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May 30, 2012

Ms. Caroll Mortensen, Director
Department of Resources Recycling and Recovery (CalRecycle)
1001 I Street
PO Box 4025
Sacramento, CA 95812-4025

Dear Ms. Mortensen:

COMMENTS REGARDING THE CALRECYCLE DRAFT REPORT “CALIFORNIA NEW GOAL: 75% RECYCLING DATED MAY 9, 2012 (REPORT)”

On behalf of the Los Angeles County Integrated Waste Management Task Force (Task Force), I would like to thank you for hosting the AB 341 Stakeholder Workshop in Diamond Bar on May 21, 2012. We appreciate your commitment to stakeholder involvement in the development and finalization of the subject Report. As required by AB 341 (Chapter 476 of the State Statute of 2011), the final Report is to be submitted by CalRecycle to the Legislature on or before January 1, 2014.

In concert with the testimony provided by Mr. Mike Mohajer of the Task Force at the May 21, 2012, AB 341 Stakeholders Workshop (enclosed), we would like to provide the following additional comments on the subject draft Report.

1. General

In order to identify tools needed to achieve the State's goal of 75% recycling, composting, and source reduction by 2020, CalRecycle has indicated their intent “to take advantage of AB 341's invitation to define the future”, and utilizing through the Report, offer “a vision of a new paradigm for solid waste management in California.” Unfortunately, while the Report's “new paradigm” for the management of solid waste in California, if implemented, would significantly increase the local governments cost, it fails to provide a “new and intellectually balanced” vision for the management of solid waste in the 21st Century.

2. Conversion Technologies

The Task Force is a strong supporter of alternatives to landfills. Since 1999, we have supported local and state policies that would promote the development of technologies that convert materials in the wastestream that can't be recycled or otherwise diverted into useful products, energy, and fuels.

We were perplexed to see that one of the policy drivers highlighted in the draft Report was to “reduce dependence on oil by increasing in-state production of bioenergy/biofuels”; however, there was not a single mentioning of conversion technologies in the draft Report’s 10 implementation concepts. As indicated by Mr. Mohajer this is surprising and unjustifiable, given the Report to the Legislature that was completed by the CalRecycle’s predecessor, the California Integrated Waste Management Board pursuant to AB 2770 (Chapter 740 of the state statute of 2002) that substantiated the viability of conversion technologies on a lifecycle basis.

Further, in a January 2010 presentation, the California Air Resources Board estimated that 24 new commercial scale biofuel facilities would need to be developed in California by 2020 to meet AB 32 requirements. Pursuant to AB 341, Sections 41780.02 (b) (5), (6) and (7), this further justifies the need for conversion technologies to be included in the Report because of their ability to reduce materials going to landfills, produce local fuels and energy, and create a new sector of green-collar jobs.

3. Lifecycle Analysis

We strongly recommend that the State conduct a comprehensive, peer-reviewed life-cycle analysis of each solid waste management option and place each option within a new proposed hierarchy (see proposed hierarchy below) prior to finalizing the Report.

4. Solid Waste Management Hierarchy

We are concerned with the hierarchy proposed in the draft Reports which combines transformation, landfill alternative daily cover (ADC), beneficial reuse at landfills and other “disposal-related” activities with traditional landfilling at the bottom of the solid waste management hierarchy. The proposal, if implemented, would increase the AB 341 diversion rate of 75% by an additional 16% to 91% diversion rate by 2020. Needless to say, the proposal would negatively impact the economies of jurisdictions in California, including, but not limited to, the 88 cities in the County of Los Angeles and its 132 unincorporated communities. This fact has unfortunately been disregarded by the draft Report.

In addition to its significant negative economic impacts on local governments, unfortunately, the CalRecycle’s proposal does not represent a valid and justifiable paradigm for solid waste management in California for the 21st Century. The Task Force strongly believes that an integrated approach is necessary to reduce our dependence on landfilling, thus requiring that all options with societal and environmental benefits be left open to local governments and industry (emphasis added). We would be interested in discussing with you the following proposed revised hierarchy, which is based on the scientifically documented relative environmental benefits and drawbacks of each solid waste management options:

- Source Reduction and extended producer responsibility (*most desirable*)
- Recycling
- Composting
- Conversion technologies
- Waste to energy

- Landfills (*least desirable*)

5. Exportation of Recyclables

As indicated in the draft Report, the Task Force welcomes the Report's intent "to take advantage of AB 341's invitation to define future." As such, we strongly encourage CalRecycle to implement measure(s) to quantify the amount of recyclables that are currently being shipped out of the state and/or country for processing. We are specifically concerned with the ambiguity in how these materials are being processed out of the state/country, are they being recycled consistent with Section 40180 of the Public Resources Code, and what safety and environmental regulations are in place. Without such information, it would not be possible for CalRecycle to develop "intellectually honest" and valid strategies for achievement of the 75% source reduction, recycling, and composting goal by 2020 and their inclusion in the AB 341 Report to the Legislature

The Task Force would also encourage CalRecycle to pursue strategies that would promote and provide for the use of recyclables at in-state facilities only (emphasis added).

