

WMA Board and Energy Council (EC) Members

Don Biddle, **WMA President**
Dublin, WMA
Jennifer West, **WMA 1st Vice President**
Emeryville, WMA, EC
Pauline Cutter, **WMA & EC 2nd Vice President**
San Leandro, WMA, EC
Lena Tam, **EC President**
Alameda, WMA, EC
Barbara Halliday, **EC 1st Vice President**
Hayward, WMA, EC
Keith Carson, Alameda County, WMA, EC
Gordon Wozniak, Berkeley, WMA, EC
Peter Maass, Albany, WMA, EC
Dave Sadoff, Castro Valley Sanitary District, WMA
Anu Natarajan, Fremont, WMA, EC
Laureen Turner, Livermore, WMA
Luis Freitas, Newark, WMA, EC
Dan Kalb, Oakland, WMA, EC
Laython Landis, Oro Loma Sanitary District, WMA
Tim Rood, Piedmont, WMA, EC
Jerry Pentin, Pleasanton, WMA
Lorin Ellis, Union City, WMA, EC

AGENDA

**MEETING OF THE ALAMEDA COUNTY
WASTE MANAGEMENT AUTHORITY (WMA)
BOARD
AND
THE ENERGY COUNCIL (EC)**

**Wednesday, May 28, 2014
3:00 P.M.**

**StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500**

Meeting is wheelchair accessible. Sign language interpreter may be available upon five (5) days notice by calling 510-891-6500. Members of the public wanting to add an item to a future agenda may contact 510-891-6500.

I. CALL TO ORDER (WMA & EC)

II. ROLL CALL (WMA & EC)

III. ANNOUNCEMENTS BY THE PRESIDENTS (*Members are asked to please advise the board or the council if you might need to leave before action items are completed*)

Page **IV. CONSENT CALENDAR (WMA & EC)**

- | | | |
|----|--|--------------------|
| 1 | 1. Approval of the Draft Joint Minutes of April 23, 2014 (WMA & EC-Separate Votes) (Gary Wolff) | Action |
| 7 | 2. Minutes of the April 25, 2014 & May 20, 2014 Technical Advisory Group (EC only) (Gary Wolff) | Information |
| 11 | 3. Grants Under \$50,000 (WMA only) | Information |

V. OPEN PUBLIC DISCUSSION (WMA & EC)

An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the board or council, but not listed on the agenda. Total time limit of 30 minutes with each speaker limited to three minutes.

VI. REGULAR CALENDAR (WMA & EC))

- | | | |
|----|--|---------------------------------------|
| 13 | 1. Household Hazardous Waste (HHW) Services and Fee Ordinance (WMA only) Gary Wolff)
Staff recommends that the Board approve Option 1, 2, or 3 as stated in the staff memo, depending on public comments and the discussion among Board members. | Action |
| 23 | 2. FY14-15 Budget Adoption (WMA only) (Gary Wolff & Pat Cabrera)
That the WMA Board hold a public hearing on the budget and then adopt the portion of the FY14-15 budget funded by the WMA Board, pursuant to the attached resolution (Attachment I) | Action/
Public
Hearing |

41	3. FY14-15 Budget Adoption (EC only only) (Gary Wolff & Pat Cabrera) Staff recommends that the EC hold a public hearing, and then adopt the attached resolution , which to maximize transparency readopts the entire EC budget for FY 14-15.	Action/ Public Hearing
49	4. Amendment to Wind Easement on ACWMA Property (WMA only (Gary Wolff & Brian Mathews)) Authorize the Executive Director to sign and implement the terms of the attached First Amendment to the Amended and Restated Easement Agreement (Attachment C). If the Board would like to consider further negotiations with NEER with respect to price and key terms related to price, it may use the optional closed session on the agenda to have this discussion and give direction to the Executive Director as its negotiator. Such direction can also take place in open session, but then NEER will be aware of the Board's directions.	Action
113	5. Draft Resolution on Recycling Worker Pay and Health Benefits That the WMA Board adopt the attached draft resolution.	Action
	6. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (WMA only) (P&O and Recycling Board meeting- StopWaste Offices - June 12, 2014 at 4:00 p.m.)	Action
	VII. COMMUNICATIONS/MEMBER COMMENTS (WMA & EC) CLOSED SESSION (WMA only) (if necessary): CONFERENCE WITH REAL PROPERTY NEGOTIATORS (pursuant to Government Code Section 54956.8) Property: APN #: 99A-1780-1-4 & 99A-1790-3, 99A-1770-2-2, 99A-1770-2-1, 99A-1770-4, 99A-1810-1 & 99A-1770-2-3, 99A-1820-2 Agency Negotiator: Gary Wolff, Agency Staff, Richard Taylor, Authority Counsel Negotiating Parties: NEXTera Energy Resources Under Negotiation: Price and terms of payment	Information
	VIII. ADJOURNMENT (WMA & EC)	

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**MINUTES OF THE REGULAR MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA) BOARD
AND
THE ENERGY COUNCIL (EC)**

Wednesday, April 23, 2014

Closed Session

2:30 p.m.

Regular Meeting

3:00 p.m.

StopWaste Offices

1537 Webster Street0+

Oakland, CA 94612

510-891-6500

CLOSED SESSION (WMA only)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Sections

54956.9(d) (2): (1potential case)

(confidential materials mailed separately)

There was nothing to report from Closed Session.

I. CALL TO ORDER

President Biddle, WMA, called to meeting to order at 3:08 p.m.

II. ROLL CALL

WMA & EC

City of Alameda

City of Albany

City of Berkeley

Castro Valley Sanitary District

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Newark

City of Oakland

Oro Loma Sanitary District

City of Piedmont

City of Pleasanton

City of San Leandro

City of Union City

City of Newark

Lena Tam (left 4:30 p.m.)

Peter Maass

Gordon Wozniak

Dave Sadoff

Don Biddle

Jennifer West

Anu Natarajan

Barbara Halliday

Laureen Turner

Luis Freitas (left 4:20 p.m.)

Dan Kalb

Laython Landis (left 4:10 p.m.)

Tim Rood

Jerry Pentin

Pauline Cutter

Lorrin Ellis

Luis Freitas

Absent:

County of Alameda

Keith Carson

RB

Daniel O'Donnell

Chris Kirschenheuter

Michael Peltz

Steve Sherman

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Absent:

Minna Tao

Staff Participating:

Gary Wolff, Executive Director

Jeff Becerra, Communications Manager

Richard Taylor, Counsel, Authority Board

Arliss Dunn, Clerk of the Board

Others Participating:

Bill Pollack, HHW Program Manager

III. ANNOUNCEMENTS BY THE PRESIDENTS

There were none.

IV. CONSENT CALENDAR (WMA & EC)

- | | |
|---|--------------------|
| 1. Approval of the Draft Minutes of March 26, 2014 (WMA & EC-Separate Votes) (Gary Wolff) | Action |
| 2. Approval of the Draft Minutes of February 13, 2014 (RB only) (Gary Wolff) | Action |
| 3. Minutes of the March 28, 2014 Technical Advisory Group (TAG) (EC only) (Gary Wolff) | Information |
| 4. Annual Audit for Fiscal year 2012/13 (WMA, RB & EC) (Gary Wolff & Pat Cabrera) | Action |
| Staff recommends that the WMA Board, the Recycling Board and the Energy Council review, accept and file the fiscal year 2012/13 audit report. | |
| 5. Recycling Board Attendance Record (Gary Wolff) (RB only) | Information |
| 6. Written Report of Ex Parte Communications (Gary Wolff) (RB only) | Information |
| 7. Grants Under \$50,000 (WMA only) (Gary Wolff) | Information |

Ms. Turner made the motion to approve the Consent Calendar for the WMA Board with the correction noted below. Mr. Wozniak seconded and the motion carried 17-0-1 (Carson absent) (Sadoff abstained).

Ms. Cutter made the motion to approve the Consent Calendar for the Energy Council. Ms. West seconded and the motion carried 16-0 (Carson absent).

Ms. Turner made the motion to approve the Consent Calendar for the Recycling Board. Mr. Wozniak seconded and the motion carried 9-0 (Tao absent).

Correction: Page 5, paragraph 3 of the minutes should state "the second mailing cost was approximately \$80,000 for postage only."

V. OPEN PUBLIC DISCUSSION (WMA & EC)

Ken Bukowski, former Emeryville Councilmember and WMA Board member stated that he was recording the Board meeting and he also records meetings of several regional Boards including ABAG and the MTC among others. The recordings are available on YouTube on 1bayarea.us.

David Tam, Former Recycling Board Member and former member of the committee that established Measure D. Mr. Tam commended staff and the Boards for their commitment towards the goal of zero waste. Mr. Tam referenced an article that he distributed regarding Michigan's 97% compliance rate on their bottle bill which is a \$.10 redemption rather than California's \$.05 redemption rate. The article includes prescriptions that could assist in improving other State's compliance rates.

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David Mix, Oakland resident, encouraged StopWaste to improve the communications process with respect to the ability to contact Board members by providing a central email link for all Board members on the StopWaste website. Mr. Mix claimed that his most recent email was not transmitted to the Board.

VI. REGULAR CALENDAR (WMA only)

1. Household Hazardous Waste (HHW) Services and Fee Ordinance (WMA only) Action (Gary Wolff)

Waive reading of the full draft fee ordinance (attachment C), read it by title only, and adopt it.

Mr. Wolff provided an overview of the staff report and presented a powerpoint presentation. The staff report is available here: <http://www.stopwaste.org/docs/04-23-14-hhw.pdf> The presentation is available here: www.stopwaste.org/docs/april-23-HHW-ppt.pdf

Mr. Wolff indicated that Mr. Mix' most recent email arrived after the package was distributed but has been provided as a handout to the Board and the public along with a legal memo addressing his concerns. Additional correspondence was provided as handouts as well. They are available here: www.stopwaste.org/docs/4-23-14-hhw-handouts.pdf

Mr. Wolff stated that the number of valid protests (51,203) were not all unique names. Mr. Pentin asked if the 45,000 facility users were all unique. Mr. Wolff stated no, they likely aren't either. Ms. Turner stated that she was unaware that the austerity measure would reduce the number of households served but rather reduce the hours of operation and inquired if the facility has ever turned away customers. Mr. Pollack stated no, not in the past. Ms. Turner stated that she was offended by the slide showing the injury to the recycling worker and considered it a scare tactic to the Board and does not prove that adopting the fee would prevent future injuries to recycling workers.

Mr. Biddle asked with respect to multi-family units is waste generated by contractors as opposed to residents accepted at the HHW facility. Mr. Wolff stated there is presently a program that permits generators to bring small quantities of HHW materials subject to a separate fee. The proposed program will allow owners of the residences to register as a small quantity generator and not pay an additional fee. Ms. West stated as a multi-family resident she appreciates the new provision to the program. Mr. Biddle asked for clarification on the current number of households served and the proposed numbers. Mr. Wolff stated the program currently serves approximately 45,000 households per year and we are proposing to increase use to 12-14% of all households in the County.

Ms. Halliday inquired about new measures in the proposal to increase participation for multi-family households. Mr. Wolff stated the proposal includes measures to adjust outreach to multi-family periodically in those geographic areas or other areas that are identified as low participating areas. The HHW facility is beginning to survey customers to ascertain the type of building that they live in. This information will be used to shape the outreach effort.

Ms. Natarajan inquired about patterns of use such as seasonal, etc. Mr. Pollack stated that there are seasonal variations with April - September being the busiest. Outreach is increased during the winter months to equal out participation. Mr. Sadoff asked for clarification with regard to Sunday hours of operation. Mr. Wolff stated that Los Angeles data indicated that proportionally, their Sunday participation was the equal to our weekday participation, so adding Sunday and eliminating a weekday was not a net gain. The proposal will have both Hayward and Livermore open on Friday and Saturday each week and the twelve 1 day events will occur typically on Sunday. Mr. Sadoff stated that the mobile events would not be scheduled consistently if they are some Sundays but not others. Mr. Wolff said that since the mobile events will be reservation only, residents will know when the events are occurring.

Mr. O'Donnell inquired if the austerity measure is selected is there an estimate of potential costs for cleaning up contamination that will occur at the landfills, in the ground water or illegal dumping. Mr. Wolff stated no, we have no quantitative estimates. However, as an example of possible impacts, staff just last week received a request from the Oakland Fire Department for help creating a public video informing the public about the

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HHW facility on 7th street in order to reduce illegal dumping of hazardous waste intermingled with municipal waste on the streets.

Ms. Turner inquired about the measures required if selecting the austerity option and subsequently turning people away. Mr. Pollack stated he can't definitively answer the question as it would depend on the scenario. The austerity measure will definitely require a reduction in staffing as well as a reduction in revenues for disposal. Mr. Pentin inquired if the austerity option was selected how soon it would go into effect. Mr. Pollack stated July 1st. Ms. Tam stated that Urban Ore raised the issue of accountability and responsibility for HHW, and if there is no county facility responsible for the waste, property owners would then be held accountable for illegal dumping on or near their property. Mr. Taylor stated apartment building owners are subject to the State regulatory requirements regarding hazardous waste and may currently register as small quantity generators and pay a fee. If the facility is not available due to a reduction in hours it may be harder to access the facility. Ms. West stated that the Board considered the austerity option early in the process and although not unanimous clearly rejected the option and considered it a step backwards in dealing with hazardous waste.

President Biddle opened the floor for public comments. Mr. Biddle clarified that the cards submitted during the process are not votes but protests. Mr. Taylor clarified that the structure of Prop 218 requires when doing a property related fee there must first be a protest process which we have already done. For refuse collection fees such as this, that's the end of the process as required. Fees that are not water, sewer or refuse collection then go to a ballot.

There were 10 speakers. An Audio of the public discussion is available here: www.stopwaste.org/docs/hhw-4-23-14-public.mp3

Ruth Abbe	Jeff Renholts
Ken Bukowski	Tom Silva
Carroll Deaton	Neil Strauss
Timothy May	David Tam
David Mix	Amy Willis

After hearing from all the public speakers the Board resumed discussion of the HHW Fee Ordinance.

Mr. Wozniak made the motion to approve the staff recommendation. Mr. Kalb seconded.

Mr. Wozniak stated that the Board in the fall had extensive discussions about how to deal with household hazardous waste and decided to move forward with the expansion option. Mr. Wozniak cautioned that if the Board proceeds with the austerity option 1.5 million pounds of hazardous waste will be improperly disposed and significant clean-up costs will result. Mr. Wozniak added it's a minimal cost per month and will about double the efforts for properly handling the disposal of HHW which is the ultimate goal.

Ms. Turner stated that although she agrees with the proposed expansion option she continues to have concerns with the protest process and the significant 18% participation rate from the public and can therefore not support the recommendation. Mr. Sadoff stated that he also agrees with the expansion option with the exception of not providing services on Sundays and can therefore not support the recommendation.

Ms. Natarajan stated support for the expansion option and stated that the Board has had extensive discussion with regard to remaining prudent with respect to what works most effectively. Ms. Natarajan added the city of Fremont has used city funding to keep the Fremont facility operating and is seeing increased usage of the facility with 30% participation from households outside of Fremont. Ms. Natarajan stated that the data does not persuade her to propose a lesser fee to multi-family households. Ms. Natarajan encouraged the Board to adopt the staff recommendation.

Mr. Kalb stated that he agrees with Mr. Wozniak and the Board has an obligation to improve efforts regarding the diversion of HHW and encouraged the Board to adopt the staff recommendation. Ms. West stated that the increase in hours and services is important and can hopefully address the issue of Sunday services in the future.

Mr. Wolff conducted the roll call vote. :

City of Alameda	Yes
Alameda County	Absent
City of Berkeley	Yes
Castro Valley Sanitary District	No
City of Dublin	No
City of Emeryville	Yes
City of Fremont	Yes
City of Hayward	Yes
City of Livermore	No
City of Newark	Yes
City of Oakland	Yes
Oro Loma Sanitary District	Absent
City of Piedmont	Yes
City of Pleasanton	No
City of San Leandro	Yes
City of Union City	Yes

The vote tally was 11-4 (Carson and Landis absent). The motion failed because a 2/3 majority of the members of the Board (12) is required in this situation. Mr. Biddle motioned to reconsider the item with the absent members present at the May 28 WMA meeting. Some Board members asked staff to bring back any other options or alternatives for discussion. Mr. Wolff stated that there are no other options that he can provide, given the extensive process we've been through, but he will certainly look into any ideas that the Board members suggest. Board members asked for additional information on providing Sunday services and other revenue reallocations. Board members inquired about a full election balloting process and Mr. Wolff explained the very high costs associated with this process, reported to him by Registrar of Voters staff. He noted that a majority mail in decision process (similar to the assessment procedure in Proposition 218) would not succeed unless rental property owners were supportive, because they own 45% of residential units in the County. That is not a reason against that process, but it is a fact the Board should be aware of as they consider options.

2. Preliminary Legislative Positions for 2014 (WMA & RB only) Action
(Gary Wolff & Jeff Becerra)

Staff recommends that the Boards confirm the above preliminary legislative positions for the 2014 session of the California legislature.

Mr. Becerra provided an overview of the staff report. The report is available here:

<http://www.stopwaste.org/docs/04-23-14-legislation.pdf>

Ms. Turner inquired about AB 1893 (Stone-Eggman) Home-generated Sharps and current requirements of the law. Mr. Becerra stated the proposed legislation makes it a requirement to inform the public of take-back options and locations. Ms. Turner stated that as a health care professional this legislation is added bureaucracy as most patients that routinely utilize sharps are aware of this information. Ms. Turner inquired about SB 1014 (Jackson) – Home-generated Pharmaceutical Waste and the differences with the current requirements. Mr. Becerra stated the language in the legislation has changed significantly from what is included in the memo to a modest voluntary program.

Ms. Natarajan reiterated the Board's request to forward any legislation to Board members that may require additional influence or attention, and also inquired if there are a cluster of priority bills. Mr. Becerra stated the four priority bills are: AB 2284 (Williams) Single-use household batteries, SB 270 (Padilla) Single-use Carryout Bags, AB 1594 (Williams) Alternative Daily Cover, and AB 1826 (Chesbro) Commercial Organic Waste Recycling. Ms. Turner asked that staff report back to the Board in May on potential efforts and any ways the Board can use their influence to advocate for these bills. Ms. West inquired about AB 1970 (Gordon)

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Community Investment and Innovation program and any possible effects on Alameda County. Mr. Becerra stated that there will be funds available and we can apply for local projects.

Ms. Natarajan made the motion to approve the staff recommendation. Ms. Cutter seconded and the motion carried 15-0 (Carson, Freitas, Landis, and Tam absent).

- 2. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s)** **Action**
(P&O and Recycling Board meeting - May 80, 2014 at 7:00 p.m. - Hayward City Hall, 777 B St, Hayward, Ca)

Mr. Pentin required an interim appointment. Mr. Biddle agreed to attend as the interim appointment. Ms. Cutter made the motion to approve the interim appointment Ms. Turner seconded and the motion carried 15-0 (Carson, Freitas, Landis, and Tam absent).

VII. COMMUNICATIONS/MEMBER COMMENTS (WMA & EC) **Information**
Ms. Cutter asked staff to look into a global communication mechanism for contacting Board members. Mr. Wolff said that we would set that up. Ms. Turner stated that Livermore Legal Counsel has reviewed the County Charter and does not see a requirement for the Recycling Board to meet on a monthly basis and asked that staff provide the information to her. Mr. Wolff said that he would.

Mr. Wolff stated for agenda planning, the International Longshore and Warehouse Union (ILWU) asked that we place on a future agenda the possibility of the Board adopting a resolution encouraging member agencies to follow the lead of the City of Fremont in adopting a schedule of wages and benefits for recycling workers that improves the current schedule of wages and benefits. Staff is supportive of this request and the Board agreed to agendaize the item at the May 28 meeting.

VIII. ADJOURNMENT (WMA & EC)
The meeting adjourned at 4:45 p.m.

Energy Council
TECHNICAL ADVISORY GROUP (TAG)

Friday, April 25, 2014 – 10:00 am to 12:00 pm

Attendance:

County of Alameda: Damien Gossett

City of Alameda: Maria DiMeglio (phone)

City of Berkeley: Billi Romain, Neal DeSnoo (phone)

City of Fremont: Rachel DiFranco

City of Oakland: Shayna Hirshfield-Gold, Scott Wentworth

City of Piedmont: Kevin Jackson

City of San Leandro: Sally Barros

StopWaste: Karen Kho, Lou Riordan, Stephanie Stern, Wendy Sommer, Miya Kitahara, Wes Sullens

Guests: Tom Kelly (Kyoto USA), Simon Bryce (Renewable Funding – phone)

MEETING SUMMARY

Energy Council Board

- No items on April agenda and none planned for May agenda.
- For June meeting, Tom Kelly and colleagues will deliver same CCA presentation that has been made at City Managers meeting and other venues. As follow up item, staff will summarize options for Alameda County jurisdictions to participate in a CCA.

CCA Update

- Tom Kelly of Kyoto USA has met with Supervisory Haggerty and GSA/CDA staff at Alameda County. County may take action to direct staff to investigate CCA formation, including requesting load data from PG&E. Cost to request data is the same regardless of the number of jurisdictions.
 - Tom Kelly is going to send out Sonoma's data request to PG&E for reference
 - StopWaste can coordinate a countywide data request, which would require a letter from each City Manager.
 - Prior to the next meeting, StopWaste will clarify the use and handling of data and reach out to Bruce Jensen at County Planning for coordination.
- Other Presentations to City Managers update
 - Met with Alameda County City Managers association a few weeks ago, provided information for them to respond to with questions
 - Presentation scheduled for Mayors Conference in June
 - Tom Kelly and colleagues are available to present to other groups as needed
- AB 2145
 - Would require all CCAs to be opt-in programs instead of opt-out
 - Broad opposition to the bill, which is sponsored by a former SoCal Edison employee

Program Updates

- BayREN 2015 filing
 - Decision expected in May, and approved in Mid-June
- Multifamily
 - Rebate reservations are on hold, pending additional funding from the CPUC
 - Capital Advance financing program recruiting lenders for a pre-approved list
- Codes and Standards
 - Regional Forum May 21st and San Leandro Zero Net Energy Center, with Nancy Skinner as keynote speaker and workshop/panels
 - Around 70 trainings to be offered around the region, finishing touches being put on “menu” now and will be released soon – coordinating with PG&E to minimize topic overlap
 - Building Department compliance assessments in Hayward and Alameda to help training to the code and best practices sharing
 - Cities still have the option of signing up if they are interested
- Single-family/Home Energy Analyzer
 - Momentum building with more contractors attending BayREN training, and more projects being completed
 - Home Energy Analyzer outreach will pick up in May and over the summer
 - Additional coordination between StopWaste and cities at big community events would be beneficial
- Climate Action Plan Implementation
 - Working with PG&E to identify specific sectors (restaurants, hospitality, data centers, etc.) to target
 - Forums to be held to highlight successful practices and provide networking opportunities within a sector
 - Looking for feedback on implementation plan before sending in to PG&E
 - Please fill out matrix on Recognition Event support and turn in to Stephanie.

Residential PACE Update (Renewable Funding)

- Regulatory issues have been cleared up with a default reserve fund in March
- Launching in Alameda County with a few contractors in late May/early June, then expanding to more contractors and more counties in July and August
- Turnkey program including outreach, underwriting, and bond issuance
- Interest rate will be in line with HERO for 5, 10, 15, 20 year financing
- Outreach will be focused on contractors (working with EGIA)

NEXT TAG MEETING: Tuesday, May 20 from 1 pm-3pm

Energy Council
TECHNICAL ADVISORY GROUP (TAG)

Tuesday, May 20, 2014 – 1:00 pm to 3:00 pm

Attendance:

County of Alameda: Damien Gossett, Darryl Gray

City of Alameda: Maria DiMeglio

City of Albany: Claire Griffing

City of Berkeley: Billi Romain

City of Dublin: Roger Bradley

City of Fremont: Rachel DiFranco

City of Hayward: Erik Pearson

City of Oakland: Scott Wentworth

City of Piedmont: Kevin Jackson

City of San Leandro: Sally Barros, Anjana Mepani

StopWaste: Karen Kho, Lou Riordan, Stephanie Stern, Wendy Sommer, Jeffery Liang

Guests: Simon Bryce (Renewable Funding)

MEETING SUMMARY

PACE Update (Renewable Funding)

- Residential PACE launch
 - Alpha launch in Alameda County next week (1 or 2 contractors) to work out the application process with actual projects
 - Beta launch late June adding in Santa Clara, Monterey, and Marin counties
 - Full launch in August; Interest in leveraging marketing and outreach at that time.
 - Website will be full-service for contractors and city/county staff, including access to real-time data
- Recent FHFA letter
 - Restatement of FHFA position, however no action has been taken against existing programs such as HERO. Governor has established a loan loss fund that further insulates Fannie Mae and Freddie Mac against potential loss.
 - Governor's Office to schedule a webinar for local governments

HVAC Round Table

- Summary from HVAC Round Table (May 6)
 - Powerpoint available on basecamp
 - Need to address incentives/disincentives for homeowners and contractors
 - There are certain things that we can address as local government and some that are out of our control (CSLB, financing etc.)
 - In addition to contractors, building officials and homeowners both have information that could contribute to finding a solution
 - Need to balance complexity/analysis with efforts to streamline

- Does not appear that cities can easily access data regarding which contractors are currently pulling permits for HVAC change-outs.
- Suggestion to coordinate with CALBO East Bay as pilot concept develops
- Coordination with EBEW will be important for future codes activities

Program Updates

- BayREN 2015 filing
 - Proposed Decision was expected last week but not yet released.
- Multifamily
 - PG&E has agreed to transfer \$3.3 million into the BayREN MF program, contingent on spend-down of BayREN budget first. Details being negotiated
 - 2-3 weeks of turnaround time anticipated for approval from Energy Division
- Codes and Standards
 - Attendance encouraged at Quarterly Forum tomorrow – to be held at San Leandro Zero Net Energy center.
- Single-family/Home Energy Analyzer
 - See handout
 - Fremont Energy Challenge launching in June, San Leandro in the fall
 - Strong community partnerships are very important for outreach efforts
- Climate Action Plan Implementation
 - Draft outreach plan was circulation a few weeks ago
 - Follow-up will occur soon to continue figuring out materials and tactics

CCA Updates

- Hayward had a special meeting about CCA and presented the resolution that Tom Kelly provided (council could direct city manager to request load data); they are interested in studying the feasibility. Likely to go to Council in September
- Erik Pearson attended Alameda County Transportation and Planning Subcommittee meeting; staff presented a plan that showed about 4 years to put together a CCA and \$3 million; supervisors want it to be done faster and thought there was money in the budget; proposal will go to the full Board on June 3.
- County is proposing to submit load data request on behalf of all jurisdictions (but will need supporting letters from each jurisdiction). Request may be made through city managers; Time needs to be allocated to secure necessary approvals.
- CCA presentation to Energy Council Board tentatively scheduled for June meeting
- Hayward and Albany have received letters from PG&E's Union requesting an EIR, but MCE's experience was that this request was unfounded
- Albany has postponed their decision on pursuing MCE's membership analysis contract until June 9 because of County's interest in CCA
- CCA staff reports from various jurisdictions will be posted to Basecamp
- General interest among cities in monitoring CCA development in the County; Upfront cost and risk was major barrier to Berkeley/Emeryville/Oakland.

MEMBER COMMENTS

- Suggestion for presentation on SunShot funded solar programs



May 19, 2014

TO: Authority & Recycling Board

FROM: Gary Wolff, Executive Director

SUBJECT: Informational Report on Grants Issued Under ED Signature Authority

General Mini-grant and board agendas by giving the Executive Director authority to sign contracts and grant agreements less than \$50,000. A condition of the new grant policy is that staff inform Board members of the small grants issued at the next regularly scheduled Board meeting.

Grants – April 15 - May 15, 2014

Project Name	Grant Recipient	Project Type/Description	Location	Verification	Grant Amount	Board
Community Outreach Grants	Azevada Elementary School PTA	Grant funds to promote food scrap recycling to difficult to reach audiences such as non-English speaking, low income communities. Grantee to utilize Agency outreach materials to reach community members using their networks and social media vehicles.	Fremont	Final Reports	\$5,000	RB
Community Outreach Grants	City Slickers	Grant funds to promote food scrap recycling to difficult to reach audiences such as non-English speaking, low income communities. Grantee to utilize Agency outreach materials to reach community members using their networks and social media vehicles.	Oakland	Final Reports	\$5,000	RB
Community Outreach Grants	Dig Deep	Grant funds to promote food scrap recycling to difficult to reach audiences such as non-English speaking, low income communities. Grantee to utilize Agency outreach materials to reach community members using their networks and social media vehicles.	Hayward/San Leandro	Final Reports	\$5,000	RB

Community Outreach Grants	Higher Gliffs	Grant funds to promote food scrap recycling to difficult to reach audiences such as non-English speaking, low income communities. Grantee to utilize Agency outreach materials to reach community members using their networks and social media vehicles.	Oakland	Final Reports	\$5,000	RB
Community Outreach Grants	Eden I&R	Grant funds to promote food scrap recycling to difficult to reach audiences such as non-English speaking, low income communities. Grantee to utilize Agency outreach materials to reach community members using their networks and social media vehicles.	Hayward	Final Reports	\$5,000	RB
Multifamily Green Business Property Manager Stipend	Felson Company	Stipend to promote Green Business Program certification for multifamily property managers; received for Creedside property (52 units)	Castro Valley	Green Business Certification	\$10,000	WMA
Multifamily Green Business Property Manager Stipend	Unity Council	Stipend to promote Green Business Program certification for multifamily property managers; received for Las Bougainvilleas property (68 units)	Oakland	Green Business Certification	\$10,000	RB
Bay-Friendly Rated Landscape Grant	City of Oakland	Stipend to complete a Bay-Friendly Rating of a landscape renovation at Golden Gate Recreation Center and Park; over a half acre renovation; includes posting education signs on Bay-Friendly practices	Oakland	Bay-Friendly Rated Landscape Certification	\$19,050	WMA



May 21, 2014

TO: Waste Management Authority Board
FROM: Gary Wolff, Executive Director
SUBJECT: Household Hazardous Waste (HHW) Services and Fee Ordinance

Background

The Board considered adopting the ordinance in Attachment A last month, but the motion to adopt failed on a vote of 11-4 (2 absent). Twelve affirmative votes are required to adopt the ordinance. The minutes from last meeting (included in this agenda package) provide a summary of the discussion and additional details. The staff reports and powerpoint presentations from the March and April WMA meetings are available at: <http://www.stopwaste.org/docs/03-26-14-hhw.pdf>, www.stopwaste.org/docs/march26-hhw-powerpoint.pdf, <http://www.stopwaste.org/docs/04-23-14-hhw.pdf>, and www.stopwaste.org/docs/april-23-HHW-ppt.pdf.

