Enforcement Section

**Request Date:** March 23, 2012

**Action By:** April 6, 2012

**Decision Subject:** Consideration of Memorandum of Agreement between CalRecycle and the County of San Benito for CalRecycle to Serve as the Solid Waste Enforcement Agency for the County of San Benito

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### SUMMARY

The County of San Benito has withdrawn its designation of a local enforcement agency and does not plan to designate another local agency. As a result, CalRecycle will become the solid waste enforcement agency (EA) for the County of San Benito on May 1, 2012. Public Resources Code (PRC), sections 43212.1 and 43310.1, require CalRecycle to enter into an agreement with the local governing body for any jurisdiction where CalRecycle becomes the EA after January 1, 1995.

Currently, CalRecycle serves as the EA in three counties (San Luis Obispo, Santa Cruz and Stanislaus) and two cities (Berkeley and Stockton).

### OPTIONS

1. Approve the Memorandum of Agreement with the County for EA duties.
2. Request staff work with the County to make directed edits/changes to the Memorandum of Agreement for EA duties.

### ANALYSIS AND FINDINGS

#### Background

On December 6, 2011 and March 6, 2012, the County of San Benito (County) Board of Supervisors deliberated and ultimately withdrew its designation of the San Benito County Health Department as its solid waste local enforcement agency by Resolution Nos. 2011-104 and 2012-9. In addition, the City of Hollister withdrew its designation of the San Benito County Health Department as its solid waste

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local enforcement agency on November 2011, by Resolution No. 2011-151. The three resolutions document that another local agency will not be designated and CalRecycle will become the EA for the entire County.

PRC sections 43212.1 and 43310.1 require CalRecycle and the local governing body to enter into an agreement if CalRecycle becomes the EA after January 1, 1995. The agreement must identify the jurisdictional boundaries of the EA, address the powers and duties to be performed by CalRecycle as the EA, and identify an estimated workload and anticipated costs to CalRecycle. The agreement must also identify the cost recovery procedures to be followed by CalRecycle. CalRecycle staff began working with the County on an agreement, in the form of a Memorandum of Agreement (MOA), in December 2011. Division staff worked with CalRecycle's Legal Office on the content of the MOA as well as the resolutions considered and adopted by the local governing bodies with the majority of the population (i.e., the unincorporated areas of the County and City of Hollister). The proposed MOA is provided as Attachment 1, including a cost estimate for tasks associated with serving as the EA. As negotiated with the County, CalRecycle will assume EA duties effective May 1, 2012. The resolutions adopted by the County and City of Hollister withdrawing their designation of the San Benito County Health Department as the EA are included as Attachment 2 and Attachment 3.

CalRecycle staff will oversee at least eight (8) facilities/operations, including one landfill, four composting operations, one construction/demolition and inert debris operation, and at least two closed landfills/disposal sites. Specific tasks will include monthly inspections of the landfill, inspections of other solid waste activities at the required frequency, preparation of new permits, permit reviews, permit revisions and modifications, investigations of closed, illegal and abandoned sites, review of closure plans, California Environmental Quality Act (CEQA), response to complaints and other enforcement-related actions. As new facilities are identified in the jurisdiction the workload and cost would increase.

### **Analysis**

The attached MOA is similar to the other approved MOAs describing the duties and responsibilities CalRecycle will complete as the EA. The additional workload to perform the EA duties in the County will be accomplished by utilizing existing staff. However, should CalRecycle become the enforcement agency in additional jurisdictions, the resources to fulfill the duties and responsibilities as the EA would have to be reevaluated.

The MOA includes cost estimates to perform tasks such as inspections, research and analysis, enforcement, permitting and closure, and administration functions. The estimated workload to perform these tasks is 661 hours per year, which is equivalent to approximately one-half person year (PY). The estimated cost to perform the tasks is \$90,000 per year. The PY and costs are estimates and may be higher or lower depending on the amount of time needed to complete certain tasks (e.g., if there are no permit actions for a particular year, the cost would be lower). Owners/operators of solid waste facilities and operations will be billed for the hours spent directly related to their site(s) plus a percentage of the jurisdictional costs (e.g., travel, per diem, etc.) on a quarterly basis. The hourly billing rate is calculated annually for each fiscal year by Administration, Finance, and Information Technology Services Division staff. The current billing rate is \$111.53 per hour for fiscal year 2011/2012.

