



SIERRA CLUB  
CALIFORNIA

November 12, 2008

California Integrated Waste Management Board  
1001 I Street  
Sacramento, CA 95814

**Re: Long-Term Postclosure Maintenance And Corrective Action**

Dear Board Members:

Landfills' long-term liabilities extend will substantially longer than the current 30-year postclosure maintenance period, and appear to be substantially greater than those presently covered by financial assurances. Successfully reforming financial assurance requirements is essential to prevent California's taxpayers from being involuntarily compelled to bear the brunt of tens of billions of dollars in bailout costs. For this reason, Sierra Club California co-sponsored AB 2296 to establish a process for updating financial assurance requirements.

November 2008 Board Agenda Item #2 (now pulled), *Discussion And Request For Direction Regarding The Board's Fulfillment Of The Requirements Of Assembly Bill 2296 (Montanez, Chapter 504, Statutes Of 2006) For Long-Term Postclosure Maintenance And Corrective Action*, would leave major holes in the Board's financial assurance requirements. The Board, at your August meeting, chose the weakest regulatory option presented to you, Option 2, which allows landfill operators to automatically "draw down" from 30 to 15 years of financial assurance, and then to "step down" to maintaining five years of financial assurance based on performance. This option was combined with a state "pooled fund" in order to reduce the risk to the state's taxpayers, and the Board action was premised on the Legislature's enactment of such a pooled fund.

Now that the Legislature has declined to establish such a fund, the Board should revisit the August decision and adopt Option 1(a) or 1(b) as presented at the August 2008 Board meeting, requiring landfill operators to maintain at least 15 years of financial assurance until a pooled fund is established by the Legislature. We do not believe that either of these options will be sufficient, but they are more protective of the taxpayers than is Option 2. We also reiterate our previously expressed recommendations that the regulations address the issues of major maintenance, real risk of default, realistic assessment of site failure, and the inadequacy of the financial means test.

Respectfully Submitted,

Bill Magavern  
Director