The Board was interested in reconsidering the motion, and Board Member Biddle made a motion for reconsideration. However, I erroneously told the Board that a second on the motion was not required and that reconsideration could be taken up this month. My apologies; I will not rely on my memory of parliamentary rules in the future.

In any event, the Board can still adopt the ordinance in Attachment A if it wishes, through a 'renewal of the motion' from last month, or by making a new motion that differs from the previous motion. (Two such motions are offered below). Legal Counsel can advise you on these provisions of Roberts Rules of Order.

Discussion

The Board majority is clearly interested in expanding the HHW services, paid for by the \$9.55 fee. However, several and perhaps many Board members are concerned that the fee is uniform across all types of residential units. The WMA bears the burden of demonstrating a proportional allocation of costs across different parties subject to the fee. Given the studies that have been presented previously, it seems clear that we cannot, at this time, both meet this legal standard and differentiate the fee between multi-family and single-family residential units, as has been requested by various parties.

Also, as stated previously, a uniform fee per residential unit for HHW services is not unique; there are two uniform fee structures for HHW services in Contra Costa County. And it is worth noting that our two sanitary district member agencies -- Oro Loma and Castro Valley -- charge an equal fee per residential unit for sewer service, regardless of unit size, number of bedrooms or bathrooms, etc. Such allocations are not unusual.

We can, however, work with the rental housing associations to reach agreement on a study method and schedule that would bring the issue of cost allocation back to the Board for a

decision within 2-3 years.¹ If the parties can agree in writing on a study method and schedule for bringing the study results before the Board -- which I believe is possible -- then the Board can revisit this issue at a later time, while moving ahead at this time. There is no reason to believe that the studies we are relying on are flawed. But it is in the public interest -- given the strong belief of at least some property owners that a different allocation would be more fair -- to study the situation in a new way, agreed upon by the parties, and make future adjustments as appropriate.

We can also address the belief of some persons that regular Sunday service would be more convenient for the public than weekday service by implementing Sunday service for at least one year at one of the three County-operated collection facilities, in order to directly measure public use of the facilities on Sunday versus other days. For example, if Hayward were to be open for residential customers on Saturdays and Sundays, and Livermore were open on Fridays and Saturdays, we would have a direct measurement of whether Sundays or Fridays are better days for residential operation. This approach can be implemented without additional cost or employment rule issues because one new crew will be hired if services are expanded.

Both of these measures can be implemented along with the services and fee proposal, and both serve the public by ensuring that differences of opinion are tested against reality.

Consequently, staff is offering two more options to the Board, as requested last month. These options address at least two of the concerns that have been raised (multi-family/single-family allocation of cost, and whether regular Sunday service would be used more than a weekday).

A third concern that has been raised is that the protest process specified in the Health and Safety Code and for refuse collection in the California Constitution, does not involve the public enough in the decision process. That is a public policy matter for the Board to decide. The Board can choose to implement the austerity option for one or more years, and use a different decision process for funding in the future. Or the Board can adopt the fee ordinance before it, and consider alternative decision processes when the study proposed above is complete and is brought back to the Board for further guidance.

An Important Statement for the Record

At the hearing last month, Mr. David Mix stated that his protest had not been counted. He provided as evidence a printout from the Registrar of Voters electronic protest tally file showing no protest next to his parcel number. But his protest was counted. As stated in our staff report last month, the Registrar of Voters staff also conducted a manual tally of protest votes submitted during the public hearing in March. Mr. Mix's protest was filed during the hearing, and was counted. It is one of the 33 valid protests filed at the hearing and certified by the Registrar of Voters in Attachment A to the staff report last month. We make this point not to argue with Mr. Mix, but to make clear to the public and interested parties that the Alameda County Registrar of Voters did not commit a counting error, as claimed. Their performance in this entire process has been exemplary, and whatever decision the Board makes, it is important that the public understand that.

¹ Three years may be necessary given the time to negotiate a study method and agreement, the time to obtain enough samples with seasonal variation within our projected budgets for the next two fiscal years, and then provide the Board enough time for an appropriate decision process after the study is complete.

Recommendation

Staff recommends that the Board approve Option 1, 2, or 3, depending on public comments and the discussion among Board members:

Option 1: renew the motion from last month to waive reading of the full draft fee ordinance (attachment A), read it by title only, and adopt it.

Option 2: introduce a new motion to waive reading of the full draft fee ordinance (attachment A), read it by title only, and adopt it, along with the following directive to staff:

- Attempt to negotiate, prior to January 1, 2015, a draft written agreement with both the Rental Housing Association -- Serving Southern Alameda County, and the East Bay Rental Housing Association, that describes the methodology and schedule for a study of HHW disposal and HHW collection facility use, and the schedule for bringing the results of the study back to the Board. The draft agreement will not take effect unless approved by the Board.

Option 3: same as Option 2, but add a second directive to staff:

- Implement Sunday service at one of the County operated facilities (likely Hayward) for at least the first year of expanded service, and report back to the Board after one year of expanded service with a recommendation about Sunday service versus weekday service for all three County operated facilities.

Attachment A: Draft fee ordinance

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ORDINANCE 2014-__

**AN ORDINANCE ESTABLISHING A HOUSEHOLD HAZARDOUS WASTE
COLLECTION AND DISPOSAL FEE**

The Board of the Alameda County Waste Management Authority hereby ordains as follows:

Section 1. Findings

The Authority finds that:

(a) It has been standard practices since the early 1990s for Cities and Counties in California to periodically characterize the components of garbage and refuse sent to landfill in order to facilitate planning for diverting recoverable and harmful materials from landfill disposal. Waste characterization studies for Alameda County, and the State of California overall find that household hazardous waste (HHW; see Health & Safety Code Section 25218.1 (e)) is about the same weight or percentage of residential garbage and refuse regardless of whether the dwelling unit is in a single family or multi-family residential building. Furthermore, vacant Households also require household hazardous waste collection and disposal in connection with property improvements, maintenance, or landscaping.

(b) State law precludes disposal of household hazardous waste in municipal landfills such as those serving Alameda County residents and the Alameda County Integrated Waste Management Plan calls for removing hazardous wastes from the solid waste stream for proper separate management through separate collection and other programs.

(c) In Health and Safety Code section 25218 the State legislature has found that “residential households which generate household hazardous waste and conditionally exempt small quantity generators which generate small amounts of hazardous waste in the state need an appropriate and economic means of disposing of the hazardous waste they generate” and disposal of household hazardous waste “into the solid waste stream is a threat to public health and safety and to the environment.” The Health and Safety Code further provides for the establishment of “household hazardous waste collection facilities”, which are defined in Section 25218.1 (f) as facilities operated by public agencies or their contractors for the purpose of collecting, handling, treating, storing, recycling, or disposing of household hazardous waste and hazardous waste from conditionally exempt small quantity generators.

(d) The Alameda County Environmental Health Department, with policy direction and funding provided by the Waste Management Authority, operates three permanent Household Hazardous Waste (HHW) collection facilities located in the northern, southern, and eastern sections of the County and BLT Recycling, under contract with the City of Fremont, operates a fourth HHW collection facility at the Fremont Transfer Station, partially funded by the Authority. These facilities are operated in accordance with Health & Safety Code 25218 et seq, and under two memoranda of understanding (MOUs) between the Authority and the County

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of Alameda and the Authority and the City of Fremont. These MOUs will be revised to implement this ordinance.

(e) These Household Hazardous Waste collection facilities benefit and serve Alameda County residential property owners by collecting and providing a legal, safe, place for disposal of HHW materials generated in Alameda County in compliance with the law. The services and facilities of this program may be used only by Alameda County Households. The Household Hazardous Waste Collection and Disposal Fee funds this program and may not be used for any other purpose. The program was evaluated in an October 4, 2013 memorandum from HF&H Consultants, LLC to the Alameda County Waste Management Authority which determined that the funds generated by the fee do not exceed the costs of the program services and facilities.

(f) The costs of the program's HHW collection and disposal services and facilities for Alameda County Households are offset in part by funds received or cost reductions associated with product stewardship programs implemented in accordance with State law (such as the PaintCare Product Stewardship Program established at Public Resources Code sections 48700 et seq. which reduces costs associated with collection and disposal of architectural paints and provides funds for processing those materials). These programs are expected to expand in the future and the amount of the fee will be reduced commensurate with the cost offsets or funding associated with these programs. In anticipation of full cost offset and funding from these programs in the future the fee sunsets in 2024.

(g) Article 4 of Health & Safety Code Division 5, Part 3, Chapter 6 authorizes public agencies including cities, counties, and special districts, upon a two-thirds vote of the legislative body, to prescribe and collect fees for garbage and refuse collection services and facilities on the tax roll. This ordinance prescribes a fee for collection and disposal at the four HHW facilities in Alameda County of the HHW component of garbage and refuse generated by Alameda County Households.

(h) The Authority has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management. That agreement grants the Authority all of the powers necessary to implement the Alameda County Integrated Waste Management Plan including the power to levy and collect fees and charges for programs such as HHW collection and disposal services and facilities.

(i) This Ordinance was introduced on December 18, 2013 at which time the Board set a public hearing for consideration of the Ordinance on February 26, 2014 and directed the Executive Director to prepare a report containing a description of each parcel of real property with one or more Households, the number of Households on each parcel, and the amount of the charge for each parcel computed in conformity with this Ordinance. The Board directed the Executive Director to publish and cause a notice in writing of the filing of said report and the proposal to collect the annual charge on the tax roll together with the time and place of hearing thereon, to be mailed to each person to whom any parcel or parcels of real property described in said report is listed as owner in the last equalized assessment roll available on the date said report is prepared (a "Record Owner"), at the address shown on said assessment roll or as known to the

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Executive Director. On January 22 the Board continued the protest hearing date to March 26, 2014. Notice of the new hearing date and extended protest period was published and mailed in accordance with law. This Ordinance was re-introduced with clarifying amendments on February 26, 2014.

(j) Following the protest hearing the Board considered all objections or protests to the report and this Ordinance. Protests were received from the Record Owners of (1) less than a majority of the separate parcels of property described in the report and (2) less than a majority of the Households on property described in the report. The Board approved the ordinance by a two-thirds majority or greater of the Board membership.

(k) Enactment of this Ordinance is not a “project” subject to the requirements of the California Environmental Quality Act, California Code of Regulations, title 21, section 15378(b)(4); further, even if it were a “project,” it would be categorically exempt from the California Environmental Quality Act pursuant to California Code of Regulations, title 21, section 15308.

Section 2. Definitions

(a) “Alameda County” or “County” means all of the territory located within the incorporated and unincorporated areas of Alameda County.

(b) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management.

(c) “Board” means the governing body of the Authority made up of elected representatives of the member agencies pursuant to the Joint Exercise of Powers Agreement for Waste Management.

(d) “Executive Director” means the individual appointed by the Board to act as head of staff and perform those duties specified by the Board.

(e) “Fee” means the fee described in section 3 of this ordinance.

(f) “Fee Collection Report” means the annual report containing a description of each parcel of real property with one or more Households served by the Household Hazardous Waste Collection and Disposal Program, the number of Households on each parcel described, the amount of the charge for each parcel for the year, computed in conformity with this Ordinance, and whether the Fee is to be collected on the tax roll or by other means.

(g) “Household” means a residential dwelling unit (e.g., a single family home, apartment unit or condominium unit in a multi-unit building, etc.). Nothing in this Ordinance is intended to prevent an arrangement or the continuance of an existing arrangement under which payment for garbage and refuse collection and disposal service is made by residents of a household who are not the owner or owners thereof. However, any such arrangement will not affect the property owner’s obligation should such payments not be made.

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(h) “Household Hazardous Waste Collection and Disposal Program” means the Proposed System Expansion Option described in the October 4, 2013 memorandum from HF&H Consultants, LLC to the Alameda County Waste Management Authority.

(i) “Other Revenue” means the sum of (1) revenue received from the household hazardous waste fee of \$2.15 per ton pursuant to Authority Resolution No. 140 and Resolution No. 2000-03 and (2) Product Stewardship Offsets.

(j) “Product Stewardship Offset” means funds received by the Household Hazardous Waste Collection and Disposal Program or operational cost reductions at the program attributable to household hazardous waste product stewardship programs implemented in accordance with federal, state, or local laws.

(k) “Small Quantity Generator” has the same meaning as Conditionally Exempt Small Quantity Generator as defined in California Health and Safety Code Section 25218.1 as it now exists or may be amended from time to time hereafter.

Section 3. Household Hazardous Waste Collection and Disposal Fee

(a) An annual household hazardous waste collection and disposal fee of \$9.55 or such lesser amount established by the standards below shall be paid by each Household in Alameda County beginning July 1 2014 and ending June 30, 2024 in the manner set forth in this ordinance.

(b) No later than December 31 of 2015 and each year thereafter the Executive Director shall prepare a report identifying the amount of Other Revenue received by the Household Hazardous Waste Collection and Disposal Program in the prior fiscal year. If the report of Other Revenue exceeds the projected amount specified in subsection (c), the fee shall be reduced for the following fiscal year by an amount equal to the excess revenue divided by the number of Households subject to the fee in the prior fiscal year. If revenues equal or fall below that specified in subsection (c) there shall be no increase in the fee. The Fee per Household shall never be greater than \$9.55 per year.

(c) The fee is based on the following projected Other Revenue:

Fiscal Year	Projected Product Stewardship Offset	Projected Tip Fee	Total
2014-2015	\$263,225	\$1,849,000	\$2,112,225
2015-2016	\$263,225	\$1,713,550	\$1,976,775
2016-2017	\$263,225	\$1,578,100	\$1,841,325

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2017-2018	\$263,225	\$1,442,650	\$1,705,875
2018-2019	\$263,225	\$1,307,200	\$1,570,425
2019-2020	\$263,225	\$1,171,750	\$1,434,975
2020-2021	\$263,225	\$1,171,750	\$1,434,975
2021-2022	\$263,225	\$1,171,750	\$1,434,975
2022-2023	\$263,225	\$1,171,750	\$1,434,975
2023-2024	\$263,225	\$1,171,750	\$1,434,975

(d) The fee shall be used exclusively for the Household Hazardous Waste Collection and Disposal Program.

(e) As a condition of receiving payments funded by the Fee, a collection and disposal service provider (e.g., at present, the County of Alameda and the City of Fremont) must agree that no charge will be imposed on (1) residents of Alameda County Households for services included in the Household Hazardous Waste Collection and Disposal Program or (2) Small Quantity Generators who are owners of residential rental property in Alameda County for disposal of household hazardous wastes from Households in Alameda County. Any such agreement shall be in the form of a contract or memorandum of understanding (MOU) approved by the Board. The Executive Director shall not cause the fee to be collected as described in Section 4 of this ordinance until revised MOUs with the County of Alameda and the City of Fremont have taken effect.

Section 4. Administration

(a) Each year the Executive Director shall cause a Fee Collection Report to be prepared in accordance with this Ordinance and applicable law.

(b) The Fee Collection Report shall be reviewed by the Board to ascertain the accuracy of the information contained therein. A notice of the report's availability and a time and place of a public hearing on the report and the collection of such charges on the tax roll shall be published as set out in Government Code Section 6066 in a newspaper of general circulation printed and published within the County. At the conclusion of the hearing, the Board shall make its determination upon each charge and its collection on the tax roll or by other means. The determination of the Board shall be final. Upon such final determination, on or before August 10 of each year, the Executive Director shall endorse the final report with a statement that it has been finally adopted by the Board, and shall file the signed report with the County Auditor. Authority staff is hereby authorized to undertake all administrative tasks to implement collection

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of the Fee, including, but not limited to an agreement with Alameda County for collection, which may provide payment to Alameda County of its reasonable costs of collection.

(c) The Fee for the period of July 1st, to and including June 30th of each fiscal year shall be entered as a charge on the tax roll against the parcels identified in the Fee Collection Report as paying through the tax roll. The Fee shall be collected at the same time and in the same manner as ad valorem taxes and other charges as are otherwise collectible by the county. All laws applicable to the levying, collection and enforcement of ad valorem taxes shall be applicable to such charges as provided herein except as otherwise provided by law. Fees paid with the tax bill shall be deemed to have been paid by those Households located on that property/parcel.

(d) The annual Fee for any Household located on property which is not designated for collection on the tax roll in the Fee Collection Report shall be collected by the Executive Director and shall be due and payable at least once per year on a schedule to be determined by the Executive Director.

Section 5. Enforcement. The Executive Director and the County of Alameda are authorized to undertake all appropriate actions necessary to collect the Fee in the manners authorized by law.. The Executive Director may direct collection and disposal service providers to deny access to services included in the Household Hazardous Waste Collection and Disposal Program for Households with unpaid charges.

Section 6. Severability. If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. Notice. This Ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.

Passed and adopted this ___ day of _____, 2014, by the following vote:

AYES:

NOES:

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ABSTAINING:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of the ORDINANCE NO. 2014-__.

GARY WOLFF

EXECUTIVE DIRECTOR



May 14, 2014

TO: Waste Management Authority (WMA) Board
FROM: Gary Wolff, Executive Director
Pat Cabrera, Administrative Services Director
SUBJECT: FY14-15 Budget Adoption

BACKGROUND:

The FY14-15 budget was presented for review and comment to both the Programs and Administration (P&A) Committee and the Planning and Organization (P&O) Committee at their respective meetings held on May 8, 2014. The staff report for those meetings is available at: <http://www.stopwaste.org/docs/budget-05-08-14.pdf>. The powerpoint presentation made at those meetings is available at: www.stopwaste.org/docs/FY14-15-budget-presentation.pdf. Please note that Figure 8: "Recent Agency Budgets," has been modified in both files to correct an error in the part of the bar graphic that shows the countywide HHW program budget for Fiscal Year 2014-15.

At the P&O/Recycling Board meeting, Board member Wozniak asked about our long term pension liability. We have been relying on information from PERS that says our rate for FY14-15 is one percent (1%) higher than in FY13-14, and it will increase again in FY15-16 by one percent (1%) to 16.7%. We have also performed actuarial analysis in accordance with current PERS and Government Accounting Standards Board (GASB) rules. A new GASB Statement (rule) 68 will take effect in Fiscal Year 2014-15. It changes the reporting of net pension liabilities. We will both follow that rule in calculating pension liability, and analyze the impacts of some alternative assumptions from those used by PERS (e.g., lower future rates of return on the PERS investment portfolio). After the meeting, Board member Wozniak sent us an example of such alternatives analysis performed by City of Berkeley finance staff.

In addition, Board member Halliday asked about the 2.5% inflationary factor used in the long term financial projections, and its relationship to salary increases included in the budget proposal. As discussed at the meeting, the 2.5% factor was used to adjust total core budget increases as part of the long-term estimation, but was not a commitment or a proposal with respect to future budgets. However, consistent with the Board approved performance-based salary adjustment plan (adopted in early 2013 and revised in February 2014), the fiscal year 2014-15 salary pool includes a salary range adjustment of 2.5% (the February to February Consumer Price Index – All Urban Consumers for the San Francisco-Oakland–San Jose Metropolitan Area), plus the cost under a traditional step increase system with no adjustment in the ranges. The total of these two amounts is approximately \$160,000. Per the salary adjustment plan, the Board may choose to limit salary increases. There are no automatic or across the board

salary increases, as all salary increases are now based on performance reviews and criteria described in attachment A of the Human Resources manual.

RECOMMENDATION:

That the WMA Board hold a public hearing on the budget and then adopt the portion of the FY14-15 budget funded by the WMA Board, pursuant to the attached resolution (Attachment I).

Attachment I: WMA Board Resolution

ATTACHMENT I

**ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
RESOLUTION #WMA 2014 -
MOVED:
SECONDED:**

**AT THE MEETING HELD MAY 28, 2014
THE AUTHORITY AUTHORIZES ADOPTION OF THE FISCAL YEAR 2014/15 BUDGET;
PROJECT CONTRACTS, AUTHORIZED POSITIONS AND SALARY SCHEDULE AND
CHANGES TO THE HUMAN RESOURCES MANUAL**

WHEREAS, a preliminary budget for Fiscal Year 2014/15 has been developed which incorporates programs and projects recommended by the Executive Director; and

WHEREAS, this budget was presented to the Programs and Administration Committee and the Planning and Organization Committee at their respective meetings held on May 8, 2014 for review and comment; and,

WHEREAS, legal notice of the budget hearing has been provided, and the matter scheduled on the May 28, 2014 Authority agenda for adoption.

NOW THEREFORE, BE IT RESOLVED that the Alameda County Waste Management Authority hereby

1. Adopts the Authority's portion of the Fiscal Year 2014/15 Budget (Attachment A, pages III-3 through III-7 and page III-10) with expenditures totaling \$10,325,223 and authorizes staff to proceed with Authority administration, programs and operations in accordance with the adopted budget, effective July 1, 2014.
2. Authorizes the Executive Director to utilize the fiscal reserve totaling \$2,105,109 if necessary.
3. Authorizes positions and the salary schedule which includes a 2.5% increase in the salary ranges (see attached).
4. Approve changes to the Human Resources manual. The entire redlined version of the manual is available at www.stopwaste.org/docs/2014-hr-manual-revisions.pdf The pages being edited are introduction section b and d, and pages 1-5, 1-6, 1-8, 1-9, 2-4, 2-5 and 2-15.
5. Approves the attached Deputy Executive Director job description.
6. Authorizes the following new or augmented contracts and/or spending authority for fiscal year 14/15 subject to approval as to form by Legal Counsel, and consistent with the Authority's purchasing policy:

Contracts/Spending Authority 14/15:

Product Decisions Program Group

Technical Assistance and Services

Placeworks	\$ 50,000
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Bay Area Regional Recycling Outreach Coalition (BayROC)

Media services for regional campaign, TBD based on the BayROC working group evaluation (externally funded)	\$100,000
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Bay Friendly Water Efficient Landscape Prop 84 (externally funded)	\$167,500
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Bay Friendly Coalition	\$167,500
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Waste Prevention: Institutional Food Service	\$190,000
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LeanPath, Inc.	\$190,000
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Gigantic Idea Studio	\$ 40,000
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<u>Waste Prevention: Reusable Transport Packaging</u>	
Cascadia Consulting Group	\$ 10,000
Gigantic Idea Studio	\$ 20,000
<u>Reusable Transport Packaging (externally funded)</u>	
Leidos	\$ 85,000
Gigantic Idea Studio	\$ 35,000
<u>HHW Point of Purchase Alternatives</u>	
Cox Advertising	\$ 50,000
<u>Recycled Content: Building Material</u>	
Cox Media	\$ 15,000
Energetics	\$ 50,000
Allison & Partners	\$ 10,000
<u>Hard to Recycle Packaging Life Cycle Analysis and Recyclability Labeling</u>	
Gigantic Idea Studio	\$ 20,000
<u>Discards Management Program Group</u>	
<u>Schools Transfer Station Tours</u>	
First Student Transportation	\$140,000
<u>Ready, Set, Recycle Contest</u>	
Alameda County Office of Education	\$180,000
Underground Advertising	\$ 90,000
KTVU/Cox Media	\$120,000
Allison and Partners	\$ 45,000
<u>Benchmark Report Production and Distribution</u>	
AMP Printing	\$ 65,000
US Postal Office	\$100,000
<u>Benchmark Data and Analysis Project</u>	
Stealth Marketing Services	\$330,000
<u>Mandatory Recycling Implementation</u>	
Stealth Marketing Services	\$310,000
Underground Advertising	\$ 35,000
Allison and Partners	\$ 10,000
Cascadia Consulting Group	\$390,000
Alameda County Sheriff's Office	\$ 92,500
Cox Media	\$ 5,000
<u>Used Oil Recycling Media Campaign (externally funded)</u>	
Titan	\$ 75,000
Cox- Online Advertising	\$ 50,000
<u>Business Assistance</u>	
Gigantic Idea Studio	\$ 20,000
<u>Communications, Administration and Planning (CAP) Program Group</u>	
<u>Administrative Overhead (includes general OH, accounting and budgeting and information systems)</u>	
Shute, Mihaly and Weinberger, LLP	\$110,000
(Authority counsel, which is charged against multiple projects as appropriate)	
8 Locks Consulting	\$200,000
Driver Alliant Insurance	\$145,000
<u>Fee Enforcement</u>	
Alameda County Sheriff's Office	\$ 92,500
<u>General Agency Communications</u>	
Allison and Partners	\$ 10,000
<u>4R's Education</u>	
Rock Steady Juggling- Doug Nolan	\$ 68,000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gary Wolff, Executive Director

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

		-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----				
		Total Cost	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
EXPENDITURES											
1000 -PRODUCT DECISION:											
1020	Technical Assistance and Services	\$ 476,764	\$ 158,953							\$ 158,905	\$ 158,905
1030	BayROC (Bay Area Regional Recycling Outreach Coalition)	21,053	21,053								
1031	BayROC External Contributions	100,000			\$ 100,000						
	Sub-total	597,816	180,006	-	100,000	-		-	-	158,905	158,905
1100 Bay Friendly											
1110	Bay-Friendly Schoolyards	15,968	\$ 5,324							\$ 5,322	\$ 5,322
1111	Bay-Friendly Schoolyards (Prop. 84 Funding)	75,914			75,914						
1140	Regionalizing Bay Friendly	131,554	56,554					75,000			
1150	Bay Friendly Water Efficient Landscape Prop 84 (WMA)	157,227	13,923	13,923				18,000	90,497		20,884
1151	Bay Friendly Water Efficient Landscape Prop 84 (DWR)	75,000			75,000						
1152	Water Efficient Landscape Prop 84 Round II DWR Project Report	201,428			201,428						
	Sub-total	657,090	75,800	13,923	352,342	-		-	93,000	95,819	26,206
1200 Product Purchasing and Manufacturing											
1220	Waste Prevention: Institutional/Food Service	460,876	230,438							230,438	
1230	Waste Prevention: Reusable Transport Packaging	207,298	69,113							69,093	69,093
1231	Waste Preventions: Reusable Transport Packaging (EPA Funding)	212,990			212,990						
1240	HHW Point of Purchase Alternatives	262,858	262,858								
1250	Waste Prevention: Reusable Bag Ordinance Implementation	255,568	255,568								
1260	Recycled Content: Compost and Mulch	544,351	181,487								362,864
1270	Recycled Content: Building Materials	393,075	124,383					20,000			248,692
1280	Hard to Recycle: Institutional and Commercial Food Service Ware & Packaging	150,353	50,176					50,000	50,176		
1290	Hard to Recycle: Packaging Life Cycle Analysis and Recyclability Labeling	272,946		91,000					90,973		90,973
	Sub-total	2,760,314	1,174,022	91,000	212,990	-		-	70,000	440,680	771,621
1300 Energy Council											
1347	BayREN (Bay Regional Energy Network)	5,148,727					\$ 5,148,727				
1348	PG&E Energy Programs	479,335					479,335				
1349	Energy Council Offset	115,324					115,324				
	Sub-total	5,743,386	-	-	-	-	5,743,386	-	-	-	-
Total Product Decisions		9,758,606	1,429,828	104,923	665,332	-	5,743,386	-	163,000	695,404	956,733

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

2000-DISCARD MANAGEMENT

2020 Schools Transfer Station Tours
 2040 Competitive Grants
 2050 Ready, Set, Recycle Contest
 2061 Green Star Schools Activities
 2070 Benchmark Report Production and Distribution
 2080 Benchmark Data and Analysis
 2090 Mandatory Recycling Implementation

Sub-total

2100 Processing Facilities

2110 Construction & Demolition Debris Recycling
 2120 Materials Recovery Facility Operations & Monitoring

Sub-total

2300 Hazardous Waste

2310 Hazardous Waste
 2311 Used Oil Recycling Grant
 2312 Household Hazardous Waste Facilities

Sub-total

2400 C/I/I Collections (Commercial /Industrial/Institutional)

2420 Business Assistance Supporting Activities

Sub-total

Total Discard Management

Total Cost	-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
671,283	671,283								
390,641							390,641		
1,388,836		1,328,836					60,000		
26,351			26,351						
314,588				314,588					
524,171				524,171					
2,048,033		2,048,033							
5,363,903	671,283	3,376,870	26,351	838,759		-	450,641	-	-
103,185		5,159							98,026
532,687		532,687							
		-							
635,872	-	537,846	-	-		-	-	-	98,026
17,151	17,151								
125,000			125,000						
124,568			124,568						
266,718	17,151	-	249,568	-		-	-	-	-
218,368	109,184					-		109,184	-
218,368	109,184	-	-	-		-	-	109,184	-
6,484,862	797,618	3,914,716	275,918	838,759	-	-	450,641	109,184	98,026

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

3000-COMMUNICATION, ADMINISTRATION, PLANNING

3020 Miscellaneous Small Grants Administration

Sub-total

3200 Other General Activities

3210 Property Management

3220 Disposal Reporting

3230 Technical Advisory Committee

3240 Fee Enforcement

Sub-total

3400 Planning

3410 General Planning

3420 Every Other Week Collection Pilot

3430 ColWMP Amendments Application

3460 Five Year Audit

Sub-total

3500 Agency Communications

3510 General Agency Communication

3520 4Rs Education

3530 Legislation

Sub-total

Total Communication, Administration, Planning**Total Project Expenditures**

Total Cost	-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
300,000	-		300,000						
300,000	-	-	300,000	-		-	-	-	-
73,931		73,931							
162,252	48,675			113,576					
45,647	45,647								
392,330	392,330								
674,160	486,652	73,931	-	113,576		-	-	-	-
73,655	73,655								
73,867		73,867							
12,452	12,452								
172,734							172,734		
332,708	86,107	73,867	-	-		-	172,734	-	-
901,703	840,603						61,100		
109,433	109,433								
253,960	213,960						40,000		
1,265,096	1,163,996	-	-			-	101,100	-	-
2,571,964	1,736,755	147,798	300,000	113,576		-	273,834	-	-
18,815,431	3,964,201	4,167,437	1,241,250	952,335	5,743,386	-	887,475	804,589	1,054,759