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### FINDINGS:

Staff worked with the County to develop a mutually agreed upon MOA with CalRecycle becoming the EA on May 1, 2012, which was approved by the County Board of Supervisors on March 6, 2012. Although there will be a new fiscal impact to the Integrated Waste Management Account (IWMA) for fiscal year 2011/2012 and each fiscal year following, as long as CalRecycle serves as EA for the County, the owner/operator of each solid waste handling facility and operation will be billed to recover CalRecycle's operating costs.

### RECOMMENDATION:

Staff recommends Option 1, that the MOA be approved.

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### DIRECTOR ACTION:

On the basis of the information in this Action Request, I hereby approve the MOA with the County of San Benito for CalRecycle to assume EA duties and responsibilities as described in the MOA, effective May 1, 2012.

Dated: *April 6, 2012*



Caroll Mortensen, Director  
Department of Resources Recycling and Recovery

- Attachment 1 – Memorandum of Agreement (signature and date required on Page 6 – 2 copies)
- Attachment 2 – San Benito County Board of Supervisor Resolutions (2011-104 and 2012-9)
- Attachment 3 – City of Hollister Resolution (2011-151)

# Attachment 1

Memorandum of Agreement

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("MOA") is made this 6th day of March, 2012, by the County of San Benito, a political subdivision of the State of California, herein called "County", and the State of California Department of Resources Recycling and Recovery, herein called "CalRecycle". (County and CalRecycle may be referred to herein individually as a "Party" or collectively as the "Parties".)

### RECITALS

- A. The California Integrated Waste Management Act of 1989 [Public Resources Code (PRC), Section 40000, et seq.], hereinafter referred to as the "Act", authorizes counties and cities to designate a local enforcement agency, or, in the absence of a designation by a city or county, requires CalRecycle to enforce the standards for solid waste handling and disposal to protect the public health, safety and environment within such jurisdiction.
- B. Pursuant to its designation by the County and the incorporated cities within the County, the Environmental Health Division of the Health Department of the County served as the local enforcement agency within San Benito County. The County made its decision to withdraw its designation of its Environmental Health Division as its local enforcement agency on December 6, 2011 and March 6, 2012 by Resolution 2011-104 and 2012-9, effective upon CalRecycle's assumption of responsibility as the enforcement agency on May 1, 2012. Pursuant to the Act, CalRecycle is obligated to act as the enforcement agency within the County and the incorporated cities therein upon the County's withdrawal of its designation of a local enforcement agency. The Act provides that when CalRecycle becomes the enforcement agency, it may charge reasonable fees to the local governing bodies, solid waste facility operators, and solid waste enterprises to recover its costs of operating as the enforcement agency.
- C. Pursuant to PRC, Sections 43310.1 and 43212.1, the County and CalRecycle are required to attempt to enter into an agreement to identify the jurisdictional boundaries of the enforcement agency, address the powers and duties to be performed by CalRecycle as enforcement agency, identify an estimated workload and anticipated costs to CalRecycle, and identify the cost recovery procedures to be followed by CalRecycle as enforcement agency.

NOW, THEREFORE, in consideration of the recitals and the mutual obligations of the Parties as herein expressed, the County and CalRecycle agree as follows:

1. The jurisdiction of CalRecycle as the enforcement agency under this MOA shall be the County of San Benito including all incorporated cities and all unincorporated area within said County. Commencing May 1, 2012, which is the effective date of this MOA, CalRecycle shall be the enforcement agency for the County and all incorporated cities within the County. CalRecycle, as the enforcement agency for the County, shall have all of the enforcement powers described in Section 43300 of the Act. Furthermore, pursuant to Title 14, Section 18056(b) of the California Code of Regulations (CCR), all enforcement actions, pending violations, orders of corrections, requests for technical reports or other enforcement agency efforts to achieve compliance with

state requirements (including LEA enforcement actions and state minimum standards and permits) which were in effect under the Environmental Health Division of the Health Department of the County shall remain in effect under the jurisdiction of CalRecycle. CalRecycle agrees to perform all tasks required to be performed by a local enforcement agency pursuant to the Act except as expressly excluded by this MOA. These duties include, but are not limited to performing the tasks and duties specified in Section 43209 of the Act, including, but not limited to, those listed below, to ensure that all regulated solid waste facilities, solid waste operations, and disposal sites within the County:

- a. Comply with State Minimum Standards [as defined in California Code of Regulations (CCR), Title 27, Section 20164 and described in CCR, Title 14, Division 7, Chapter 3] and the terms and conditions of their solid waste facility permits; and
  - b. Obtain permits or exemptions as may be required under the Act; and
  - c. Comply with enforcement orders issued by CalRecycle pursuant to 14 CCR 18084.
2. An estimated time/task analysis for CalRecycle staff to perform enforcement agency functions within the County is attached to this Memorandum of Agreement as Attachment A and is hereby incorporated into this MOA by this reference.
- a. The analysis is based on the following criteria:
    - (1) The number and type of operating and non-operating solid waste facilities, solid waste operations, and disposal sites;
    - (2) The number of annual compliance and projected complaint inspections based on the previous year's records and anticipated additions or deletions;
    - (3) The following staff activities:
      - (i) Inspections, travel, research, analysis of findings and documentation;
      - (ii) Enforcement activities including warnings, notices, meetings, hearings, legal proceedings and documentation;
      - (iii) Permit activities including reviews, report of facility information amendments, modifications, and revisions;
      - (iv) Closure and postclosure activities including plan reviews, site evaluations and investigations, and documentation; and
      - (v) Corrective actions including review and approval of site investigations, assessments, characterizations, remediation alternatives, and corrective measures.
  - b. Limited specialized services shall also be provided by CalRecycle as necessary to perform the duties required of the enforcement agency.
  - c. The staff allocation is a good faith estimate and may not reflect the actual amounts to be billed to solid waste facility operators or solid waste enterprises within the County.

3. CalRecycle shall determine the charges for services performed as the enforcement agency within the County based on the actual hours spent and expenses incurred and the CalRecycle fee rate for the same period of service.
4. a. CalRecycle, acting as the enforcement agency, shall act upon applications submitted by any operator within the County for solid waste facility permits according to the following process, as applicable:
  - (1) Verification of the submission of required documents, site and personnel information;
  - (2) Evaluation of the application documents for accuracy and conformity with appropriate solid waste statutes and regulations;
  - (3) Compliance review with the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) for short and long term environmental impacts, damage, and proposed mitigation measures;
  - (4) Determination of whether or not to accept the application and proceed with a proposed permit for CalRecycle consideration;
  - (5) Initiation of the appropriate public notice and comment period, including any informational meetings and/or public hearings;
  - (6) Submittal of copies of the above documents, notices, comments, and responses to any party requesting such information in writing;
  - (7) Preparation of permits with specific conditions for design, operation, and adverse environmental effects, monitoring and mitigation;
  - (8) Submittal of proposed permits to the applicant within the required time frame; and
  - (9) Provide for permit review and acceptance by the applicant, and a hearing panel process if necessary.
- b. CalRecycle shall review Enforcement Agency (EA) Notifications (as described in CCR, Title 14, Division 7, Chapter 5, Article 3) from any operator to ensure that such operations are eligible to file EA Notifications within the County. CalRecycle shall retain the EA Notifications for a minimum of one year after the cessation of operations.
- c. Pursuant to PRC, Division 30, Parts 4 and 5 and 27 CCR, Subdivision 1, Chapter 3, Subchapter 5, Article 2, and Chapter 4, CalRecycle shall require any person owning or operating a solid waste landfill within the County to submit for approval the following:
  - (1) Plans for the landfill closure and postclosure maintenance;
  - (2) Estimates of closure and postclosure maintenance costs; and
  - (3) Financial mechanisms to ensure adequate availability of funds.

