Riverside County
Waste Management Department

14310 Frederick St. Moreno Valley, CA 92553
Phone: (951) 486-3200

FAX NUMBERS:
(951) 486-3205 (Admin.)
(951) 486-3250 (Eng./Env./Planning)
(951) 486-3230 (Accounting)

FAX COVER SHEET

For Immediate Delivery

To: Bobbie Garcia

From: Joe McCann

Total Number of Pages, Including Cover Sheet: 5

Riverside County
Waste Management Department
Hans W. Kernkamp, General Manager-Chief Engineer

June 6, 2006

Bobbie Garcia
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025 MS-16
Sacramento, CA 95812-4025

RE: Formal Comments on Proposed Permit Implementation Regulations (AB 1497)

Dear Ms. Garcia:

The Riverside County Waste Management Department (Department) has reviewed the above proposed regulations. We would first like to point out a general concern regarding the overall direction the CIWMB has taken as it relates to AB 1497 and the legislative mandate we feel was given to the CIWMB.

As the Owner/Operator and public steward of over thirty-nine active, inactive and closed landfills in Riverside County, we are routinely frustrated by the difficulties experienced during the permitting process, which results from inconsistent interpretation of the regulations by staff at the CIWMB. It is our experience that CIWMB staff interpretations typically govern how we are to "comply" with existing regulation and the permit process. Apparently, AB 1497 was enacted to fix this issue, charging the CIWMB with ***defining*** what a "significant change" is, instead of leaving it up to the interpretation of CIWMB staff. What is troubling to the Department from this current effort is that the CIWMB has used AB 1497 to develop another unnecessary layer of permitting (the "modified permit" track). It is our belief that the "modified permit" would only serve to deflect clarity and continue to require CIWMB staff to autonomously and inconsistently interpret the process, even after permit issuance and clear conditions are placed in writing. In our opinion, the most important issue at stake in this promulgation process is the adherence to the statutory requirement of AB 1497 to define "significant change".

Only until recently has CIWMB staff agreed to fulfill the legislative mandate of AB 1497 and consider an extremely limited list of "minor changes" and a list of "significant changes" after pressure from industry. It is the Department's opinion that the ***only*** item the CIWMB and its staff should focus on is the "significant change" issue and development of that definition. To list "minor changes" as well as significant changes continues to gray the issue. If the "significant change" list is inadequate after promulgation, then it is the CIWMB's responsibility to revisit it in the future to develop and provide the regulated community clear guidelines and compliance parameters. We offer our more detailed comments on the six (6) main concepts as they relate to the Permit Implementation Regulations as follows:

1. Public Noticing and Informational Meeting Requirements
   a. The Department believes that the current public notice and informational meeting requirements of the EA sending written notice to property owners within 300 feet of the site and to a newspaper (or posting at three public places) is sufficient. The proposal of additional requirements such as the Operator posting a temporary notice at the facility entrance and the EA required posting of a notice on an EA "notice board", website, Operator website and/or CIWMB website is unnecessary. The Department concurs that new permits should comply with the same aforementioned requirements similar to revised permits and that language should be added to clarify that the meetings are "informational only".

   b. The Department does not believe that it is necessary to have additional restrictions on meetings being held no more than 5 miles from the facility on a date/time when residents can attend. In some instances, an adequate facility for the meeting may not exist within the 5-mile requirement. The Department concurs that the EA should be allowed to combine the informational meeting with another public meeting or substitute a previous public meeting/hearing. Operators should not be required to pay for meeting costs.

2. Listing Public Notices and/or Meetings
   a. The Department believes that sufficient public resources exist for any regulatory body and the general public to determine the level to which a facility has performed public notices and meetings. It is not necessary to require Operators to include a list of all public notices and meetings conducted relative to changes requested for new, modified or revised permit application packages.

3. Relationship of Solid Waste Facilities Permit to Local Land Use
   a. Although the Department concurs that review by the EA does not include verifying accuracy of land-use information, it is outside the scope and authority of the CIWMB to require Operators to submit a copy of the permit application to local planning agency. Land use planning and approvals are a local agency issue, not a CIWMB issue. Ensuring that a local planning department is aware that the Operator has proposed a new facility or changes to an existing facility is a consistency issue to be taken up by the local land use authority. The Department believes this is outside of the scope and intent of AB 1497.

4. Five Year Permit Review Noticing
   a. The Department agrees that a better effort needs to be made at ensuring consistency in task and elimination of confusion among regulators regarding their responsibility. In that regard, the Department is supportive of the EA being solely responsible for notifying the Operator and CIWMB of five-year review for full permits (currently the EA) and registration and standardized permits (currently CIWMB).

5. Surprise Random Inspections
   a. The Department is supportive of this issue, but believes sufficient latitude already exists to allow the EA to conduct inspections without prior notice on randomly selected days during normal business hours. This has been our experience.

6. Significant Change and Modified Permit Process
   a. The Department believes that to comply with the AB 1497 mandate, that CIWMB should adopt regulations that only define the term "significant change" and direct the EA/CIWMB staff to find that items not listed in the "significant change" definition do not require permit revision. No new "modified" permit process would be necessary. The Department disagrees that less than significant changes to a permit still require permit revision and CIWMB concurrence. The Department further believes that no notice is necessary to EA or CIWMB for less than significant changes, particularly if not required to have EA review and approval. Attached is our suggested list of "significant changes". As stated above, if not on the "significant changes" list, no revision to the permit should be required and the regulations should clearly reflect that requirement.

We thank you for the opportunity to comment. Should you have any questions regarding our comments, please contact Joe McCann or Anne Ennesser at (951) 486-3200.

Sincerely,

Hans Kernkamp
General Manager – Chief Engineer

Attachments

cc: Anne Ennesser/Fouad Mina

RCWMD Proposed List of "Significant Changes"

1. Increase in maximum amount of permitted tonnage of all waste received.
2. Increase in the facility's permitted acreage.
3. Increase in the permitted hours of operation.
4. For landfill, increase in permitted disposal footprint and/or permitted (final grade) the maximum overall height.