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

		-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Total Cost	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
REVENUES										
Benchmark Fees	857,000				857,000					
Energy Council	5,743,386					5,743,386				
Tonnage revenues	10,530,590	4,462,015	2,431,623				1,212,316	808,212	808,212	808,212
Interest	62,000	6,200	45,800				10,000			
Externally funded revenues	1,241,250			1,241,250						
Property and Other revenues	480,000		480,000							
Total revenues	18,914,226	4,468,215	2,957,423	1,241,250	857,000	5,743,386	1,222,316	808,212	808,212	808,212
TRANSFERS TO/FROM RESERVES										
From OPD Reserve to fund Every Other Week Collection Pilot (3420)	73,867		73,867							
From MRF Reserves to fund MRF Operations Monitoring (2120)	532,687		532,687							
From Product Decisions Reserve to fund Regionalizing Bay Friendly (1140)	56,554	56,554								
From OPD Reserve to fund Mandatory Recycling Implementation (2090)	60,000		60,000							
Transfer from Facility Fee Fund Balance to OPD Reserve	(1,085,019)	(1,085,019)								
Total Net Transfers	(361,912)	(1,028,465)	666,554	-	-		-	-	-	-
FUND BALANCE										
Beginning fund balance 7/1/14	5,031,243	1,631,240	648,475				866,073	1,283,944	303,207	298,304
Closed contracts	136,000	74,800							24,000	37,200
Beginning Fund Balance 7/1/14	5,167,243	1,706,040	648,475	-	-		866,073	1,283,944	327,207	335,504
AVAILABLE FUNDING	23,719,558	5,145,790	4,272,452	1,241,250	857,000	5,743,386	2,088,389	2,092,156	1,135,419	1,143,716
Less: Project Expenditures	(18,815,431)	(3,964,201)	(4,167,437)	(1,241,250)	(952,335)	(5,743,386)	-	(887,475)	(804,589)	(1,054,759)
From Grants to Non-Profit fund to cover Benchmark related costs**					95,335			(95,335)		
ENDING FUND BALANCE	\$ 4,904,126	\$ 1,181,589	\$ 105,015	-	0	0	\$ 2,088,389	\$ 1,109,346	\$ 330,830	\$ 88,957
OTHER PROJECTS:										
Revolving Loan (RLF): (Project 2030)										
Beginning fund balance	\$ 1,236,384									
Revenues	21,000									
Loan Repayment	358,000									
Project cost (loans and expenses)	(935,881)									
Ending fund balance	\$ 679,503									
RB Municipalities (Measure D 50%) (Project 2220)										
Beginning fund balance	\$ -									
Revenues	4,042,058									
Project cost	(4,042,058)									
Ending fund balance	\$ -									
Public Agency Environ. Pref. Purch.Measure D 5% (proj. 1210)										
Beginning fund balance	\$ -									
Revenues	404,106									
Project cost	(404,106)									
Ending fund balance	\$ 0									
Total project cost including other projects	\$ 24,197,476									
Total revenues including other projects	\$ 23,739,390									

NOTE

Facility Fees=Authority user fee of \$4.34 per ton.
Mitigation Fees= Import Mitigation Fee of \$4.53 per ton collected on all other wastes landfilled in Alameda County that originate out-of-county except San Francisco waste fee is currently \$6.10 per ton.
RB Discretionary=Recycling Board Discretionary Fund - 15% of Measure D fees, of which 3% may be used to cover expenses necessary to administer the recycling fund.
RB Grants to Non-Profit = Recycling Board Grants to Non-Profit Fund - 10% of Measure D fees.
RB Source Reduction= Recycling Board Source Reduction Fund - 10% of Measure D fees.
RB Market Development = Recycling Board Market Development Fund - 10% of Measure D fees.
RB Recycled Prod. Pref. = Recycling Board Recycled Product Price Preference Fund - 5% of Measure D fees.
RB Municipalities = Recycling Board Municipalities Fund - 50% of Measure D fees.
RLF = Revolving Loan Fund

NOTE

Facility Fees=Authority user fee of \$4.34 per ton.
Mitigation Fees= Import Mitigation Fee of \$4.53 per ton collected on all other wastes landfilled in Alameda County that originate out-of-county except San Francisco waste fee is currently \$6.10 per ton.
RB Discretionary=Recycling Board Discretionary Fund - 15% of Measure D fees, of which 3% may be used to cover expenses necessary to administer the recycling fund.
RB Grants to Non-Profit = Recycling Board Grants to Non-Profit Fund - 10% of Measure D fees.
RB Source Reduction= Recycling Board Source Reduction Fund - 10% of Measure D fees.
RB Market Development = Recycling Board Market Development Fund - 10% of Measure D fees.
RB Recycled Prod. Pref. = Recycling Board Recycled Product Price Preference Fund - 5% of Measure D fees.
RB Municipalities = Recycling Board Municipalities Fund - 50% of Measure D fees.
RLF = Revolving Loan Fund

**Estimated benchmark related costs are higher than estimated benchmark fee revenue in FY14-15 due to a special study which may be paid for from the grants to non-profits funding source per the language of the County Charter. Therefore, if the actual costs for the benchmark service in FY14-15 exceed actual revenue, the difference will be paid for from the grants to non-profits funding source.

**WASTE MANAGEMENT AUTHORITY
FUND BALANCES AVAILABLE
FISCAL YEAR 2014-2015 BUDGET**

FUND NAME

WMA	<i>BEG. FUND BALANCE JULY 1, 2014</i>	<i>ADJUST- MENTS</i>	<i>BEG. FUND BALANCE JULY 1, 2014</i>	<i>PROJECTED REVENUE</i>	<i>PROJECTED APPROPRIA- TIONS</i>	<i>TRANSFERS</i>	<i>FUND BALANCE JUNE 30, 2015</i>
Facility Operators Fee Transfer form Product Decisions Reserve	\$ 1,631,240	\$ 74,800	\$ 1,706,040	\$ 4,468,215	\$ (3,964,201)	\$ (1,085,019) (a)	\$ 1,181,589 56,554
Bench Mark Fees				857,000	(952,335)	95,335 (b)	0
Externally Funded				1,241,250	(1,241,250)		0
Mitigation	648,475		\$ 648,475	2,957,423	(4,167,437)	666,554 ©	105,015
Authority Total	<u>\$ 2,279,715</u>	<u>\$ 74,800</u>	<u>\$ 2,354,515</u>	<u>\$ 9,523,888</u>	<u>\$ (10,325,223)</u>	<u>\$ (266,576)</u>	<u>\$ 1,286,604</u>

(a) Transfer from Facility Fee Fund Balance to Organics Processing Development (OPD) reserve.

(b) Estimated benchmark related costs are higher than estimated benchmark fee revenue in FY14-15 due to a special study which may be paid for from the grants to non-profits funding source per the language of the County Charter. Therefore, if the actual costs for the benchmark service in FY 14-15 exceed actual revenue, the difference will be paid for from the grants to non-profits funding source.

© Transfer from OPD reserve.

**WASTE MANAGEMENT AUTHORITY
SCHEDULE OF RESERVES**

FISCAL YEAR 2014-2015 BUDGET

DESCRIPTION

WMA

	<i>BALANCE JULY 1, 2014</i>	<i>TRANSFERS IN</i>	<i>TRANSFERS OUT</i>	<i>BALANCE JUNE 30, 2015</i>
DESIGNATED RESERVES				
ORGANICS PROCESSING DEVELOPMENT	5,629,074	1,085,019	\$ (133,867)	6,580,226
EAST BAY MUD COMMERCIAL FOOD WASTE DIGESTER PROJECT	1,000,000			1,000,000
DIVERSION PROJECT: PRODUCT DECISIONS	205,857		(56,554)	149,303
FISCAL RESERVE	2,105,019			2,105,019
<i>Sub-total</i>	<u>8,939,950</u>	<u>1,085,019</u>	<u>(190,421)</u>	<u>9,834,548</u>
CONTRACTUALLY COMMITTED RESERVES				
DIVERSION PROJECT: MRF CAPACITY EXPANSION-DAVIS STREET	590,848		(532,687)	58,161
WMAC TRANSPORTATION IMPROVEMENT PROGRAM (TIP)	3,441,987			3,441,987
<i>Sub-total</i>	<u>4,032,835</u>	<u>-</u>	<u>(532,687)</u>	<u>3,500,148</u>
Total	<u>\$ 12,972,785</u>	<u>\$ 1,085,019</u>	<u>\$ (723,108)</u>	<u>\$ 13,334,696</u>

**Alameda County Waste Management Authority and Source
Reduction and Recycling Board
Authorized Positions – Fiscal Year 2014/2015
Effective July 1, 2014**

Classification Title	Number of Positions
Accountant	1
Administrative Aide	.75
Administrative Assistant Series (Administrative Assistant and Senior Administrative Assistant)	2
Administrative Services Director	1
Chief Finance Officer *	1
Deputy Executive Director	1
Executive Assistant	1
Executive Director	1
Principal Program Manager	1
Program Manager Series (I, II and Senior)**	22
Program Services Specialist Series (Program Services Specialist and Senior Program Services Specialist)	4
Supervising Executive Assistant	1
Webmaster/Graphic Designer (currently filled at .75 FTE)	1
Intermittent (FTEs)****	8.5

* Serves as the Agency's Treasurer pursuant to the Agency's investment policy and applicable state law

** Includes two (2) full time Limited Term Program Managers (through June 30, 2015)

**** Budgeted intermittent staff is 7.1 FTE (mostly interns) however, additional authorization needed for short time assignments and/or to cover employee leave.



Classification Title	Entry	Top
Accountant	6,844	8,315
Administrative Aide	3,668	4,457
Administrative Assistant	5,136	6,240
Administrative Service Director	12,941	15,721
Chief Finance Officer	9,091	11,045
Deputy Executive Director	12,941	15,721
Executive Assistant	6,328	7,690
Executive Director	Per Contract	
Principal Program Manager	11,590	14,081
Program Manager I	6,999	8,503
Program Manager II	8,398	10,204
Program Services Specialist	5,070	6,158
Senior Administrative Assistant	5,650	6,864
Senior Program Manager	10,078	12,244
Senior Program Services Specialist	5,626	6,836
Supervising Executive Assistant	6,962	8,458
Webmaster/Graphic Designer	7,557	9,183
Intermittent (Hourly)	17.87	94.14

*New salary ranges increased by 2.5%. Salary increases occur on September 28, 2014.

As outlined in the Agency's Human Resources Manual (section 2.2.1), annual step increases are awarded based on performance pursuant to the Annual Salary Increase Policy. Additionally, as outlined in the Section 2.1.1 of the Human Resources Manual, temporary pay differentials (generally 5%) outside of the incumbent's salary range maybe granted for out of classification assignments, with the approval of the Administrative Services Director and the Executive Director.

DEPUTY EXECUTIVE DIRECTOR

DEFINITION

Under administrative direction, assists the Executive Director in the directing, planning, organizing and administering of the Agency's programmatic activities. In addition, the incumbent designs, coordinates, implements, promotes, and oversees multiple broad and complex waste management/environmental protection programs, projects, and initiatives in support of the Alameda County Waste Management Authority, the Source Reduction and Recycling Board's and the Energy Council ("the Agency") priorities and directives and in a manner reflecting pertinent federal, state, local, and Agency-driven priorities, mandates, objectives, laws, guidelines, and regulations; directs, coordinates, and monitors the work of assigned staff, consultants, vendors, and contractors; serves as a liaison to, coordinates with, and provides highly responsible support and staff assistance to Agency staff, boards, and committees, as well as senior management staff of member agencies, private companies, and other public agencies; provides expert technical assistance to Agency in areas of expertise including policy, ordinance, and legislation development; develops and fosters cooperative working relationships with intergovernmental and regulatory agencies and various public and private groups; and performs related work as required. The incumbent may serve as Acting Executive Director as assigned.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Executive Director. Exercises leadership and/or supervision over professional, technical, and clerical staff.

CLASS CHARACTERISTICS

This department head classification oversees directs and participates in all activities including short- and long- range planning and programmatic development. This classification provides high level policy, operational and programmatic assistance to the Executive Director which may include a variety of complex special projects and assignments including serving as a liaison to Member Agency staff, representatives and other stakeholders. This class assumes the highest level of managerial responsibility for multiple and broad waste management, recycling and energy related programs. The Deputy Executive Director position is distinguished from the Principal Program Manager by the greater degree of critical external contact, expanded organizational impact, program oversight and direct responsibility for public policy associated with the goals of the Agency.

EXAMPLES OF ESSENTIAL JOB FUNCTIONS (Illustrative Only)

Management reserves the rights to add, modify, change, or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Plans, designs, coordinates, implements, promotes, and oversees the most difficult and complex waste management/environmental protection programs, projects, and initiatives, usually having either state or county-wide impact, in such areas as source reduction, recycling, business outreach and assistance, green building, household hazardous waste management, home composting, or market or economic development.
- Serves as a member of the leadership team (Review Panel); participates in the development and implementation of Agency goals, objectives, policies, procedures, and priorities; develops strategies for the achievement of these goals.

- Identifies, plans, develops, and implements new and/or modified programs, which may include administrative or operational programs, that promote and enhance the mission, goals, and objectives of the Agency and its members/constituents; oversees and participates in the conduct of necessary research and analysis to justify the appropriateness of implementing the proposed program/project; prepares presentation materials and background documentation; monitors project success using appropriate tracking and feedback systems.
- Provides responsible and complex staff assistance, technical and administrative support, and professional and highly technical expertise to Agency staff, boards, committees, and member agencies; researches, prepares, and presents comprehensive professional, technical, fiscal, and administrative studies, surveys, and reports; develops agenda items for board(s) and committee meetings; reviews agenda items prepared by others as assigned; presents information to the board(s).
- Directs, assigns, and monitors the work of assigned staff members; provides clear, concise, and consistent direction; maintains a positive and productive work environment; evaluates work performance according to Agency standards in role as Program Leader; initiates appropriate corrective actions as necessary.
- Directs, monitors, and evaluates the work of assigned consultants, contractors, and/or grantees according to Agency's standards and pertinent agreements/contracts; develops appropriate contract language; provides clear, concise, and consistent direction; acts as the primary resource and representative to consultant, contractor, and/or grantee regarding administrative and operational policies, procedures, and guidelines.
- Participates in the development, administration, and monitoring of assigned program budget(s) and fiscal activities; tracks expenditures; projects future funding needs; identifies appropriate and available funding sources; oversees major funding disbursement to member agencies; responds to questions regarding appropriate uses of funding; maintains relevant records and documentation.
- Directs and participates in the investigation and resolution of complaints related to assigned program areas, activities, and contracts; negotiates solutions to issues involving policy, service delivery, and organizational changes and directions.
- Coordinates assigned program activities with those of other Agency activities as well as federal, state, and local agencies to ensure effective cooperation on all governmental levels consistent with optimal efficiency, effectiveness, and economy; coordinates data, resources, and work products as necessary and upon request in support of a productive and positive working environment.
- Represents the Agency and its programs/projects on a regular basis to senior management staff of member agencies, private companies, and other public agencies as well as to other organizations, member communities, special interest groups, the legislature, state and local governments, elected officials, news media, schools, businesses, the waste management industry, and the general public; establishes, develops, and maintains these relationships; responds to complex and sensitive questions and requests for information; promotes the Agency's mission and goals.
- Drafts, develops, responds to, and provides input on local, regional, or state-wide waste management action plans, templates, protocols, ordinances, reports, regulatory changes, and other legislation.
- Monitors changes in laws, regulations, and technology that may affect departmental operations; develops and implements policy and procedural changes as required.
- Oversees or conducts special studies relative to the Agency's mission; prepares appropriate reports and analyses.
- Attends meetings, conferences, workshops, and training sessions and reviews publications and materials to become and remain current on principles, practices, and new developments relative to the Agency's mission.
- Oversees the design, production, and distribution of a variety of promotional, marketing, outreach, and informational materials, communications, and presentations to educate businesses, children, special interest groups and constituencies, the general public, and member communities on programs, services, resources, events, and activities; oversees and assists in the design of multi-media campaigns.
- Oversees grant development and administration, supervises and or directs the activities of staff assigned to grant compliance and management.

- May plan, design, coordinate, implement, promote, and oversee difficult and complex administrative and operational programs, projects, and initiatives to support the mission, goals, and objectives of the Agency.
- May serve as the Executive Director in his/her absence.
- Performs other duties as assigned.

QUALIFICATIONS

Knowledge of:

- Administrative principles and practices, including goal setting, program development, implementation and evaluation, budget development and administration, and supervision of staff, either directly or through subordinate levels of supervision.
- Recent developments, research methods, current literature, and sources of information related to a broad range of waste management/environmental protection programs, services, and administration.
- Principles and practices of budget preparation and administration.
- Methods and techniques of effective technical, administrative, and financial report preparation and presentation.
- Principles, practices, and trends in solid waste management, environmental law, waste reduction, and recycling public information and education programs.
- Current social, political, and economic trends affecting the Agency and its service provision.
- Applicable Federal, State, and local laws, regulatory codes, ordinances, and procedures relevant to assigned area of responsibility.
- Principles and practices used in professional service procurement, negotiations, and contract administration.
- Modern office procedures, methods, and equipment including computers and various software packages.
- Techniques for effectively representing the Agency in contacts with governmental agencies, community groups, and various business, professional, educational, regulatory, and legislative organizations.
- Techniques for providing a high level of customer service by effectively dealing with the public, vendors, contractors, and Agency staff.

Ability to:

- Plan, organize, direct, coordinate, and evaluate difficult and complex source reduction and recycling programs.
- Independently develop, manage, and administer program goals, objectives, and procedures for the most difficult and complex source reduction and recycling programs.
- Develop and mentor effective teams.
- Understand the organization and operation of the Agency and of outside agencies as necessary to assume assigned responsibilities.
- Interpret and apply the Agency's policies and procedures.
- Identify and respond to sensitive community and organizational issues, concerns, and needs including those raised by senior management staff of member agencies, private companies, and other public agencies.
- Research, analyze, and formulate recommendations, work plans, and activities regarding complex and sensitive planning, technical, administrative, and management issues.
- Organize and prioritize timelines and project schedules for self and others in an effective and timely manner.
- Analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals.
- Establish and maintain various data collection, record keeping, tracking, and reporting systems.
- Prepare clear and concise technical, administrative, and financial reports.

- Prepare and administer budgets and grants.
- Interpret and apply applicable federal, state, and local policies, laws, and regulations.
- Communicate and negotiate in a persuasive and productive manner with groups and individuals including senior level management staff of member agencies, private companies, and other public agencies.
- Operate a variety of office equipment including personal computers and related peripheral equipment and software applications.
- Communicate clearly and concisely, both orally and in writing.
- Use tact, initiative, prudence, and independent judgment within general policy and legal guidelines in politically sensitive situations.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience:

Any combination of training and experience that would provide the required knowledge, skills, and abilities is qualifying. A typical way to obtain the required qualifications would be:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in environmental science or engineering, urban planning, public policy, public or business administration, or a related field and seven (7) years of increasingly responsible experience in the field of source reduction, recycling, waste management, or other related area including five (5) years of managerial experience with responsibility for planning, organizing, coordinating, and directing diversified staff and complex programs within a politically active environment. A Master's degree is highly desirable.

License or Certificate:

- Possession of an appropriate valid driver's license may be required.
- Other specialized certifications (e.g. LEED) may be required for some positions.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer; to operate a motor vehicle and to visit various meeting sites; vision to read printed materials and a computer screen; and hearing and speech to communicate in person, before groups, and over the telephone. This is primarily a sedentary office classification although standing in work areas and walking between work areas may be required. Finger dexterity is needed to access, enter, and retrieve data using a computer keyboard or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push, and pull drawers open and closed to retrieve and file information. Positions in this classification frequently lift and carry reports and records that typically weigh less than 20 pounds.

ENVIRONMENTAL ELEMENTS

Employees work in an office environment with moderate noise levels, controlled temperature conditions, and no direct exposure to hazardous physical substances. Employees may interact with upset staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.

OTHER REQUIREMENTS

May require attending evening or weekend meetings, events, and/or workshops.

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May 21, 2014

TO: Energy Council

FROM: Gary Wolff, Executive Director
Pat Cabrera, Administrative Services Director

SUBJECT: FY14-15 Budget Adoption

BACKGROUND:

The Energy Council (EC) approved the Fiscal Year 2013-15 Budget by Resolution #EC 2013-01 on June 26, 2013, and approved a mid- budget adjustment on December 18, 2013 consistent with the mid-year adjustment process used by the Waste Management Authority Board (WMA) and the Recycling Board (RB).

Staff has incorporated budget adjustments for the EC for FY 14-15 as outlined in the attached resolution. The entire FY14-15 budget which includes the EC, WMA and the RB budgets can be found at www.stopwaste.org/docs/draft-budget-14-15.pdf

RECOMMENDATION:

Staff recommends that the EC hold a public hearing, and then adopt the attached resolution, which to maximize transparency readopts the entire EC budget for FY 14-15.

Attachment I: EC Resolution

ATTACHMENT I
ENERGY COUNCIL
RESOLUTION #EC2014-

MOVED:
SECONDED:

AT THE MEETING HELD MAY 28, 2014

FISCAL YEAR 2014-15 BUDGET ADOPTION; PROJECT CONTRACTS

WHEREAS, the Energy Council approved the Fiscal Year 2013-15 Budget by Resolution #EC 2013-01, and

WHEREAS, staff has prepared the proposed budget for Fiscal Year 2014-15 which includes previously approved Council action, and

WHEREAS, legal notice of a public budget hearing on May 28, 2014 has been provided, and a public hearing has been held.

NOW THEREFORE, BE IT RESOLVED, that the Energy Council hereby

1. Approves the budget as it pertains to the Energy Council operations and as shown on (Attachment A, pages III-3 through III-6 and page III-9) with expenditures totaling \$5,743,386, effective July 1, 2014.
2. Authorizes the following new or augmented contracts and/or spending authority for Fiscal Year 2014-15 subject to approval as to form by Legal Counsel and consistent with the Agency's purchasing policy.

Energy Council Offset

Allison & Partners	\$20,000
Underground Advertising	\$10,000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gary Wolff, Executive Director

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

		-----Waste Management Authority-----				Energy	-----Recycling Board-----				
		Total	Facility	Mitigation	Externally	Benchmark	Energy	RB	RB Grants to	RB Source	RB Market
		Cost	Fees	Fees	Funded	Fees	Council	Discretionary**	Non-Profit	Reduction	Development
EXPENDITURES											
1000 -PRODUCT DECISION:											
1020	Technical Assistance and Services	\$ 476,764	\$ 158,953							\$ 158,905	\$ 158,905
1030	BayROC (Bay Area Regional Recycling Outreach Coalition)	21,053	21,053								
1031	BayROC External Contributions	100,000			\$ 100,000						
	Sub-total	597,816	180,006	-	100,000	-		-	-	158,905	158,905
1100 Bay Friendly											
1110	Bay-Friendly Schoolyards	15,968	\$ 5,324							\$ 5,322	\$ 5,322
1111	Bay-Friendly Schoolyards (Prop. 84 Funding)	75,914			75,914						
1140	Regionalizing Bay Friendly	131,554	56,554						75,000		
1150	Bay Friendly Water Efficient Landscape Prop 84 (WMA)	157,227	13,923	13,923					18,000	90,497	20,884
1151	Bay Friendly Water Efficient Landscape Prop 84 (DWR)	75,000			75,000						
1152	Water Efficient Landscape Prop 84 Round II DWR Project Report	201,428			201,428						
	Sub-total	657,090	75,800	13,923	352,342	-		-	93,000	95,819	26,206
1200 Product Purchasing and Manufacturing											
1220	Waste Prevention: Institutional/Food Service	460,876	230,438							230,438	
1230	Waste Prevention: Reusable Transport Packaging	207,298	69,113							69,093	69,093
1231	Waste Preventions: Reusable Transport Packaging (EPA Funding)	212,990			212,990						
1240	HHW Point of Purchase Alternatives	262,858	262,858								
1250	Waste Prevention: Reusable Bag Ordinance Implementation	255,568	255,568								
1260	Recycled Content: Compost and Mulch	544,351	181,487								362,864
1270	Recycled Content: Building Materials	393,075	124,383						20,000		248,692
1280	Hard to Recycle: Institutional and Commercial Food Service Ware & Packaging	150,353	50,176						50,000	50,176	
1290	Hard to Recycle: Packaging Life Cycle Analysis and Recyclability Labeling	272,946		91,000						90,973	90,973
	Sub-total	2,760,314	1,174,022	91,000	212,990	-		-	70,000	440,680	771,621
1300 Energy Council											
1347	BayREN (Bay Regional Energy Network)	5,148,727					\$ 5,148,727				
1348	PG&E Energy Programs	479,335					479,335				
1349	Energy Council Offset	115,324					115,324				
	Sub-total	5,743,386	-	-	-	-	5,743,386	-	-	-	-
Total Product Decisions		9,758,606	1,429,828	104,923	665,332	-	5,743,386	-	163,000	695,404	956,733

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

2000-DISCARD MANAGEMENT

2020 Schools Transfer Station Tours
 2040 Competitive Grants
 2050 Ready, Set, Recycle Contest
 2061 Green Star Schools Activities
 2070 Benchmark Report Production and Distribution
 2080 Benchmark Data and Analysis
 2090 Mandatory Recycling Implementation

Sub-total

2100 Processing Facilities

2110 Construction & Demolition Debris Recycling
 2120 Materials Recovery Facility Operations & Monitoring

Sub-total

2300 Hazardous Waste

2310 Hazardous Waste
 2311 Used Oil Recycling Grant
 2312 Household Hazardous Waste Facilities

Sub-total

2400 C/I/I Collections (Commercial /Industrial/Institutional)

2420 Business Assistance Supporting Activities

Sub-total

Total Discard Management

Total Cost	-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
671,283	671,283								
390,641							390,641		
1,388,836		1,328,836					60,000		
26,351			26,351						
314,588				314,588					
524,171				524,171					
2,048,033		2,048,033							
5,363,903	671,283	3,376,870	26,351	838,759		-	450,641	-	-
103,185		5,159							98,026
532,687		532,687							
		-							
635,872	-	537,846	-	-		-	-	-	98,026
17,151	17,151								
125,000			125,000						
124,568			124,568						
266,718	17,151	-	249,568	-		-	-	-	-
218,368	109,184					-		109,184	-
218,368	109,184	-	-	-		-	-	109,184	-
6,484,862	797,618	3,914,716	275,918	838,759	-	-	450,641	109,184	98,026

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

3000-COMMUNICATION, ADMINISTRATION, PLANNING

3020 Miscellaneous Small Grants Administration

Sub-total

3200 Other General Activities

3210 Property Management

3220 Disposal Reporting

3230 Technical Advisory Committee

3240 Fee Enforcement

Sub-total

3400 Planning

3410 General Planning

3420 Every Other Week Collection Pilot

3430 ColWMP Amendments Application

3460 Five Year Audit

Sub-total

3500 Agency Communications

3510 General Agency Communication

3520 4Rs Education

3530 Legislation

Sub-total

Total Communication, Administration, Planning**Total Project Expenditures**

Total Cost	-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
300,000			300,000						
	-								
300,000	-	-	300,000	-		-	-	-	-
73,931		73,931							
162,252	48,675			113,576					
45,647	45,647								
392,330	392,330								
674,160	486,652	73,931	-	113,576		-	-	-	-
73,655	73,655								
73,867		73,867							
12,452	12,452								
172,734							172,734		
332,708	86,107	73,867	-	-		-	172,734	-	-
901,703	840,603						61,100		
109,433	109,433								
253,960	213,960						40,000		
1,265,096	1,163,996	-	-			-	101,100	-	-
2,571,964	1,736,755	147,798	300,000	113,576		-	273,834	-	-
18,815,431	3,964,201	4,167,437	1,241,250	952,335	5,743,386	-	887,475	804,589	1,054,759

WASTE MANAGEMENT AUTHORITY & SOURCE REDUCTION AND RECYCLING BOARD & ENERGY COUNCIL
Projects by Funding Source- Budget FY 14/15

		-----Waste Management Authority-----				Energy Council Board	-----Recycling Board-----			
	Total Cost	Facility Fees	Mitigation Fees	Externally Funded	Benchmark Fees	Energy Council	RB Discretionary**	RB Grants to Non-Profit	RB Source Reduction	RB Market Development
REVENUES										
Benchmark Fees	857,000				857,000					
Energy Council	5,743,386					5,743,386				
Tonnage revenues	10,530,590	4,462,015	2,431,623				1,212,316	808,212	808,212	808,212
Interest	62,000	6,200	45,800				10,000			
Externally funded revenues	1,241,250			1,241,250						
Property and Other revenues	480,000		480,000							
Total revenues	18,914,226	4,468,215	2,957,423	1,241,250	857,000	5,743,386	1,222,316	808,212	808,212	808,212
TRANSFERS TO/FROM RESERVES										
From OPD Reserve to fund Every Other Week Collection Pilot (3420)	73,867		73,867							
From MRF Reserves to fund MRF Operations Monitoring (2120)	532,687		532,687							
From Product Decisions Reserve to fund Regionalizing Bay Friendly (1140)	56,554	56,554								
From OPD Reserve to fund Mandatory Recycling Implementation (2090)	60,000		60,000							
Transfer from Facility Fee Fund Balance to OPD Reserve	(1,085,019)	(1,085,019)								
Total Net Transfers	(361,912)	(1,028,465)	666,554	-	-		-	-	-	-
FUND BALANCE										
Beginning fund balance 7/1/14	5,031,243	1,631,240	648,475				866,073	1,283,944	303,207	298,304
Closed contracts	136,000	74,800							24,000	37,200
Beginning Fund Balance 7/1/14	5,167,243	1,706,040	648,475	-	-		866,073	1,283,944	327,207	335,504
AVAILABLE FUNDING	23,719,558	5,145,790	4,272,452	1,241,250	857,000	5,743,386	2,088,389	2,092,156	1,135,419	1,143,716
Less: Project Expenditures	(18,815,431)	(3,964,201)	(4,167,437)	(1,241,250)	(952,335)	(5,743,386)	-	(887,475)	(804,589)	(1,054,759)
From Grants to Non-Profit fund to cover Benchmark related costs**					95,335			(95,335)		
ENDING FUND BALANCE	\$ 4,904,126	\$ 1,181,589	\$ 105,015	-	0	0	\$ 2,088,389	\$ 1,109,346	\$ 330,830	\$ 88,957
OTHER PROJECTS:										
Revolving Loan (RLF): (Project 2030)										
Beginning fund balance	\$ 1,236,384									
Revenues	21,000									
Loan Repayment	358,000									
Project cost (loans and expenses)	(935,881)									
Ending fund balance	\$ 679,503									
RB Municipalities (Measure D 50%) (Project 2220)										
Beginning fund balance	\$ -									
Revenues	4,042,058									
Project cost	(4,042,058)									
Ending fund balance	\$ -									
Public Agency Environ. Pref. Purch.Measure D 5% (proj. 1210)										
Beginning fund balance	\$ -									
Revenues	404,106									
Project cost	(404,106)									
Ending fund balance	\$ 0									
Total project cost including other projects	\$ 24,197,476									
Total revenues including other projects	\$ 23,739,390									

NOTE

Facility Fees=Authority user fee of \$4.34 per ton.
Mitigation Fees= Import Mitigation Fee of \$4.53 per ton collected on all other wastes landfilled in Alameda County that originate out-of-county except San Francisco waste fee is currently \$6.10 per ton.
RB Discretionary=Recycling Board Discretionary Fund - 15% of Measure D fees, of which 3% may be used to cover expenses necessary to administer the recycling fund.
RB Grants to Non-Profit = Recycling Board Grants to Non-Profit Fund - 10% of Measure D fees.
RB Source Reduction= Recycling Board Source Reduction Fund - 10% of Measure D fees.
RB Market Development = Recycling Board Market Development Fund - 10% of Measure D fees.
RB Recycled Prod. Pref. = Recycling Board Recycled Product Price Preference Fund - 5% of Measure D fees.
RB Municipalities = Recycling Board Municipalities Fund - 50% of Measure D fees.
RLF = Revolving Loan Fund

NOTE

Facility Fees=Authority user fee of \$4.34 per ton.
Mitigation Fees= Import Mitigation Fee of \$4.53 per ton collected on all other wastes landfilled in Alameda County that originate out-of-county except San Francisco waste fee is currently \$6.10 per ton.
RB Discretionary=Recycling Board Discretionary Fund - 15% of Measure D fees, of which 3% may be used to cover expenses necessary to administer the recycling fund.
RB Grants to Non-Profit = Recycling Board Grants to Non-Profit Fund - 10% of Measure D fees.
RB Source Reduction= Recycling Board Source Reduction Fund - 10% of Measure D fees.
RB Market Development = Recycling Board Market Development Fund - 10% of Measure D fees.
RB Recycled Prod. Pref. = Recycling Board Recycled Product Price Preference Fund - 5% of Measure D fees.
RB Municipalities = Recycling Board Municipalities Fund - 50% of Measure D fees.
RLF = Revolving Loan Fund

**Estimated benchmark related costs are higher than estimated benchmark fee revenue in FY14-15 due to a special study which may be paid for from the grants to non-profits funding source per the language of the County Charter. Therefore, if the actual costs for the benchmark service in FY14-15 exceed actual revenue, the difference will be paid for from the grants to non-profits funding source.