5. CalRecycle shall conduct solid waste facility permit reviews as required by PRC, Sections 44015 and 27 CCR 21675.
6. CalRecycle shall perform inspections of solid waste facilities, solid waste operations, and disposal sites within the County as required by PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapters 3 and 5.
7. a. If during an inspection, investigation, or at any other time, CalRecycle finds a solid waste facility, solid waste operation, or disposal site in violation of state regulations, or the terms and conditions of the solid waste facility permit, CalRecycle shall enforce the applicable provisions as required by PRC, Division 30 and 14 CCR Division 7, Chapter 5, Article 4. CalRecycle enforcement actions shall address the following categories of violations including, but not limited to:
  - (1) Operational violations pursuant to 27 CCR, Chapter 3 and 14 CCR Division 7, Chapter 3 and PRC, Division 30;
  - (2) Emergency violations which are violations of subsection (1) above which present an imminent threat to public health, safety, or the environment and require immediate action pursuant to PRC, Division 30, Part 5;
  - (3) Closure and postclosure violations pursuant to PRC, Division 30, Part 4, Chapter 2, Articles 3 and 4, Part 5, and 27 CCR Subdivision 1, Subchapter 5, Article 2, and Chapter 4, Subchapter 4;
  - (4) Permit terms and conditions.
- b. CalRecycle enforcement action options include, but are not limited to, as set forth in PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapter 5, Article 4.
8. CalRecycle may conduct hearings to determine if solid waste facilities, solid waste operations, and disposal sites are in compliance with State Minimum Standards. Compliance with State Minimum Standards is enforced through the means of inspections and enforcement orders.
9. As part of the enforcement agency responsibility, CalRecycle will conduct administrative tasks reasonably related to its enforcement agency activities. Examples of administrative tasks include report writing, office conferences, telephone calls, records maintenance, billing, and attendance at meetings related to enforcement agency activities in the County. CalRecycle will maintain service records containing the following data for each service or activity: date, facility or operation by name and "SWIS" number, type of activity, staff hours, and staff name. Travel and other expenses will be itemized. During the term of this MOA and for five (5) years after its termination, CalRecycle shall make available at reasonable times and places to the County, the documents and files maintained by CalRecycle pursuant to enforcement agency activities under this MOA.
10. The County and other cities and districts within the County will administer and implement all provisions of the local jurisdictions' solid waste handling ordinances. CalRecycle is not responsible for aspects of solid waste handling which are of local concern, as described in PRC Section 40059.

11. **The County will maintain a list of all solid waste handling and collection vehicles and perform inspections of solid waste handling and collection vehicles within the County in accordance with 14 CCR, Division 7, Chapter 3, Article 5.**
12. Any dispute that develops between the Parties hereto with regard to matters arising out of or related to this MOA, and that the Parties do not resolve within 90 days, shall be submitted to mediation if so requested by one of the Parties. Within 15 days of such request, the Parties shall select a mutually acceptable mediator. Each Party shall bear its own costs (including, without limitation, attorney's fees) incurred in connection with the mediation. In the event the mediator is unable to resolve the dispute, then the Parties may pursue any and all remedies available to them.
13. To recover costs associated with the enforcement agency services provided by CalRecycle within the County, CalRecycle will impose fees on the solid waste facility operators and/or solid waste enterprises to which it provides services. This MOA shall constitute the consultation called for pursuant to PRC, Section 43212(a). The fee will include, but may not be limited to, compensation for staffing, per diem, and transportation costs. Staffing costs will be determined by using a billable hourly rate as adopted by CalRecycle. CalRecycle will provide quarterly, itemized invoices to the respective operator and/or enterprise. The operator and/or enterprise shall remit payment within 45 days of receipt of invoices. The operator and/or enterprise may request evidence of invoiced costs.
14. The term of this MOA shall commence on the date set forth above and continue through June 30, 2013 unless sooner terminated by mutual written agreement of the Parties. The term of the MOA shall be automatically extended for additional one (1) year terms, commencing on the expiration of the current term. Any such extended term may be terminated by mutual written agreement of the Parties. Notwithstanding, the Parties agree that this MOA shall terminate on the next June 30 to occur following CalRecycle's certification of a local enforcement agency designated by the County, provided that the local enforcement agency is certified for all purposes by CalRecycle. In the event that CalRecycle certifies a local enforcement agency for some, but not all, purposes, the Parties agree that they will negotiate in good faith and make good faith efforts to amend this MOA as appropriate.
15. This MOA may be amended only by a writing signed by the Parties. This MOA and the exhibit(s) incorporated herein by the MOA constitutes the final, complete, and exclusive statement of the terms of the MOA between the Parties pertaining to CalRecycle's serving as the enforcement agency within the County of San Benito and supersedes all prior and contemporaneous understandings or agreements of the Parties.

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IN WITNESS WHEREOF, this Memorandum is executed by the County, pursuant to Board of Supervisor's Resolution No. 2012-9 , and by the California Department of Resources Recycling and Recovery, acting by and through its Director.

