



Agenda Item 23

DATE: February 24, 2015

TO: Board of Supervisors

FROM: Alan Weaver, Director
Department of Public Works and Planning

SUBJECT: Solid Waste Management Programs Workshop 1 of 3

RECOMMENDED ACTION:

Receive and discuss information regarding Fresno County Solid Waste Management Programs.

This presentation is the first of three workshops, intended to provide an overview of the County's Solid Waste Management Programs. Today's presentation will provide the background and history of the County's regional and local solid waste programs selected to meet requirements established by the California Integrated Waste Management Act of 1989 (AB 939). The second workshop is scheduled for March 10, 2015 and it will address the implementation of the County's Exclusive Service Area Program (ESAP) and its status. The third workshop is scheduled for March 24, 2015 and will detail and examine alternatives and options available for the management of future solid waste programs and related agreements; this will require Board of Supervisors direction on how to proceed with new or extended collection contracts.

ALTERNATIVE ACTION(s):

Staff has not identified any viable alternatives.

FISCAL IMPACT:

There is no net County cost associated with the recommended action. The costs associated with this agenda item are funded by the AB 939 Solid Waste Surcharge (\$.50 per ton at the American Avenue Disposal Site). The Surcharge consists of that portion of the County Solid Waste Management Fee (Subsection 2806) of the Master Schedule of Fees that fund AB 939-related program administration.

ADMINISTRATIVE OFFICE REVIEW _____

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Deputy

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DISCUSSION:

AB 939 became effective January 1, 1990, and required counties and cities to initiate the Integrated Solid Waste Plan (Plan) process. The Plan included a Source Reduction and Recycling Element (SRRE), a Household Hazardous Waste Element (HHWE), and a Nondisposal Facility Element (NDFE), as well as the preparation, adoption (by resolution) and submittal of a solid waste generation study, County Siting Element and the County Integrated Summary Plan. Failure to comply with the planning, implementation, or waste reduction requirements of AB 939 would subject a city or county to penalties of up to \$10,000 per day. The law stipulated planning, implementation and reporting requirements regarding the achievement of the established diversion goal to reduce the amount of solid waste landfilled by 25% by 1995 and 50% by the year 2000.

During the 1990s, the Board of Supervisors (Board) considered a number of programs that would assist the County in attaining the solid waste diversion requirements. Programs considered by the Board included: (1) the implementation of a residential green waste curbside collection program for the unincorporated urban areas within the Fresno-Clovis Metropolitan Area (FCMA), (2) the implementation of a green waste collection project and mobile sorting line at the American Avenue Disposal Site and the development of rural drop-off recycling centers, (3) the issuance of a Request for Proposal (RFP) for a Materials Recovery Facility at the American Avenue Disposal Site, (4) an amendment of the County Ordinance Code to require solid waste collection in specified areas of the County and a semi-annual clean-up project, and (5) an amendment to the County Ordinance Code requiring solid waste collection, recycling services, hauler collection of recyclables, hauler indemnification for non-compliance, and a ban on the disposal of recyclable materials in County disposal sites.

In June 2001, the Board authorized Department of Public Works and Planning staff (Staff) to apply for a time extension of the 50% diversion requirement. In August 2001 the County submitted its Annual Report to the California Integrated Waste Management Board (CIWMB) for calendar year 2000 indicating the County's diversion rate was at 31 percent. On August 13, 2002, the CIWMB considered the County's time extension application and determined that the County had not made a good faith effort to implement the programs identified in its AB 939 solid waste management planning documents. On August 28, 2002 the CIWMB sent a letter to Chairman of the Board summarizing its intention to issue a Compliance Order (CO) due to the County not having met the good faith efforts to implement AB 939 programs to adequately implement the diversion programs selected in the Source Reduction & recycling element and Household Hazardous Waste Element in accordance with PRC Section 41825.

The CIWMB approved the CO during its October 15, 2002, meeting. This action resulted in the initiation of the formal CO process and included the following conditions and implementation schedule:

- The County would work with CIWMB staff to determine gaps in program areas and make recommendations in improving, expanding, or implementing new solid waste diversion programs.
- CIWMB staff would conduct a needs assessment meeting with County staff and outline the scope of the State-prepared Local Assistance Plan (LAP).
- The County would agree with the terms and conditions of the LAP by December 31, 2002.

