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RE: Study to Identify Potential Long-Term Threats and Financial Assurance Mechanisms for Long-Term Postclosure Maintenance and Corrective Action at Solid Waste Landfills

On behalf of the twenty two member Rural Counties' Environmental Services Joint Powers Authority (ESJPA), we appreciate the opportunity to provide comments on the "Study to Identify Potential Long-Term Threats and Financial Assurance Mechanisms for Long-Term Postclosure Maintenance and Corrective Action at Solid Waste Landfills".

The ESJPA has fundamental objections to several issues evaluated by the report including:

- The analysis of the Pledge of Revenue Mechanism is fundamentally flawed.
- The pooled State Fund analysis contains numerous flawed assumptions including encouraging insufficient funding and holding post closure maintenance (PCM) costs constant throughout time which contradicts years of proven reality of landfill decomposition
- The lack of supporting data for fundamental assumptions used for evaluating corrective action rankings

Given these concerns and the concerns expressed by others, this report needs significant revisions prior to being formalized as a foundation for assessing potential long-term threats to the environmental and proceeding with any changes to financial assurance mechanisms. Inadequate funding for long-term postclosure and corrective action measures is not in the public interest but neither is requiring excessive funding by local governments or private operators based upon incorrect analysis.

The ESJPA also shares many of the concerns of the comments provided by California State Association of Counties (CSAC) and the Solid Waste Industry Group.

#### Pledge of Revenue

The Study's analysis of the Pledge of Revenue financial assurance mechanism is fundamentally flawed and the ESJPA strongly objects to the analysis. This mechanism is used extensively by local governments to satisfy post closure financial assurance obligations and provides appropriate flexibility on how the local government will meet their obligation. This pledge is not just a paper document. In committing to the Pledge of Revenue, the local government is required to report the estimated amount of the pledge as a financial obligation. That "reporting" of the obligation is included in considerations when the local government attempts to secure future funding via bonds, loans, or other funding.

The analysis under Section 2.2.6.4 is that "Future revenue may be more or less than the funding needed". As opposed to the Study's analysis indicating concern, this is actually one of the greatest advantages of the Pledge of Revenue mechanism in that the local government has committed revenues to meet the demand regardless if it

is more or less than the estimated amount. The local government entity cannot escape this obligation. The study assigns trust funds a "Medium" Certainty of Assurance ranking and a "High" ranking to Amount of Coverage even though the same uncertainties exist that the trust fund could be underfunded. If a trust fund is exhausted, where will the additional funds come from? If a Pledge of Revenue estimate is underfunded, the local government is still committed to meet the post closure obligations.

At a minimum, the Pledge of Revenue mechanism should be awarded an equal ranking to the Financial Means Test or Corporate Guarantee mechanisms (High or Medium) and High and Medium ranking for the Certainty and Amount Evaluation Criteria.

#### State Fund

The entire discussion of the State Fund does not address how such a fund would serve to encourage bad operators to not adequately fund their own financial assurance mechanism since the state fund will cover the short fall.

The Fund for Public Entities Only discussion (page 3-9) incorrectly assumes that solely because small landfills do not generate the economics of larger facilities that supports a pooled state fund. Jurisdictions operating smaller landfills understand landfill economics and account for this fact in determining adequate financial assurances. This analysis oversimplifies the issues of a State Fund. None of the assumptions are backed by real data indicating failures of public entities to cover their obligations.

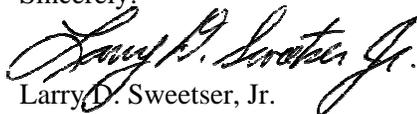
The assumption in Estimating Annual Costs of PCM (page 3-49) erroneously assumes that dividing the PCM costs by 30 years and extrapolating that value for an indeterminate time period is not a material issue. Many years of proven landfill technology indicate that landfill gas generation and other factors demonstrate that a majority of the PCM costs will occur within the first few years of closure and rapidly decline after that initial period to a slight decline over subsequent years. The Study should include this known curve and use the stabilized value for the long-term analysis.

#### Corrective Action Ranking

The lack of supporting technical data for some of the fundamental assumptions is of great concern especially the apparently arbitrary assignment of relative ranking of corrective action values in Exhibit 3-12. The consultant stated in the workshop that these values are based upon their best estimate. Given that even a change of one point value in this analysis represents hundreds of thousands of dollars of funds, there needs to be a more scientific and reproducible assignment of the number of corrective actions for a landfill.

Thank you for the opportunity to provide comments.

Sincerely,



Larry D. Sweetser, Jr.  
ESJPA Consultant

cc: California Integrated Waste Management Board Members  
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