COUNTY OF SAN BENITO

Jaime De La Cruz  
Jaime De La Cruz  
Chairman of the Board of Supervisors

ATTEST:

By: Janet Slutsinger  
Denise R. Thome  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT

County Counsel

By: Barbara Thompson  
Barbara Thompson  
Assistant County Counsel

Date: 3/5/12

CALIFORNIA DEPARTMENT OF RESOURCES  
RECYCLING AND RECOVERY

By: Carroll Mortensen  
Carroll Mortensen, Director

Date: 4/6/2012

RECEIVED  
MAR 29 2012  
BY: JMP

San Benito County  
Time Task Analysis Estimates (8/22/11)

	TYPE	NUMBER	FREQUENCY	TIME (HR)	SUBTOTAL	TOTAL
<b>1 FACILITY INSPECTIONS</b>						
	LANDFILLS/LAND APP.	1	12	4	48	
	TRANSFER FAC.	0	12	2	0	
	TRANSFER OP.	0	4	1	0	
	COMPOSTING FAC.	0	12	2	0	
	COMPOSTING OP. - QUA.	2	4	1	8	
	COMPOSTING OP. - ANN.	2	1	1	2	
	C&D/CDI FAC.	0	12	2	0	
	C&D/CDI OP./ASH OP.	1	1	1	1	
	CLOSED/EXEMPT	1	4	1	4	
	ILLEGAL (EST.)	0	12	2	0	
	CIA SITES	1	1	1	1	
	TOTAL HOURS/YEAR				64	
<b>COMPLIANCE INSPECTIONS ON NEW REPORTED SITES</b>						
	SITES/YEAR	1	1	2	2	
	COMPLAINTS	1	4	2	8	
	TOTAL HOURS/YEAR				10	
	TOTAL FACILITY HOURS/YEAR					74
<b>2 RESEARCH AND ANALYSIS</b>						
	LANDFILLS	1		24	24	
	TRANSFER FAC.	0		16	0	
	TRANSFER OP.	0		4	0	
	COMPOSTING FAC.	0		8	0	
	COMPOSTING OP. - QUA.	2		4	8	
	COMPOSTING OP. - ANN.	2		2	4	
	C&D/CDI FAC.	0		8	0	
	C&D/CDI OP./ASH OP.	1		1	1	
	CLOSED/CIA SITES	2		2	4	
	ILLEGAL	0		20	0	
	PROPOSED	0		40	0	
	TOTAL RESEARCH AND ANALYSIS HOURS/YEAR				41	41
<b>3 ENFORCEMENT</b>						
	ACTIONS/YEAR	1		40	40	
	FOLLOW UP	1		16	16	
	TOTAL ENFORCEMENT HOURS/YEAR				56	56
<b>4 PERMITTING AND CLOSURE</b>						
	NEW/REVISED/MODIFIED	1		120	120	
	RFI AMENDMENT	1		32	32	
	REVIEW	1		60	60	
	REGISTRATION	0		32	0	
	NOTIFICATION	1		4	4	
	CLOSURE/POSTCLOSURE	1		40	40	
	SITE INVEST (SIP)	1		40	40	
	TOTAL PERMITTING AND CLOSURE HOURS/YEAR				296	296
<b>5 VEHICLE INSPECTIONS</b>						
	HAULING VEHICLES	0	1	0.5	0	0
<b>6 ADMINISTRATION</b>						
	MEETINGS/HEARINGS	1	4	2	8	
	CONSULTATION	1	4	2	8	
	CORRESPONDENCE	2	12	2	48	
	TIME ACCOUNTING		12	0.5	6	
	SUPERVISOR			0	40	
	TRAINING/OTHER DUTIES			0	0	
	TRAVEL HOURS		12	7	84	
	TOTAL STAFF ADMIN. HOURS/YEAR				194	194
<b>HOURS /YEAR</b>				Add 1-6 above	661	
<b>Total PY</b>				PY= Tot Hr./1469 Hr.	0.45	
<b>Cost/Yr (Hrly rate for FY 10/11, since hrly rate not yet available for FY 11/12)</b>				Hrs/Yr X \$131.76	\$87,093	
<b>Travel Costs/Year</b>				From Travel Sheet	\$2,899	
<b>Total Cost / Year</b>					\$89,992	

San Benito County  
Travel Estimates (8/22/11)

Expense		Monthly	Cost	Annual	Cost
Travel time hr. / rd. trip		7	\$131.76	12	\$11,068
Lodging (nights)		1	\$92.00	4	\$368
<b>Meals</b>					
	Breakfast	1	\$6.00	4	\$24
	Lunch	2	\$10.00	4	\$80
	Dinner	1	\$18.00	4	\$72
Incidentals		1	\$6.00	4	\$24
<b>Transportation</b>					
	State Car Miles	350	\$0.56	12	\$2,331
	Commercial Air	0	\$0.00	0	\$0
	Rental Car/Day	0	\$38.00	12	\$0
	Fuel	0	\$0.00	0	\$0
	Parking	0	\$5.00	0	\$0
<b>TOTAL ANNUAL TRAVEL COST</b>					<b>\$13,967</b>
<b>TOTAL ANNUAL TRAVEL COST LESS TRAVEL TIME</b>					<b>\$2,899</b>