**ENERGY COUNCIL
FUND BALANCES AVAILABLE
FISCAL YEAR 2014-2015 BUDGET**

	<i>BEG. FUND BALANCE JULY 1, 2014</i>	<i>ADJUST- MENTS</i>	<i>BEG. FUND BALANCE JULY 1, 2014</i>	<i>PROJECTED REVENUE</i>	<i>PROJECTED APPROPRIA- TIONS</i>	<i>TRANSFERS</i>	<i>FUND BALANCE JUNE 30, 2015</i>
Energy Council				5,743,386	(5,743,386)		0
<i>Energy Council Total</i>	0	0	0	\$ 5,743,386	\$ (5,743,386)	0	0

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May 28, 2014

TO: Authority Board
FROM: Gary Wolff, Executive Director
Brian Mathews, Senior Program Manager - Property
SUBJECT: Amendment to Wind Easement on ACWMA Property

BACKGROUND

The Authority owns approximately 1,600 acres of real property (Property) in eastern Alameda County (see map in Exhibit A). When purchased by the Authority in the early 1990's, several of the parcels came with easements for the generation of wind power which were consolidated in 2004 into a single Amended and Restated Easement Agreement (2004 Wind Easement). Exhibit B presents the 2004 easement.

The holder of the 2004 Wind Easement is Green Ridge Power LLC, which is a wholly owned subsidiary of NextEra Energy Resources (NEER). NEER wishes to repower on the Property. Repowering is the process of removing older generation turbines and replacing them with new but fewer larger turbines at a greater height above the ground. Repowering with new larger turbines is recommended by the Scientific Review Committee, an independent panel of experts advising Alameda County Community Development Agency on solutions to reduce avian mortalities in the Altamont Pass Wind Resource Area (APWRA).

Approval of the 2014 Amendment is not an approval of a repowering project on Authority Property. The project developer, NEER will still need to fulfill CEQA requirements, secure permits from multiple federal and state agencies, and obtain a Conditional Use Permit from Alameda County Community Development Agency. Approval of the easement amendment lets the easement holder know the financial and legal terms of its easement with us, should it obtain all approvals required for project development. If they do not obtain all such approvals and repower on the property by December 31, 2017, their easement with us will terminate automatically and they will have one year thereafter to remove their facilities.

This memo offers for consideration by the Board a draft First Amendment to the Amended and Restated Easement Agreement (2014 Amendment), attached as Exhibit C.

DISCUSSION

The Authority purchased its property for “reserve landfill capacity” whose objective is to prevent landfill pricing from becoming “too high,” but has since determined that a composting facility could also be developed on the site. The site constraints imply that a composting facility would be expensive compared with other composting options, but the additional expense may be worthwhile if no other in-county composting site is developed at lower cost.

The land is leased for grazing and communication towers, and has a residential farm house that we lease through a property management firm. Other than wind power easement revenue, rental revenue is small and barely offsets the associated property management costs.

The Authority Property is uniquely situated in the APWRA by occupying the eastern slope of the Altamont Pass summit on the south side of highway 580. Its topography, area, and position are well suited for wind power production.

Prior to being amended and restated in 2004, the wind easements on the property had no end date. The 2004 Wind Easement modified the term to end in 2014 with one ten-year automatic extension to 2024 for the purpose of repowering. Due to a number of issues including litigation over avian mortalities, technology innovation, and operating costs, the majority of the wind turbine companies operating in the APWRA signed onto an agreement with the California Attorney General’s office to stop operating old generation turbines in November 2015, and start repowering as soon thereafter as possible.

Repowering requires a significant investment on the part of the project developer. The costs for repowering include permitting, environmental review, removal of old generation turbines and their foundations, and purchase and installation of new foundation, towers and turbines. The total repowering project proposed by NEER is for 81.7MW, with an estimated total project cost of \$170-200 million dollars. Of that amount, the project cost on our Property is estimated to be at \$60-\$75 million depending on the number of turbines installed.

The 2004 Wind Easement agreement contemplated the possibility of repowering and included the following language to allow for possible amendment:

12.6 *If any tax credit or incentive for alternative energy expenditure established by any local, state or federal government is not available to the holder of an easement, at Green Ridge's option, ACWMA and Green Ridge shall amend this Easement to the extent, and only to the extent, necessary to convert Green Ridge's interest in the Property to an interest that makes Green Ridge eligible for such tax credit or incentive; provided, however, that in no event shall any material benefits accruing to the ACWMA under the terms and conditions of this Easement be adversely affected.*

To secure the Federal Production Tax Credit (PTC) for a repowered system, NEER must demonstrate a project is viable by making an investment in it. For NEER to make that investment, it must have a long enough remaining term to amortize the investment.

Amortization over too short a time period means the project will cost too much per unit of energy produced, which in turn makes it not financeable. The 10 year term for repowering in the 2004 Easement is too short for this purpose. Consequently, staff has negotiated a longer term and the other changes necessary to both make the project financeable and thereby qualify for the PTC, and to ensure that no material benefits to the Authority under the 2004 Easement are adversely affected.

The revenue to the Authority from wind generation has historically averaged about \$430,000 per year, but has been steadily declining over time as old generation turbines cease to be repairable or are removed to address avian mortality issues. Without a repowering agreement, wind revenue would entirely or almost entirely cease at the end of 2015. Between now and the end of 2015 the expected wind revenue is \$375,000/year.

The key financial terms of the 2014 Amendment for a repowering project are:

1. A 30 year term from the date on which the newly constructed wind farm begins operation.
2. Maximum of twenty-two 1.7 MW turbines with a combined name-plate output capacity of 37.4 WM.
3. Royalty rate of 5.0% of energy sales in years 1-7, 5.5% in years 8-15, 6.0% in years 16-25 and 7% in years 26-30.
4. Minimum payment for of 4,200 megawatt-hours (MWH) per year.
5. Guarantee of no less than 18 turbines or 30.6 MW installed capacity. If less than 18 turbines are installed, NEER will pay the Authority 18 divided by the actual number of turbines, times the royalty payments on the actual number of turbines.
6. An increase (but no decrease) in the royalty rate of 1% for each \$60 per MWH that future PPAs are greater than \$70 per MWH. This increase will be pro-rated (e.g., a future PPA of \$100 per MWH will increase the royalty by 0.5%). This increase will apply to all energy sales and royalties as defined in the agreement after the new PPA is signed (e.g., if the royalty rate at the time the new PPA is signed is 5.5%, and the new PPA is \$100 per MWH, the royalty will immediately increase to 6%, and the later royalty rate of 6% in the initial agreement will increase to 6.5%, the later royalty rate in the agreement of 7% will increase to 7.5%, etc.). However, the maximum royalty rate that will be paid is 9%.

Revenue from wind generation is based on several factors; number of turbines, size of turbines, wind availability, Power Purchase Agreement (PPA) rate (\$70/MWH assumed in this case), and royalty percentage. The expected annual revenue from this repowered wind project on our Property is between \$422,188 (18 turbines) and \$516,000 (22 turbines). However, NEER has already claimed that one of the 22 turbines cannot be installed due to factors beyond its control. Since the process for evaluating that claim -- including documentation of the factors beyond their control -- is described in the 2014 Easement, we have not yet evaluated their claim.

As previously stated, wind revenue to the Authority is anticipated to cease November 1, 2015. Per the terms of the proposed 2014 Amendment NEER will make interim payments to the Authority beginning January 1, 2016 in the amount of \$1,027.40/day (\$375,000 per year) until either the project is online, or NEER determines a project is not feasible and gives notice to the Authority of its intent to terminate the easement. If NEER gives notice of its intent to terminate the easement, the termination will require the removal of all Green Ridge facilities on the property and the surface restored. NEER will continue to make interim payments for 183 days after the date it gives notice as a termination payment, IF AND ONLY IF, the notice of termination is given after January 1, 2016. A termination notice prior to that date does not require a termination payment.

As noted above, NEER has proposed 22 1.7-MW turbines be placed on Authority Property with a combined output of 37.4 MW. The number of turbines that can be placed is affected by terrain, avian flight and wind patterns, geological sub-surface formations to support the towers, property and power line off-sets, and other limitations including constructability, FAA flight and microwave beam paths. The NEER development team's current turbine placement map is included as an Exhibit (G) to the 2014 Amendment (Attachment C).

NEER cannot reduce the number of turbines planned for the Authority Property unless doing so is necessary for reasons (factors) beyond its control. NEER must provide documentation justifying installation of any number of turbines less than 22, demonstrating that its failure to install any particular turbine is beyond its reasonable control. This clause in the easement is subject to binding arbitration if the parties disagree about what constitutes 'beyond reasonable control'.

NEER will need to mitigate for biological impacts on the land affected by its project. It is possible that NEER will want to mitigate on Authority Property, since we own some areas with Habitat Value that are not currently in conservation easements. The 2014 Amendment says that NEER will consider using Authority Property for its mitigation needs, but makes no obligation to do so. Any such arrangement will be handled by a separate agreement. This is an important term because it demonstrates the Authority's commitment to the East Alameda County Conservation Strategy, a regional planning document specific to the areas in eastern Alameda County, which calls for local mitigation for local development impacts. Potential revenue from mitigation on Authority Property is several million dollars, but such mitigation could prevent or constrain future site use as a landfill or composting facility.

External Review

To assist in the review of the technology aspects of the repowering proposal the Authority hired Marion Horna P.E., a consulting professional engineer with over 46 years of experience in power generation and 15 years in wind generation. Mr. Horna primarily focused his review on the technological aspects of the repowering proposal. He reviewed historical wind data, technology selection, and calculations for P-50 and P-90 Net Capacity Factors (which are used in the

calculation of expected energy production). Attached as Exhibit D is an opinion letter from Mr. Horna expressing his view that the repowering proposal is technically sound.

Separately, the Authority negotiating team sought the input from an independent third party executive in the wind generation development business with intimate knowledge and experience in the APWRA for projects of this nature, to review the business terms of the 2014 Amendment. The review was to ask if the terms offered by NEER are competitive with what the executive is familiar with given the current climate for wind energy development projects. The executive asked to not be identified by name. The executive stated there is not now, nor has there ever been an employment or consultant/client relationship with NEER. The executive said given the current economic climate and the price of renewable energy contracts, the royalty percentages offered by NEER were at least competitive, and the executive was not aware of any development company offering to guarantee a minimum number of turbines. The executive was also not aware of development companies offering substantial interim payments (or option payments) during repowering construction. It was the executive's experience that NEER is a very professional organization with a good reputation in the industry and has a well-organized development team familiar with the nuances of the APWRA, the permitting requirements, and other factors specific to that area. It was the executive's opinion that if NEER couldn't implement a successful repowering project, it would be difficult for anyone else to do so.

Indemnification

Legal Counsel advises us that it is typical in similar situations for the private party to indemnify the public agency involved. To address any risk associated with the Board's decision should it approve the 2014 Amendment, NEER has agreed to indemnify the Board *"from any claim, action or proceeding (hereafter collectively "proceeding") brought against ACWMA to attack, set aside, void or annul ACWMA's approval and/or any action relating to such approval."* Attachment E is the full signed Indemnification Agreement drafted by Authority Counsel.

RECOMMENDATION

Authorize the Executive Director to sign and implement the terms of the attached First Amendment to the Amended and Restated Easement Agreement (Attachment C).

If the Board would like to consider further negotiations with NEER with respect to price and key terms related to price, it may use the optional closed session on the agenda to have this discussion and give direction to the Executive Director as its negotiator. Such direction can also take place in open session, but then NEER will be aware of the Board's directions.




- Attachment A: Map of ACWMA Property
- Attachment B: Existing Easement (that is, the 2004 Easement)
- Attachment C: Draft First Amendment to the Amended and Restated Easement Agreement (that is, the proposed 2014 Amendment)
- Attachment D: Opinion Letter from Marion Horna P.E.
- Attachment E: Indemnification Agreement

ACWMA Parcel Locator Map

Map shows ACWMA Parcels where Repowering would occur.
No Repowering on ACWMA Parcel 6

ATTACHMENT A

Legend

-  ACWMA
-  ACWMA
-  Livermore

Livermore

ACWMA Repowering Parcels

ACWMA Parcel 6

Google earth

Image © 2014 DigitalGlobe
© 2014 Google

5 mi



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AMENDED AND RESTATED EASEMENT AGREEMENT

This AMENDED AND RESTATED EASEMENT AGREEMENT ("Easement") is made, dated, and effective as of 10/21/2011 ("the Effective Date") between the ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY ("ACWMA") and GREEN RIDGE POWER LLC, a Delaware limited liability company ("Green Ridge").

RECITALS

- A. William Ralph, Marie A. Ralph, and DePaoli Equipment Co., as grantor, and U.S. Windpower Inc., as grantee, entered into that certain Easement dated September 7, 1983, which was recorded in the Official Records of Alameda County, California, on September 13, 1983, as Instrument No. 83-169460 ("DePaoli Agreement").
- B. Under the DePaoli Agreement, William Ralph, Marie A. Ralph, and DePaoli Equipment Co. granted to U.S. Windpower Inc. an easement on, over, and along the property described in the attached Exhibit A, which is incorporated herein by reference ("DePaoli Parcel").
- C. Barbara Moy and Gladys Moy, as grantor, and U.S. Windpower Inc., as grantee, entered into that certain Amended and Restated Easement Agreement dated June 30, 1993, a short form of which was recorded in the Official Records of Alameda County, California, on September 17, 1993 as Instrument No. 93330394 ("Moy Agreement").
- D. Under the Moy Agreement, Barbara Moy and Gladys Moy granted to U.S. Windpower Inc. an easement in, on, over, and along the property described in the attached Exhibit B, which is incorporated herein by reference ("Moy Parcel").
- E. Lois M. Combs and Milton Lemos, as grantor, and U.S. Windpower Inc., as grantee, entered into that certain Amended and Restated Easement Agreement dated September 9, 1993, a short form of which was recorded in the Official Records of Alameda County, California, on March 25, 1994, as Instrument No. 94116471 ("Combs Agreement").
- F. Under the Combs Agreement, Lois M. Combs and Milton Lemos granted to U.S. Windpower Inc. an easement in, on, over, under, and along the property described in the attached Exhibit C, which is incorporated herein by reference ("Combs Parcel").
- G. U.S. Windpower, Inc. entered into that certain Subeasement dated March 28, 1988 with Windpower Partners 1988 under the Moy Agreement. U.S. Windpower, Inc. also entered into that certain Subeasement dated March 28, 1988 with Windpower Partners 1988 under the DePaoli Agreement.

U.S. Windpower, Inc. and US WEG, L.P. entered into that certain Second Amended and Restated First Subeasement dated December 31, 1986 under the Moy Agreement; which was subsequently assigned by US WEG, L.P. to Finova Capital Corporation under that

certain Assignment of Second Amended and Restated First Subeasement dated September 30, 1997; which was subsequently assigned by Finova Capital Corporation's successor in interest, Cactus Resort Properties, Inc., to WindWorks Inc. under that certain Assignment of Second Amended and Restated First Subeasement dated October 29, 1999.

The aforementioned listed subeasements will be amended and restated to conform to this Easement.

- H. ACWMA now owns the DePaoli Parcel, Moy Parcel and Combs Parcel (collectively referred to herein as the "Property"), and has succeeded to the interests of the grantor in the DePaoli Agreement, Moy Agreement and Combs Agreement.
- I. Green Ridge has succeeded to the interests of U.S. Windpower, Inc. in the DePaoli Agreement, Moy Agreement and Combs Agreement.

By virtue of the subeasements and assignments listed in Recitals G., above, Green Ridge has assigned and conveyed to Windpower Partners 1988 L.P. and WindWorks Inc. certain of the Green Ridge Activities and Green Ridge Facilities (for the wind energy conversion, collection, transmission and sale of electric power) as further described in Section 2 "Scope" of this Easement, on limited and specific sites on the DePaoli and Moy Parcels as delineated in such subeasements and assignments.

- J. ACWMA and Green Ridge wish to consolidate the DePaoli Agreement, Moy Agreement and Combs Agreement, and amend and restate the terms and conditions thereof.

NOW, THEREFORE, in consideration of the facts recited above, and the mutual promises, covenants, and conditions contained in this Agreement, the parties agree as follows:

1. Amendment and Restatement. The DePaoli Agreement, Moy Agreement, and Combs Agreement are amended and restated on the terms and conditions stated in this Easement. This Easement supercedes all terms and conditions of the DePaoli Agreement, Moy Agreement, and Combs Agreement.
2. Scope. The Easement is for wind energy conversion, for the collection and transmission of electric power, and for related activities necessary for wind energy conversion or the collection or transmission of electric power which is to be done by: (a) conducting studies of wind speed, wind direction and other meteorological data on the Property; (b) constructing, installing, using, replacing, relocating and removing from time to time, and maintaining and operating, existing, additional or new wind turbines, overhead and underground electrical transmission and communications lines, electric transformers, energy storage facilities such as telecommunications equipment, roads, meteorological towers and wind measurement equipment control buildings, maintenance yards, and related facilities and equipment on the Property to enable Green Ridge to generate electricity from the wind on the Property and to transmit such power to the utility grid;

and (c) subject to the ACWMA's rights described below, undertaking any other activities, whether accomplished by Green Ridge or a third party authorized by Green Ridge, that are reasonably necessary, useful or appropriate to accomplish any of the foregoing. Collectively, the activities described in (a), (b) and (c) above shall be referred to herein as "Green Ridge Activities," and the facilities and equipment identified in (b) and (c) of this Section shall be referred to herein as "Green Ridge Facilities." Green Ridge shall have the exclusive right to convert all of the wind resources of the Property, excepting only that ACWMA expressly reserves the right to convert wind resources for ranching and farming operations, including the domestic buildings required for such operations, in any way that will not interfere materially with Green Ridge's operations hereunder and enjoyment of the rights hereby granted; otherwise, ACWMA expressly reserves the right to use the Property for purposes, including agricultural purposes and exploitation of oil, gas and mineral rights, that will not interfere materially with Green Ridge's operations hereunder and enjoyment of the rights hereby granted.

3. Term. This Easement is for a term commencing on the Effective Date and continuing initially until December 31, 2014 ("Initial Period"). Unless ACWMA exercises its rights under Section 11.2 of this Easement, Green Ridge may extend this Easement for one ten (10) year term thereafter, and such extension shall automatically occur unless Green Ridge declines to extend this Easement by providing ACWMA written notice of such no later than one hundred twenty (120) days prior to the expiration of the Initial Period. The Initial Period plus any extensions are collectively referred to herein as "Term."
4. Fee Payments. Green Ridge shall pay to ACWMA fees on the dates and in the amounts set forth on or computed in accordance with the Fee Schedules attached hereto as Exhibit D, and incorporated herein by reference ("Fee Schedules"). The Fee Schedules would apply for the Term of the Easement. Except as already provided in Exhibit D, in the event of any replacement of older Green Ridge Facilities with newer Green Ridge Facilities ("repowering") during the Term, the Fee Schedules would continue to apply as long as the total megawattage capacity of the Green Ridge Facilities on the Property after the repowering is not more than 5% less than 42.6 MW, the megawattage capacity of all Green Ridge Facilities that have been installed on the Property as of the Effective Date of the Easement. If such decrease in capacity, in excess of 5%, occurs, the parties shall renegotiate the Fee Schedules.
5. Ownership of Green Ridge Facilities. ACWMA shall have no ownership interest in Green Ridge Facilities constructed and installed on the Property; and Green Ridge may remove any or all Green Ridge Facilities at any time.
6. Taxes. Green Ridge shall pay and be solely responsible for any increase in the real property taxes or personal property taxes levied against the Property or due and payable as a result of the placement of Green Ridge Facilities on the Property. Green Ridge shall only be liable for real property taxes or personal property taxes levied as a result of the installation of Green Ridge Facilities and shall not be liable for real property taxes or personal property taxes attributable to the underlying value of the Property. Green Ridge shall also be solely liable for any and all other taxes, whether now existing or later

arising, attributable to Green Ridge's use or development of the Property.

7. ACWMA's Representations, Warranties and Covenants. ACWMA hereby represents, warrants and covenants that:

- 7.1. ACWMA has the unencumbered ability to grant this Easement and all of the rights provided for in this Easement.
- 7.2. (a) ACWMA's activities and any grants of rights ACWMA may make after the Effective Date to any other person or entity on the Property shall not materially interfere with Green Ridge Activities. For purposes of this Easement, material interference with Green Ridge Activities is defined as material interference with the wind speed or wind direction over the Property or engaging in any other activity on the Property that causes a material decrease in the output and efficiency of the Green Ridge Facilities. For purposes of this Easement, the following activities shall be deemed not to interfere materially with Green Ridge Activities: (i) the operation, maintenance and management by ACWMA of the Habitat Preservation Areas identified in Figure 2-3 of the Alameda County Waste Management Authority Integrated Waste Management Facility Conceptual Plan Draft Environmental Impact Report - December 1993 ("Habitat Preservation Areas") in compliance with all applicable regulatory requirements; (ii) the rental of existing residences provided there is no material change to existing topography and no planting of tall trees which would materially interfere with wind speed or direction; and (iii) the grazing of livestock.

(b) In the event ACWMA wishes to approve, construct and/or operate a facility on the Property that could have the potential to materially interfere with Green Ridge Activities, the ACWMA shall consult with Green Ridge, and the parties shall discuss in good faith whether the proposed facility would materially interfere with Green Ridge Activities, and if so, how to modify the proposed facility or activity to avoid, if possible, such material interference. ACWMA shall provide, at its expense, such information to Green Ridge as Green Ridge reasonably requires to determine whether the proposed facility would materially interfere with Green Ridge Activities.
- 7.3. ACWMA shall assist and fully cooperate with Green Ridge, at no expense to ACWMA, with any zoning, building permits, environmental impact reviews, land use permits or any other approvals required for Green Ridge Activities, including execution of applications for such approvals. However, ACWMA may refuse to provide such assistance where Green Ridge Activities would interfere materially with any of the activities described in subsections (i), (ii), and (iii) of Section 7.2, or interfere materially with ranching and farming operations on the Property, or interfere with ACWMA's ability to generate revenue from its property in a manner that would not interfere materially with Green Ridge Activities.
- 7.4. Except for persons or entities having a recorded interest, there is no tenant or

other person in possession of, or having possessory rights to, any portion of the Property except as identified by ACWMA to Green Ridge in writing concurrently with the execution and delivery hereof, and ACWMA agrees to give notice of this Easement to any person to whom ACWMA may grant any possessory interest in the Property.

- 7.5. ACWMA shall take all reasonable precautionary measures to guard against fire on the Property while on or in any way using the Property.
 - 7.6. ACWMA shall not violate, and shall indemnify Green Ridge against any violation by ACWMA or its agents, or contractors of, any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation, or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations, on or under the Property.
 - 7.7. ACWMA shall notify Green Ridge of any sale, lease, mortgage, encumbrance, transfer or other changes in title to the Property at the time the same is effected.
 - 7.8. Indemnity. ACWMA assumes all liability for actual property damage and any injuries to any person to the extent that the same result from ACWMA's performance under this Easement during the Term; provided, however, that such liability may be satisfied through insurance proceeds. ACWMA shall indemnify and hold harmless Green Ridge from and against any and all claims arising from ACWMA's use of the Property or any other activity permitted or conducted by ACWMA in or about the Property or arising from any negligence of ACWMA or any of ACWMA's agents, contractors or employees, (but not from ACWMA's tenants or lessees), and from and against all reasonable costs, attorney's fees, expenses and liabilities incurred in the defense of such claim or any action or proceeding brought thereon (provided ACWMA shall be entitled to assume and control the defense of any such actions and any settlements thereof with attorneys reasonably acceptable to the Green Ridge). The reference to actual property damage in the first sentence of this Section 7.8 refers only to damage from physical destruction of tangible property and does not include, and the indemnity provided in the second sentence of this Section 7.8 does not cover, losses of rental, business opportunities, profits and other intangible property interests.
8. Green Ridge's Representations, Warranties and Covenants. Green Ridge hereby represents, warrants and covenants that:
- 8.1. Agricultural Operations. Green Ridge shall maintain and replace as needed all gates on the Property that Green Ridge has installed or installs in the future, and shall return all gates on the Property that Green Ridge did not install to the same condition that Green Ridge finds them. Green Ridge shall ensure gates are closed after use by Green Ridge, and Green Ridge shall make every reasonable effort not

to disturb agricultural operations on the Property, including but not limited to, keeping all vehicles on designated roadways.

- 8.2. Fire Measures. Green Ridge shall take all reasonable precautionary measures to guard against fire on the Property while on or in any way using the Property.
- 8.3. Maintenance by Green Ridge. Green Ridge shall, at Green Ridge's sole cost and expense, monitor closely and keep and maintain all Green Ridge Facilities, and the Property insofar as it is affected by Green Ridge's operations under this Easement, in good order and repair and in a safe and clean condition.
- 8.4. Baseline Monitoring. Green Ridge shall collect reasonably comprehensive data regarding the wind speed and wind direction over the Property on an ongoing basis. If Green Ridge alleges that ACWMA is materially interfering with Green Ridge's activities in violation of this Easement, Green Ridge shall promptly provide a copy of the data to ACWMA.
- 8.5. Requirements of Governmental Agencies. Green Ridge, at Green Ridge's own cost and expenses, shall observe and comply with all valid laws, ordinances, permits, statutes, orders and regulations by any federal, state, county, local or other governmental agency or entity (hereinafter "Governing Laws") applicable to Green Ridge Activities now or hereafter in effect during the Term of this Easement, including all requirements or conditions imposed on the Property by any governmental agency with jurisdiction over biological [avian] resources. Green Ridge shall have the right, if Green Ridge in Green Ridge's sole discretion desires, to contest by appropriate legal proceedings brought in good faith and diligently prosecuted in the name of Green Ridge the validity or applicability to the Property or Green Ridge Activities of any law, ordinance, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity; provided, however, that any such contest or proceeding, even if maintained in the names of Green Ridge, shall be without cost to ACWMA, and Green Ridge shall protect the Property and ACWMA from Green Ridge's failure to observe or comply during the contest with the contested law, ordinance, statute, order, regulation or property assessment.
- 8.6. No New Facilities Near Habitat Preservation Areas. Green Ridge shall not install any new Green Ridge Facilities within the Habitat Preservation Areas, or on any other portion of the Property where the Green Ridge Facilities would detrimentally impact the habitat value of the Habitat Preservation Areas. ACWMA acknowledges that Green Ridge presently operates wind turbines within the Habitat Preservation Areas.
- 8.7. No Claims Based on Habitat Preservation Areas. So long as ACWMA manages the Habitat Preservation Areas in compliance with all applicable regulatory requirements, including without limitation allowing vegetation to grow, Green

Ridge shall make no claims for damages or otherwise to any of its operations on the Property as a result of ACWMA's management of the Habitat Preservation Areas.

