

Norcal Waste Systems, Inc. Comments to ICF Revised Work Plan and Scope of Work (Draft)

“Study to Identify Potential Long-Term Threats and Financial Assurance Mechanisms for Long-Term Post-Closure Maintenance and Corrective Action at Solid Waste Landfills”

July 10, 2007

Part of the intent of AB 2296 is “to study various financial assurance mechanisms that would protect the state from long-term post-closure maintenance or corrective action costs if a landfill owner or operator fails to meet its legal obligation to fund post-closure maintenance or corrective action during the post-closure period.”

- The scope of work does not address the mechanisms/processes that would ultimately place a landfill asset/liability in receivership with the state, thereby obligating the state to pay ongoing postclosure maintenance. The scope of work should address, in detail, how a landfill becomes state responsibility. The detail will vary depending on what type of ownership the landfill is under (e.g., public, private, special purpose district, publicly traded company, etc.).
- The type of ownership, much like physical attributes, can affect the risk to the state for having to assume financial responsibility for postclosure maintenance. Whereby physical attributes are addressed in scope of work, types of ownership (and how they are funded) are not.

For example, if a privately owned company that has pledged its assets as collateral for debt financing fails to fund postclosure maintenance or corrective action (meaning the company is bankrupt), the landfill asset/liability transfers to the entity financing the debt (i.e., the bank) and with it the obligation to pay for postclosure maintenance.

- The scope of work addresses the need for ICF to review other pooled funds in the country, and state. The State Compensation Insurance Fund should be included.

State Compensation Insurance Fund

- Established by the California Legislature in 1914, State Compensation Insurance Fund is a self-supporting, non-profit enterprise that provides workers' compensation insurance to California employers at cost with no financial obligation to the public.
- Assesses an entities premium/rate by calculating risk, and comparing them against industry standards.
- Issues reimbursements, or decreases premium for having above average workplace standards.

This fund is a successful mechanism set up to protect California taxpayers. ICF should consider a fund such as this to fund possible postclosure maintenance or corrective action costs.

- Study has only suggested looking at California landfills. Other mechanisms for post-closure maintenance across the U.S. and in the E.U. should be reviewed.
- Mechanisms in other countries and states with Subtitle-D landfills in post-closure should be evaluated. California does not have a significant amount of lined and well controlled landfills in post closure.