

To: AB939 Committee
From: Ernie Carpenter
Re: County Landfill Divestiture

The way solid waste is handled in Sonoma County is critically important to reducing greenhouse gas emissions. Why? Because landfills are responsible for large amounts of CO₂ and methane - both directly and from the replacement of materials that are not recycled. Below is the story of how the County Administrator's Office has handled the Central Landfill, an obviously key component of solid waste management for all the cities and citizens in the County.

The State's Regional Water Quality Control Board, due to concern about a potentially leaking liner, issued Waste Discharge requirements in 2004 that limited the amount of waste that could come to the Central Landfill. The Board was concerned that the landfill was leaking toxic materials into the groundwater. As a result, the County entered into a Stipulated Notice and Order with the State, setting a date for closure of the landfill. The County failed to meet the deadline.

In 2005, the County began a process designed to sell the landfill operation to a private garbage company. The CAO's strategy was to get a large sum of cash while unloading responsibility for operating the landfill. Since the value of a landfill depends mostly on how much garbage can be buried there and, since the Central Landfill is closed, the County made a number of assumptions. Mainly it assumed that the buyer would be able to convince the State to allow the dump to be reopened and thereafter be permitted to bury millions of tons of solid waste there. To realize the large sales price it was seeking, the CAO was prepared to insure the availability of those millions of tons of solid waste.

Why would the County Administrator believe that a private garbage company would do what the County could not do – fix the landfill, get the RWQCB to agree to a new license and insure enough garbage for the facility to make a profit? And why would the County assume a buyer would spend tens of millions of dollars for the privilege?

Let's take a look at how the CAO has been conducting the process.

First, in seeking buyers for the landfill, the Administrator required that any bidder responding to the Request for Qualifications (RFQs) and Request for Proposals (RFPs) first sign a confidentiality agreement promising not to discuss the bid or the process with anyone.

Next the CAO went to all of the cities in the County and required them to sign a similar agreement.

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The CAO then took the position that County Supervisors could not discuss the “Landfill Divestiture” process with any of the applicants/bidders, nor should they meet with members of the public to discuss the RFQ/RFP process for Landfill Divestiture.

Meanwhile, all of the CAO’s formal discussions of the divestiture process with the Supervisors (briefings, strategy, etc.) are being held in closed session. To avoid claims of a Brown Act violation, the CAO asserted that divestiture of the County’s solid waste operation is strictly a real estate transaction. At best, a claim that the County’s largest single business operation is merely a parcel of real estate stretches credibility. In fact, the conduct of the process appears to be a flagrant Brown Act violation.

In case any of the cities felt uncomfortable with this secret process, the County threatened to sue them for a share of the cost of cleaning up the dump. To put teeth in the threat, the CAO told them those costs would total \$80 million to \$100 million. Needless to say, the cities felt duly threatened. However, it is worth noting that, when Petaluma asked independent counsel to advise them on the County’s legal position, the City was told it had no liability for landfill closure costs. (see attached letter).

Key Environmental Issue

This divestiture process is obviously contrary to open local government. However, there is more to the story. In fact, the CAO’s actions are equally contrary to (i) the public’s desire for maximum recycling; (ii) the scientific imperative for greenhouse gas reduction; (iii) the fundamental environmental ethic of our citizens and our cities, and (iv) the goals and requirements of AB 32.

To maximize the cash to the County from the sale of the landfill, the CAO must insure that the buyer will have continuing rights to receive millions of tons of garbage in order to amortize the purchase price. To accomplish that, the County is continuing to try to force the cities to commit the “flow” of their garbage to the landfill for burial. Of course, the cities and the citizens strongly prefer to recycle their solid waste rather than bury it.

While the County was pressuring the cities to commit to burying their garbage, the cities’ solid waste hauler, North Bay Corporation, was committing its resources to creating a Material Recovery Facility (MRF). This state-of-the-art project is capable of recycling 90% of all solid waste. Since maximum recycling would dramatically reduce the cash value of the landfill, the CAO pressured North Bay to drop its project and cease seeking permit approvals for the MRF. The CAO went so far as to tell North Bay that the County would extend its hauling contract if the company agreed to drop the MRF. When North Bay refused, the County threatened them, saying directly, in the presence of witnesses, that if North Bay didn’t agree to the “deal” they would never get another hauling contract with the County.

One truly has to wonder what is going on with the CAO's office, when it uses heavy handed pressure tactics and threats in attempts to get the cities and their solid waste hauler to take actions diametrically opposed to both environmental responsibility and the public interest.

A MRF is an essential component of any plan to reach the cities' stated goal of bringing CO₂ emissions down to 25% below 1990 levels by 2015. A MRF is also essential if the cities are to meet the requirements of AB 32 and reduce CO₂ emissions to 1990 levels by 2020. The time for mass dumping of solid waste into landfills is past.

Key Money Issue

Unfortunately, the story gets even worse. Through use of the Freedom of Information Act, results came to light of a County study of the closure cost for the Central Landfill. The GeoSyntech report, dated July 29, 2008, estimates closing costs at \$21,102,830. Of the projected closure costs, the County already has \$9,720,900 in its Closure Fund. The real unfunded cost to close the landfill is less than \$11,400,000. This is a far cry from the \$80 million to \$100 million figure that the County used to strong-arm the cities. Given these numbers, and the fact that the actual closing costs can be easily recovered through disposal fee revenue, what is the CAO's real agenda for Landfill Divestiture?

Conclusion

The "secret" process of trying to sell the County's Central Landfill has been ill conceived and grossly mismanaged. More importantly, the fundamental outcome of divestiture – namely, committing all of the cities to bury as much garbage as possible over the coming decades – is irresponsible. A short-term cash gain to the County would prove to be a greenhouse gas disaster. It's a well-accepted fact that maximum recycling is vastly superior to burying garbage. It is time for the new Board of Supervisors to change the County's course on this critical issue.