- 8.8. Indemnity. Green Ridge assumes all liability for actual property damage and any injuries to any person to the extent that the same result from Green Ridge's operation of the Green Ridge Facilities during the Term; provided, however, that such liability may be satisfied through insurance proceeds. Green Ridge shall indemnify and hold harmless ACWMA from and against any and all claims arising from Green Ridge's use of the Property or any other activity permitted or conducted by Green Ridge in or about the Property or arising from any negligence of Green Ridge or any of Green Ridge's agents, contractors or employees, and from and against all reasonable costs, attorney's fees, expenses and liabilities incurred in the defense of such claim or any action or proceeding brought thereon (provided Green Ridge shall be entitled to assume and control the defense of any such actions and any settlements thereof with attorneys reasonably acceptable to the ACWMA). The reference to actual property damage in the first sentence of this Section 8.8 refers only to damage from physical destruction of actual live crops, livestock or other existing tangible property and does not include, and the indemnity provided in the second sentence of this Section 8.8 does not cover, losses of rental, business opportunities, profits and the like from agricultural or other use of the Property that may be caused by Green Ridge's exercise of its rights under this Easement.
- 8.9. Insurance. Green Ridge shall, at Green Ridge's own cost and expense secure and maintain during the entire Term, a broad form comprehensive coverage policy of public liability insurance and motor vehicle liability insurance insuring Green Ridge and ACWMA (including its employees, agents, and appointed and elected officials) against any loss or liability caused by or connected with Green Ridge's occupation and use of the Property under this Easement, including personal and bodily injury and property damage in an amount not less than Five Million Dollars (\$5,000,000.00) of combined single limit liability coverage per occurrence, accident or incident. Certificates of such insurance shall be provided to ACWMA, and ACWMA shall be notified at least thirty (30) days prior to any material change to the required policy(ies). All policies shall include coverage for all claims filed after expiration or termination of this Easement relating to incidents that occurred prior to such expiration or termination.
- 8.10. Hazardous Materials. Green Ridge shall not violate any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation, or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations, on or under the Property. Green Ridge shall indemnify ACWMA against any violation by Green Ridge or its tenants, agents, or contractors of such federal, state, or local law, ordinance, or regulation.

9. Construction.

- 9.1. Notice of Non-Responsibility. ACWMA shall have the right to post and maintain on the Property and to record as required by law any notice or notices of non-responsibility provided for by the Mechanics' Lien Laws of the State in which the Property is located.
- 9.2. Compliance with Law. All Green Ridge Facilities constructed on the Property and all work performed by Green Ridge on the Property shall be in accordance with all valid laws, ordinances, statutes, orders and regulations, in effect at the time of such construction or work or otherwise made applicable to such construction or work, of all federal, state, county or local governmental agencies or entities having jurisdiction over the Property and related improvements.
- 9.3. Mechanics' Liens. Green Ridge shall keep the Property and all buildings and improvements, other than Green Ridge Facilities, now or hereafter located on the Property free and clear of all liens and claims of liens which attach to the Property or to any ACWMA improvements located on the Property for labor and services performed on, and materials, supplies or equipment furnished to the Property in connection with Green Ridge's use of the Property pursuant to this Easement.
- 9.4. Assignment of Livestock. Subject to Section 9.5 of this Easement, Green Ridge shall install, at Green Ridge's expense, such improvements as may be reasonably necessary, during any construction, to prevent livestock on the Property, if any, from escaping, as a result of Green Ridge's construction, from the Property, and Green Ridge shall also install, at Green Ridge's expense, such other improvements as may be reasonably necessary during construction to protect said livestock from contact with the operating machinery of Green Ridge and with guy wires, if any. This Section shall not be construed to require Green Ridge to repair, maintain or replace existing fences on the Property. However, Green Ridge shall be required to repair and maintain any and all fences it erects on the Property until removed by Green Ridge.
- 9.5. Removal of Livestock During Construction. Green Ridge shall provide ACWMA with at least twenty (20) days advance written notice of the date intended for commencement of any construction on the Property. Within fifteen (15) days after receipt of such notice, ACWMA shall request its tenants and lessees to remove all livestock from the area of construction indicated in such notice and to keep such livestock from such area until Green Ridge notifies ACWMA that construction is complete. Before the time for such removal, Green Ridge shall install and pay for temporary cross fencing as necessary to keep livestock on the Property out of the construction areas during this period and shall remove the same when construction is completed.

10. Assignment.

- 10.1. Assignment With ACWMA's Consent. Except as permitted in Section 10.2 below, any assignment, granting of subeasements, licensing or other transfer by Green Ridge without the prior written consent of ACWMA, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of ACWMA, terminate this Easement. The consent of ACWMA to any assignment, granting of subeasements, licensing or other transfer of Green Ridge's interest in this Easement, however, shall not be unreasonably withheld. Green Ridge shall notify ACWMA of its intent to assign or otherwise transfer this Easement at least sixty (60) days prior to the effective date of any such transfer. ACWMA recognizes that subeasements currently exist on the Property, including those easements listed under Recital G of this Easement, and ACWMA acknowledges that no consent is required for existing subeasements.
- 10.2. Assignment Without Grantor's Consent. Green Ridge shall have the right to assign or otherwise transfer (including by the grant of subeasements or licenses) this Easement, any or all right or interest in this Easement, any or all right or interest in the Property or any of the Green Ridge Facilities that Green Ridge may now or hereafter construct or install on the Property, or any or all of Green Ridge's rights and obligations under this Easement without the express written consent of ACWMA first had and obtained: (i) in connection with the sale of any Green Ridge Facilities or acquisition of Green Ridge; provided, however, that any purchaser of the Green Ridge Facilities or Green Ridge shall have the same or greater financial, management and legal capacity to fulfill the obligations under this Easement of Green Ridge (or the successor to Green Ridge's interests hereunder) as the party holding Green Ridge's interests hereunder immediately prior to such sale, provided further, that ACWMA shall have forty-five (45) business days prior to the effective date of a sale within which to review all reasonably appropriate books, records and statements, to the extent available to Green Ridge, of any proposed purchaser of the Green Ridge Facilities in order to verify said purchaser's financial, legal and managerial abilities; or (ii) to a corporation now or hereafter organized in which Green Ridge owns at least fifty-one percent (51%) of all outstanding shares of stock or (iii) to a partnership now or hereafter organized, a general partner of which is a corporation in which Green Ridge owns at least fifty-one percent (51%) of all outstanding shares of stock. Promptly following any such assignment or other transfer, Green Ridge will give ACWMA written notice of any such assignment or transfer. The assignee or transferee shall be bound in all respects to this Easement as evidenced by assignee's or transferee's signature on a document creating a binding contract with the ACWMA.
- 10.3. Assignment in Connection with Transmission Lines. Notwithstanding any other provision of this Easement, Green Ridge, in Green Ridge's sole discretion and without further act of ACWMA, shall have, during the Term, the right to grant, in connection with the exercise of Green Ridge's other rights under this Easement, a

subordinate easement to any utility ("Utility") granting to such Utility rights to construct, operate and maintain electric transmission facilities on the Property, provided that any monetary compensation or the equivalent to be paid by Utility thereunder shall be paid to ACWMA, and provided further that any such rights shall terminate upon the termination of this Easement. Any activities undertaken by Utility pursuant to any such subordinate easement shall be deemed to be activities undertaken by Green Ridge and shall be subject to all of the provisions of this Easement.

- 10.4. Successors and Assigns. This Easement shall run with the Property; and this Easement shall inure to the benefit of and be binding upon ACWMA and Green Ridge and their respective permitted transferees, successors and assigns, and all persons claiming under them.

11. Default and Termination.

- 11.1. Green Ridge's Right to Terminate. All covenants and agreements contained in this Easement are declared to be conditions to this Easement and to the terms herein set forth. Should ACWMA default in the performance of any covenant, condition or agreement contained in this Easement and if ACWMA has not cured the default within sixty (60) days after written notice of the default is received by ACWMA, or if a cure will take longer than sixty (60) days if ACWMA has not begun to diligently undertake and complete the cure, then Green Ridge shall have the right to immediately terminate this Easement. Green Ridge shall provide ACWMA at least one years notice of its intent to terminate for its convenience the Easement. The effective date of any termination shall be the date on which the last of the Green Ridge Facilities is finally and completely removed. Green Ridge's right to terminate based on ACWMA's default shall be in addition to any other rights and remedies available under this Easement or at law.
- 11.2. ACWMA's Right to Terminate. All covenants and agreements contained in this Easement are declared to be conditions to this Easement and to the terms herein set forth. Should Green Ridge default in the performance of any covenant, condition or agreement contained in this Easement and if Green Ridge has not cured the default within sixty (60) days after written notice of the default is received by Green Ridge, or if a cure will take longer than sixty (60) days if Green Ridge has not begun to diligently undertake and complete the cure, then ACWMA shall have the right to terminate this Easement; provided, that if any payments required hereunder are not paid within ten days following the date due, Green Ridge shall pay to ACWMA interest accruing from the due date thereon at the annual rate of 2% above the Prime Rate charged by the Bank of America in San Francisco from time to time until such payment is made. Once any cure is commenced, Green Ridge shall diligently prosecute such cure to completion. ACWMA's right to terminate based on Green Ridge's default shall be in addition to any other rights and remedies available under this Easement or at law.

- 11.3. Waiver of Breach. Neither the making nor the acceptance by either party of any payments shall be deemed or construed as a waiver of any breach by the party making or receiving the payment of any provision of this Easement. The waiver by one party of any breach by the other party of any provision of this Easement shall not constitute a continuing waiver of any subsequent breach either of the same or a different provision of this Easement.
- 11.4. Remedy for Breach. In the event of any enforcement action, the parties agree that money damages may not be a sufficient remedy for any breach of this Easement and that either party shall be entitled to seek injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Easement. Such remedy shall not be the exclusive remedy for any breach of this Easement, but shall be in addition to all other rights and remedies available at law or in equity.
- 11.5. Surrender of the Premises. On expiration of the Term or sooner termination of this Easement, Green Ridge shall surrender the Property to ACWMA; and Green Ridge shall remove all Green Ridge Facilities, including but not limited to, windmills placed on the Property by Green Ridge and foundations, at least three (3) feet below the surface, of the Green Ridge Facilities. In any event, Green Ridge shall restore the surface of the ground to as near its condition at the time of execution and delivery of this Easement as practicable. Green Ridge shall have one year following the expiration of the Term or sooner termination of the Easement to restore the ground surface, and remove Green Ridge Facilities. After termination of this Easement or expiration of the Term, Green Ridge shall continue to pay the Minimum Fee, as defined in Exhibit D to this Easement, in effect at the time of termination or expiration until such time as the removal condition detailed above is accomplished; provided, however, that the Minimum Fee shall be pro-rated if Green Ridge completes such removal at any time other than the end of an operating year. In the event Green Ridge fails to remove improvements, as set forth above, within the time periods provided above, ownership of all Green Ridge Facilities not removed by Green Ridge shall revert to ACWMA. If ACWMA, at this time, elects to remove any such remaining Green Ridge Facilities it shall be at Green Ridge's sole cost and expense provided that a credit shall be made in favor of Green Ridge against this cost and expense for any salvage value received by ACWMA for said facilities.
- 11.6. Quitclaim Deed. Upon termination of this Easement, whether as to all the Property or only as to part, Green Ridge shall, upon request by ACWMA, immediately execute and record a Quitclaim Deed to ACWMA of all of Green Ridge's right, title and interest in and to this Easement or the Property, or any part thereof, as to which this Easement has been terminated.
12. Miscellaneous.
- 12.1. Except as otherwise expressly provided herein or by law, any and all notices or other communications required or permitted by this Easement or by law to be

served on or given to ACWMA or Green Ridge shall be in writing and shall be deemed served and given when personally delivered to ACWMA or Green Ridge, or their managing employee, or in lieu of such personal service when deposited in the United States mail, postage prepaid, certified or registered, addressed to ACWMA to the attention of Karen Smith, Executive Director, 777 Davis Street, Suite 100, San Leandro, CA 94577; or Green Ridge to the attention of Green Ridge Power, c/o FPL Energy, 700 Universe Boulevard, Juno Beach, FL 33408, attention: Business Manager. Either party may change its address for the purpose of this Section by giving written notice of such change to the other party in the manner provided in this Section.

- 12.2. Should any litigation be commenced between the parties to this Easement concerning the Property, this Easement, Green Ridge Facilities, or the rights and duties of either in relation thereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to reasonable attorneys' fees in such litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.
- 12.3. This Easement, and all matters relating to this Easement, or any need for interpretation of this Easement or any decision or holding concerning this Easement, shall be governed by the law of the State of California. Should any provision of this Easement be held by a court of competent jurisdiction to be either invalid, void or unenforceable, the remaining provisions of this Easement shall remain in full force and effect, unimpaired by the holding.
- 12.4. ACWMA and Green Ridge agree to execute in recordable form (which Green Ridge may record) a short form of this Easement. This instrument constitutes the sole and only agreement between ACWMA and Green Ridge respecting the Property, the use of the Property by Green Ridge, the construction of any Green Ridge Facilities described in this Easement and the terms herein specified, and correctly sets forth the rights and obligations of ACWMA and Green Ridge to each other as of the date last written below. This Easement shall not be subject to any modification or amendment except in writing signed by both parties, and no other purported modification or amendment, including without limitation by oral agreement, absence of a response to a unilateral written communication, or otherwise, shall be binding on either party. Any agreements or representations respecting the Property, this Easement, or any other matter referred to herein not expressly set forth in this Easement or a subsequent writing signed by both parties are null and void.
- 12.5. Time is expressly declared to be of the essence in this Easement.
- 12.6. If any tax credit or incentive for alternative energy expenditure established by any local, state or federal government is not available to the holder of an easement, at Green Ridge's option, ACWMA and Green Ridge shall amend this Easement to the extent, and only to the extent, necessary to convert Green Ridge's interest in

the Property to an interest that makes Green Ridge eligible for such tax credit or incentive; provided, however, that in no event shall any material benefits accruing to the ACWMA under the terms and conditions of this Easement be adversely affected.

- 12.7. Following any casualty for which Green Ridge receives proceeds of insurance that are not required to pay any financing related to the Green Ridge Facilities, Green Ridge shall determine in good faith, and reasonably, whether the use of such proceeds to reconstruct Green Ridge Facilities on the Property would be economic at such time and, if Green Ridge determines that the same would be economic, Green Ridge will, to the extent of such proceeds only, reconstruct Green Ridge Facilities on the Property with reasonable diligence. Green Ridge's obligation to pay the Minimum Fee to ACWMA shall continue unabated during such reconstruction; or, if Green Ridge decides not to reconstruct, during the period of removal, notwithstanding anything to the contrary in Section 12.10 of this Easement.
- 12.8. Green Ridge shall grant ACWMA reasonable access to the roads constructed by Green Ridge on the Property in accordance with this Easement, provided that the exercise of such access rights shall not materially interfere with Green Ridge's operations or exercise of its rights under this Easement, and provided further that, notwithstanding anything in this Easement (including without limitation Section 8.8) to the contrary, ACWMA expressly agrees that by the exercise of any such access rights ACWMA will have assumed all risks whatsoever directly or indirectly related to the use of such roads excepting only the risk of damage due to Green Ridge's negligence.
- 12.9. Green Ridge will provide ACWMA, upon request, copies of any statements and accompanying data upon which payments by Pacific Gas and Electric Company ("PG&E") or any other source of Gross Revenue, as defined in Exhibit D to this Easement, have been calculated, and ACWMA shall be entitled, subject to the following provisions, upon reasonable notice and during the ordinary business hours of Green Ridge, to audit the books of Green Ridge to the extent reasonably necessary to verify that such payments made to ACWMA were in accordance with the applicable sales agreement with PG&E and were calculated under the terms of this Easement, provided that the exercise of the rights provided in this sentence shall not unreasonably interfere with the normal operations of Green Ridge and provided that all costs and expenses of such audit other than normal and reasonable overhead of Green Ridge personnel in accommodating such audit are borne fully and solely by ACWMA. If following such an audit it is determined that the fees paid by Green Ridge to ACWMA for any three-month period hereunder were understated, Green Ridge shall forthwith pay to ACWMA the amount of the understatement of fees together with interest at the rate provided for in Section 11.2 above. If the understatement of fees is greater than five percent (5%) of the corrected total fee for such three-month period, Green Ridge shall pay ACWMA's reasonable expenses in conducting the audit together

with an understatement penalty of 15% of the amount by which the fees were understated. If the understatement of fees is 5% or less of the corrected total fee for such three-month period, ACWMA shall pay all reasonable fees other than normal and reasonable overhead of Green Ridge personnel in accommodating such audit incurred by Green Ridge during such audit. If Green Ridge determines that any such audit would involve access to confidential or proprietary information, Green Ridge shall be entitled to require that the audit be conducted by an independent certified public accountant acceptable to Green Ridge and following execution by such accountant of an agreement satisfactory in form and substance to Green Ridge providing for protection of the confidential or proprietary nature of such information.

- 12.10 Force Majeure. If performance of the Easement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means fire, earthquake, flood or other casualty or accident; war, civil strife or act of terrorism; strikes or labor disputes; inability to procure power at commercially reasonable cost; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility; or any other act or condition beyond the reasonable control of a party hereto. Notwithstanding the foregoing, Green Ridge shall not be excused from payment of the Minimum Fees set forth in Exhibit D to this Easement, except to the extent that an event of Force Majeure physically prevents payment. Upon restoration of payment ability, Green Ridge shall be required to promptly make all payments which were otherwise due during the event of Force Majeure.


- 12.11 This Easement may be signed and executed in counterparts.

ATTACHMENT B

EXECUTION COPY

IN WITNESS WHEREOF, ACWMA and Green Ridge have executed and delivered this Easement as of the Effective Date.

“ACWMA”

By: 
Karen Smith, Executive Director
Alameda County Waste Management Authority

10/21/04
Date

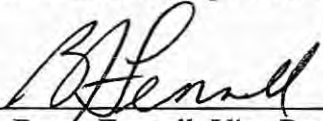
APPROVED AS TO FORM:

By: 
ACWMA Legal Counsel

10/19/04
Date

GREEN RIDGE POWER, LLC.

By: ESI Altamont Acquisitions, Inc., its Managing Partner

By: 
Bryan Fennell, Vice President

10/15/04
Date

83-169460

EXHIBIT A

(DePaoli)

Those parcels of land in the Township of Murray, County of Alameda, State of California, described as follows:

PARCEL1:

The south one-half of Section 34 in Township 2 South, Range 3 East, Mount Diablo Base and Meridian.

PARCEL2:

Section 33 in Township 2 South, Range 3 East, Mount Diablo Base and Meridian.

Except therefrom all that part which lies northwesterly of the southeast line of the land conveyed to the State of California by deeds recorded January 8, 1938, Series No. II/1002, Book 3589 OR, page 72 and April 4, 1967, Series No. AZ/29891, Reel 1940 OR, Image 890, Alameda County Records.

EXHIBIT B

(Moy Property)

Those parcels of land in the Township of Murray, County of Alameda, State of California, described as follows:

PARCEL 1:

The North ½ of Section 3 and all that portion of the North ½ of Section 4, Township 3 South, Range 3 East, Mount Diablo Base and Meridian, lying east of the center lines of North Flynn Road (County Road No. 3024) and South Flynn Road (County Road No. 5822).

Excepting therefrom that parcel of land containing 385 acres, conveyed to L.P. Crites, recorded March 2, 1891, Book 430 of Deeds, Page 18, Alameda County Records.

PARCEL 2:

All that portion of the South ½ of Section 3, Township 3 South, Range 3 East, Mount Diablo Base and Meridian, lying northerly of the northern boundary line of the 385 acre tract of land described in the Deed to L.P. Crites, recorded March 2, 1891 in Book 430 of Deeds at page 18, Alameda County Records.

94116471

EXHIBIT C

Land Description

(Combs)

That parcel of land in the Township of Murray, County of Alameda, State of California, described as follows:

All that portion of the North ½ of Section 4, Township 3 South, Range 3 East, Mount Diablo Base and Meridian, lying West of the center lines of North Flynn Road (County Road 2034) and South Flynn Road (County Road 5822).

Excepting therefrom that parcel of land conveyed to J.C. Raimers, recorded March 11, 1936, Book 3275 OR, page 347, Alameda County Records.

Also excepting therefrom ½ of all minerals and oil as reserved by Alice L. Sweet, et ux., by Deed recorded October 25, 1945, Series No. SS/71406, Book 4790 OR, page 220, for a period of 15 years from the date thereof.

ATTACHMENT B

EXHIBIT D

FEE SCHEDULES TO EASEMENT

This Fee Schedule establishes the fees that Green Ridge shall pay to ACWMA during the Term described in Paragraph 3 of the “Amended and Restated Easement Agreement” for Green Ridge’s activities on the Property pursuant to the Easement. This Fee Schedule is attached to and by reference is incorporated into the Easement. All capitalized terms used in this Fee Schedule are defined in the Easement or herein.

1. **Moy Parcel.** The following sets forth the fee schedule for the Moy Parcel.

1.1. **Landowner Share of Revenue Generated.** Green Ridge shall pay to ACWMA a percentage (“Applicable Percentage”) of the gross revenues that Green Ridge receives from the sale of the electricity generated by wind turbines on the Moy Parcel, as set forth below. Green Ridge shall not be deemed to receive revenue to the extent that Green Ridge uses some of the power generated to operate Green Ridge Facilities on the Moy Parcel. Payments to ACWMA shall be due within 30 days after Green Ridge receives payment for electricity delivered, but not more frequently than monthly.

1.2. **Turbines on Moy Parcel.** For WEG wind turbines on the Moy Parcel, the Applicable Percentage shall be 2%; and, except as described below, for all other wind turbines on the Moy Parcel the Applicable Percentage shall be 5.6 %. In the event any USW Model 33-M-VS wind turbines (or similarly sized turbines) are installed on or relocated to the Moy Parcel, the Applicable Percentage shall be 3% for the first five calendar years after installation of such turbines, 5% for the second five calendar years after installation of such turbines, and 7% thereafter.

1.3. **Determination of Electricity From Project in the Event of Shared Substation Usage.** The windmills located on the Moy Parcel will be connected to the utility’s power grid through a substation or a portion of a substation through which electricity from other wind energy generating sources may also flow. If electricity from such other sources flows through the same substation, Green Ridge will monitor the windmills on the Moy Parcel and from the data so collected will derive the number of kilowatt-hours they generate during a given revenue period; Green Ridge will also monitor the other wind energy generating sources in like fashion. Green Ridge hereby warrants in good faith that, to the best of its knowledge, its manner of monitoring the windmills on the Moy Parcel yields an accurate determination of the proportion of power flowing through the substation, or portion thereof, attributable to all windmills on the Moy Parcel. The electricity generated by windmills on the Moy Parcel will be measured as a percentage of the electricity delivered from the smallest separately metered substation or portion of a substation through which the electricity from the windmills on the Moy Parcel flows; the percentage will be determined by dividing the number of kilowatt-hours derived from operations of the windmills on the Moy Parcel by the total

ATTACHMENT B

number of kilowatt-hours derived from operations of all wind energy devices (including windmills on the Moy Parcel) from which electricity flows to such substation or portion of a substation.

1.4. Minimum Fee. Green Ridge payments to ACWMA for the Moy Parcel in each calendar year shall be subject to an annual minimum ("Minimum Fee") equal to \$15,000 per year. The Minimum Fee shall be payable (if at all) within 90 days after the end of each calendar year.

2. Combs Parcel. The following sets forth the fee schedule for the Combs Parcel.

2.1. Landowner Share of Revenue Generated. Green Ridge shall pay to ACWMA a percentage ("Applicable Percentage") of the gross revenues that Green Ridge receives from the sale of the electricity generated by wind turbines installed on the Combs Parcel as set forth below. Green Ridge shall not be deemed to receive revenue to the extent that Green Ridge uses some of the power generated to operate Green Ridge Facilities on the Combs Parcel. Payments to ACWMA shall be due within 30 days after Green Ridge receives payment for electricity delivered, but not more frequently than monthly.

2.2. Turbines on Combs Parcel. For wind turbines on the Combs Parcel, the Applicable Percentage shall be 2.7 %. In the event any USW Model 33-M-VS wind turbines (or similarly sized turbines) are installed on or relocated to the Combs Parcel, the Applicable Percentage shall be 3% for the first five calendar years after installation of such turbines, 5% for the second five calendar years after installation of such turbines, and 7% thereafter.

2.3. Determination of Electricity From Project in the Event of Shared Substation Usage. The windmills located on the Combs Parcel will be connected to the utility's power grid through a substation or a portion of a substation through which electricity from other wind energy generating sources may also flow. If electricity from such other sources flows through the same substation, Green Ridge will monitor the windmills on the Combs Parcel and from the data so collected will derive the number of kilowatt-hours they generate during a given revenue period; Green Ridge will also monitor the other wind energy generating sources in like fashion. Green Ridge hereby warrants in good faith that, to the best of its knowledge, its manner of monitoring the windmills on the Combs Parcel yields an accurate determination of the proportion of power flowing through the substation, or portion thereof, attributable to all windmills on the Combs Parcel. The electricity generated by windmills on the Combs Parcel will be measured as a percentage of the electricity delivered from the smallest separately metered substation or portion of a substation through which the electricity from the windmills on the Combs Parcel flows; the percentage will be determined by dividing the number of kilowatt-hours derived from operations of the windmills on the Combs Parcel by the total number of kilowatt-hours derived from operations of all wind energy devices (including

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windmills on the Combs Parcel) from which electricity flows to such substation or portion of a substation.

2.4 Minimum Fee. Green Ridge payments to ACWMA for the Combs Parcel in each calendar year shall be subject to an annual minimum ("Minimum Fee") equal to \$7,500 per year. The Minimum Fee shall be payable (if at all) within 90 days after the end of each calendar year.

3. DePaoli Parcel. The following sets forth the fee schedule for the DePaoli Parcel.

3.1 Landowner Share of Revenue Generated . Green Ridge shall pay to ACWMA a percentage ("Applicable Percentage") of Gross Revenues (as defined in paragraph 3.6 below) which Green Ridge receives from the sale of the electricity generated by wind turbines installed on the DePaoli Parcel as set forth below. Payments to ACWMA shall be due within 30 days after Green Ridge receives payment for electricity delivered or after receipt of other forms of Gross Revenues, but not more frequently than monthly.

3.2. Turbines on DePaoli Parcel. For wind turbines located on the DePaoli Parcel the Applicable Percentage shall be 10%, or as adjusted pursuant to paragraph 3.5 below.

3.3. Determination of Electricity From Project in the Event of Shared Substation Usage. The windmills located on the DePaoli Parcel will be connected to the utility's power grid through a substation or a portion of a substation through which electricity from other wind energy generating sources may also flow. If electricity from such other sources flows through the same substation, Green Ridge will monitor the windmills on the DePaoli Parcel and from the data so collected will derive the number of kilowatt-hours they generate during a given revenue period; Green Ridge will also monitor the other wind energy generating sources in like fashion. Green Ridge hereby warrants in good faith that, to the best of its knowledge, its manner of monitoring the windmills on the DePaoli Parcel yields an accurate determination of the proportion of power flowing through the substation, or portion thereof, attributable to all windmills on the DePaoli Parcel. The electricity generated by windmills on the DePaoli Parcel will be measured as a percentage of the electricity delivered from the smallest separately metered substation or portion of a substation through which the electricity from the windmills on the DePaoli Parcel flows; the percentage will be determined by dividing the number of kilowatt-hours derived from operations of the windmills on the DePaoli Parcel by the total number of kilowatt-hours derived from operations of all wind energy devices (including windmills on the DePaoli Parcel) from which electricity flows to such substation or portion of a substation.

3.4. Minimum Fee. Green Ridge payments to ACWMA for the

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DePaoli Parcel in each calendar year shall be subject to an annual minimum ("Minimum Fee") equal to \$300 multiplied by the number of wind turbines on the DePaoli Parcel. The Minimum Fee shall be payable (if at all) within 90 days after the end of each calendar year.

3.5 Adjustments to Applicable Percentage. Each year during the Term of the Easement, the Applicable Percentage for the DePaoli Parcel shall be adjusted annually by increasing or decreasing the Applicable Percentage at the rate of 1% for each 12% increase or decrease in the Average Price per kilowatt-hour paid by all purchasers to Green Ridge for power generated on the DePaoli Parcel ("Purchasers"). The amount of the increase or decrease shall be determined as a percentage of the price existing in the earlier year, so that, for example, an increase from \$.10 to \$.11 per kilowatt-hour represents an increase of \$.01/\$.10, or 10%. The "Average Price" shall be determined by dividing the total revenue received by Green Ridge from Purchasers in the relevant year by the number of kilowatt-hours sold in such year. Once increased, the Applicable Percentage may fluctuate upward or downward according to the foregoing formula, but in no event shall the Applicable Percentage ever be less than 10% nor greater than 15%. The operation of this formula is illustrated in the following three examples: (i) if the average price paid by Purchasers to Green Ridge is 10% greater in the 1st year after the Effective Date than in the year prior to the Effective Date, then the Applicable Percentage in the 2nd year after the Effective Date shall be 10% plus 10/12 of 1%, or .83%, equaling a total of 10.83%; (ii) if the price paid by purchasers increases by 15% from the 1st year after the Effective Date to the 2nd year after the Effective Date, then the Applicable Percentage in the 3rd year after the Effective Date shall be equal to 10.83% plus 15/12 of 1%, or 1.25%, equaling a total of 12.08%; (iii) if the Applicable Percentage is 13.68% in the 5th year after the Effective Date, and the price paid by Purchasers decreases by 6% from the 4th year after the Effective Date, then the Applicable Percentage in the 6th year after the Effective Date shall be equal to 13.68% minus 6/12 of 1%, or .5%, equaling a total of 13.18%.

