



November 13, 2014

TO: Waste Management Authority

FROM: Gary Wolff, Executive Director

SUBJECT: Emergency Authorization Related to the "15 Mile Rule"

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**BACKGROUND:**

I was informed last month by Supervisor Miley's staff that Waste Management of Alameda County (WMAC) has stated in writing that they will stop collecting solid waste from about 260 residences located in the "canyonlands" east of Castro Valley effective January 1, 2015. WMAC collects from those residences on an 'open market' basis; that is, they provide service for a fee if a customer is willing to pay that fee. The decision to stop collection in that area was reportedly made after many customers objected to a significant fee increase by WMAC.

When I was informed of this situation, concern was expressed that the "15 mile rule" in our County Integrated Waste Management Plan (CoIWMP) might prevent other service providers from collecting solid waste from those residences, potentially leading to illegal dumping, backyard burning, or other environmentally harmful activities. Since the purpose of the 15 mile rule (described below) is to help implement Objective 4.5 of the CoIWMP ("To mitigate the environmental impacts of existing and new landfills to the maximum practical extent"), I was asked if an amendment or waiver of the rule would be appropriate or feasible.

The 15 mile rule is 'shorthand' for Policy 4.5.2 of the CoIWMP, which reads: "Except under emergency conditions as determined by the Authority, solid waste that is collected by municipal or franchised collectors and hauled more than 15 miles from the point of collection to the landfill, must be transported in vehicles carrying a minimum payload of 14 tons." The policy includes an exemption when "in the reasonable discretion of the Authority, waste is transported in clean air/clean fuels vehicles ..." The policy does not apply to self-hauled solid waste (e.g., a resident who transports their own solid waste to a transfer station, landfill, or other legal disposal location). Most residents of the canyonlands, however, reportedly do NOT self-haul their solid waste at present.

I was subsequently informed that WMAC might continue to provide service until March 31, 2015, but that a written commitment to that effect has not yet been obtained. The Castro Valley Municipal Advisory Committee (MAC) is meeting to discuss this topic with the affected community on November 17th. In the interim, after discussion with the Authority's general counsel, I offered to prepare a resolution for the Authority Board to consider delegating some powers to me in the short-term, such that I could act as necessary to prevent Policy 4.5.2 from contributing to, rather than mitigating, environmental impacts.

In the longer-term, the County and CVSan (the Castro Valley Sanitary District) are cooperating to perhaps annex the 'canyonlands' into CVSan, so that solid waste service could be provided in a more efficient and orderly manner. Three memos on this topic (two from CVSan, and one from the County) are available at: <http://www.stopwaste.org/sites/default/files/canyons%20solid%20waste%20CVMACstaffreport%2011-17->

[14\\_0.pdf, http://www.stopwaste.org/sites/default/files/CVSDFinalv2CanyonlandsAnnexNegDec-IS090720.pdf](http://www.stopwaste.org/sites/default/files/CVSDFinalv2CanyonlandsAnnexNegDec-IS090720.pdf), and [http://www.stopwaste.org/sites/default/files/Memo%20to%20GM%20Survey%20Results\\_2014-11-05\\_0.pdf](http://www.stopwaste.org/sites/default/files/Memo%20to%20GM%20Survey%20Results_2014-11-05_0.pdf).

**DISCUSSION:**

Policy 4.5.2 clearly anticipated that it might need to be suspended under emergency conditions, and gave the Authority broad power to define those conditions. Given that decisions may need to be made during the holidays, or between regularly scheduled Board meetings early next year, it seems prudent to define emergency conditions in this situation, and to authorize action by the Executive Director should those conditions occur.

Lack of availability of solid waste collection service often leads to illegal dumping or other environmentally harmful activities, and in fact some of the residents of the area have said in writing in response to a survey about annexation conducted by CVSan that they will or may engage in one or more of those activities if solid waste collection service is not available to them. Lack of availability of solid waste collection service in the canyonlands, should it occur, would be an emergency condition, in the opinion of staff.

Of course WMAC might decide to continue to provide service, or another company might offer to provide service consistent with Policy 4.5.2. But in the event that another company is willing to provide solid waste collection service at acceptable prices but with direct haul to a landfill more than 15 miles from the average point of collection, and they do not have clean air collection vehicles available, the Policy could dissuade that company from actually providing solid waste collection service, which in turn would likely lead to the environmental harms described above.