In accordance with the formal CO process the County was placed under a schedule to implement programs identified in its SRRE. Staff met with CIWMB staff on December 4, 2002 and discussed the CO process. The CO process resulted in the joint preparation of a LAP, approved by your Board on March 11, 2003. The LAP listed 17 programs (Exhibit A) with attendant timelines that the County had to complete during the CO process. During 2003 and 2004, County staff met with CIWMB staff to evaluate the County's efforts to complete the LAP diversion program tasks and address the option to extend the term of the CO.

CIWMB staff estimated that the County would have two years to comply with the 17 LAP program-conditions. The CO required the CIWMB to hold a public hearing following the term of the CO schedule to determine whether the County had complied with all of the conditions of the CO. The County was required to demonstrate a good faith effort toward meeting all CO conditions and failure at any time would have resulted in the CIWMB holding a public hearing and possibly levying fines of up to \$10,000 a day.

The Board-approved LAP identified three options for the County to divert residential and commercial solid waste. These included the establishment of permit/franchise areas, the institution of a curbside recycling program, and the implementation of minimum recycling standards. The County could select and/or combine options from these three programs. The Board authorized Staff to issue a RFP to retain the services of a consultant to evaluate the establishment of permit/franchise areas and implementation of a Construction and Demolition (C&D) debris diversion program.

Between April and October 2003, Staff met with various representatives of the 15 cities to discuss the successor Memorandum of Understanding (MOU) between the County and the 15 cities. The MOU is a required LAP program, and the focus of these meetings was to delineate local and regional AB 939 diversion program responsibilities.

Additionally, Staff sent letters to various haulers and provided copies of the Board Briefing Reports (BBR's) addressing the CO and the 17 LAP planning activities, and provided the Board-approved five-year notice to 41 permitted haulers in the County. Staff also provided various documents to Fresno-Clovis Metropolitan Area (FCMA) homeowners' associations and interested citizens, addressing the CO and LAP programs. Consistent with the requirements of the LAP, Staff conducted a C&D debris program informational meeting with haulers, representatives of the building industry, and representatives of the 15 cities to address collection, recycling and diversion of construction and demolition debris. During 2004 staff presented an agenda item recommending the approval of an ordinance to ban C&D debris from the American Avenue and Coalinga Landfills.

The AB 939 consultant, Brown, Vence & Associates (BVA), completed the permit/franchise project report (included in a BBR released to the Board on October 16, 2003). The project report identified that of the 41 permitted haulers for unincorporated County areas, 14 permitted haulers provided regular solid waste collection services, and identified and evaluated two scenarios to divert residential and commercial solid waste in the unincorporated areas of the County. The remaining 27 haulers were either small, private operations or mom-and-pop haulers providing infrequent or on-call services only. Scenario 1 entailed the establishment of exclusive service areas in the FCMA and the implementation of permit requirements in non-exclusive rural areas outside the FCMA. In the latter, competitive permittees would have been required to provide recycling services to both its residential and commercial customers, with a minimum once-per-week pickup of a 90-gallon, single stream recyclables cart. Scenario 2 involved the establishment of countywide exclusive service areas according to the haulers' current service levels and areas of operation.

BVA recommended that the County pursue Scenario 1, based primarily on hauler survey information received, which indicated that not all haulers would agree on the proposed division of the County into exclusive service areas. In the October 16, 2003 BBR, Staff indicated that it concurred with BVA's recommendation.

On October 31, 2003, Staff met with representatives of eight major and mid-size hauling companies, and discussed its plan to recommend to the Board that the County pursue Scenario 1. At that meeting, eight hauler representatives reached a consensus that they would support Scenario 2 over Scenario 1. Haulers who participated in staff discussions indicated that achieving an even distribution of customer bases would involve negotiating haulers' boundaries (especially those areas overlapping and extended into rural and mountainous regions), consideration of customer familiarity with established haulers, and consideration of business costs in providing services to diverse customer bases. Based on the haulers' rationale, Staff indicated that it would recommend Scenario 2 to the Board; however, this recommendation was subject to the haulers committing to a deadline to reach agreement on the proposed division of the County into exclusive service areas and associated rate schedules.

On November 25, 2003, the Board of Supervisors directed Staff to initiate procedures to establish countywide exclusive service areas for the collection of residential and commercial solid waste in the unincorporated areas of the County (Scenario 2). Staff and countywide haulers met on December 11, 2003, January 8, 22, 28, 2004, and February 6 and 17, 2004, to delineate proposed exclusive service area boundaries and to provide the County's consultant with residential and commercial account information for specified areas throughout the County.

The County Ordinance Code was amended to incorporate the listing of service areas, the requirement to source separate green waste and recyclable materials, the required payment by the haulers' of the service fee, and the implementation of enforcement provisions.