3.6. Gross Revenue. For the purposes of the fee schedule for the DePaoli Parcel, the term "Gross Revenue" shall mean all gross revenues derived by Green Ridge: (1) from the sale of the electricity resulting from Green Ridge's conversion of wind energy on the DePaoli Parcel, whether computed on a monthly or on an annual basis; (2) as compensation for loss of revenue from sales of electrical energy through payments made by: (i) manufacturers of equipment incorporated by Green Ridge into the Green Ridge Facilities, including wind machines or parts of wind machines; (ii) insurance companies, or (iii) any other similar source. Green Ridge shall not be deemed to receive revenue to the extent that Green Ridge uses some of the power generated to operate the Green Ridge Facilities on the DePaoli Parcel.

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FIRST AMENDMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT

This FIRST AMENDMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT ("**Amendment**") is made and dated as of the ____ day of _____, 2014 between the ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY ("**ACWMA**") and GREEN RIDGE POWER, LLC, a Delaware limited liability company ("**Green Ridge**"). ACWMA and Green Ridge are sometimes individual referred to as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, on October 21, 2004 the Parties entered into an Amended and Restated Easement Agreement ("**Easement**") for Green Ridge Activities and Green Ridge Facilities, as those terms are defined in the Easement, on certain property owned by ACWMA, referred to in the Easement as the "Property" and in this Amendment as "**ACWMA Original Property**" and described in Exhibits A, B, and C to the Easement. The Easement provided for the possibility of replacing older Green Ridge Facilities with newer Green Ridge Facilities ("**repowering**") during the Term of the Easement;

WHEREAS, the Parties agree the legal description of the Combs Parcel, described on Exhibit C to the Easement, should be amended to the description attached hereto as Exhibit C, which shall substitute for and replace the Exhibit C attached to the Easement; and

WHEREAS, Green Ridge has requested an amendment to the Easement to make tax credits or incentives available for the installation of an entirely new set of wind generators, towers, and associated facilities on ACWMA Property ("**Repowering Project**"), as specified in Section 12.6 of the Easement, and such request includes the addition of certain ACWMA property described in a new Exhibit E to the Easement, attached (which when combined with the Original Property, as amended in the attached Exhibit C, is referred to herein as "**Authority Property**" or "**Property**"), and

WHEREAS, ACWMA finds that it is in the public interest to make such an amendment so long as it complies with the language of Section 12.6 of the Easement; and

NOW, THEREFORE, in consideration of the facts recited above, and the mutual promises, covenants, and conditions contained in this Amendment, the Parties agree as follows:

1. Section 3 of the Easement ("**Term**") is hereby deleted in its entirety and replaced with the following: "This Easement is for a Term commencing on the Effective Date and ending December 31, 2017, unless, on or prior to that date, Green Ridge provides a Repowering Notice to ACWMA, as defined herein. If a Repowering Notice is provided to ACWMA on or before December 31, 2017, the Term of the Easement shall end thirty (30) years after the Commercial Operations Date, as defined herein, unless subsequently extended by mutual agreement of the Parties. A "**Repowering Notice**" is a written statement to the ACWMA stating that a Repowering Project will be constructed, if feasible, with a Commercial Operations Date that

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occurs no later than December 31, 2018. "**Commercial Operations Date**" means the date when construction required for the Repowering Project has been completed and installed and the entire Repowering Project has achieved the status of a commercially operable wind-powered generation and transmission facility."

2. The Parties understand and agree that Green Ridge will be removing Green Ridge Facilities located on ACWMA Original Property and restoring the surface of the ACWMA Original Property in accordance with Section 11.5 of the Easement regardless of whether it proceeds with the Repowering Project and that Green Ridge has the right and obligation to do so under the existing Easement. Per Section 11.5 of the Easement, Green Ridge shall have one year after expiration of the Term of the Easement to remove Green Ridge Facilities and restore ACWMA Property. The following shall be added to Section 11.5 of the Easement ("**Surrender of the Premises**"): "Notwithstanding the foregoing, if a Repowering Notice is provided to ACWMA on or before December 31, 2017, the removal of Green Ridge Facilities located on the Property and restoration of the surface of the Property (hereinafter collectively referred to as "**Decommissioning**") required under this section for Green Ridge Facilities and ACWMA Property (excluding any that are necessary parts of the Repowering Project) shall be completed no later than the Commercial Operations Date but in no event earlier than January 1, 2017. Decommissioning for Green Ridge Facilities and ACWMA Property necessary for the Repowering Project, however, shall be completed within one year after expiration of the Term of the Easement or within one year of termination of the Easement if the Easement is terminated prior to expiration of the Term."

3. The following is added as a new Section to the Easement after Section 3 and before Section 4: "Interim Payments. Green Ridge shall make minimum monthly payments to ACWMA at a rate of \$1,027.40 per day, which amount shall be due and payable monthly beginning on January 1, 2016 ("**Interim Payments**"), provided no Interim Payments shall be due in the event the Easement is terminated prior to January 1, 2016. The Interim Payments are instead of, not additive to, Minimum Fees or Minimum Payments specified in Exhibit D. The Interim Payments shall continue until the sooner of: (a) the Commercial Operations Date if a Repowering Notice is provided to ACWMA, or (b) 183 days after the date on which Green Ridge notifies the ACWMA in writing that it is terminating the Easement for convenience as allowed in Section 11.1 of the Easement."

4. The remaining amendments to the Easement commencing with number 5, below, shall take effect if and only if a Repowering Notice is provided to ACWMA by Green Ridge on or before December 31, 2017.

5. Section 4 of the Easement ("Fee Payments") is deleted in its entirety and replaced with the following: "Fee Payments. Green Ridge shall make fee payments to ACWMA on the dates and in the amounts described in Exhibit D."

6. Exhibit D to the Easement is deleted in its entirety and replaced with the new Exhibit D attached hereto and incorporated herein.

7. All references in the Easement to "**Minimum Fee**" shall be deleted and replaced

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with "**Minimum Payment**", which is defined in Paragraph D.2.2 of Exhibit D, attached hereto.

8. The following sentences are added at the end of Section 7.3: "ACWMA's obligation to assist and fully cooperate includes waiver of setback requirements on all ACWMA property within this Easement to the extent permitted by law and consistent with other provisions of this Easement, including the Habitat Preservation Area provisions in Section 8.7, herein."

9. The following Subsections (iv) and (v) are hereby added before the last two sentences of Section 10.2 ("Assignment Without Grantor's Consent") of the Easement "(iv) any assignment or transfer contemplated pursuant to Section 15, including to any Mortgagee (as defined in Section 15) as collateral security for obligations under the financing documents entered into with such Mortgagee and (v) to an Affiliate of Green Ridge. An "Affiliate" as used in this subsection shall mean any entity whose equity interests are held, directly or indirectly through one or more intermediaries, more than 50% by NextEra Energy Resources, LLC such that NextEra Energy Resources, LLC has the ability to direct or cause the direction of the management and policies of such entity.

10. The following provisions shall be added to the Easement as Section 13:

13. **Preventing Adverse Affects to ACWMA Material Benefits**

13.1. Green Ridge shall pay to ACWMA the actual cost reasonably incurred by ACWMA for damage to ACWMA's fencing caused by Green Ridge, or resulting from Green Ridge's use of the Property or any activity permitted or conducted by Green Ridge in or about the Property, and not repaired by Green Ridge.

13.2. Green Ridge shall pay to ACWMA the actual cost (including the actual cost to replace foraging capacity of the area) reasonably incurred by ACWMA (or any ACWMA tenants) for disruption of grazing operations or damage to the Habitat Preservation Areas on the Property caused by Green Ridge after the Commercial Operations Date or resulting from Green Ridge's use of the Property or any activity permitted or conducted by Green Ridge in or about the Property after the Commercial Operations Date based on the actual area lost for grazing or Habitat Preservation. Any such costs incurred during construction shall be paid in accordance with Exhibit D, which shall be Green Ridge's sole liability for such costs incurred prior to the Commercial Operations Date. The Habitat Preservation Areas on the Property are shown on the attached Exhibit H, which is hereby incorporated into the Easement.

13.3. In the event Green Ridge fails to restore any roads it creates or widens as part of the Repowering Project to a width that is less than 20 feet within 365 days after the Commercial Operations Date, Green Ridge shall pay ACWMA the actual cost (including the actual cost to replace foraging capacity of the area) reasonably incurred by ACWMA (or any ACWMA tenants) for disruption of grazing operations or the loss of area for grazing or other uses.

ATTACHMENT C

13.4 In the event Green Ridge causes a materially unsafe condition on the Property, Green Ridge shall immediately implement reasonable measures to remedy the unsafe condition and shall fully correct the unsafe condition within ten (10) calendar days of receiving notification of the unsafe condition from ACWMA. If Green Ridge fails to correct the unsafe condition within ten (10) calendar days of receipt of a written notice from ACWMA of the unsafe condition or a later date approved in writing by ACWMA based on interim measures that reduce the safety risk to level acceptable to ACWMA, which approval shall not be unreasonably withheld, delayed or denied, Green Ridge shall pay to ACWMA on demand a sum of \$500.00 for each day between the date of notification of the unsafe condition and the day on which the condition is no longer unsafe to compensate ACWMA for staff time, legal costs, and other costs incurred to address the unsafe condition. This amount will be adjusted based upon the CPI - Urban Wage Earners and Clerical Workers (San Francisco-Oakland-San Jose -- all items) 1982-84=100 published by the bureau of Labor Statistics of the United States Department of Labor ("Index"), but shall in no event be adjusted by more than 3% per year compounded. The Parties agree that given the difficulty in determining a meaningful measure of damages for a delay in correcting an unsafe condition, the amounts set forth herein are a reasonable estimate of such damages. If Green Ridge fails to correct the unsafe condition as required in this paragraph, ACWMA may correct the unsafe condition, and Green Ridge shall reimburse ACWMA upon demand the reasonable costs incurred by ACWMA to remedy or attempt to remedy the unsafe condition.

13.5. Prompt Removal of Green Ridge Facilities At Expiration of Term.

13.5.1. In the event Green Ridge fails to remove a turbine foundation installed as part of the Repowering Project in accordance with Section 11.5, herein, within 365 days of expiration of the Term or sooner termination of the Easement, Green Ridge shall pay on demand to ACWMA the sum of \$1,000.00 for each quarter of a year thereafter or any portion thereof for each foundation not removed until the foundation has been removed. This amount will be adjusted based upon the Index, but shall in no event be adjusted by more than 3% per year compounded. The Parties agree that given the difficulty in determining a meaningful measure of damages for Green Ridge's delay in removing the turbine foundations, the amount set forth herein is a reasonable estimate of such damages.

13.5.2. In the event Green Ridge removes a turbine foundation but fails to restore the surface where the foundation had been located as part of the Repowering Project in accordance with Section 11.5, herein within 365 days of expiration of the Term or sooner termination of the Easement, Green Ridge shall pay on demand to ACWMA the sum of \$500.00 for each foundation area not restored for each year thereafter or any portion thereof until restoration is completed. This amount will be adjusted based upon the Index, but shall in no event be adjusted by more than 3% per year compounded. The Parties agree that given the difficulty in determining a meaningful measure of damages for any delay by Green Ridge in restoring the surface of the Property after removal of a turbine foundation, the amount set forth herein is a reasonable estimate of such damages.

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13.5.3 In the event Green Ridge fails to remove overhead power lines installed as part of the Repowering Project in accordance with Section 11.5, herein within 365 days of expiration of the Term or sooner termination of the Easement, Green Ridge shall pay on demand to ACWMA a sum based upon \$0.50 for each linear foot not restored and the sum of \$200.00 for each pole not removed for each year thereafter or any portion thereof until restoration is completed. This amount will be adjusted based upon the Index, but shall in no event be adjusted by more than 3% per year compounded. The Parties agree that given the difficulty in determining a meaningful measure of damages for Green Ridge's delay in removing overhead or underground power lines, the amount set forth herein is a reasonable estimate of such damages.

13.5.4. In the event state, federal or local law requires Green Ridge to remove underground power lines installed as part of the Repowering Project, and Green Ridge fails to remove such underground power lines in accordance with Section 11.5, herein within 365 days of expiration of the Term or sooner termination of the Easement, Green Ridge shall pay on demand to ACWMA the sum of \$10,000.00 for each year thereafter or any portion thereof until removal is completed. This amount will be adjusted based upon the Index, but shall in no event be adjusted by more than 3% per year compounded. The Parties agree that given the difficulty in determining a meaningful measure of damages for Green Ridge's delay in removing underground power lines, the amount set forth herein is a reasonable estimate of such damages. If state, federal and local law permit Green Ridge to abandon and thus not remove underground power lines installed as part of the Repowering Project, Green Ridge shall do so in compliance with all applicable federal, state, and local law, shall provide ACWMA with documentation identifying the location of the abandoned lines, and shall indemnify ACWMA as provided in Section 8.8 of the Agreement.

13.6. Provisions to Minimize Future Impacts on Other Uses by ACWMA.

13.6.1. Green Ridge shall consider reasonable requests from ACWMA to locate, design, or construct Green Ridge Facilities to minimize future impacts on other uses of ACWMA Property, provided the requests are received by Green Ridge as provided in this paragraph. In the event Green Ridge rejects any request from ACWMA to locate, design, or construct Green Ridge Facilities to minimize future impacts on other uses of ACWMA property, ACWMA has the right to pay for the increase in construction costs to Green Ridge and loss of revenue resulting from the requested changes in location, design, or construction of Green Ridge Facilities, in its sole discretion, and if ACWMA elects to pay for such requested changes, Green Ridge shall then implement the requested changes, provided the changes are accepted by all governmental authorities from which permits are required for the Repowering Project. Green Ridge shall provide ACWMA with a copy of any updates to the Current Site Layout (as defined below) and ACWMA shall have fourteen (14) days after receipt to request any changes to the location, design, or construction of Green Ridge Facilities to the extent their location, design, or construction has changed from the Current Site Layout. ACWMA's failure to make any such request in a timely manner shall be deemed to be acceptance of the Current Site Layout as updated.

ATTACHMENT C

13.6.2. Because ACWMA may choose to pay for changes in location, design, or construction of Green Ridge facilities to minimize future impacts on other uses of ACWMA property, the following provisions are included to facilitate ACWMA's financial capacity to pay for any such changes. To ensure ACWMA's material benefits are not adversely affected, these provisions apply even if ACWMA does not pay for any such changes.

13.6.2.1. Green Ridge currently anticipates installing twenty-two (22) wind turbines with at least a combined capacity of 37.4 MW on ACWMA Property subject to the Easement as part of the Repowering Project near the locations shown in Exhibit G ("**Current Site Layout**"), which is incorporated by reference into the Easement. However, circumstances beyond the reasonable control of Green Ridge may prevent Green Ridge from installing twenty-two (22) wind turbines on the Property. Such circumstances could include but are not limited to: protection of avian resources or other environmental constraints; local, state or federal agencies, laws, regulations or permits; setback requirements; or soil conditions, such as insufficient support for towers or roads. For purposes of this Section 13.6.2, the actions or location of existing facilities of Altamont Winds Inc. ("**AWI**") shall not be considered to be "circumstances beyond the reasonable control of Green Ridge"

13.6.2.2. If Green Ridge concludes that fewer than twenty-two (22) wind turbines can be constructed on the Property as part of the Repowering Project based on factors beyond its reasonable control, it shall provide ACWMA documentation that supports reduction of each turbine below a total count of 22.

13.6.2.3. If Green Ridge installs fewer than twenty-two (22) wind turbines with combined capacity less than 37.4 MW on ACWMA Property then in addition to other fee payments required in Exhibit D, Green Ridge shall pay ACWMA \$2,500 each year for each turbine less than 22, up to a maximum of \$10,000 per year. This amount will be adjusted based upon the Index, but shall in no event be adjusted by more than 3% per year compounded.

13.6.2.4. To facilitate agreement about what constitutes a factor beyond or within Green Ridge's reasonable control; Green Ridge shall provide status reports on project development to ACWMA upon request. Such reports shall include but are not necessarily limited to proposed turbine locations, transmission lines, and related facilities.

13.6.3 Green Ridge shall attempt to use ACWMA Property to satisfy any mitigation requirements for the Repowering Project that require environmental mitigation as a condition of permitting or compliance for developing the Repowering Project, and shall provide additional payment to ACWMA for such mitigation if subsequently agreed to by the parties. However, Green Ridge is not obligated to use ACWMA Property to fulfill its mitigation requirements, and may mitigate elsewhere if, after consultation with ACWMA, Green Ridge determines such mitigation is not commercially reasonable and provides at least 30 days' notice to ACWMA of its intent to mitigate elsewhere.

ATTACHMENT C

11. The following provisions shall be added to the Easement as Section 14:

14. **Dispute Resolution.**

14.1. If a dispute arises out of or relates to this Easement, the Parties shall first attempt to resolve the dispute through direct informal discussions. Either Party may convene such discussions through written notice delivered by confirmed facsimile transmission or overnight delivery to the other Party, providing at least seven (7) days' notice, and setting a date, time and place for such discussions. The convening Party shall reasonably accommodate the other Party's schedules in selecting and/or altering the date and time of the discussions, but in no event shall more than ninety (90) days pass between the day a Party requests direct informal discussions and the Parties meet to do so. During the meet and confer process as set forth herein the claims provisions of Cal. Government Code Sections 945 et seq. shall be tolled.

14.2. In the event that a dispute involves interpretation of, or implementation of actions pursuant to, Sections 13.1, 13.2, 13.3, 13.4, 13.6, or 14.1 or D.3. of Exhibit D of the Easement, or any dispute about the scope or applicability of this agreement to arbitrate, and is not resolved by the process described in 14.1, the Parties agree that the dispute shall be resolved by binding arbitration before three arbitrators as described in 14.3.

14.3. The fees, costs and expenses of the arbitrators shall be shared equally by the parties. The arbitration shall be subject to California Code of Civil Procedure Sections 1280 et seq., or successor California laws then in effect relating to arbitration. The choice of arbitrators shall occur as follows: each Party shall select an arbitrator within fifteen (15) working days after a demand for arbitration by either Party due to the failure of informal discussions, with a third arbitrator to be selected jointly by the two arbitrators within fifteen (15) working days after the original two arbitrators are selected. Judgment on any award granted through arbitration may be entered in any court having jurisdiction. This paragraph shall not preclude a Party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. During the arbitration proceedings provided for in this paragraph, and any effort to seek provisional remedies, the Parties shall continue to comply with the Agreement.

NOTICE: BY INITIALING IN THE SPACE BELOW, THE PARTIES ARE AGREEING TO HAVE ANY DISPUTE SUBJECT TO ARBITRATION UNDER THIS PARAGRAPH DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND THE PARTIES ARE GIVING UP ANY RIGHTS THEY MIGHT POSSESS TO HAVE THE ARBITRATED ISSUES LITIGATED IN A COURT OR BY JURY TRIAL. BY INITIALING IN THE SPACE BELOW, THE PARTIES ARE GIVING UP THEIR JUDICIAL RIGHTS OF APPEAL.

INITIALS: _____
Green Ridge

INITIALS: _____
ACWMA

12. The following provisions shall be added to the Easement as Section 15:

15. **Mortgage of Easement and Green Ridge Facilities.**

15.1 **Right to Mortgage.** Green Ridge may, upon notice to ACWMA, but without ACWMA's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in the Easement and Green Ridge Facilities. These various security interests are collectively referred to as a "**Mortgage**" and each holder of the Mortgage is referred to as "**Mortgagee**." Green Ridge shall provide ACWMA with the Mortgagee's contact information. Any such Mortgagee shall use the Green Ridge Facilities only for the uses permitted under the Easement. Whenever Green Ridge has mortgaged an interest under this Section 15, it will give notice of the Mortgage (including the address of the Mortgagee for notice purposes) to ACWMA; provided that failure to give this notice shall not constitute a default under the Easement, but rather shall only have the effect of not binding ACWMA with respect to such Mortgage or Mortgagee until notice is given.

15.2 **Notice of Default and Opportunity to Cure.** As a precondition to exercising any rights or remedies related to any alleged default by Green Ridge under the Easement, ACWMA shall give written notice of the default to each Mortgagee at the same time it delivers notice of default to Green Ridge, specifying in detail the alleged event of default and the required remedy. Each Mortgagee shall have the same right to cure any default as Green Ridge has under the Easement. The cure period for any Mortgagee shall be the later of (i) the end of the Green Ridge cure period; (ii) thirty (30) days after such Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for in Section 15.3. Failure by ACWMA to give a Mortgagee notice of default shall not diminish ACWMA's rights against Green Ridge, but shall preserve all rights of the Mortgagee to cure any default.

15.3 **Extended Cure Period.** If any default by Green Ridge under the Easement cannot be cured without the Mortgagee obtaining possession of all or part of the Green Ridge Facilities, then any such default shall be deemed remedied if a Mortgagee: (i) within sixty (60) days after receiving notice from ACWMA as set forth in Section 15.2, acquires possession of all or part of the Green Ridge Facilities, or begins appropriate judicial or non-judicial proceedings to obtain the same; (ii) diligently prosecutes any such proceedings to completion; and (iii) after gaining possession of all or part of the Easement or the Green Ridge Facilities performs all other obligations as and when the same are due in accordance with the terms of the Easement. If a Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

15.4 **Certificates and Other Documents.** ACWMA shall execute any estoppel certificates (certifying as to truthful matters, including without limitation that no default then exists under the Easement, if such be the case) as Green Ridge or any Mortgagee may reasonably request from time to time. The form of such agreements shall

be acceptable to ACWMA, and ACWMA's consent to said estoppel certifications shall not be unreasonably withheld.

15.5 **Mortgagee's Right to Enforce Mortgage and Assign.** A Mortgagee shall have the absolute right: (i) to assign its Mortgage; (ii) to enforce its lien and acquire title to all or any portion of the Green Ridge Facilities or the rights of Green Ridge under the Easement by any lawful means; (iii) to take possession of and operate all or any portion of the Green Ridge Facilities and to perform all obligations to be performed by Green Ridge under the Easement, or to cause a receiver to be appointed to do so; and (iv) to acquire all or any portion of the Green Ridge Facilities or the rights of Green Ridge under the Easement by foreclosure or by an assignment in lieu of foreclosure and thereafter, without ACWMA's consent, to assign or transfer all or any portion of the Green Ridge Facilities to a single third party; provided that the rights of Green Ridge under the Easement shall be vested in one single party upon any such foreclosure or other assignment. Any Mortgagee or other party who acquires Green Ridge's interest in the Green Ridge Facilities or the rights of Green Ridge under the Easement pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Green Ridge by the Easement which are incurred or accruing (i) prior to the time such Mortgagee or other party succeeds to Green Ridge's rights under the Easement and (ii) after the time such Mortgagee or other party transfers the rights acquired from Green Ridge in the Easement to another party.

15.6 **New Agreement.** If the Easement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditor's rights and, within ninety (90) days after such event, the Mortgagee or other purchaser at a foreclosure sale shall have arranged to the reasonable satisfaction of ACWMA to cure any default under the Easement, including the payment of all annual Installment Payments or other charges due and payable by Green Ridge as of the date of such event, then ACWMA shall execute and deliver to such Mortgagee or other purchaser at a foreclosure sale, or to a designee of one of these parties, as the case may be, a new agreement ("**New Agreement**") which (i) shall be for a term equal to the remainder of the Term of the Easement before giving effect to such rejection or termination; (ii) shall contain the same covenants, agreements, terms, provisions and limitations as the Easement (except for any requirements that have been fulfilled by Green Ridge or any Mortgagee or other purchaser at a foreclosure sale prior to rejection or termination of the Easement); and (iii) shall include that portion of the Green Ridge Facilities or the Property in which Green Ridge or the Mortgagee or other purchaser at a foreclosure sale had an interest on the date of rejection or termination. The Mortgagee or other purchaser at a foreclosure sale that enters into the New Agreement with ACWMA shall reimburse ACWMA for all reasonable costs incurred, including any reasonable attorneys' fees, as a result of the obligation to enter into the New Agreement. The provisions of this Section 15 shall survive the termination, rejection or disaffirmation of the Easement and shall continue in full force and effect thereafter to the same extent as if this Section 15 were a separate and independent contract made by ACWMA, Green Ridge and the Mortgagee, and, from the effective date of such rejection or disaffirmation of the Easement to the date of execution and delivery of such New Agreement, the Mortgagee or other purchaser at a foreclosure sale may use and enjoy the Green Ridge Facilities without hindrance by ACWMA or any person

ATTACHMENT C

claiming by, through or under ACWMA; provided that all of the conditions for the New Agreement as set forth above are complied with.

13. Section 11.2 “**ACWMA’s Right to Terminate**” is hereby amended by adding the following:

“Notwithstanding any other provision of this Section, ACWMA’s right to terminate under this Section 11.2 shall be limited to Green Ridge’s default and failure to cure its obligations under the following provisions of this Easement: Sections 4, 6, 8, 9.2, 9.3, 10, and 11.5, 12.8, 12.9, 13, 14 and 15.1.”

14. The term “**Property**” as used in the Easement and in this Amendment shall include the property described in Exhibits A and B attached to the Easement, Exhibit C, as amended attached hereto and hereby incorporated into the Easement and the property described in Exhibit E, attached hereto and hereby incorporated into the Easement.

15. Concurrently with the execution of this Agreement, the Parties shall execute a Memorandum of Easement and Amendment in the form attached hereto as Exhibit “F” and hereby incorporated into the Easement. ACWMA shall record the Memorandum against the Property and provide a copy of the recorded Memorandum to Green Ridge.

16. All terms of the Easement not modified by this Amendment shall remain in full force and effect.

17. All capitalized terms used herein and not otherwise defined herein shall have the same meaning as they have in the Easement.

18. This Amendment may be signed and executed in counterparts.

IN WITNESS WHEREOF, the Parties have executed and delivered this Amendment.

ACWMA:

ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

Signature: _____
Name: _____
ACWMA Executive Director

APPROVED AS TO FORM:

Signature: _____
Name: _____
ACWMA Legal Counsel

Green Ridge

GREEN RIDGE POWER, LLC,
a Delaware limited liability company

Signature: 
Name: Mark Tourangeau
Title: Vice President

ATTACHMENT C

EXHIBIT C

(Betz Property – ACWMA Parcel 3)

All that portion of the North 1/2 of Section 4, Township 3 South, Range 3 East, Mount Diablo Base and Meridian, lying West of the center lines of North Flynn Road (County Road 2034) and South Flynn Road (County Road 5822).

Excepting therefrom that parcel of land conveyed to J.C. Raimers, recorded March 11, 1936, Book 3275 OR, Page 347, Alameda County Records.

Also excepting therefrom the following described property:

A portion of the North 1/2 of Section 4, Township 3 South, Range 3 East, Mount Diablo Base and Meridian and described as follows:

Beginning at a point on the center line of North Flynn Road (County Road 2034), said point being at the intersection of said centerline, and the North line of the above mentioned Section 4; thence along the centerline, and the North Flynn Road (County Road 2034), and along the centerline of South Flynn Road (County Road 5822), the following bearings and distances: South 31° 24' 15" East 229.45 feet; South 39° 56' 05" East 234.96 feet; South 36° 11' 30" East 549.13 feet; South 61° 07' 20" West 472.59 feet; thence continuing along said centerline, Southwesterly 1257 feet, more or less, to a point that is West 726 feet and South 1918, more or less, from the point of beginning; thence North 1918, more or less, to the North line of said Section 4; thence along said North line East 726 feet to the point of beginning.

Also excepting therefrom 1/2 of all minerals and oil as reserved by Alice L. Sweet, et ux, by Deed recorded October 25, 1945, Series No. SS/71406, Book 4790 OR, Page 220, for a period of 15 years from the date thereof.

Assessor's Parcel No.: 099A-1770-002-01

(Lemos Property – ACWMA Parcel 2)

A portion, of the North 1/2 of Section 4, Township 3 South, Range 3 East, Mount Diablo Base and Meridian and described as follows:

Beginning at a point on the center line of North Flynn Road (County Road 2034), said point being at the intersection of said centerline, and the North line of the above mentioned Section 4; thence along the centerline of North Flynn Road (County Road 2034), and along the centerline of South Flynn Road (County Road 5822) the following bearings and distances:

South 31° 24' 15" East 229.45 feet; South 39° 56'05" East 234.96 feet; South 36° 11' 30" East 549.13 feet; South 61° 07' 20" West 472.59 feet; thence continuing along said centerline Southwesterly 1257 feet, more or less, to a point that is West 726 feet and South 1918 more or less, from the point of beginning; thence North 1916, more or less to the North line of said Section 4; thence along said North line East 726 feet to the-point of beginning.

ATTACHMENT C

EXCEPTING THEREFROM: That portion thereof conveyed to the County of Alameda, by deed recorded June 4, 1915, Series No. IQ/2320, Book 2339 of Deeds, page 285,

ALSO EXCEPTING THEREFROM 1/2 of all minerals and oil as reserved by Alice L. Sweet, et ux, by deed recorded October 25, 1945, Series No. SS/71406, Book 4790 OR, page 220, for a period of 15 years from the date thereof.

Assessor's Parcel No.: 099A-1770-002-02

EXHIBIT D

D.1 Installment Payments after the Commercial Operations Date.

D.1.1 Green Ridge shall pay ACWMA annual installment payments, which are the amounts that are paid to ACWMA annually for the Easement for all periods after the Commercial Operations Date (**"Installment Payments"**). Installment Payments for the first partial year shall be based on the Minimum Payment, as defined below, and the number of days in the partial year from the Commercial Operations Date through the end of that calendar year. With each Installment Payment, Green Ridge shall provide to ACWMA a reconciliation statement setting forth all information required to calculate the Installment Payment. The first partial Installment Payment shall be due within thirty (30) days of the Commercial Operations Date. All subsequent Installment Payments shall be paid on or before February 15th of the first full calendar year following the Commercial Operations Date and each year thereafter, in the amount of the Minimum Payment for that calendar year plus the difference between the Minimum Payment and the Royalty Payment, as defined below, for the previous full or partial year, provided the Royalty Payment exceeds the Minimum Payment..