6. Definition of Recycling

Using the draft Report, CalRecycle is formulating an "**arbitrary new definition for recycling**" which is inconsistent with the statutory definition of recycling as called for in Section 40180 of the PRC (AB 939 - 1989). Using this arbitrary definition, then throughout the draft Report claims have indirectly been made that AB 341 has established a 75% "recycling" goal by 2020. As we all know, AB 341 calls for the 75% goal to be achieved through "source reduction, recycling and composting" (emphasis added).

The existing definition of recycling as provided in Section 40180 of the PRC has been in existence for almost a ¼ of century and is well recognized by all stakeholders throughout the state including, but not limited to, elected officials, regulatory agencies, local governments, businesses, residents, school children, etc. As such, the Task Force is extremely concerned with the use of the proposed "**arbitrary new definition for recycling**" (emphasis added). The proposal, which has been formulated for an unknown and unjustifiable reason(s), would create a significant confusion among stakeholders. Needless to say, the said confusion would also have negative economic impacts on local governments and businesses in California. For the foregoing reasons, the Task Force is opposed to the proposed definition for recycling. However, should CalRecycle wants to pursue its efforts to redefine "recycling" by including "composting", among other things, into the new recycling definition, then CalRecycle should also consider defining recycling as "any techniques that divert solid waste resources from land disposal.

7. Organics Disposal Ban And Biomethane Pipeline

The draft Report suggests that banning landfill disposal of "organics" (both compostable and non-compostable organics) would help to achieve "the 75% recycling goal of AB 341" (emphasis added). The Report also indicates that injection of "landfill produced

biomethane” into the pipeline is the key market for development of organics facilities in California. While the proposals are contradictory, it is difficult to see how the in-state landfill ban of organics would generate more revenues from landfill produced biomethane unless the goal is to further increase the importation of biomethane from out-of-state landfills which needless to say would negatively impact the economic well-being of California and its regulated communities.

8. Banning Green Waste Used as ADC will undermine AB 341 Goal

As a strategy to achieve the AB 341’s 75% goal, the draft Report recommends elimination of the recycling credit for the use of green waste as ADC. The Task Force does not see any justifiable rationale for the proposal by CalRecycle. Use of green waste ADC in Southern California is a result of a lack of markets for compost, lack of composting infrastructure, and contamination issues with curbside collected green waste. Preventing this material from being used as ADC will almost certainly result in more material being disposed in landfills.

9. The Other 25%

This implementation strategy attempts to identify ways to manage the remaining 25% of the waste stream after all source reduction, composting, and recycling have taken place. Suggested ways to manage the other 25% are beneficial uses of solid waste, waste-to-energy, and landfills. If 91% of materials are source reduced, composted, and/or recycled, that only leaves 9% of the solid waste stream to be processed in these other ways. It is very likely that this 9% will be comprised of inert and other low-value materials unsuitable for energy or biofuel production.

As compared to transformation and/or conversion technology processes, the strategy also favors landfilling of post-diverted waste residuals, since there are no hurdles placed for the landfill disposal of the waste residuals. However, the draft Report proposes new requirements to further extract recyclable and compostable materials from the post-diverted waste residuals before the remaining residuals can be used for any other beneficial purpose, including any form of energy generation. This appears as an attempt by the draft Report to formulate a revised waste management hierarchy by placing transformation and conversion technology processes as the last preferable solid waste management technique in California. This proposal contradicts the main goal of the California Integrated Waste Management Act which is to reduce our dependence on landfills.

10. Implementation Costs

The draft Report discusses sustainable funding for use mostly by CalRecycle to implement the state recommended “command and control” policies. However, the draft Report fails to recognize and address the significant increased costs for implementation of the recommended programs to achieve the AB 341 policy goal of 75% by local governments, residents and businesses in California. This is a critical issue for local governments and other impacted stakeholders that needs to be thoroughly analyzed by CalRecycle in concert with impacted communities prior to inclusion in the required Report to the Legislature.

