



County of Orange  
California

Thomas G. Mauk  
County Executive Officer

August 21, 2007

Honorable Nancy Wieben Stock  
Presiding Judge of the Superior Court of California  
700 Civic Center Drive West  
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "Assembly  
Bill 939 Waste Diversion: Are We Finally Making Progress?"

Dear Judge Stock:

Per your request, and in accordance with Penal Code 933, enclosed please find the County of Orange response to the subject report as approved by the Board of Supervisors. If you have any questions, please contact Theresa Stanberry at (714) 834-3727 in the County Executive Office who will either assist you or direct you to the appropriate individual.

Very truly yours,

Thomas G. Mauk  
County Executive Officer

Enclosure

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**2006-07 Grand Jury Report**  
**“Assembly Bill 939 Waste Diversion: Are We Finally Making Progress?”**  
**Response to Findings and Recommendations**

**Response to Findings**

F-1 **Material Recovery Facility (MRF)**: There is an absence of a MRF in South County to facilitate diversion of waste.

*Response: Agrees with finding.*

F-2 **Methane Gas Recovery**: Methane gas recovery efforts at Olinda Alpha Landfill fail to utilize 100% of the gas generated.

*Response: Agrees with finding.*

F-3 **Plastic Bag Dilemma**: The plastic bag dilemma requires that a solution be found.

*Response: Agrees with finding.*

F-4 **Working Knowledge of AB 939**: City waste disposal managers do not have sufficient working knowledge of the information provided by IWMD, which is intended to assist them in the control of their reclamation results.

*Response: Disagrees partially with the finding.*

IWMD surveyed its city partners relating to AB 939 and received positive feedback regarding its information and outreach efforts. IWMD hosts bi-monthly meetings with the city partners to discuss various issues, share information, and obtain feedback. Further information and training have also been provided on an ongoing basis, and upon request, since 1990.

The cities have questioned the point of origin information for waste provided by the haulers and ultimately reported by IWMD. IWMD works diligently with the cities to make the disposal reporting process, and information obtained, more accurate, timely, and accessible. It should also be noted that many cities delegate their AB 939 compliance to their haulers.

F-5 **Green Waste**: There is a need to explore additional markets for green waste.

*Response: Agrees with finding.*

**Response to Recommendations**

- R-1 **Material Recovery Facility (MRF)**: The Board of Supervisors and IWMD need to find a suitable location for a South County MRF, and work towards environmental agencies approval of that site as expeditiously as possible.

***Response: This recommendation has been implemented.***

In response to a Board of Supervisors directive, IWMD created an ad hoc MRF Site Search Committee consisting of representatives from ten south county cities (Aliso Viejo, Dana Point, Lake Forest, Laguna Beach, Laguna Hills, Laguna Woods, Mission Viejo, Rancho Santa Margarita, San Clemente and San Juan Capistrano), major waste haulers, and a representative from the Rancho Mission Viejo Company.

The Committee's task was to identify potential sites for a MRF within the cities and to consider old transfer sites, closed disposal sites or other available sites that could be used as self-haul drop-off and processing locations. As a result of its assessment, the Committee identified Prima Deshecha Landfill as a suitable location for the South County MRF. IWMD then assembled an internal work group to develop the Request for Proposal (RFP) for the MRF at Prima Deshecha Landfill. The RFP was recently completed and will be submitted for Board approval in August 2007.

- R-2 **Methane Gas Recovery**: IWMD needs to find a way to utilize 100% of Olinda Alpha's methane gas recovery.

***Response: The recommendation will not be implemented because it is not reasonable.***

Landfill gas is comprised of two main components, methane and carbon dioxide. These two components account for approximately 95% of landfill gas generated. IWMD is committed to utilizing the most efficient collection systems available, which employ state of the art technology and environmentally sound methods, to recover and convert the maximum amount of methane into energy. It is not technologically feasible, however, to collect all the methane generated or to utilize 100% of the methane gas recovered. The ability to more fully utilize the methane is affected by many factors, including the market conditions.

IWMD has successfully negotiated long-term agreements for private companies to construct and operate plants both to control the landfill gas and to convert it to useful energy to the extent possible. IWMD anticipates that the enhanced gas-to-energy facility will begin operation in 2009 and will more fully utilize the recovered methane gas.

- R-3 **Plastic Bag Dilemma**: IWMD needs to find a solution for the recycling of plastic bags.

***Response: This recommendation will not be implemented because it is not reasonable.***

IWMD agrees with the finding regarding plastic bags being a dilemma and is diligently collaborating with others to address this issue as it relates to its core business functions. IWMD perceives this dilemma as a societal issue requiring a more comprehensive approach than can be feasibly implemented by IWMD alone.

Currently the County promotes the recycling of plastic bags in several ways, including:

- IWMD literature with educational information that increases the awareness that plastic bags need to be handled properly;
- IWMD administered extensive litter control programs which utilize staff at all three active landfill sites, as well as wind screens and other devices; and
- Resources and Development Management Department administered litter control programs in parks and beaches. Many cities also have litter abatement programs.

In addition, many retailers in Orange County either already allow plastic bags issued by their stores to be returned to them or offer reusable bags for purchase. The City of San Juan Capistrano is one of the South Orange County cities with the residential curbside “Bag-the-Bag” program, where customers consolidate their clean plastic bags into a single plastic bag and place it in the recycle bin.