D.1.2 Installment Payments for the Easement shall be the greater of (i) the Minimum Payment, as defined herein; or (ii) a percentage (**"Royalty Rate"**) multiplied by the Gross Revenues, as defined below, generated by the Green Ridge Facilities on ACWMA's Property that Green Ridge receives as a result of its operation of the Repowering Project (**"Royalty Payment"**). The Royalty Rate shall be as follows: five percent (5%) for Years 1-7; five and one half percent (5½%) for Years 8-15; six percent (6%) for Years 16-25; and seven percent (7%) for Years 26-30. The Minimum Payment shall be 4,200 mega-watt-hours (MWH) per year per wind turbine installed on ACWMA Property times the energy sales rate per MWH received by Green Ridge during the applicable time period times the Royalty Rate, whichever is greater (**"Minimum Payment"**).

In no event shall the Installment Payments due to ACWMA under this subsection be an amount from fewer than eighteen (18) wind turbines with combined installed capacity of at least 30.6 MW, and in the event fewer than eighteen (18) wind turbines with an installed combined capacity of less than 30.6 MW are actually installed on the Property the Installment Payment amount due shall be increased on a pro-rata basis (rounded to the nearest 1/100th) to that which would have been provided by eighteen (18) wind turbines with at least 30.6 MW of installed capacity, based on the actual energy production of the actual installed wind turbines. For example, if 17 turbines with combined installed capacity of at least 28.9 MW are actually installed, Installment Payments shall be 18/17 (1.06) times the Installment Payments that would be made based on only the 17 turbines actually installed.

D.1.3. In the event an initial power purchase agreement (**"PPA"**) entered into during the Term for purchase and sale of energy between Green Ridge and an energy purchaser terminates during the Term and Green Ridge enters into a new power purchase agreement (Mid-term PPA) during the Term, the applicable Royalty Rate referred to in subsection D.1.2.(ii) above shall increase by one percent (1.00%) for every sixty dollars (\$60.00) per mega-watt hour (**"MWH"**) over and above seventy dollars (\$70.00) per MWH Green Ridge receives under a new power purchase agreement (Mid-term PPA Royalty Increase). The Mid-term PPA Royalty Increase

shall be calculated on a continuous pro-rata basis (rounded to the nearest 1/100th of a percent) for Mid-Term PPA amounts above seventy dollars (\$70.00) per MWH. For example if Green Ridge receives under a Mid-Term PPA eighty dollars (\$80.00) per MWH, then the increase in the Royalty Rate shall be 0.17%. In no event shall the Royalty Rate under a new power purchase agreement exceed 9% or be less than the Royalty Rate referred to in subsection D.1.2.(ii) above.

D.1.4. Gross Revenue.

(a) “**Gross Revenue**” shall be defined as (i) payments received by or on behalf of Green Ridge from any person or entity resulting from any contract or transaction between Green Ridge and such person or entity for the sale of production, energy, electricity, power, capacity, and/or non-tax related renewable energy credits, pollution credits or other associated non-tax related credits; (ii) payments to Green Ridge by an insurer which are made specifically in lieu of revenues as defined above in Section D.1.4(a) (i).

(b) Gross Revenue shall exclude (i) any Federal Production Tax Credits available pursuant to §45 of the United States Tax Code or its successor or any similar future Federal subsidy or incentive to encourage wind-powered electrical power generation; (ii) any California Renewable Energy Production Tax Credits or its successor or any future state subsidy or incentive to encourage wind-powered electrical power generation; (iii) any other tax-related credit existing or in the future; (iv) payments received by or on behalf of Green Ridge from any person or entity as settlement, judgment amounts, liquidated damages or similar, in whole or in part, or to resolve any breach of any contract; (v) any sales, use, or other taxes imposed on such Gross Revenue; (vi) any amounts for energy used in the operations of the Repowering Project; (vii) any proceeds received from the sale, lease or other disposition of easement properties (or any interest therein); (ix) any rental or lump sum payment received by Green Ridge in exchange for Green Ridge’s assigning, subleasing, mortgaging or otherwise transferring all or any interest of Green Ridge in the Easement; provided, however, that no such disposition or transfer shall purport to, or have the effect of, assigning to any other person or entity, the right to receive the percentage of Gross Revenues as defined herein which would otherwise be due to ACWMA; and (x) revenues received by Green Ridge as a result of energy storage at locations not on ACWMA Property.

(c) All Gross Revenue from the sale of energy, electricity or capacity related to the Green Ridge Facilities located on the Property shall be calculated without offset for any cost of producing, gathering, storing, transporting, marketing or otherwise making electricity, energy, or capacity ready for sale or use and delivering it at a transmission circuit.

(d) Since there is a loss of production between the Green Ridge Facilities and the point of delivery to a common transmission carrier (i.e. the quantity of energy sold), measurement of kWh production by the Green Ridge Facilities on the Property shall be reduced by a factor equal to (A) the total measured kWh production at the point of delivery to a common transmission carrier divided by (B) the aggregate production in kWh of all Green Ridge Facilities that share that point of delivery.

(e) Within ninety (90) days after ACWMA receives an Installment Payment based on Gross Revenues during the Term, ACWMA or its designated representative shall have the right,

upon thirty (30) days' written notice to inspect documents specifically related to the determination of Gross Revenues for the preceding year only. Such inspection shall be performed during Green Ridge's normal business operations and hours at Green Ridge's corporate headquarters or another office location designated by Green Ridge. If ACWMA's inspection reveals that Green Ridge made an error in calculating Gross Revenues, then Green Ridge shall promptly pay ACWMA any unpaid amounts (unless justifiably disputed by Green Ridge), and ACWMA shall promptly refund any overpaid amounts (or Green Ridge shall have the right to deduct such amount from the next Annual Payment). If ACWMA's inspection reveals that Green Ridge underpaid Gross Revenues by more than 5%, then the cost of such inspection shall be paid by Green Ridge. Otherwise the cost shall be paid by ACWMA.

D.2 Green Ridge shall pay ACWMA \$1,000.00 per acre per year for that portion of the Property used by Green Ridge for laydown, storage, or maintenance space for its materials during or after construction of the Repowering Project ("**Laydown, Storage, and Maintenance Areas**"). Such areas shall be no larger than 20 acres in total unless otherwise approved by ACWMA in writing. Once the Laydown, Storage, and Maintenance Areas are restored, this payment shall be adjusted downward, perhaps to zero if no such space is used after some point in time. The \$1,000 per acre per year will be adjusted annually beginning January 1, 2015 based upon the CPI - Urban Wage Earners and Clerical Workers (San Francisco-Oakland-San Jose -- all items) 1982-84=100 published by the bureau of Labor Statistics of the United States Department of Labor, but shall in no event be adjusted by more than 3% per year compounded. Notwithstanding any other provision of this Easement, Green Ridge may not, without prior written consent of ACWMA, rent, lease, or otherwise assign Laydown, Storage or Maintenance Areas at a rate per acre per year higher than the indexed payment specified in this section.

D.3 **Construction Payment.** Within thirty (30) days of the beginning of construction, Green Ridge shall pay to ACWMA a "**Construction Fee**" in an amount equal to \$10,000.00. The Construction Fee shall be full and complete compensation for noise, dust, traffic and all other disturbances caused by Green Ridge during construction of the Project, as well as for crop damage, soil compaction, livestock damage and all other agricultural damages caused by the construction of the Repowering Project; *provided*, that Green Ridge shall minimize such disturbances and damages by restricting construction operations to those areas reasonably necessary for construction of the Repowering Project, shall use construction procedures consistent with industry practice for wind facility installation on agricultural land, and that damage to the Habitat Preservation Areas shall be addressed as follows. In the event Green Ridge causes damage to the Habitat Preservation Areas, as determined by the applicable Governing Laws (defined in Section 8.5), Green Ridge shall create new or preserve other existing riparian areas at the mitigation ratios set forth in the East Alameda County Conservation Strategy, plus up to \$5,000.00 per damaged acre per year (pro-rated by time and area) to cover the cost of Authority staff time to assess damages and verify adequate replacement.

ATTACHMENT C

EXHIBIT E

The Southwest 1/4 of Section 4 Township 3 South, Range 3 East, Mt. Diablo Base and Meridian, according to the Official Plat of the survey of said lands returned to the general land Office by the surveyor general.

Excepting from the above described land the portion thereof included in a forty foot roadway conveyed by T.W. Twohey, et al, to County of Alameda, by Deed dated March 31, 1914 and Recorded June 4, 1915, in Book 2339 of Deeds at Page 285, Alameda County Records.

Excepting therefrom:

All oil, minerals, gas or mines in, on, or under the herein described property, as reserved in the following deeds:

(1) Mary Seeband to John W. Twohney, dated August 14, 1917 and recorded in Book 2585 of Deeds, at Page 357, Series No. R29163 Alameda County Records, affecting an undivided 1/8 interest;

(2) Elizabeth Smith to John W. Twohney, dated August 14, 1917 and recorded in Book 2604 of Deeds, at Page 59, Series No. R29165 Alameda County Records, affecting an undivided 1/8 interest;

(3) Joseph P. Twohney and wife to Margaret Twohney, dated January 28, 1918 and recorded in Book 2758 of Deeds, at Page 113, Series No. S11606 Alameda County Records, affecting an undivided 1/8 interest.

(4) From Mary Fallon et ux, recorded February 9, 1979, Series No. 79-25834, Alameda County Records as follows: Grantor reserves 75% of oil petroleum, natural gas, mineral rights and other hydrocarbon substances lying below a depth of 500 vertical feet from the surface of said land for the purpose of exploring for, extracting, mining, boring, removing or marketing said substances, however, without any right of entry upon the surface of said land.

Excepting therefrom that portion described in the deed to the County of Alameda, Recorded June 4, 1915, Book 2339 of Deeds, Page 285, Series No. Q2320, Alameda County Records.

Assessor's Parcel No. 99A-1770-004

EXHIBIT F

This instrument prepared by,
and after recording to be returned to:

Alameda County Waste Management Authority
Executive Director
1537 Webster Street
Oakland, CA 94612

MEMORANDUM OF EASEMENT AND AMENDMENT

THIS MEMORANDUM OF EASEMENT AND AMENDMENT (hereinafter referred to as the "**Memorandum**") is made and entered into as of this _____ day of _____, 2014 by and between the ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY ("**ACWMA**") and GREEN RIDGE POWER, LLC, a Delaware limited liability company ("**Green Ridge**").

1. This Memorandum is being executed and recorded in order to given notice of the existence of (a) the Amended and Restated Easement Agreement entered into by ACWMA and Green Ridge, dated October 21, 2004, and (b) the First Amendment to Amended and Restated Easement Agreement entered into by ACWMA and Green Ridge, dated _____, 2014 (hereinafter collectively referred to as the "**Easement**").
2. The Easement concerns the use of real property legally described on Exhibit A hereto (hereinafter referred to as the "**Property**") and grants an Easement to Green Ridge for use of the Property for wind energy conversion and the collection and transmission of electric power as more particularly described in the Easement.
3. The provisions of this Memorandum and the Easement run with the Property and bind and inure to the benefit of all successors, assigns and other parties now having or obtaining any legal or beneficial interest in the Property.
4. This Memorandum may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

ATTACHMENT C

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Easement and Amendment.

ACWMA:

ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

Signature: _____
Name: _____
ACWMA Executive Director

APPROVED AS TO FORM:

Signature: _____
Name: _____
ACWMA Legal Counsel

Green Ridge

GREEN RIDGE POWER, LLC,
a Delaware limited liability company

Signature: _____
Name: _____
Title: _____

ATTACHMENT C

EXHIBIT A TO MEMORANDUM OF EASEMENT AND AMENDMENT

The real property described in Exhibits A and B attached to the Easement, Exhibit C, as amended, attached to the Amendment and the property described in Exhibit E, attached to the Amendment.

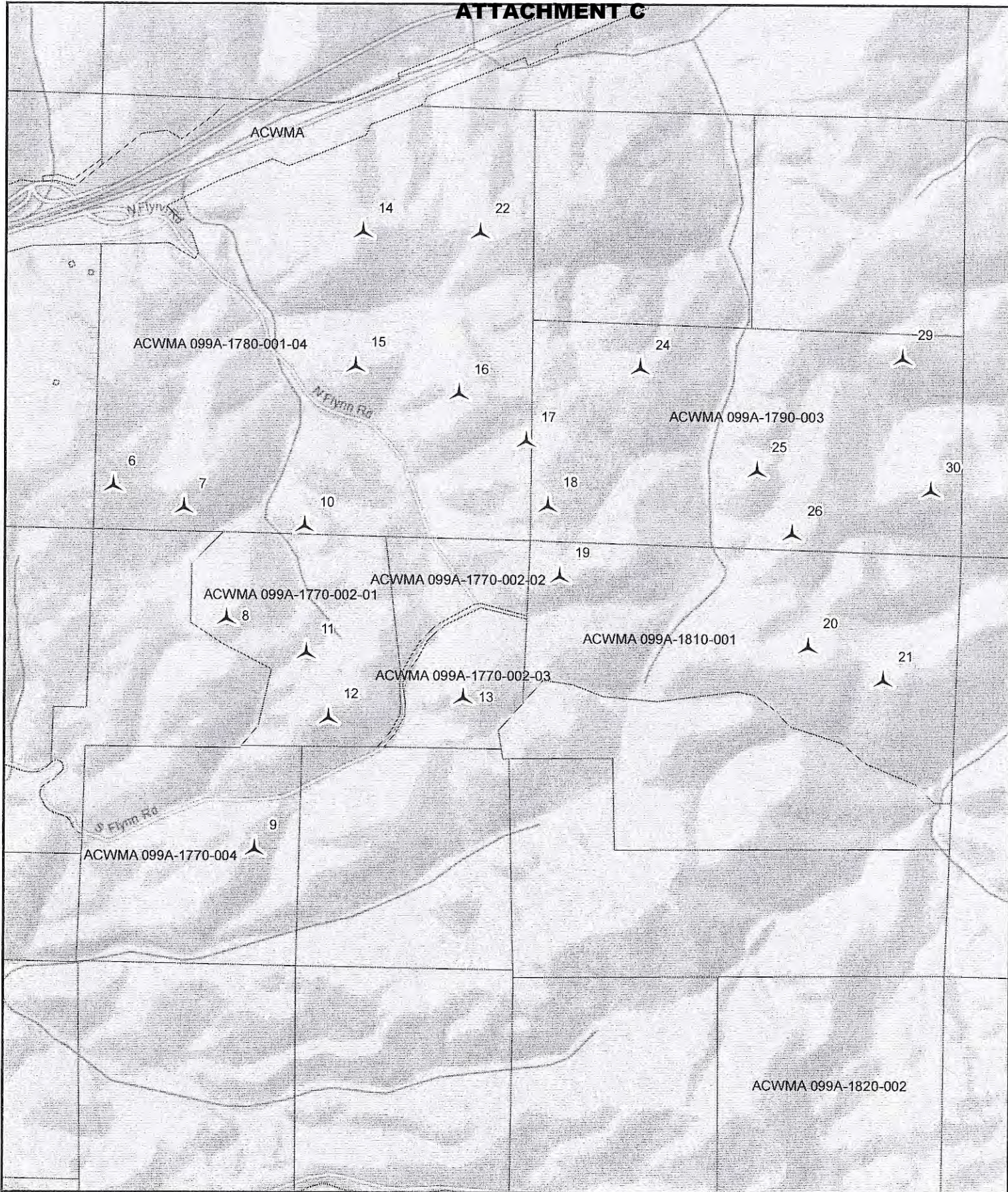
ATTACHMENT C

EXHIBIT G

MAP OF PROPOSED WIND TURBINE LOCATIONS

ATTACHMENT C

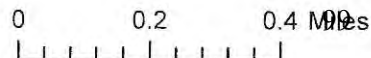
ATTACHMENT C



Turbine



Parcel Boundary



ATTACHMENT C

ATTACHMENT C

EXHIBIT H

MAP OF HABITAT PRESERVATION AREA

ACWMA.3210 581858.1

ATTACHMENT C



Flynn Rd S, Livermore, CA 94550, USA

ATTACHMENT C

Flynn Rd S., Livermore, CA 94550, USA

ACWMA Parcel 4

Riparian Area on ACWMA Parcel 4

ATTACHMENT C

ATTACHMENT D

MJH Power Consulting LLC

April 25, 2014

Mr. Brian Mathews, Senior Program Manager
Alameda County Waste Management Authority
1537 Webster Street
Oakland, CA 94612

Reference: Professional Service Agreement with Marion J. Horna Dated February 7, 2013

Subject: Opinion for Technology Aspects of NextEra Amended Wind Farm Easement Agreement

I am a Registered Professional Engineer, Mechanical Engineering, in the state of California and have been so for over forty one years. I have over forty six years of experience in the power generation business. I have over 15 years of experience working in all phases of wind power generation. I have been the Principal of MJH Power Consulting LLC for over 11 years. Prior to setting up my own company I was Director Asset Management & Customer Advocacy for Enron Wind Corp's Commercial Americas. Prior to that I held positions as Senior Power Consultant for Power Industry Consultants, Inc.; Vice President of Pentech Energy, Inc.; President of GWF Power Systems Company, Inc.; Director of Power Operations for San Diego Gas & Electric Company; Manager Encina Power Plant for San Diego Gas & Electric Company and was a US Navy Officer and received a letter of commendation for my service in country Vietnam during the Vietnam War.

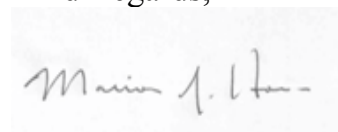
I have been Alameda County Waste Management Authority's (Authority's) professional engineer providing expert analysis and advice pertaining to NextEra Energy's proposals for repowering wind resources on Authority Owned Property.

My focus has been on the technology side of the deal with reference to the NextEra wind data and NextEra's planned usage of the GE 1.7MW Wind Turbine, xle model using a 100 meter rotor diameter and installed at a 80 meter tower height (hub height) and NextEra's P50 and P90 production data based on the loss factors that NextEra has provided.

I find that NextEra's 80 meter hub height production scenario using the GE 1.7 xle turbine with a 100 meter rotor diameter would produce a **P(50)** Net Capacity Factor of 46.93% and a **P(90)** Net Capacity Factor of 45% using loss factors of Wake 6.56%, Electrical Efficiency 1.70%, Availability 2.30% and Icing 0.00%. I find all this technical information as provided by NextEra to be reasonable. The choice by NextEra of the GE 1.7 xle turbine with a 100 meter rotor diameter installed on 80 meter towers is in my opinion the most efficient wind turbine suited for the wind resources on the Authority's property.

If there are any questions concerning this professional opinion that I have provided please let me know.

Kind Regards,

A handwritten signature in dark ink, appearing to read "Marion J. Horna", is written over a light gray rectangular background.

Marion J. Horna, P.E.

ATTACHMENT E

INDEMNIFICATION AGREEMENT

1. On October 21, 2004 Green Ridge Power, LLC, a Delaware limited liability Company ("INDEMNITOR") entered into an Amended and Restated Easement Agreement on certain real property owned by the Alameda County Waste Management Authority. On _____, 2014 the Alameda County Waste Management Authority approved the First Amendment to Amended and Restated Easement Agreement (hereafter "approval").
2. INDEMNITOR hereby agrees to defend, indemnify, release and hold harmless the Alameda County Waste Management Authority, its agents, officers, attorneys, employees, departments, boards, and committees (hereafter collectively "ACWMA") from any claim, action or proceeding (hereafter collectively "proceeding") brought against ACWMA to attack, set aside, void or annul ACWMA's approval and/or any action relating to such approval.
3. This indemnification shall include, but not be limited to, any damages awarded against ACWMA, ACWMA's attorneys' fees and cost of suit, the cost of preparing any administrative record, any award of opposing counsel's attorneys' fees or costs of suit, and any other liabilities and expenses incurred in connection with such proceeding, whether incurred by the INDEMNITOR, ACWMA, and/or the parties initiating or bringing such proceeding. INDEMNITOR acknowledges that ACWMA may elect to retain its own counsel to represent it in such proceeding and agrees to reimburse ACWMA for associated attorneys' fees and costs of suit. INDEMNITOR further agrees to indemnify ACWMA for all costs, attorneys' fees, and damages that ACWMA incurs in enforcing this indemnification agreement.
4. Notification. In the event any such proceeding is brought, ACWMA shall promptly notify INDEMNITOR of the proceeding, and ACWMA shall coordinate with INDEMNITOR regarding defense of the proceeding.
5. Payment. Upon submittal by ACWMA of its bills for the expense of defending any litigation covered by this Agreement, INDEMNITOR shall pay such bills to ACWMA in full within 30 days and remain current thereon.
6. Amendment. This Agreement may be modified only in a writing signed by the parties.
7. Applicable Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
8. Binding Effect. This Agreement shall bind and inure to the benefit of each party and each party's employees, agents, successors and assigns.
9. Effective Date. This Agreement shall be effective as of the date upon which all of the signatories have signed the Agreement.
10. Execution in Counterpart. This Agreement may be executed in counterparts, and all executed copies are duplicate originals, equally admissible in evidence.

ATTACHMENT E

11. Authorization. Each signatory to this Agreement represents that he or she is authorized to execute this Agreement so as to bind the parties on whose behalf he or she is a signatory.

GREEN RIDGE POWER, LLC,
a Delaware limited Liability Company

Signature: 

Name: **Mark Tourangeau**

Title: **Vice President**

GREEN RIDGE POWER LLC

CERTIFICATE AS TO SIGNATURE AND INCUMBENCY OF OFFICERS

The undersigned, W. Scott Seeley, Assistant Secretary of Green Ridge Power LLC, a Delaware limited liability company (the "Company"), hereby certifies that the person whose name, title and signature appears below is a duly appointed and acting officer of the Company and holds, on the date hereof, the office set forth opposite his name and the signature appearing opposite his name is a genuine facsimile of the signature of such officer:

Name

Mark Tourangeau

Title

Vice President

Signature



IN WITNESS WHEREOF, I have hereafter signed my name this 16th day of May, 2014.



W. Scott Seeley
Assistant Secretary



May 21, 2014

TO: Waste Management Authority (WMA) Board
FROM: Gary Wolff, Executive Director
SUBJECT: Draft Resolution on Recycling Worker Pay and Health Benefits

BACKGROUND:

Recycling workers in our county are paid and benefited at various levels, and in some cases receive little more than minimum wages. Some of these workers, but not all, are members of the International Longshore and Warehouse Union (ILWU). ILWU recently helped to negotiate a pay scale through 2019 at the Fremont Transfer station that raises wages slowly between 2014 and 2019. The City of Fremont supported the pay scale increase by raising rates modestly.

ILWU and several Board members have expressed an interest in our organization taking a position in favor of higher pay, and quality affordable health care coverage for recycling workers. The draft resolution attached was prepared by StopWaste staff. It encourages member agencies and other employers of recycling workers in Alameda County to consider implementing the pay scale approved in Fremont (attached to the draft Resolution). It does not require any action of anyone, but merely encourages attention by employers and local government officials to the issue of recycling worker pay and benefits; an issue that has been in and out of the news for several years, without resolution.

It is possible that we could or should do more in the future to help address pay and benefit inequities for recycling workers. But at this time, it seems prudent to staff to just draw attention to the issue, and encourage those who set rates or hire workers to consider the specific Fremont pay schedule as a possible solution. If the Board would prefer to take a different approach, please provide staff with direction.

RECOMMENDATION:

That the WMA Board adopt the attached draft resolution.

Attachment: Draft Resolution

**ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (ACWMA)
RESOLUTION #WMA 2014 -
MOVED:
SECONDED:**

**AT THE MEETING HELD MAY 28, 2014
THE AUTHORITY ENCOURAGES HIGHER PAY AND HEALTH INSURANCE BENEFITS
FOR RECYCLING WORKERS IN ALAMEDA COUNTY**

WHEREAS, the ACWMA's vision statement seeks for the ACWMA to be a national leader in pursuing effective solutions that reduce the waste of material and other natural resources and, in doing so, accomplish other goals including creating jobs and other forms of social betterment for the residents of Alameda County; and

WHEREAS jobs in public sanitation traditionally have provided families with solid middle-class incomes; and

WHEREAS recycling workers, who do the dirty, difficult and sometimes dangerous job of processing recyclables, provide an essential public service that benefits the County's residents, businesses and visitors, and are vital to our and our member agency's efforts to minimize waste; and

WHEREAS recycling workers deserve a wage sufficient to support their families without public assistance, as well as affordable family health insurance; and

WHEREAS, the City of Fremont has shown by example that it is possible to raise wages for recycling workers with only a modest rate increase for rate payors;

NOW THEREFORE, BE IT RESOLVED that the Alameda County Waste Management Authority hereby encourages its member agencies and private employers of recycling workers in Alameda County to consider implementing the pay scale approved by the City of Fremont for recycling workers ("Schedule A" from the City of Fremont, attached; note that the effective dates are January 1st of each calendar year), and actions to provide quality, affordable health insurance for these workers and their families.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gary Wolff, Executive Director

SCHEDULE A

CLASSIFICATION	EFFECTIVE DATES					
	14	15	16	17	18	19
Mechanic	\$26.93	\$27.94	\$29.00	\$30.11	\$31.27	\$32.49
Equipment Operator	\$21.33	\$22.34	\$23.40	\$24.51	\$25.67	\$26.89
PM Maintenance Tech	\$17.83	\$18.89	\$20.02	\$21.21	\$22.48	\$23.82
Scale House	\$17.82	\$18.87	\$19.98	\$21.16	\$22.41	\$23.74
Laborer (Site Maintenance , Spotters, Rakers)	\$14.66	\$15.75	\$16.93	\$18.19	\$19.55	\$21.01
Laborers trained and authorized to use the riding sweeper	\$14.89	\$15.98	\$17.16	\$18.42	\$19.78	\$21.24
Sorter	\$14.59	\$15.68	\$16.86	\$18.12	\$19.48	\$20.94
Baler Operator	\$17.69	\$18.74	\$19.85	\$21.03	\$22.28	\$23.61
Buyback Operator/HHW	\$17.51	\$18.56	\$19.67	\$20.85	\$22.10	\$23.43
Forklift Operator	\$17.69	\$18.74	\$19.85	\$21.03	\$22.28	\$23.61

Foreperson:

A Foreperson will receive \$1.25 per hour above the highest rate working in his/her group.

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June 2014 Meetings Schedule

**Alameda County Waste Management Authority, The Energy Council, & Source Reduction
and Recycling Board**

(Meetings are held at StopWaste unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	<div> <div>9:00 AM Programs & Administration Committee</div> <hr/> <div>4:00 PM Planning & Organization Committee /Recycling Board StopWaste</div> </div>	13	14
15	16	17	18	19	20	21
22	23	24	<div>3:00 PM Authority Board & Energy Council</div>	26	27	28
29	30					

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Berkeley Public Schools

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You are here: [Home](#) » [Feature in Home Page Slider](#) » **Berkeley Schools Divert 58% of Waste with Help of Green Teams**

Berkeley Schools Divert 58% of Waste with Help of Green Teams

Published: APRIL 21, 2014

Earth Day 2014: April 22

"I believe that by working together the Berkeley schools, like mine, will one day no longer need trash cans. We can just recycle and compost. We will no longer add our trash to landfills and instead we will give our compost to Mother Nature." –Sophia Padron, student at Oxford Elementary School (from her 2013 testimony to the BUSD School Board in favor of the Waste Reduction Resolution)

Earth Day is a great day to celebrate and inspire actions that help protect our environment, our health, and our communities. All across Berkeley Unified School District, students, teachers, parents, principals, custodians, and staff have been hard at work reducing our schools' environmental footprint! From installing solar to riding bikes to school, and from growing food to composting, we have a lot to celebrate.

www.greenschools.net/BUSDgreenstarschools

Enjoy this update from the Green Schools Initiative:

Berkeley-based Green Schools Initiative, run by Deborah Moore and Susan Silber and supported by the Altamont Education Advisory Board, Clif Bar Family Foundation, Whole Foods, and Stopwaste.org, has been working with BUSD to implement the Green Star Schools Program to reduce waste across the district for the last two years. At the beginning of the project, BUSD had some of the lowest recycling rates of schools in Alameda County, diverting only 36% of its waste from the landfill.

Now, after two years of the Green Star Schools Program, Berkeley schools are diverting 58% of their waste by practicing the 4Rs – Reduce, Reuse, Recycle, and Rot (compost)!!! Thanks to all the hard work of Green Teams at each school, the teaching, awareness-raising, and proper sorting has reduced our waste by nearly 800 tons per year, which is reducing our emissions of greenhouse gasses by almost 2,100 tons. This reduction is like taking 400 cars off the road for a year!

Hopefully, you have noticed the new signs and waste stations at Berkeley schools.

- Washington Elementary and Willard Middle schools, for example, have multi-sort waste stations on wheels in their cafeteria, built by Washington custodian Rafael DelaTorre .
- Berkeley High, Berkeley Arts Magnet, and Emerson have new multi-sort outdoor waste stations so recycling and composting can be done when students eat lunch and snack outside.
- King, Willard, Thousand Oaks, and Oxford are all now composting waste from breakfast, which used to be thrown in the garbage.
- Custodians like David Kleckley (King), Maria Ruiz (King), Devyne Coleman (Emerson), and Dinesh Kumar (Rosa Parks) are composting paper towels in the bathroom and helping create new waste management systems that fit into their routines.
- Green Teams at LeConte and Malcolm X have made great strides in monitoring sorting at lunchtime. Schools have been creative in drawing attention to proper sorting – BAM even re-purposed old desks into waste stations thanks to parent-builder Michael Butler.
- At Willard, the Green Team – led by Gizella Szegedy (parent), Patty Bonsall (teacher), Dora Szegedy (student) and a group of Willard student "Green Ninjas" – hosted a "Green Store" where students who



Susan Silber and Deborah Moore from Green Schools Initiative, with Longfellow student, Oxford 3rd graders, and Oxford teacher Jackie Omania presenting to the BUSD School Board in 2013 in support of the Waste Reduction School Board Resolution.