# Attachment 2

San Benito County Board of Supervisor Resolutions (2011-104 and 2012-9)

RESOLUTION NO. 2012-9

**A RESOLUTION OF THE SAN BENITO COUNTY  
BOARD OF SUPERVISORS AUTHORIZING TRANSFER  
OF LOCAL ENFORCEMENT AUTHORITY TO THE STATE OF CALIFORNIA  
AND EXECUTION OF MEMORANDUM OF AGREEMENT AND  
AMENDING RESOLUTION 2011-104 ADOPTED DECEMBER 6, 2011**

**WHEREAS**, the California Integrated Waste Management Act of 1989 [Public Resources Code (PRC), Section 40000, et seq.], hereinafter referred to as the "Act", authorizes counties and cities to designate a local enforcement agency, or, in the absence of a designation by a city or county, requires the State of California Department of Resources Recycling and Recovery ("CalRecycle") to enforce the standards for solid waste handling and disposal to protect the public health, safety and environment within such jurisdiction; and,

**WHEREAS**, pursuant to its designation by the County and the incorporated cities within the County, the Environmental Health Division of the Health Department of the County served as the local enforcement agency within San Benito County; and,

**WHEREAS**, the County of San Benito made its decision to withdraw its designation of its Environmental Health Division as its local enforcement agency on December 6, 2011 by Resolution 2011-104 and was conditional upon final approval of the Memorandum of Agreement with CalRecycle as required by Sections of 43212.1 and 43310.1 of the Public Resources Code.; and,

**WHEREAS**, pursuant to the Act, CalRecycle is obligated to act as the enforcement agency within the County and the incorporated cities therein upon the County's 90 day notice of withdrawal of its designation of a local enforcement agency and CalRecycle's notification to the local governing body that it is prepared to assume responsibility as the enforcement agency pursuant to Title 14, California Code of Regulation, Section 18056; and,

**WHEREAS**, the Act provides that when CalRecycle becomes the enforcement agency, it may charge reasonable fees to the local governing bodies, solid waste facility operators, and solid waste enterprises to recover its costs of operating as the enforcement agency; and,

**WHEREAS**, pursuant to Public Resources Code, §§ 43310.1 and 43212.1, the County and CalRecycle are required to attempt to enter into an agreement to identify the jurisdictional boundaries of the enforcement agency, address the powers and duties to be performed by CalRecycle as enforcement agency, identify an estimated workload and anticipated costs to CalRecycle, and identify the cost recovery procedures to be followed by CalRecycle as enforcement agency.



**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of San Benito County hereby authorizes execution of a Memorandum of Agreement (“MOA”) with the CalRecycle, a copy of which is attached to this Resolution as Exhibit “A”.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, by the Board of Supervisors that it amends Resolution 2011-104 insofar as it hereby withdraws the designation of the San Benito County Health Department, Environmental Health Division as the County of San Benito’s local enforcement agency, as reflected in the Board of Supervisor’s Resolution No. 92-41, effective upon CalRecycle’s assumption of responsibility as the enforcement agency on May 1, 2012 conditioned on the execution of the MOA (Exhibit A) by the County and CalRecycle.

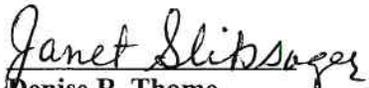
**NOW, THEREFORE BE IT FURTHER RESOLVED**, by the Board of Supervisors that it further amends Resolution 2011-104 to clarify that no new local enforcement agency will be designated prior to May 1, 2012. Therefore, CalRecycle will become the enforcement agency in and for the County of San Benito and all Cities contained within the County as of May 1, 2012 conditioned on the execution of the MOA (Exhibit A) by the County and CalRecycle.

