



CITY OF NEWPORT BEACH

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August 27, 2024

Mayor

Will O'Neill

Mayor Pro Tem

Joe Stapleton

Council Members

Brad Avery

Noah Blom

Robyn Grant

Lauren Kleiman

Erik Kenneth Weigand

Honorable Maria Hernandez
Presiding Judge
Superior Court of California, Orange County
700 Civic Center Drive West
Santa Ana, CA 92701

Re: City of Newport Beach's Response to "Talking Trash: Recyclables and Organic Waste" Grand Jury Report

Dear Honorable Judge Maria Hernandez:

In accordance with Penal Code 933.05 (a) & (b), the City of Newport Beach (City) and the Newport Beach Public Works Department (PW) provides the following responses to "Findings" F1, F2, F3, F4, F5, F6, F7, F8, F9, and F10, and "Recommendations" R1, R2, R3, R4, R5, R6, and R7, as detailed in the 2023-2024 Orange County Grand Jury Report, "Talking Trash: Recyclables and Organic Waste."

FINDINGS:

F1 "The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place."

RESPONSE:

The City of Newport Beach partially disagrees with the finding. In 2022, the City entered into a new residential refuse contract with CR&R, Inc. that contained the provisions necessary to help the City meet the requirements of Senate Bill 1383 including, but not limited to, the requirement to provide a three-container waste system to residential households throughout Newport Beach. With that the City still has a small amount of non-compliant containers that are being phased out with compliant ones over several years.

F2 "While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines."

RESPONSE:

The City of Newport Beach disagrees wholly with the finding. Chapter 6.04 and 6.06 of the Newport Beach Municipal Code were amended several times since 2019 to require residents and commercial businesses operating within Newport Beach to comply with SB 1383. The City enforces all municipal code elements, including those pertaining to state mandated enforcement. While the City works cooperatively with waste haulers to determine where improvements can be made, this role has not and will not be delegated to a hauler.

F3 “All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.”

RESPONSE:

The City of Newport Beach disagrees wholly with the finding. The City pays for the majority of residential refuse service within its jurisdiction through its general fund budget, as required by Section 6.04.140 of the Newport Beach Municipal Code. Since the City has implemented all aspects of SB 1383 including continued monitoring with existing general funds, the City does not believe there is a need for a waste and recycling enterprise fund. Therefore, all related fines collected will be deposited to the City's general fund.

F4 “In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.”

RESPONSE:

The City of Newport Beach disagrees partially with the finding. The City, its residential hauler, and consultants actively educate residents in various formats and outreach, including but not limited to: City social media posts and newsletters; updating the City's website with a page dedicated to trash and recycling; developing and posting a source separation, video, and announcements at City Council meetings, in addition to hard-copy paper mailings generated by the City's hauler. In 2023 alone, the City developed and posted several social media posts in conjunction with a local student group interested in diversion. The City tracks the number of impressions, reach, shares, likes, interactions, and other metrics in order to gauge how and what additional information should be provided.

Additionally, the City provides education through community outreach events. For example, the City works cooperatively with its residential and commercial haulers, and consultants to conduct outreach at community association events, community waste diversion events, and departmental open houses. Finally, City staff also participates in annual local news media interviews.

F5 “Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.”

RESPONSE:

The City of Newport Beach disagrees wholly with the finding. The City evaluates the effectiveness of its outreach methods. As indicated above, social media post data is aggregated to identify the number of viewers. Community event participant data is collected to identify where better to improve service and outreach. The City also issues surveys to gauge effectiveness, tracks the number of “knock and talks” (door to door visits with residents) that are conducted, and distributes organic kitchen pails.

Between January 2022 and the end of May 2024, 8,208 kitchen pails for organics recycling were distributed, and 4,009 “knock and talks” were completed. Finally, the City tracks the number of event participants by zip code to best review trends and shortfalls.

Through monthly tracking and reporting, the City and its residential hauler have been able to identify residential diversion progress over time. The source-separated organic tonnage collected in 2022 averaged 296.88 tons. In 2024 (January to May) 518.54 tons has been collected. Source-separated recycling has maintained a 65% diversion rate.

F6 “There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.”

RESPONSE:

The City of Newport Beach agrees with the finding.

F7 “There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.”

RESPONSE:

The City of Newport Beach agrees with the finding.

F8 “The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.”

RESPONSE:

The City of Newport Beach agrees with the finding.

F9 “Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.”

RESPONSE:

The City partially disagrees with this finding as it cannot confirm that many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. In Newport Beach, the City’s residential three-container system was implemented in January 2022.

In 2023, the City’s residential organic diversion rate was 90.6%, and as of the end of June 2024, its residential diversion rate was approximately 91%.

F10 “The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.”

RESPONSE:

The City wholly agrees that the current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by other jurisdictions.

RECOMMENDATIONS

R1 “All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.”

RESPONSE:

The City of Newport Beach has implemented this recommendation. In January 2022, the City implemented a three-container system for residential customers that aligns with CalRecycle’s standardized colors, labels and appropriate lids as required by 14 CCR Section 18984 *et seq.* If non-compliant containers are identified, they are removed and replaced with compliant containers.

R2 “By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.”

RESPONSE:

The City has implemented this recommendation. The City’s commercial waste franchise agreement requires franchise haulers to account for requirements associated with higher diversion percentages and enhanced or expanded

diversion programs. Commercial waste haulers are tasked with implementing all State mandates, however, the City maintains responsibility for overall enforcement and compliance. Commercial waste haulers do not collect fines on behalf of the City.

R3 “The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.”

RESPONSE:

The recommendation will not be implemented because it is not warranted or is not reasonable. All fines collected by the City are appropriately accounted for under existing laws and governmental accounting standards.

R4 “By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.”

RESPONSE:

The City has implemented this recommendation. The City actively informs and educates residents through various formats and outreach including, but not limited to, social media posts, newsletters, a page dedicated to trash and recycling on the City’s website, video, City Council meeting announcements, community outreach events, and local news media interviews conducted approximately once per year.

R5 “By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.”

RESPONSE:

The City has implemented this recommendation. The City works with its residential waste hauler to conduct outreach at City events and to conduct door-to-door “knock and talks” to directly connect with residents. “Knock and talks” facilitate conversation about source separation and gain feedback on the City’s outreach efforts. Residents are offered a complimentary kitchen pail. The effectiveness of the City’s education and outreach is demonstrated through increasing diversion rates. In 2022, the City recognized a monthly organic collection average of 297 tons, while in 2023, that number rose to 458.5 tons, and in 2024, the monthly collection average is 518.5 tons.

R6 “By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as

procurement requirements associated with SB 1383, working towards creating circular economy as a long- term goal.”

RESPONSE:

The City has implemented this recommendation. The City actively participates in OCW&R-led recycling coordinator meetings to provide jurisdictional insight in support of a coordinated, county-wide approach to organics recycling infrastructure and programs, as well as procurement requirements associated with SB 1383. The City currently procures compost and mulch from OCW&R facilities and is awaiting issuance of OCW&R's Waste Infrastructure and Systems Enhancement Agreement (WISE) between the County and each jurisdiction.

R7 “By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.”

RESPONSE:

The recommendation will not be implemented because it is not warranted or is not reasonable. The City actively supports and/or opposes State legislation in accordance with the City Council's legislative platform.

The City appreciates this opportunity to respond to the findings and recommendations contained in the Orange County Grand Jury's report, "Talking Trash: Recyclables and Organic Waste." Should you have any further questions or need additional information, please contact the City at (949) 644-3311.

Sincerely,



Will O'Neill
Mayor