County Los Angeles Department of Public Works

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Number of Pages: 10
(including cover sheet)

June 6, 2006

Message:

I am transmitting the attached letter on behalf of the Los Angeles County Integrated Waste Management Board. A hard copy of the letter has been mailed. Please contact me if you experience difficulty opening the attachment. Thanks.

LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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DONALD L. WOLFE
CHAIRMAN

June 6, 2006

Bobbie Garcia
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-16
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Dear Ms. Garcia:

PROPOSED PERMIT IMPLEMENTATION REGULATIONS (ASSEMBLY BILL 1497)

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), thank you for the opportunity to provide comments on the proposed Permit Implementation Regulations, dated February 28, 2006. As discussed below, the Task Force strongly recommends that the proposed regulations must avoid promoting/creating any conflict between the host jurisdiction's land use permit/entitlement and the Solid Waste Facility Permit (SWFP). If this is allowed to occur, solid waste facilities will be issued a SWFP that is inconsistent with the facility's design/operational criteria established by the host jurisdiction's land use permit. This would create public confusion and a legal dilemma as to which permit governs; weaken the host jurisdiction's land use authority; and, create the perception that the layers of their government are not coordinating the basic permit requirements for a major facility in order to ensure the protection of public health and safety and the environment.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939, as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and its 88 cities in Los Angeles County. Consistent with these responsibilities and to ensure a coordinated and cost-effective solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a Countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

The following comments are provided with a strong request that the California Integrated Waste Management Board (CIWMB) address these comments prior to the final adoption of the proposed Permit Implementation Regulations.

1. Title 27, Division 2, Chapter 4, Subchapter 3, Article 1, Section 21563(d)(2), Page 1.

Specific Request – Either delete the proposed new text: "This does not include verifying for correctness information contained in the land use and/or conditional use permit which the applicant submits pursuant to [Section] 21570(f)(9)" **OR** expand the definition to add the following: "This does not include verifying for correctness information contained in the land use and/or conditional use permit which the applicant submits pursuant to [Section] 21570(f)(9). However, the applicant, as a part of the application package, shall provide a written confirmation from the host jurisdiction's planning agency verifying that the proposed permit activity is consistent with the land use entitlements for the facility."

Discussion – Pursuant to Section 44012 of the Public Resources Code, the primary purpose of the SWFP is to ensure the protection of public health and safety and the environment. If regulations are adopted in their current form, we believe solid waste facilities will be issued a SWFP that may be inconsistent with facility's design/operational criteria established by the host jurisdiction via the land use permit/entitlement. The criteria are often significantly more restrictive than the mitigation measures identified in the California Environmental Quality Act document. Since the land use permit is the primary vehicle for establishing the parameters for the "operation" of a solid waste facility, we do not believe it is possible for the CIWMB to determine if a SWFP application is complete and correct without ensuring consistency with the local land use permit. In addition, this new provision would undermine local governments' land use authority since it would create a legal quandary as to which permit conditions govern.

The intent of Assembly Bill 1497 (Montanez, 2003) is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues." If the proposed text is adopted, it would also undermine the intent of AB 1497 since it would prohibit the CIWMB-approved local enforcement agencies from verifying that the information contained in the SWFP application is consistent with the local land use permit. This is especially relevant since local land use conditions are often the mechanism by which jurisdictions address environmental justice concerns and other issues raised by the community.

Our proposal would ensure consistency without imposing/recommending any additional duties to the CIWMB and/or LEAs.

2. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21570(f)(9), Page 3.

Specific Request – Expand the subsection to read as follows: "A copy of all land use entitlements for the facility (e.g. conditional use permits, zoning ordinance, etc.), **and a letter issued by the host jurisdiction's planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility;"**

Discussion – The above language will help address our concern expressed in item 1 above.

3. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21620(a)(1)(D), Page 6.

Specific Request
We concur with the Minor Change List as proposed in Alternative 1.