**PASSED AND ADOPTED** this 6<sup>th</sup> day of March 2012, by the following vote:

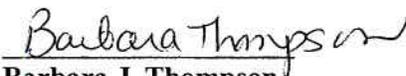
AYES: SUPERVISORS: Botelho, Rivas, Muenzer, Barrios  
NOES: SUPERVISORS: De La Cruz  
ABSTAIN: SUPERVISORS: none  
ABSENT: SUPERVISORS: none

  
JAIME DE LA CRUZ  
CHAIR, BOARD OF SUPERVISORS

ATTEST:

By:   
Denise R. Thome  
Clerk of the Board

APPROVED AS TO FORM:

  
Barbara J. Thompson  
Assistant County Counsel

**BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

RESOLUTION OF THE SAN BENITO COUNTY )  
BOARD OF SUPERVISORS TRANSFERRING )  
THE DESIGNATION OF THE ENFORCEMENT )  
AGENCY TO CARRY OUT THE PROVISIONS )  
OF THE CALIFORNIA INTEGRATED WASTE )  
MANAGEMENT ACT OF 1989 TO THE )  
CALIFORNIA DEPARTMENT OF RESOURCES, )  
RECYCLING AND RECOVERY (CALRECYCLE) )  
\_\_\_\_\_ )

Resolution No. 2011-104

WHEREAS, the County of San Benito and its incorporated Cities may, pursuant to Section 43202 of the California Public Resources Code, designate a local enforcement agency in the manner described in Public Resources Code Section 43203; to enforce provisions of the California Integrated Waste Management Act of 1989; and

WHEREAS, on April 14, 1992, the San Benito County Board of Supervisors adopted Board of Supervisors Resolution No. 92-41, designating the San Benito County Health Department, Environmental Health Division, as the local enforcement agency in and for the County of San Benito, pursuant to Public Resources Code Section 43203(a); and

WHEREAS, pursuant to Public Resources Code Section 43206 and California Code of Regulations Title 14, Section 18056(a), the local governing bodies that originally designated a local enforcement agency may withdraw the designation in the same manner it was made, and shall notify the California Department of Resources, Recycling and Recovery (CalRecycle) a minimum of 90 days in advance of the desired effective date of the withdrawal and whether the local governing body intends to have CalRecycle become the new enforcement agency; and

WHEREAS, the County of San Benito desires to withdraw its designation of the San Benito County Health Department, Environmental Health Division as the local enforcement agency in and for the County of San Benito, and to transfer the Enforcement Agency responsibilities to CalRecycle, upon CalRecycle's notification to the County that it is prepared to assume responsibility as the enforcement agency, on or before March 7, 2012; and

WHEREAS, the County of San Benito is tasked with finding budgetary efficiencies when possible and will realize a cost savings by transferring enforcement agency responsibilities to the State; and

WHEREAS, CalRecycle has the technical expertise, training, adequate staff and budgetary resources to carry out the enforcement program as specified by law; and

WHEREAS, it is the understanding of the Board of Supervisors that the City of Hollister, which is one of only two cities in the County and is the City which contains the majority of the population of the incorporated area of the County, intends to approve the County's withdrawal of its prior designation of the San Benito County Health Department, Environmental Health

Division as the local enforcement agency in and for the County of San Benito, and concurs with the County's intent to have CalRecycle become the new enforcement agency in and for the County of San Benito and all Cities contained within the County, pursuant to a Resolution from the Hollister City Council, anticipated to be adopted on or before December 6, 2011. The County acknowledges that this Resolution has no force and/or effect absent the Hollister City Council's adoption of said Resolution.

NOW, THEREFORE BE IT RESOLVED, by the Board of Supervisors of the County of San Benito that pursuant to Section 43206 of the Public Resources Code, it hereby withdraws the designation of the Benito County Health Department, Environmental Health Division as the County of San Benito's local enforcement agency, as reflected in Board of Supervisors Resolution No. 92-41, effective upon the California Department of Resources, Recycling and Recovery's (CalRecycle) assumption of responsibility as the enforcement agency on or before March 7, 2012.

BE IT FURTHER RESOLVED, by the Board of Supervisors that no new local enforcement agency will be designated, therefore CalRecycle will become the enforcement agency in and for the County of San Benito and all Cities contained within the County, upon CalRecycle's notification to the County that it is prepared to assume responsibility as the enforcement agency, on or before March 7, 2012, pursuant to Section 43202 - 43203 of the Public Resources Code, and upon entry into the agreement required pursuant to Sections 43212.1 and/or 43310.1 of the Public Resources Code.