The Board was required to take action on the design/implementation of residential and commercial waste collection, by June 30, 2004. On March 2, 2004, the Board approved preliminary, countywide exclusive service area boundaries and directed staff to issue a non-competitive RFP. Proposed final boundaries for 14 exclusive service areas were identified. According to Board direction, 14 haulers would collect materials in order to divert residential and commercial solid waste in these service areas. An RFP, issued on April 7, 2004, was non-competitive and interested haulers submitted applications, including implementation plans and proposed rates.

The haulers proposed that Urban, Rural with Green Waste, Rural without Green Waste, and Mountain service areas be established, and commensurate cart and bin rates be charged in these areas. The proposed rates were maximum rates, and haulers were allowed to offer lower rates for required services. The materials that were to be collected in each of the four service areas included: (1) Urban—general refuse, commingled recyclables, and green waste, (2) Rural with Green Waste—general refuse, commingled recyclables, and green waste, (3) Rural without Green Waste—general refuse and commingled recyclables, and (4) Mountain—general refuse and commingled recyclables. Due to unique geographical and environmental conditions in the eastern portion of the Mountain service area, the collection of commingled recyclables was not feasible in all areas. Certain areas were conducive to the collection of commingled recyclables (i.e., within the unincorporated communities of Shaver Lake and Huntington Lake) and would be provided with these services. These areas were further defined in the effected haulers' service agreements. The provision of special services in the Mountain service area was proposed and the delineated services included long drives, opening locked gates and bins, travel in designated wilderness

areas, and seasonal, winter rates. These special services were included for each of the affected haulers' service agreements.

Customers were allowed to determine the size of their service container, based on a flat, predetermined rate, and were to be provided a consistent weekly pickup service on a set weekday; some allowances were afforded for Mountain service area haulers. Prices for different cart and bin container sizes were tiered.

A committee (Committee) consisting of staff from the Department of Public Works and Planning, BVA, Community Health, the Auditor-Controller's Office, and the Purchasing Division, met on June 11, 2004 and considered the haulers' implementation plans and rates. The Committee reached a consensus that the haulers' implementation plans were adequate and that lowest rates, per service type and service area, are used to formulate rates. The Committee also reached a consensus to allow one Mountain service area hauler, Sequoia Disposal, to continue to conduct its seasonal business based on current operational parameters.

On June 16, 2004 Staff and BVA met with the haulers and discussed the Committee's lowest-cost-to-customer approach for setting cart and bin rates, wherein a set, predetermined low-cost rate would be imposed for each service area. The haulers stated that they could not support this recommendation because it would not be equitable, would not reflect accurate operational circumstances for each of the service areas, and, consequently, not provide an adequate profit margin. The haulers recommended that an average of the haulers' rates, for each service type and service area, be used to formulate new rates. Follow-up meetings with the haulers were conducted on June 18 and 22, 2004, at which time staff agreed to provide the haulers' proposed average-cost cart and bin rates to the Board. The proposed rates were maximum rates and the haulers would have the option to offer lower rates for required services.

The haulers also agreed upon a set of customer rates, for one-to-two biannual community clean-up events, with three service options: curbside pick-up, on-call pick-up, or drop off. It was proposed that customers, per event, would be limited to a maximum of two cubic yards of material per event, and one bulky item containing Freon. In the Rural without Green Waste service area, the haulers proposed a rate for bulky items without Freon; it was also proposed that community clean-up services be provided to cart customers only, since bin customers already have a convenient large-item disposal option. It was proposed that Mountain service area haulers would provide community clean-up event services on an on-call basis, due to the significant increase in costs for providing these services in this area. Based on Board direction, the community clean-up event rates would be added to a customer's monthly service bill.

On July 27, 2004, the Board adopted findings, by resolution, stating that the establishment of exclusive service areas was necessary to protect public health, safety, and welfare of County residents, and approved final exclusive service area boundaries, maximum bin rates and the establishment of community clean up events. On December 7, 2004, the Board approved community clean-up event rates for three service rate areas, but directed Staff to negotiate with the three affected haulers regarding the collection of additional bulky items in the Urban service rate area.

