



THE CITY OF SAN DIEGO

October 2, 2006

Bobbie Garcia, Permitting and Enforcement
California Integrated Waste Management Board
PO Box 4025, MS 16
1001 I Street
Sacramento, CA 95812-4025

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SUBJECT: Permit Implementation Regulations (AB1497)

Dear Ms. Garcia:

Thank you for the opportunity to comment again on these regulations. As you know, I had the pleasure of participating in the workshops on these regulations.

The Environmental Services Department has two perspectives: the Department operates the Miramar Landfill, and so sees the perspective of an operator; but we are also a government agency hosting private solid waste facilities that require regulation. The Department seeks the dual goals of protecting public health and safety and the environment and also streamlining regulations. The following comments are intended to further these goals.

1. Concurrent processing. The language in Section 21563, subsection d(1) could result in one regulatory agency requiring that their permit be handled last. Should every regulatory agency take this approach, nothing could ever be permitted. Therefore, the regulations should specifically say "Complete means all requirements placed upon the operation of the facility by statute, regulation, and other agency with jurisdiction have been *addressed* in the application package, although they need not have been completed." Furthermore, the regulations should make it clear that the applicant can waive statutory timelines, because this may be necessary in order to accommodate other permitting processes. For example, section 21580 says that the EA must conduct a hearing within 30 days of deeming the application complete, but it might streamline the process to wait and combine this meeting with another required meeting.

2. Multi-purpose meetings. Several laws contain requirements for public meetings on permit applications. Section 21660.4 specifies that a CEQA scoping meeting held BEFORE the required EA "informational meeting" may substitute for the information meeting; however, it should also specifically allow that the applicant may waive the



Resource Management Division • Environmental Services Department

9601 Ridgehaven Court, Suite 210 • San Diego, CA 92123-1636

Tel (858) 573-1200 Fax (858) 492-5021

timeline during which the informational meeting must be conducted. This meeting could then be combined with a CEQA scoping meeting that comes too late for the LEA to include it within the specified time limits (section 21580). This comment also applies to section 21563 subpart d(4), section 21570 subpart b, section 21650, subparts e and g(7), and section 21660.2, subpart b. In section 18104.2, subsection e, the following words should be added to the end "or shall attend and participate in a similar public meeting held on the project." Section 21650, subpart e should mention that a CEQA (or other) hearing may be used instead.

3. Ensuring that the regulations are appropriate to all situations. As explained before, because there is not always a land use authority, Section 21570(a) and section 18105.2 subsection (i) should include the underlined phrase: ". . . agency that oversees land use planning where the facility is located, when there is one." Similarly, in section 21570 subsection f(5)A, section 21685, subsection b(4), and section 18105.1, subsection g(1), the words "or applicable planning document, when there is one" should be added.

4. Assuring an end to the permitting process. If requirements can be identified that fully address all problems associated with a facility, and the applicant agrees to all requirements, the project should be approved. Clarity and an end to the process, even if the answer is no, is of great value. Section 21685 subsection c should be changed accordingly. However, an appeal process should be provided when an applicant disagrees with the Executive Director's decision.

5. Providing discretion to EAs. Having read the transcript from the June 5 public hearing on these regulations, I agree with several of speakers. Quoting Mr. White's comments: "our first preference would be to leave [the lists] out all together and allow the decision tree process to proceed." As a workshop participant, I know that a great effort went into providing a reasonable list, but that was our task, and no other option was provided to us. I would not at all believe that my time and effort was wasted if a superior approach were to be selected. In the packet we are reviewing this time around, I would prefer to delete the list that begins on page 6, line 35. Although the minor changes are "not limited to" this list, page 9 line 5 states that "All other changes require a revised permit . . ." so the concern is that even something very minor, that for some reason we didn't think of, could require a permit revision. The list beginning on page 9, line 14 was not the charge of the workshop to develop, though it did come out of the workshop. It completely removes discretion from the LEAs and should be deleted.

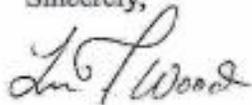
6. Potential confusion. As existing regulations are written, under section 18105.2 subsection i, if the Board is tied, then concurrence is assumed without an affirmative vote. However the Board, as a responsible agency, must also adopt the CEQA document. To avoid confusion, it should be made clear what the status of the CEQA document is under this circumstance. The cleanest way would be to make it "adopted" in this case.

7. Minor cleanups. Section 17388.4, subsection i and section 17388.5, subsection b, can be deleted, since it is now past February 24, 2005.

Section 18104.1, subsection e(2): SRREs can and should be updated with annual reports. The words "as amended with the annual report" should be added.

Again, thank you for the opportunity to review these regulations. Please call me at (858) 573-1236 if you have any questions about these comments.

Sincerely,

A handwritten signature in cursive script that reads "Lisa F. Wood".

Lisa F. Wood
Senior Environmentalist

Cc Vicky Gallagher, City of San Diego LEA
Brent Eidson, City of San Diego Governmental Affairs Office