Discussion – By adopting Alternative 1, it will help address our concerns expressed in item 1 above, streamline the permitting processes for minor changes in the design/operations of the facility, all the while retaining the ability for decision makers and residents most impacted by the proposed permit activity to have a say in adopting reasonable, site-specific control measures.

4. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21620 (a)(1)(D), Pages 6 and 7.

Specific Request – We concur with Alternative 2 Optional Minor List, provided:

- Subsections xiii and xvi are deleted; and,
- Subsection ix is expanded to read as follows: "Changes to traffic patterns on-site that do not affect off-site traffic **and/or negatively impact adjacent improved properties.**"

Discussion – The above changes will help address our concern expressed in item 1 above since they have the potential to have a significant impact on the community and the environment.

5. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21620 (a)(1)(E), Page 7.

Specific Request – Define the phrase "reasonable time." We recommend 15 calendar days as a reasonable time.

Discussion – The above change will help address our concern expressed in item 1 above by removing ambiguity as to what is meant by a "reasonable time."

6. Title 27, Division 2, Chapter 4, Subchapter 3, Article 2, Section 21620(a)(4), Page 8.

Specific Request – We concur with the Significant Change List as proposed in Alternative 3 and request the following subsections be added:

(E) Importation of waste material originating from areas outside the wasteshed areas, if any
(F) extending the disposal site closure date
(G) changing the days and hours of operation
(H) increases in the maximum daily tonnage delivered to the facility for processing, beneficial on-site use and/or disposal"

Discussion – This Alternative and the added language above will help address our concerns expressed in item 1, all the while retaining the ability for decision makers and residents most impacted by the proposed permit activity to have a say in adopting reasonable, site-specific control measures.

7. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21660(a)(2), Page 11.

Specific Request – Expand the subsection to read as follows: "The EA shall mail written notice of an application to every person who has submitted a written request for such notice **within 10 days prior to the EA taking action pursuant to Sections 21666(a) or 21650(a).**"

Discussion – This added language above will help address our concerns expressed in item 1 by ensuring timely notice to concerned residents.

8. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21660.1(b), Page 12.

Specific Request – Add the following subsection:

(5) Posting of notice prepared by the EA and posted by the operator in a local newspaper of general circulation.

Discussion – The above language will help address our concerns expressed in item 1 by reaching residents that do not routinely monitor the public notice board, or the EA/operator/CIWMB websites and giving them the opportunity to comment on the proposed RFI amendment or solid waste facilities permit application.

9. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21660.2(c)(1), Page 13.

Specific Request – Change the proposed five mile radius to one mile radius. Revise the subsection to read as follows: "The meeting shall be held in a suitable location not more than **one mile** from the facility that is the subject of the meeting; provided that, if no suitable location exists within **one mile** of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical."

Discussion – The above language will help address our concerns expressed in item 1 by ensuring the meeting location is conveniently located. The five mile radius is too far away from the facility location, and may potentially place most residents outside of the host jurisdiction, especially in urban areas such as Southern California. Additionally, if the five mile radius limit is adopted, those residents living in the opposite direction of the facility would need to commute up to 10 miles to reach the meeting location. Not only would this be inconvenient, but discourage those residents which rely on public transportation from attending the meeting due to its distant location.

10. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21663(a), Page 15.

Specific Request – Delete the proposed new text "the Executive Director of the CIWMB for."

Discussion – A primary goal of AB 1497 is to encourage public awareness and participation by local residents impacted by the project. Its intent was not to eliminate the hearing before the CIWMB as proposed by having the Executive Director solely decide on a modified solid waste facilities permit.

The above deleted language will help address our concern expressed in item 1 because it retains the authority of the CIWMB, as the ultimate governing body of the State agency responsible for regulating solid waste facilities, to concur on modified solid waste facilities. If the above text is not deleted, the authority to concur with a modified solid waste facilities permit would transfer to the CIWMB's Executive Director. This authority should rest with the CIWMB because its makeup is purposely designed to represent diverse stakeholders and provide a forum for public hearings and participation in the permitting process. Allowing the Executive Director to be the sole authority to concur with a modified solid waste facilities permit would place too much responsibility on one person without appropriate checks and balances.

11. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21663(a)(1), Page 15.

Specific Request – Revised and expand the subsection to read as follows: "As used herein, 'design' means the layout of the facility (including numbers and types of fixed structures **the maximum allowable daily tonnages of waste materials delivered to the facility for processing, on-site beneficial use and disposal,** total volumetric capacity of a disposal site [or total throughput rate of a transfer/processing station, transformation facility, **gasification facility,** or composting facility] vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration."

Discussion – The above language would make the definition of 'design' more accurate since the limitations on daily tonnages delivered to a facility is a critical element of a facility's design. Also, the term 'gasification facility' was added because it no longer is defined as "transformation" pursuant to Assembly Bill 2770 (2002).

12. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21663(a)(2), Page 15.

Specific Request – Expand the subsection to read as follows: "As used herein, 'operation' means the **process, operating hours, number of operating days/week, closure date (if it's a disposal facility),** procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment."

Discussion – The above language would make the definition of "operation" more accurate.

13. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3, Section 21675(a), Page 18.

Specific Request – Revise the subsection to read as follows: "Except as provided in Section 21680, all full solid waste facilities permits shall be reviewed and if necessary modified or revised, from the date of last issuance at least once every five years. **The operator shall file a notice (with necessary documentation) of the five year review no less than 180 days before it is due."**

Discussion – We believe it is the operator's responsibility to ensure that all its' operating permits are current and in good standing. The responsibility for the five-year review notice must rest with the operator/permittee and not the EA as is the case for counties when preparing the five-year review of the Countywide Integrated Waste Management Plan.

14. Title 27, Division 2, Chapter 4, Subchapter 3, Article 3.1, Section 21685(b)(6), Page 19.

Specific Request – Expand the subsection to read as follows: "A copy of all land use entitlements for the facility (e.g. conditional use permits, zoning ordinance, etc.), **and a letter issued by the host jurisdiction's planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility;"**

Discussion – The above language will help address our concern expressed in item 1 above.

15. Title 14, Division 7, Chapter 5, Article 3, Section 18105.1, Page 28.

Specific Request – Add the following subsection:

"(k) A copy of all land use entitlements for the facility (e.g. conditional use permits, zoning ordinance, etc.), and a letter issued by the local planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility."

Discussion – The above language will help address our concern expressed in item 1above.

We thank you for your consideration of this request regarding issues that are of great importance to local governments. The continued development/operation of solid waste facilities rests on keeping the public's faith that these facilities are safe and that government has placed the protection of public health and safety and the environment as its number one priority. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

Margaret Clark

Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Councilmember, City of Rosemead

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cc: Assembly Member Montanez
Assembly Member Diaz
Assembly Member Levine
Assembly Member Nunez
Each Member of the California Integrated Waste Management Board
Executive Director, California Integrated Waste Management Board (Mark Leary)
California Integrated Waste Management Board (Howard Levenson, Mark De Bie)
Each Member of the Los Angeles County Board of Supervisors
Each City Mayor in Los Angeles County
Each City Manager in Los Angeles County
Each City Director of Planning in Los Angeles County
Each Member of the Los Angeles City Council
Each Member of the Los Angeles County Regional Planning Commission
League of California Cities, Los Angeles County Division
Southern California Association of Governments
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
North Valley Coalition
Sun Valley Area Neighborhood Council
Sun Valley Neighborhood Improvement Organization
East Valley Coalition
Hacienda Heights Improvement Association
Each Member of the Los Angeles County Integrated Waste Management Task

Force
Each Member of the Facility and Plan Review Subcommittee of the Los Angeles County Integrated Waste Management Task Force
Each City Recycling Coordinator in Los Angeles County