STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of:	)	Tracking No: IWMA BR99-42
	)	
	)	
City of Lakeport	)	**COMPLIANCE ORDER**
County of Lake	)	
	)	
	)	Public Resources Code
Jurisdiction	)	Section 41825

INTRODUCTION

1.1. Parties: The California Integrated Waste Management Board (Board) issues this Compliance Order (Order) to the City of Lakeport.

1.2. Authority: Section 41825 of the Public Resources Code (PRC) requires the Board to review implementation of each Jurisdiction's Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE), at least once every two years; this Biennial Review is the Board's independent evaluation of a Jurisdiction's progress in implementing the SRRE and HHWE selected programs and reaching the diversion requirements of PRC Section 41780. If a Jurisdiction is not meeting the mandates of the Integrated Waste Management Act (IWMA), the Board may issue a compliance order and schedule (PRC Section 41825). Fines of up to $10,000 per day may be levied if the provisions of the compliance order and schedule are not met (PRC Section 41850).

1.3 Sections 41033 and 41333 of the PRC, respectively, provide that any waste characterization component prepared by a Jurisdiction pursuant to Sections 41030 or

41330, and any other information submitted by a Jurisdiction to the Board on the quantities of solid waste generated, diverted, and disposed of, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the Board, to the maximum extent possible, to accurately measure the diversion requirements established under paragraph (1) of subdivision (a) of Section 41780.

DETERMINATION OF COMPLIANCE DEFICIENCIES

2.1 Board staff conducted a Biennial Review of the City of Lakeport's SRRE. After considering the results of this review and the adoption of this Order at a public hearing commencing on September 21, 1999 the Board determined:

2.2 The Jurisdiction appears to be making adequate progress in implementing its waste diversion programs as described in the SRRE. However, due to incomplete and/or incalculable data, the Board cannot determine that the Jurisdiction has complied with PRC Section 41780 by meeting the 25 percent waste diversion requirement by 1995.

2.3 The Jurisdiction's diversion calculations are inaccurate because the Jurisdiction has a negative diversion rate, which is not possible given its level of program implementation. The Jurisdiction's 1995 diversion rate is currently calculated as -59 percent, and its 1996 diversion rate is currently calculated as -36 percent.

2.4 While the Jurisdiction failed to provide sufficient information to demonstrate that it made a good faith effort in implementing its SRRE to the level required by PRC Section 41850(b), the Jurisdiction appears to have been implementing its waste diversion

programs to a level sufficient enough that the Board has determined that it would be appropriate to grant the Jurisdiction additional time to address the deficiency identified above.

SCHEDULE FOR COMPLIANCE

3.1 Based on the foregoing determination of compliance deficiencies, it is hereby ordered that the City of Lakeport shall:

a. Work with Outreach Staff of the Office of Local Assistance (OLA) to determine which one of the following methods would be most appropriate to address the deficiency identified above by October 29, 1999. Subsequently, Board staff will provide an update by December 14, 1999 of the method selected to the Board:

- Develop a new waste generation study, based on 1998 data or other available data, with the intent of establishing a new, more accurate base year;
- Use an alternative Board-approved method for correcting base-year inaccuracies;
- Make corrections to reporting year data;
- Use diversion reporting (waste generation) every year instead of a disposal reporting system; or
- Form a regional agency.

Complete whichever method is chosen and submit the results by April 3. 2000.

b. Document its progress in implementing selected programs and meeting the diversion requirements of 25 percent, as well as demonstrating progress in meeting the 50 percent diversion requirements in 2000. A status update shall be submitted to the Board by February 1, 2000 and a final report shall be submitted by April 3, 2000.

c. If the City of Lakeport does not achieve 25 percent by implementing the selected method in accordance with section 3.1a, then the jurisdiction shall work with the Office of Local Assistance (OLA) to determine gaps in program areas and make recommendations on improving, expanding, or implementing new diversion programs. OLA staff will conduct

a needs assessment meeting with the jurisdiction and outline the scope of a local assistance plan the jurisdiction will agree to implement to achieve compliance with this order by April 3, 2000.

3.2 Penalties: At the end of the compliance order April 3, 2000, the Board shall hold a public hearing to determine whether or not the Jurisdiction has complied with Section 3.1 of this Order. Failure to comply with any part of the Compliance Order at any time may result in fines of up to ($10,000) per day in accordance with PRC Section 41850(a). A public hearing may be scheduled earlier if the Board determines that the Jurisdiction has complied with the conditions of the Order ahead of schedule.

3.3 Submittals: All documents required to be submitted by the Jurisdiction as noted above shall be sent to:

Ila Lewis, IWMS
Office of Local Assistance, MS 8
California Integrated Waste Management Board
8800 Cal Center Drive
Sacramento, CA 95826
Attn: Compliance Order Correspondence

3.4 Communications: All approvals and decisions of the Board made regarding the adequacy of submittals will be communicated to the Jurisdiction in writing by the Board or its designee. No informal advice, guidance, suggestions, or comments by the Board staff regarding reports, plans, schedules, or any other documents submitted by the Jurisdiction shall be considered to be Board approvals.

3.5 Board Review and Approval: If the Board determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the

Order or fails to achieve successful implementation of the SRRE, the Board or its designee may:

a. Serve a notice that the Board will hold a public hearing to consider the imposition of penalties in accordance with PRC Section 41850, or

b. Order the Jurisdiction to change the document (if there are major changes) as deemed necessary and approve the document as changed, or

c. Return the document to the Jurisdiction with recommended changes (if there are minor changes) and a date by which the Jurisdiction must submit to the Board the document incorporating the recommended changes.

3.6 Compliance with Applicable Laws: The Jurisdiction shall carry out this Order in compliance with all Local, State, and Federal requirements, including but not limited to requirements to obtain necessary permits.

3.7 Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of the Jurisdiction.

3.8 Government Liabilities: The State of California and the Board shall not be liable for injuries or damages to persons or property resulting from acts or omissions in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by the Jurisdiction or its agents in carrying out activities pursuant to the Order. The Jurisdiction shall indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting in connection with the performance of this Order.

3.9 Extension Request: If the Jurisdiction is unable to perform any activity or submit any document within the time required under this Order, the Jurisdiction may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.10 Extension Approvals: If the Board or its designee determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

3.11 Parties Bound: This Order shall apply to and be binding upon the Jurisdiction and upon the Board and any successor agency (regional agency etc.) that may have responsibility for, and the Jurisdiction over, the subject matter of this Order.

EFFECTIVE DATE

4.1. This Order is final and effective from the date of issuance.

Date of Issuance SEP 23 1999

Dan Eaton, Chairman
California Integrated Waste Management Board