Ms. Caroll Mortensen
May 30, 2012
Page 5 of 5

We appreciate the opportunity to offer our preliminary comments on the draft Report and we look forward to continuing to work with CalRecycle while the draft Report is being refined during the coming months. Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,



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

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Enc.

cc: Governor Jerry Brown
Cliff Rechtschaffen, Office of Governor Brown
Martha Guzman, Office of Governor Brown
CalRecycle (Scott Smithline, Mark Leary, Howard Levenson, Mark De Bie, John Sitts)
League of California Cities
California State Association of Counties
Each Member of the Los Angeles County Board of Supervisors
Each City Mayor in the County of Los Angeles
Rita Robinson, Los Angeles County Chief Executive Office
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
Gateway Cities Counsel of Governments
Southern California Association of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force
Each Member of the Alternative Technology Advisory Subcommittee
Each Member of the Facility and Plan Review Subcommittee



Mike Mohajer's Testimony of May 21, 2012

On

The CalRecycle Draft Report "California's New Goal: 75% Recycling" Dated May 9, 2012

My name is Mike Mohajer and I am before you on behalf of the Los Angeles County Integrated Waste Management Task Force. The Task Force addresses solid waste management issues on a Countywide basis. The Los Angeles County consists of 88 cities and over 120 unincorporated communities with a population of over ten million. Needless to say approximately one third of the California population live in Los Angeles County.

We have reviewed the CalRecycle draft report entitled "California New Goal: 75% Recycling," dated May 9, 2012 (Report). The Task Force welcomes the Report's intent "to take advantage of AB 341's invitation to define the future" and "to offer a vision of a new paradigm for solid waste management in California." However, it is disheartening to see that the Report continues to promote the almost ¼ century old policies while failing to offer a new workable paradigm. Specifically, I would like to offer the following three general comments:

What Does 75% Recycling Mean?

The Report attempts to provide an "intellectually honest definition of recycling." As substantiated by our almost ¼ century experience, a major portion of our claimed "recycled materials" are shipped out of State to foreign countries where they may get incinerated, landfilled or dumped inappropriately. While the Report disregards these facts, it also fails to recognize that CalRecycle does not have any systems/tools to measure what percentage of solid waste materials "redirected" from California landfills are actually "recycled" as defined in Section 40180 of the Public Resources Code (PRC). While disregarding the said facts, the Report elects to "define the future" by proposing to eliminate diversion credits for use of ADC, beneficial use of waste materials and the limited diversion credit currently available to the three existing waste-to-energy facilities in California, maintaining the current waste diversion rate measurement, and raising the AB 341 diversion goal of 75% to 91%. Such a proposal for increasing the diversion rate to 91% without a life-cycle analysis and economic evaluation of impacts on local governments is unjustified and without a merit. Further to be fair and "intellectually honest" in justifying the said proposal, CalRecycle must first quantify the amount of waste materials that are currently being redirected from California landfills under the umbrella of "recycling" as defined in Section 40180 of the PRC (emphasis added).

Emerging Technologies

As previously mentioned, the Report claims that it wants “to take advantage of AB 341’s invitation to define the future.” However, in re to emerging technologies, the Report takes the opposite direction. Specifically, the Report disregards the provision of AB 341 [Subdivision 41780.02(b), Paragraph (1)] which would require CalRecycle to update the data for proper management and development of market for materials consider “new and emerging trends in resource management.”

CalRecycle is well aware of conversion technologies and the Study that was conducted by its predecessor, the California Integrated Waste Management Board, pursuant to AB 2770 (Chapter 740 of the of the state statute of 2002) at a cost of over \$1.5 million. The Study findings well substantiated the viability of these technologies as compared to recycling, composting and landfilling . Unfortunately, unlike the subject Report which is “taking advantage of AB 341’s invitation to define the future”, the AB 2770 Study was not given a similar opportunity and as such the CIWMB was not able to provide the complete details of the Study’s findings to the Legislature.

We strongly believe that AB 341 is providing CalRecycle with a great opportunity to promote the development and operation of conversion technology facilities in California. Let’s use the knowledge we have gained from nearly 25 years of implementing AB 939 programs to move into a new paradigm, the 21st Century waste resources management system.

Waste Management Hierarchy

The Report indirectly has redefined the AB 939 waste management hierarchy by placing landfilling ahead of transformation and conversion technologies, as a preferable waste management technique for the “posted-diverted” waste residuals (emphasis added). Specifically, the Report is perfectly satisfied with land disposal of “post-diverted” waste residuals. However, as recommended by the Report (Item 10a), the same “post-diverted” waste residuals cannot be managed at a waste-to-energy or a conversion technology facility unless a yet to be defined quantity of “recyclable” materials that may potentially be found in the AB 341 “post-diverted” waste residuals are removed and potentially disposed of in a landfill. Needless to say, one can conclude that the Report does not see any place for any type of transformation and/or conversion technology facilities in California. This is extremely unfortunate and it seems that there is no room for knowledge and science in the Report’s “new paradigm.”

Thank you for allowing me to speak on the subject matter. The Task Force will be forwarding you a detailed comments in writing within the next few days. Thank you

Mike Mohajer

Member, Los Angeles County IWM Task Force

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