On August 24, 2004 the Board approved the implementation of mandatory solid waste collection, and directed Staff to prepare opt-out and enforcement provisions (allowing property owners/customers to not subscribe to services providing that these parties complied with all

requisite reporting requirements). Opt-out customer criteria included: (1) vacant parcels with no existing, established and/or occupied land use, (2) single-family residential-, commercial- and/or industrial-zoned parcels/units which are not occupied, authorized for occupancy, and/or are not connected to water and electrical power and where water and electrical power cannot be provided to such premises without action by a public utility or mutual water company, provided that such exemption shall terminate upon occupancy of such parcels/units, (3) single-family residential parcels/units that are utilized on a vacation/seasonal basis (occupied no more than three consecutive months and whose occupants do not receive solid waste collection), and (4) single-family residential-zoned parcels/units which the owner/occupant self-hauls the solid waste generated from the site to a permitted solid waste landfill, with the requirement that the party submit documents to the County on a quarterly basis, substantiating self-hauling activities.

A proposed ordinance was drafted to assist in enforcement and monitoring of residents who chose to act on mandatory solid waste opt-out provisions and/or self-haul their own waste. On November 8, 2005, the Board directed staff to table the proposed mandatory collection ordinance for at least one year. On June 21, 2011, Staff returned to the Board with a request to either proceed with implementation of the mandatory services ordinance as previously outlined, or with an amended version limiting a mandatory services ordinance to high density areas (urban and rural with green waste); the Board directed Staff to table the item.

On August 30, 2005, the Board approved and amended the Fresno County Ordinance Code by adding Chapter 8.21 to Title 8 (Health and Safety) regarding the establishment and implementation of the ESAP and community clean-up events. The community clean-up/bulk items are currently funded through the American Avenue Disposal Site tip fee refund trust account and will continue until all funds have been exhausted. The current balance in the refund trust is approximately \$710,000. On this date the Board also approved and authorized the Chairman to enter into and execute agreements with the County and the 14 haulers, for the provision of ESAP services (Exhibit B; Service Area Map).

The CIWMB lifted the CO in March 2005 indicating the County had met the spirit of the LAP, however the CIWMB continues to monitor to ensure compliance and implementation of programs identified in the County's LAP. The County submits on an annual basis quantifiable data that addresses the success of the LAP.

A second workshop, scheduled for March 10, 2015, will address successes, challenges, and issues identified during the implementation of the County's exclusive service area. Planning for the management of solid waste has become extremely challenging because of environmental/regulatory requirements, unpredictable and rapid changes in technology, energy costs, capital costs, and the public's opposition in locating landfills, transfer stations and other solid waste management facilities near any place of habitation. For these reasons, the planning of future countywide (regional and local) solid waste programs will require timely review and some difficult decisions by your Board. We hope the information provided and discussions during the workshops will assist the Board in developing a better understanding of the history leading to the current solid waste programs.

Both ESAP hauler representatives and CalRecycle staff personnel were notified of this agenda item and may be present to answer questions during the public hearing.

Local Assistance Plan

Unincorporated Fresno County 's Coordination Work Plan		
Program and Tasks	Agency Responsible	Funding Source
1). Self-hauler Recycling and Disposal Facility at the American Avenue Disposal Site	County	AA
2). Self-hauler Recycling at the Coalinga Disposal Site	County	Coalinga/AA
3). Greenwaste Separation at the American Avenue Disposal Site*	County	AA
4). American Avenue Disposal Site Reporting of Tonnage*	County	\$.50/AA
5). Ordinance for Curbside Collection of Residential Greenwaste and Recyclable Materials*	County	Not selected
6). Franchise/Permit Areas	County	1%; no other funding identified. \$0.50
7). Minimum Recycling Standards	County	Not selected
8). Implement Construction and Demolition (C&D) Debris Ordinance	County	\$0.50
9). Education/Outreach	County	1%, \$0.65, & \$0.50
10). Implement School Waste Diversion and Education	County	\$0.50 / \$0.65
11). Business Waste Assessment Program	County	\$0.50
12). Memorandum of Understanding (MOU)	County	\$0.65
13). Special Waste	County	\$0.65
14). Financial Considerations	County	To Be Determined
15). Conduct Meetings With Various Stakeholders	County	
16). Submitting Various Reports and Providing Documentation	County	\$0.50, & AA
17). Review Status of Diversion Rate and Program Implementation	County	\$0.50

*The County will select/combine options listed in Programs 5, 6, and 7 when developing a residential and commercial diversion program for the unincorporated areas of the County. The LAP requires that, by June 30, 2004, the County Board of Supervisors shall have: (1) approved a diversion program based on the options listed in 5, 6, and/or 7, and/or (2) approved the establishment of minimum recycling standards for the unincorporated areas of the County.

Note:

The Local Assistance Plan was drafted between January 2003 and December 31, 2004.

Fresno County

AB 939 Compliance Order:
Program to Divert Residential and
Commercial Solid Waste