Consequently, staff proposes that the Board authorize the Executive Director to make a finding of conformance with ColWMP Policy 4.5.2. temporarily (that is, during the emergency) should doing so be necessary to ensure availability of commercial solid waste collection service in the canyonlands. Some reasonable conditions for a temporary finding of conformance could include:

- Any conditions in a finding of conformance be agreed to in writing by the company or companies to which it applies.
- Service will be provided in accordance with all applicable federal, state, and local laws and regulations. For example, state vehicle registration and safety and sanitation laws and regulations apply to hauling vehicles over a certain size, and to their owners and operators.
- Any company proposing to provide service without clean air vehicles must demonstrate to the satisfaction of the Executive Director that using such vehicles is not feasible in the immediate, short-term time frame. (Since 'clean air vehicle' is not defined in the Policy, but is subject to the reasonable discretion of the Authority, staff also suggests that Board authorize the Executive Director to temporarily (that is, during the emergency) define clean air vehicle.)
- Any temporary finding of conformance granted by the Executive Director shall extend no later than December 31, 2016. It seems possible to craft a long-term solution in that time frame, based on discussions with County and CVSan staff, and if not, staff believes that the Authority Board and public should be engaged in any further decision-making with respect to Policy 4.5.2.

There may be other conditions the Authority Board thinks are appropriate to impose. A Resolution defining an emergency condition in the canyonlands for the purpose of Policy 4.5.2 is attached. The Resolution also

authorizes the Executive Director to temporarily define clean air vehicles and to make temporary findings of conformance with Policy 4.5.2, subject to the four conditions listed above.

It is also possible that Policy 4.5.2 is not restrictive with respect to solid waste collection in the canyonlands. Staff has just received a list of residential addresses within the canyonlands area. We will evaluate those addresses to see if the average point of collection is in fact more than 15 miles from one or both of the two closest landfills (Vasco Road, owned by Republic; and Altamont, owned by WMAC). It is possible that direct haul from the canyonlands to one or both of those landfills would not violate the policy. No one has yet done a thorough, detailed calculation of the haul distance involved. If the haul distance seems to be 15 miles or less, staff will bring our calculation to the Board (and public) for review, and provide the Board an opportunity to revoke the Resolution attached.

**RECOMMENDATION:**

Adopt the Resolution attached.

**WASTE MANAGEMENT AUTHORITY  
RESOLUTION #WMA 2014 –**

**MOVED:  
SECONDED:**

**AT THE MEETING HELD NOVEMBER 19, 2014**

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO TEMPORARILY DEFINE CLEAN AIR VEHICLES  
AND MAKE TEMPORARY FINDINGS OF CONFORMANCE WITH COUNTY INTEGRATED WASTE  
MANAGEMENT PLAN (COIWMP) POLICY 4.5.2.**

**WHEREAS**, residences within the 'canyonlands' area of unincorporated Alameda County, located east of the Castro Valley Sanitary District, could possibly have no or limited availability of solid waste collection service as soon as January 1, 2015, and

**WHEREAS**, lack of availability of solid waste collection service often leads to illegal dumping or other environmentally harmful activities, and in fact some of the residents of the area have said in writing in response to a survey about annexation conducted by CVSan that they will or may engage in one or more of those activities if solid waste collection service is not available to them; and

**WHEREAS**, Policy 4.5.2 of the CoIWMP reads: "Except under emergency conditions as determined by the Authority, solid waste that is collected by municipal or franchised collectors and hauled more than 15 miles from the point of collection to the landfill, must be transported in vehicles carrying a minimum payload of 14 tons." The policy includes an exemption when "in the reasonable discretion of the Authority, waste is transported in clean air/clean fuels vehicles ..."; and

**WHEREAS**, in the event that a solid waste collection company is willing to provide solid waste collection service at acceptable prices in the canyonlands area but with direct haul to a landfill more than 15 miles from the average point of collection, and they do not have clean air collection vehicles available, Policy 4.5.2. could dissuade that company from actually providing solid waste collection service, which in turn would likely lead to the environmental harms described above; and

**WHEREAS**, the County of Alameda and the Castro Valley Sanitary District (CVSan) and others are working diligently to obtain solid waste collection service in the canyonlands; and

**WHEREAS**, finding that solid waste collection service is not available to residents in the canyonlands constitutes an emergency condition under Policy 4.5.2, and authorizing the Executive Director to take the actions listed below would mitigate adverse environmental impacts of the emergency situation;

**NOW THEREFORE, BE IT RESOLVED**, that the Authority hereby finds that lack of availability of solid waste collection service in the Canyonlands would constitute an emergency condition under Policy 4.5.2, and authorizes the Executive Director to:

1. Make temporary findings of conformance with Policy 4.5.2. should doing so be necessary to ensure availability of solid waste collection service in the Canyonlands. Such findings, however, shall include the following conditions:

- The temporary finding of conformance is not valid unless accepted in writing by the company or companies to which it applies, and
  - The company or companies receiving the temporary finding of conformance agree to provide solid waste collection service in accordance with all applicable federal, state, and local laws and regulations, and
  - Any company or companies proposing to provide service without clean air vehicles must demonstrate to the satisfaction of the Executive Director that using such vehicles is not feasible during the time period covered by the temporary finding of conformance, and
  - Any temporary finding of conformance granted by the Executive Director shall extend no later than December 31, 2016.
2. Define clean air vehicles if necessary to make a temporary finding of conformance with Policy 4.5.2., but for no longer than the duration of the temporary finding of conformance.

**ADOPTED BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAINED:

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Gary Wolff, PE, PhD  
Executive Director