Furthermore, IWMD is optimistic that legislation [AB 2449 (Levine), Chapter 845, Statutes of 2006] passed on June 13, 2007 will be of assistance in combating this issue. The new law, which took effect July 1, 2007, requires the implementation of a statewide plastic bag recycling program, as well as addresses the composition, use, and recycling opportunities and the proper disposal of plastic grocery and retail bags. Stores that meet certain criteria will now be required to set up an at-store recycling program for customers.

- R-4 **Working Knowledge of AB 939**: IWMD needs to provide training to municipalities that require a better understanding of the data they are provided.

***Response: This recommendation has been implemented.***

IWMD will continue to conduct bi-monthly meetings and to provide trainings and assistance to the municipalities, as needed.

- R-5 **Green Waste**: IWMD needs to explore alternative markets for green waste reuse.

***Response: This recommendation will not be implemented because it is not reasonable.***

IWMD has assessed options for use of green waste in its operations and has found productive uses for it as an alternative daily cover and erosion control within its own operations. IWMD is also currently piloting opportunities to utilize green waste as compost materials for onsite habitat restoration areas. IWMD believes that the private sector is better suited to further explore additional alternative markets, as finding cost-effective alternative uses for these materials is primarily an issue of economics. Researching alternative uses for green waste has historically also been identified as a private sector contractual responsibility under the waste disposal agreements.

**Attachment A: Points of Clarification**

The following provides IWMD's clarification for the public record.

**Funds**

- Funds from imported waste used for bankruptcy recovery were incorrectly stated. The correct amount contributed is approximately \$11-14 million per year. These funds are net of IWMD operational and capital expenses. From FY 96/97 to FY 05/06, IWMD has contributed approximately \$131 million to bankruptcy recovery efforts.
- Monies received from the AB 939 Self haul Surcharge, established by the Board of Supervisors on July 1, 2006, were overstated. Monies received from the \$19.00 per ton surcharge totaled \$5.6 million through April 2007. These funds can only be used in support of the Countywide Integrated Waste Management Plan pursuant to the Public Resources Code.

**Disposal Reporting**

- In regard to the disposal reporting process, the haulers provide the origin of the waste. IWMD records the tonnage that crosses the scale at the landfill. The hauler only provides information to the County about recyclables for the unincorporated areas of Orange County. Each City is responsible to work closely with its hauler to review its information regarding materials recycled within its jurisdiction.

**Diversions**

- While it is correct that the County of Orange unincorporated areas have failed to maintain a 50% diversion mandate, Countywide the current rate is at, or slightly above, 50%.
- Diversion rates are derived by using many factors and using diversion rates as indicators of the economics of a population is not recommended. Diversion rates are calculated by the State in arrears and generally lag two years behind because of adjustments made by the haulers to their figures.
- Employment, population, sales tax figures, the Consumer Price Index, and the Taxable Sales deflator are the only figures that can be adjusted when a jurisdiction utilizes an alternative methodology for calculating their diversion rate.

**Material Recovery Facilities (MRF)**

- All imported waste received under contract at Orange County landfills is required to have been processed through a Material Recovery Facility (MRF). The contractor must comply with the CIWMP of the jurisdiction of the waste's origin. While 75-85% of all in-county waste disposed is processed through a MRF, it is not required under the present Waste Disposal Agreements (WDAs) that terminate in 2010.

- The Report states that a MRF operated by a private hauler is open in the South County. The MRF is not presently operational, but is expected to be open sometime between October 2007 and January 2008. The private hauler operates a transfer station to transport recyclable materials to its MRF in Stanton.
- Locating a South County MRF at the Prima Deshecha Landfill is not anticipated to result in increased traffic on La Pata. The majority of haulers and customers already go to the landfill via this road to drop off waste at the landfill. Creating a MRF at the Landfill should simply allow the diversion of more recyclable goods.
- Obtaining approval for locating a MRF is dependent upon many variables and does not necessarily take five years. The length of the approval process is dependant upon the type of facility planned and the existing use/zoning of the proposed site. We cannot project how long permitting for the South County MRF will take. However, there may be opportunities to streamline portions of the process because the site is currently used for landfill operations.

#### **Landfill Gas**

- IWMD collaborates with the private sector to capture the landfill gas and convert it into energy. The contractor working at the Frank R. Bowerman Landfill to convert the gas has established contracts to sell the liquid natural gas (LNG) it produces to a third party. One contract provides LNG from that facility to the Orange County Transportation Authority for use as a fuel source for transit buses. This conversion process began in August of 2006 and is continuing. At this time the project has produced LNG, but has not produced sufficient quantities of gas to undertake commercial deliveries. The company is continuing to refine its conversion processes. IWMD is also currently in negotiations that will increase the volume of energy generation at Olinda Alpha Landfill.

#### **Waste Accepted at Landfills**

- IWMD monitors what is accepted at the landfills and abides by the solid waste permit conditions. As such, IWMD accepts all municipal solid waste that does not include Household Hazardous Waste, Universal Wastes, vehicles, tires, and most appliances. IWMD also operates four regionally located Household Hazardous Waste Collection Centers to accept many of the items that the landfills cannot.