PASSED AND ADOPTED by the San Benito County Board of Supervisors at the meeting of said Board held on the 6<sup>th</sup> day of December 2011, by the following vote:

Ayes: Supervisor(s): *Barrios, Botelho, Rivas, Muenzer*  
Noes: Supervisor(s): *De La Cruz*  
Absent: Supervisor(s): *none*  
Abstain: Supervisor(s): *none*

By: *Margie Barrios*  
Margie Barrios, Chair

ATTEST:  
Denise Thome, Clerk of the Board

By: *Janet Sliemers*  
Date: *12/6/11*

APPROVED AS TO LEGAL FORM:  
San Benito County Counsel's Office

By: *Shirley J. Murphy*  
Shirley J. Murphy, Deputy County Counsel  
Date: *Nov. 18, 2011*

# Attachment 3

City of Hollister Resolution (2011-151)

**RESOLUTION NO. 2011-151**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOLLISTER  
APPROVING THE WITHDRAWAL OF THE SAN BENITO COUNTY HEALTH  
DEPARTMENT, ENVIRONMENTAL HEALTH DIVISION,  
AS THE LOCAL ENFORCEMENT AGENCY PURSUANT TO THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT OF 1989**

**WHEREAS**, the County of San Benito and its incorporated Cities may pursuant to Sections §43202 of the California Public Resources Code (PRC) designate a local agency, in a manner described in PRC §43203, to enforce provisions of the California Integrated Waste Management Act of 1989 (the "Act"); and

**WHEREAS**, on April 6, 1992, the City Council of the City of Hollister designated the San Benito County Health Department, Environmental Health Division, as its enforcement agency pursuant to the Act (Resolution 92-50); and

**WHEREAS**, pursuant to PRC §43206 and 14 CCR §18056(a) the local governing bodies that originally made the designation of a local enforcement agency may withdraw the designation in the same manner it was made and shall notify California Department of Resources, Recycling and Recovery (CalRecycle), a minimum of 90 days in advance of the desired effective date of the withdrawal and whether the local governing body intends to have CalRecycle become the new enforcement agency; and

**WHEREAS**, it is the City Council's understanding that the County of San Benito is desirous of withdrawing its designation of the San Benito County Health Department, Environmental Health Division, and transferring the Enforcement Agency responsibilities to CalRecycle; and

**WHEREAS**, the City Council approves the County of San Benito's withdrawal of its designation of the San Benito County Health Department, Environmental Health Division, as the local enforcement agency for San Benito County and the incorporated areas within the County and approves the transfer of the Enforcement Agency responsibilities from the San Benito County Health Department, Environmental Health Division, to (CalRecycle); and

**WHEREAS**, the City Council understands that the County of San Benito is in the process of withdrawing its designation and notifying CalRecycle of its intent to have the state act as its enforcement agency in San Benito County and the incorporated areas for purposes of the Act; and

**WHEREAS**, the City Council recognizes the budgetary efficiencies and cost savings to the County of San Benito and the regulated community by transferring enforcement agency responsibilities to the State: and

**WHEREAS**, CalRecycle has the technical expertise, adequate staff, and budget resources and training to carry out the enforcement program as specified by law;

**WHEREAS**, the City Council understands that since the City of Hollister is one of only two cities in the County of San Benito and is the City containing the majority of the population of the incorporated area of the County, that with the City's approval of the County's withdrawal of its designation the County can proceed with transferring the Enforcement Agency duties to CalRecycle.

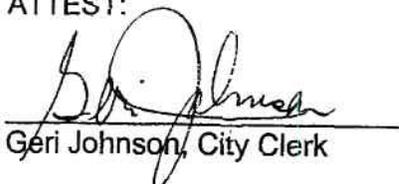
**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Hollister hereby approves the change in designation of the enforcement agency for purposes of the California Integrated Waste Management Act of 1989 from the County of San Benito to the California Department of Resources, Recycling and Recovery as the enforcement agency for the County of San Benito and all Cities contained within the County, pursuant to Sections §43202-03 of the Public Resources Code.

**PASSED AND ADOPTED** this 21st day of November 2011, by the following vote:

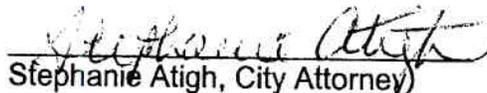
AYES: Council Members Emerson, Friend, and Mayor Valdivia.  
NOES: Council Members Gomez and Scattini.  
ABSTAINED: None.  
ABSENT: None.

  
Pauline Valdivia, Mayor

ATTEST:

  
Geri Johnson, City Clerk

APPROVED AS TO FORM:

  
Stephanie Atigh, City Attorney