Longfellow Green Tigers help monitor waste sorting in 2013 to improve composting.

earned "green tickets" by sorting properly at lunch could cash-in their tickets for eco-friendly prizes like reusable napkins and water bottles.



Rafael DelaTorre, Custodian at Washington Elementary School, built these wheeled waste stations for Washington and Willard schools.

Sustainability is truly a community practice, benefiting from everyone's participation! There are so many wonderful stories to share: from English as a Second Language students and teacher Peggy Datz at the Berkeley Adult School spearheading recycling efforts, to Emerson science teacher Faith Jordan's student "Green Monsters" that produced a skit with The Fairy Godmother "Waste-Elda" showing students why and how to sort and protect the Earth. Thanks to custodians like Cragmont's Jack Ray working with teachers like Kathleen Giustino and Dennis Hall and the student "Green Dragons," the school has cut its garbage pickups by half!



Berkeley High Green Team members Sarah Mosley and Michael Grey tour the Berkeley Transfer Station with Andy Schneider, the City of Berkeley's Recycling Manager, while making the "Think Before You Throw" video about practicing the 4Rs at Berkeley schools.

Berkeley High students made a video called "[Think Before You Throw](#)" in Summer 2013, with the help of local film producer and Rosa Parks parent Kevan Jensen, that educates and inspires people to reduce waste and has been shown in most of BUSD's elementary schools. Check out the video, including cameos by Mayor Bates and Superintendent Evans, who enjoyed working with the students on their summer project.

This Spring, 25 Oxford Elementary students made a documentary – Co-produced by parents Ouahiba Laribi and Edward Hill with the help of student Kalen Pecson (King, Oxford alum) – called "Oxford News" that interviews students about their views on the environment and Earth Day. Garden and science teachers like

Rachel Harris (John Muir, LeConte, Thousand Oaks) and Rivka Mason (Malcolm X) have been integrating compost lessons into their curricula.



Oxford Elementary Third Graders in Ms. Omania's class put on a "Think Before You Throw" skit.

Andrew Schneider, the City of Berkeley's Recycling Manager, and Loren Nakamura with BUSD Plant Operations, have visited all the school sites, and collaborated with custodians district-wide to create effective systems and service levels that save the district money through lower garbage fees. Mini-grants to schools have purchased needed equipment, including clear signs, and appropriate compost and recycling bins for indoors and outdoors. Some custodians, like Aaron Wright at Thousand Oaks, are testing wheeled split-cart dollies to evaluate if they make it easier to dispose of separated materials with fewer trips to the dumpsters.

Parents have been supporting these efforts in numerous ways and have made great strides at reducing waste at school-wide events and PTA meetings, including:

- At Longfellow Middle School, parents Anushka Drescher and Mary Carleton have been setting up waste stations, monitoring, and cheerfully teaching parents the why's and where's of reducing waste.
- Parent Larry Kass at BAM borrowed multi-sort waste stations from the City of Berkeley loans for the annual BAM Jam and reduced the trash from 500 people to one small bag – everything else was composted and recycled!
- King Middle School Green Team parents Franziska Raedeker and Christine Staples ensure that PTA events use all re-usable foodware.

So plan ahead and borrow them for your Spring Fair ([click this link for resources and contact information for school-wide events](#)).

On April 14, the Altamont Education Advisory Board renewed its support for the Green Star Schools Program and gave a third grant to Green Schools Initiative and BUSD for the 2014-2015 school year, to continue to strive towards "zero waste" and fulfilling the BUSD School Board's 2013 Resolution to reduce the amount of compostable and recyclable material sent to the landfill to "less than 10%" by 2020.

The students, teachers, and staff say it the best:

- "It's really important to learn this stuff in school because then we learn how to take care of the Earth... The more people that participate in these activities, the cleaner the Earth will be. — Kaia, Jefferson School
- "I really felt proud doing our classroom presentations about the 4Rs. I like knowing that I made a difference in the world. I got nervous, but was really happy knowing that I was making a big change in people. I was actually helping someone to do something important." — Sienna, Jefferson School (4th grade)
- "The students feel ownership and are empowered to make a change toward a better school and world." — Ms. Audrey Amos, Principal, John Muir Elementary
- "One thing I liked about the Green Star Schools program was it got the students involved. I liked the effort to live better and help the planet." — Rafael DelaTorre, Custodian, Washington Elementary
- "[Green Star Schools is] a great resource that helps in all ways, both with knowledge and funds to build a solid recycling and environmental program at a grassroots/classroom level." BUSD Teacher

Thank you to **everyone** – especially the Green Team parents, teachers, and students – for working together to make Berkeley schools as green as can be. We still can and will do better as we work towards "zero waste" and, like Sophia said, a day when we no longer need trash cans. Let's make every day Earth Day throughout Berkeley schools!

There are [more resources for getting involved](#) with all kinds of activities, waste-free lunch tips, downloadable signs, lesson plans, green classroom awards, student action projects, videos, free field trips, and more.

« *BHS Participates in STEM Career Awareness First Draft of Local Control and Accountability Plan (LCAP)* »



Parent Larry Kass after the BAM Jam, showing the small amount of trash created at the school-wide event, thanks to multi-sort outdoor waste stations.

© 2014 Berkeley Unified School District.



Published on *GreenBiz.com* (<http://www.greenbiz.com>)

Colgate takes firm stance toward all-recyclable packaging

By *Conrad MacKerron*

Created 2014-04-28 02:30

A growing amount of packaging is made from flexible plastic laminates that cannot be conventionally recycled. Walk into a Safeway or Whole Foods Market: Food and goods from raisins to baby food to detergent that used to be packaged in cardboard boxes or bottles line the shelves, packed in shiny flexible plastic pouches. They often use less material and generate fewer harmful emissions to manufacture. Smart design, right?

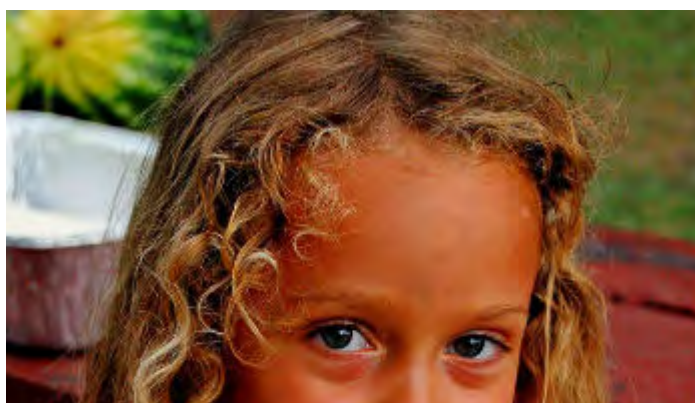
Not really. Most are designed to be waste; they don't break down easily or cheaply like some plastics so the end of life choices are usually the landfill or the incinerator. Flexible packaging sales topped \$26 billion domestically in 2012.

Happy Family baby food touts a string of nutritional benefits: organic, probiotic, gluten-free. It's a B Corp. It says it strives to use the most environmentally friendly packaging, yet acknowledges the pouches it uses are not recyclable.

Kraft Foods' Capri Sun juice drinks are marketed to children and sold in laminate/aluminum foil pouches. More than a billion pouches are estimated to be landfilled annually in the U.S. This has been going on for decades. The lesson for Capri Sun's target market of elementary school children seems to be that it's all right to throw things away after one use. Five minutes to finish the drink and then 100 years in a landfill. If Capri Sun came in a PET or glass bottle or aluminum can, there would be many opportunities to conserve resources and recycle materials as part of a developing circular economy. This [video](#) explains more about the dilemma of flexible packaging.

Flexible doesn't mean versatile when it comes to recycling

A group called [Terracycle](#) has made a small dent in the waste stream of laminates, such as pouches and toothpaste tubes, by offering free mail-in collection of [Capri Sun and similar unrecyclables](#), which it reuses and downcycles. But we estimate that only about 2 percent of pouches sold may be collected by Terracycle. It's positive as far as providing a temporary respite from the landfill, but it does not provide



a long-term, viable solution for these materials.

With the technological prowess available to packaging designers, why should any package be non-recyclable in the 21st century? We believe design for sustainability in packaging should mean that materials used are recyclable whenever possible.

Companies tell us they need flexibility to achieve a balance of environmental factors when choosing packaging. Sometimes recyclability gets trumped by pursuit of another admirable goal, such as a lower carbon footprint. We often don't really know if such a tradeoff is necessary, because the life-cycle assessments their decisions derive from are not open to public scrutiny.



Even if she wants to recycle her Capri Sun package, she doesn't have many options. Image by Jamie via Flickr.

It's not just stakeholder advocates who are concerned. The nation's largest waste hauler, Waste Management, recently told a packaging conference that reliance on LCA (life-cycle analysis) "often leads to decisions made at the expense of recyclability."

Leading sustainability architect and green design advisor William McDonough calls pouch packaging a "monstrous hybrid" designed to end up in either a landfill or incinerator.

He recently told Joel Makower in an interview: "It's so immensely curious how stupid modern packaging is, and it's getting worse. ... I see packaging awards being given to these pouches as more efficient containers of, say, a cereal. ... It's wrapped in seven plastics with undefined inks and metallized polymers. It doesn't have a recycling symbol on it because you could never recycle it. ... And yet it's being put forward as a more efficient package."

Colgate, Green Mountain Coffee wake up to recyclable packaging



Some companies now believe you can achieve sustainable packaging that's fully recyclable. Last week, in consultation with As You Sow, consumer goods giant Colgate-Palmolive announced new packaging commitments. It agreed ([PDF](#)) to set goals to make all its packaging for three of four product categories recyclable by 2020. In addition, the company committed to work towards developing a recyclable toothpaste



Non-recyclable K-cups end up in landfill and worse. Image by Randy via Flickr.

tube or package, which would bring its fourth product category, oral care, close to the same sustainability standard. The company also agreed to increase the average recycled content

of its packaging to 50 percent.

In another positive development, Keurig Green Mountain Coffee, manufacturer of billions of unrecyclable Keurig K-cup individual serve coffee pods, has agreed to our request to make its presently unrecyclable pods recyclable, and set a deadline of 2020 in its recently released sustainability report.

As You Sow has pending dialogues and shareholder proposals on recyclable packaging with several of Colgate's giant corporate peers: General Mills, Kraft Food, Mondelez International and Procter & Gamble.

Perilous plastics

A second compelling reason to press for recyclable packaging is corporate management's failure to recognize or deal with growing evidence that plastic packaging contributes significantly to pollution of the world's oceans, clogging waterways, damaging marine ecosystems and impairing the marine food web. You've likely heard of the huge gyres of swirling plastic particles identified in five oceans. What you may not have heard is that degraded plastics absorb and spread toxics.



The plastic litter on this Malaysian beach is more than an eyesore. Once in the ocean, it becomes a health hazard. Image by epSos .de via Flickr.

The Environmental Protection Agency says degraded plastics in ocean gyres pose threats to marine animals and potentially to human health. Food and beverage packaging are among the top five items found on beaches and coastlines. Non-recyclable packaging is more likely to be littered than recyclable packaging. As these materials are swept into oceans and slowly degrade, they break down into small indigestible particles that birds and marine mammals mistake for food. Ingestion of plastics results a range of threats to marine species, including starvation, malnutrition, intestinal blockage and intake of toxins, which can lead to death.

Research indicates these particles absorb potent toxics such as polychlorinated biphenyls and dioxins from water or sediment and transfer them into the marine food web. Studies are starting to point towards larger, long-term impacts of toxic pollutants absorbed, transported and consumed by fish and other marine life, with potential to affect human health. Recyclable packaging conserves resources and increases the likelihood consumers will place more used packaging in a proper recycling stream, which can reduce the loading of oceans with plastic.

Consumers and companies must continue the cycle

Companies need to step up and take a measure of responsibility, but consumers have a role to play as well. This is not all the fault of companies.

Far too many people still thoughtlessly litter or put recyclable materials into trash bins rather than recycling bins. Consumer goods companies are experts at social marketing and communication. They could use those skills to educate consumers on the right way to recycle. For example, Johnson & Johnson discovered many people don't recycle packaging from the bathroom and produced this video reminding people that bathroom packaging is just as recyclable as food packaging.



We hope to foster a corporate race to the top on recyclable packaging. P&G's Crest and Colgate toothpaste brands always have been fierce competitors for market share. How about a new competition to be first to develop a recyclable toothpaste tube? Adding billions of recyclable tubes to our recycling stream will provide another economic motivator for a developing a 21st century circular materials economy.

If toothpaste tubes were recyclable, we'd have something to smile about. Image by William Warby via Flickr.

Toothpaste image by Sherman Geronimo-Tan via Flickr

Packaging Product Stewardship Recycling

Source URL: <http://www.greenbiz.com/blog/2014/04/28/colgate-palmolive-takes-firmer-stance-against-flexible-packaging>



Published on *GreenBiz.com* (<http://www.greenbiz.com>)

David Gottfried lights the fuse for 'Explosion Green'

By *Joel Makower*

Created 2014-05-20 02:30

A lot of people claim credit for launching the green building movement. And while it took a village to create the U.S. Green Building Council, the LEED rating system and their counterparts around the world, David Gottfried is the real deal. The founder of both the U.S. Green Building Council and the World Green Building Council, Gottfried has helped to catalyze a multi-billion-dollar industry that's transformed how we think about the built environment. He's also a tireless entrepreneur, continuing his efforts to transform markets for green products and services through his membership-based Regen Network.

On the occasion of the publication of his latest book, "Explosion Green," I sat down with Gottfried to discuss how he views the movement he helped create and his wish list for what needs to happen next.

Joel Makower: You've written a couple of other books that were more or less autobiographical, "Greed to Green" and "Greening My Life." Why a third book?

David Gottfried: Well, we hit the 20th anniversary of the U.S. Green Building Council, which we celebrated at Greenbuild in Philadelphia in November, and I thought it was a big milestone.

The first book, "Greed to Green," told our 10-year story, but so much had happened the last 10 years, so I wanted to update that story as well as collect all the metrics I could get my hands on and then pull it all together. I wanted to show what allowed us to grow not just across the U.S., with 77 chapters but, by founding the World Green Building Council, to 100 countries. So part three of the book has got the ingredients for transformation as well as lessons learned.

Makower: What are some of the lessons learned that are relevant to marketing transformation outside the building industry?

Gottfried: We are, as you know, one of the best transformation nonprofits, and that model is being copied all over in many industries, from agriculture to office supply to food.

One of the lessons is to dream big. We actually ended up bigger than our dream, but we called it the U.S. Green Building, so we would go after the whole U.S. As it turned out, we've now licensed LEED to about 25 countries and LEED is being used in 140 countries. I believe we came up with a good model — open, nonprofit, transparent, all sectors of our

industry at the table, so not just one voice or a one-instrument orchestra. And that can be done in any field.

I think another good part of the model was running a nonprofit as a business because, if nonprofits are broke, they're out of business, and they can make a profit. They just don't have shareholders to distribute it to. So we always ran it as a business.

Makower: The U.S. Green Building Council became a pretty profitable endeavor.

Gottfried: Hugely. We adopted Silicon Valley entrepreneurial rules: speed is important, first to market, play in a huge market, pick off the right stakeholders, make money, diversified revenue stream, recurring revenue. All those mantras that you hear.

Makower: Another Silicon Valley mantra is “fail fast.” Are there good examples where you tried something, failed and moved on quickly to something else?

Gottfried: Lots of them. We used to do a lot more training for LEED and make a lot of money at it, but as we had thousands and then hundreds of thousands of LEED accredited professionals and 77 chapters, they all started to pick us off and do their own training. So we got out of LEED training. It became better to partner with them and then create Green Building University.

LEED itself has gone through a lot iterations — not just the guidelines but how to certify and try to streamline it.

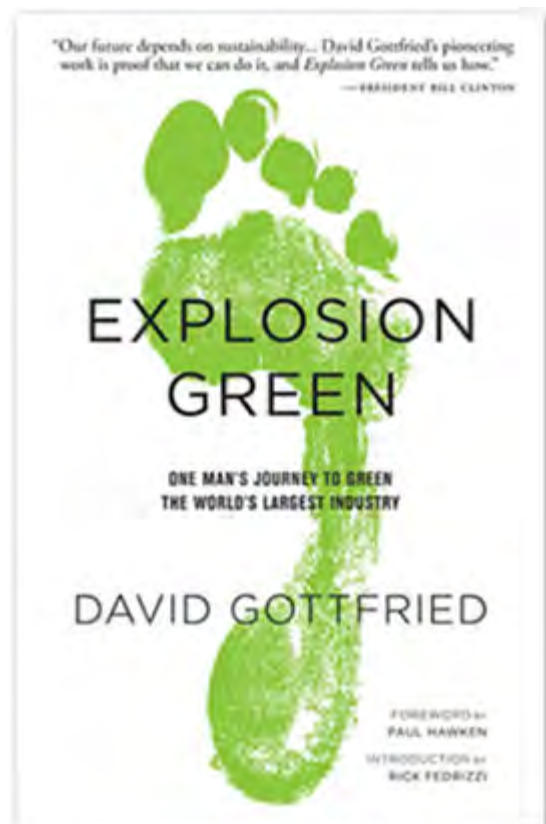
We looked at whether we should get into green product certification, and we stayed away from that because of the risk.

We had an environmental organization — Audubon — and they wanted us to take on pollution taxes. This is like 1994, and Mike Italiano [a USGBC founder] was pretty interested in that. We didn't want to touch it, so he quit the board that day and quit the council.

So we had these tensions where we're not left enough and we're not right enough, and we had parties on both sides quit.

Makower: There's that old expression that success has 1,000 fathers and failure is an orphan, and there's lots of organizations and associations that have created the LEED for something, fill in the blank. Do you ever look at those and say, “That's a total misappropriation or inappropriate use of what LEED stands for?”

Gottfried: There are lots of organizations that invoke LEED as a reference but which lack the certification element. Some of them lack being a nonprofit, and they're privately owned



for personal gain. Some of them don't have rigorous guidelines that are linked to third party standards. Others don't have balloting that follow ANSI procedures.

Even in buildings. I went to Spain to negotiate the use of LEED for the Spain Green Building Council, and the guys who had started a council wanted to set up LEED in a private business, give me 20 percent of the business and then require the nonprofit have to use their business. I went home.

In Japan, there was a guy who personally trademarked the term "green building," and if you wanted to use it in Japan, you had to pay him. So that didn't work.

Makower: When you step back and look at LEED, is it everything you wanted it to be? Is it more? Are there still some wish list items you haven't been able to check off?

Gottfried: I've always been really pleased with LEED and the standard and the guideline, and but I've always personally struggled with the certification process. I believe we could streamline it even more. And there's the cost of certification. I also want to streamline that.

I thought it was great for 20 years that the "L" in LEED stands for "leadership." We always said, "We want the top 25 percent to constitute leadership."

But what about those other 75 percent? In new construction, we're certifying 10 or 15 percent, depending on the size of the building, but we've missed all the existing buildings. We do have LEED EB, but in total, we have certified maybe 300,000 LEED buildings. But in the U.S., there's almost 5 million commercial buildings, so there's 4.7 million buildings we're not playing with.

What about what I call the clunker buildings? Typically, they're like 15,000 square feet. They're 40 years old. They're single pane glass, no insulation. The owner is 75 or 80, and the kids are waiting for that person to die and maybe they're going to sell it to somebody else. And so those buildings aren't in the green building game.

I want to move towards the Weight Watcher model, where they welcome you when you're 500 pounds and you walk in because you've got more to lose. They don't say, "Well, you can't run the triathlon, so you can't come to Weight Watchers." LEED is still a bit of a triathlon. We need to be getting to the couch potatoes and tell them, "Put on a pair of tennis shoes and just start walking. Go out the front door and walk. Walk a few blocks."

Health, there's another huge area we're just getting at now, but our relationship to people is only through indoor environmental quality. And social justice, we don't touch.

Makower: When you write your 25th anniversary book, what's the new chapter you plan to add?

Gottfried: I'm really obsessed with who's inside the green building and are they toxic themselves. And when you think of health and productivity of occupants, we're not looking at what they eat, what they think, are they stressed, what's the quality of their relationships, how do they spend their time, what do they make and do, does that have social merit.

So I want to move more in that direction. My latest work, called Regen Brain, I'm studying neuroscience and plasticity because I believe we know the technologies and know how to do green, but we don't do it. So they've got to change the economy and education. I'm working with a neuroscientist right now at Harvard on how to use his skills to bring it to sustainability and maybe we'll have, in five years, a roadmap for a green brain.

Makower: LEED for Brains. I can see it now.

Gottfried: You never know.

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Apr 22, 2014, 2:06pm PDT Updated: Apr 22, 2014, 3:24pm PDT

Paper wine bottle? Ecologic Brands has it in the bag



[Annie Sciacca](#)

Intern- *San Francisco Business Times*

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Oakland-based Ecologic Brands Inc. made a name for itself producing recycled-paper laundry detergent bottles [for iconic green brand Seventh Generation](#), and it's now bringing its earthy bottles to a sector that's long due for packaging innovation — the wine industry.

Partnering with Healdsburg winemaker [Truett-Hurst](#), Ecologic is ramping up to produce paper wine bottles for the company's Paperboy Wines label, which launched last October. [Truett-Hurst](#) initially used overseas paper bottle manufacturer GreenBottle in the United Kingdom, but after GreenBottle's recent bankruptcy, the winemaker is turning to Ecologic to take over production.

The recyclable wine bottles are made from compressed recycled cardboard formed into the shape of a standard Bordeaux wine bottle and are 85 percent lighter than traditional glass bottles. Currently, Paperboy has two offerings: a 2012 Paso Robles Red Blend and a 2012 [Mendocino Chardonnay](#), both of which cost about \$15 a bottle. The brand is currently in **Safeway** stores and will soon launch in other grocery stores outside of the Safeway market, said [James Bielenberg](#), [Truett-Hurst](#)'s chief financial officer.

Despite the wine industry's longtime love affair with emerald green bottles and leaf-printed corks, Paperboy Wines has so far been well received, Bielenberg said.

"It resonates with the consumer," Bielenberg said. "(People) can enjoy it in venues, take it to concerts, take it hiking, and there's consideration for it to be at professional sporting venues — places you don't want glass."

According to Ecologic Brands' CEO and founder [Julie Corbett](#), the so-called millennial generation is a good target audience for the paper wine bottles since they aren't so tied to

the tradition-soaked wine production process and are more in tune with environmental efforts.

"Wine is difficult category because it's a traditional market," Corbett said. "Millennials are much more sensitized to the environment and open to innovative ideas."

For Corbett, adopting Ecologic's paper bottles is a no-brainer. "It's one thing to recycle a product, it's another to buy something you know is made of recycled product," she said.

The partnership with [Truett-Hurst](#) is a game-changer for Ecologic Brands, which built a 60,000-square-foot manufacturing plant in Manteca last year.

"There are big, bold plans in terms of growth for Paperboy," Corbett said, adding that the challenge is, "How fast are we going to be able to react? We are a small company who is more capital-restrained than others."

Ecologic currently has 12 people in their Oakland headquarters and roughly 30 at the plant, and they plan to double employee count by the end of the year, as well as increasing from a one-shift production schedule to a two- or three-shift production schedule to meet demand for Paperboy and the other brands they have, including eco-friendly laundry detergent maker Seventh Generation and protein powder producer Bodylogix. Ecologic has big plans for growth in other packaging sectors, Corbett said, although she wouldn't give specifics about what precisely will come next.

"Our goal is to go into multiple aisles in the grocery store," Corbett said. "By January, you'll probably see a large brand announcement."

Annie Sciacca is an editorial intern at the San Francisco Business Times.


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HOW STOPWASTE STOPPED EVIL REHEAT

May 12, 2014



By Molly Miller

Just around the corner from our office in downtown Oakland, the [StopWaste building](#) at 1537 Webster is one of our favorite early models for high-performance design.

The home of Alameda County Waste Management Authority, the Alameda County Source Reduction and Recycling Board, and the Energy Council, StopWaste was one of the first LEED-Platinum buildings in Oakland, certified in 2005, and the first building in Oakland to incorporate waterless urinals. A publicly funded project,

they did their successful retrofit on a tight budget.

Now the building has been operating awhile and measuring performance, it will have a new LEED plaque to hang on the wall as early as this month, as it is undergoing the certification process for [LEED Existing Buildings Operation & Maintenance \(EBOM\)](#). Always on the leading edge, StopWaste is one of the first buildings to go through the new version (four) of LEED-EBOM and will make Platinum once again.

Wes Sullens, program manager for StopWaste, said EBOM measurements are proving the building consistently out performed the 2005 California Energy Code (Title 24) by 40%. (EBOM requires them to track water use, energy use, office purchases, food purchases, computer purchases, etc. They submitted for certification in January of 2014 and they are currently in review with GBCI, which issues LEED certifications on behalf of the US Green Building Council.)

The measurements "reaffirmed the leadership standards we designed to, which we are achieving for water and energy use," said Sullens.



To check back in on StopWaste as they undergo their new certification, we stopped by with a group of young [ASHRAE](#) engineers for a recent tour of the building. We followed Tyler Bradshaw around the building as he pointed to the exposed HVAC ducts and explained how the building's energy use came to be 40% better than code. (Bradshaw was the Integral Principal who managed the building's retrofit for Integral in 2005. Integral pushed StopWaste from an original LEED Silver goal on to Platinum and helped change the city code in Oakland to allow for the waterless urinals, which were not approved by the codes at that time.)

Having R-60 insulation for the building roof meant the building required dramatically less heating and cooling to begin with. Then came an efficient HVAC system. The system the design team settled on is a bit of a legend around both StopWaste and the Integral office. A contractor providing design phase cost estimating wanted to install a traditional VAV reheat system. Integral wanted to install a VAV system with thermally powered diffusers, called Therma-Fuser [™] diffusers, that avoided reheat

altogether, and a debate ensued.

Therma-Fuser diffusers, the trademark name of the diffuser made by [Acutherm](#), provide optimized temperature settings in different zones of the building, supplying more individualized comfort and greater efficiency than standard Variable Air Volume (VAV).

This contractor, unaccustomed to installing diffusers, greatly over estimated the cost of installing them and tried to convince the owner to do the less expensive VAV box. The owner then had him cost out both the Therma-Fuser diffusers and the standard VAV box systems precisely and, it turned out, the diffusers came in at slightly less first cost than the VAV box. "The Therma-Fuser diffusers were also much more energy efficient, so it was a win-win," says Bradshaw.



What Bradshaw learned from this project: "You have to know when to fight. We knew we were right about the diffuser being a great fit for the project," Bradshaw told the tour group.

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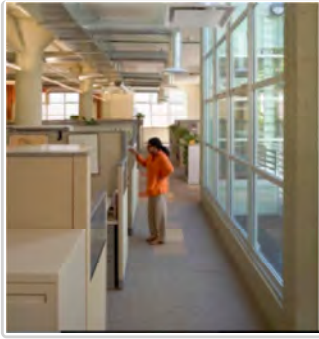
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The diffuser requires a lower pressure drop than standard VAV to operate. The ASHRAE crowd is familiar with low-pressure drop, but for me, Bradshaw tried to put it into basics. I took away that fans on the HVAC system create pressure but fans don't work as hard as with a diffuser system, and, therefore, use less fan energy.

"We made it even better by using oversized ducts, especially at the end of the runs where we make 'static regain' work for us," Bradshaw added. The lower velocities in oversized ducts result in less friction/resistance, so they are more energy-efficient than smaller ducts. "Over-sized ducts go really well with diffusers," he told us.

The combination of the high-performance envelope and the diffuser system also helped get rid of the evil "reheat" in this space. Rooms need different amounts of cooling or heating depending on the amount of internal heat load in the room, the amount of glass etc. More zones equal more money, and most owners can't afford to make every room a separate zone. Bradshaw gave me an example. "To keep it simple, if you have three zones—one is hot, one is happy and one is cool, and you have one rooftop unit/one system for all three, the system will make it cool enough for the room that wants cooling. Then you reheat that air you've already cooled for the happy room and add even more heat for the room that wants heat."

"Reheat is wasteful," he said. "It's like if you were driving your car and you put a brick on the accelerator so it went hard and then moderated your speed by using the brake," he illustrated. "Nobody drives that way because it's wasteful."

The diffusers allow us to have rooms that are slightly different within the same zone. Therma-Fuser diffusers themselves have no heating/cooling capabilities but if a room is too cold, the diffuser can close it down to keep it from getting colder. On a normal system, the rooftop unit listens to the room that has the thermostat in it but is completely blind to what is happening to the other rooms on the same zone. (That's why buildings are so uncomfortable!) The diffuser has the ability to change airflow for every single diffuser individually.



A recent StopWaste occupant comfort survey found 22 percent of respondents felt the spaces' thermal comfort was sometimes uncomfortable. (It is standard for about 50 percent of occupants to be uncomfortable.) "Often you can achieve goals with energy standards but not necessarily the comfort," commented Kurt Herzog, president & CEO of Acutherm. "StopWaste is one of those unique projects that did both because Tyler really pushed to achieve something different in terms of energy and comfort."

The LEED-EBOM Platinum certification demonstrates that after eight years of operation, the building is achieving ongoing high-performance. There has been zero maintenance on the Therma-Fuser diffusers in that time, Herzog adds. "It just works. You can over-complicate things. Having a good design is sustainable in more than one way."

Sullens says StopWaste is pleased by the energy performance of its building and is not making any major changes to the building but in order to enhance

performance they will institute a more active commissioning plan. "Now, we'll be more proactive about building tune-ups, whereas we've been in on call mode in the past," he said.

They will also begin a green cleaning program and they anticipate 81% overall diversion rate for ongoing waste in the building. Congratulations on the new plaque StopWaste!

Molly Miller is Integral Group's official storyteller. She is the author of the recent book *Integral: Revolutionary Engineering* and the editor of IG's new design blog.

The Integral Group Design Blog is a place where diverse individuals within our company express their opinions and ideas.

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Published on *GreenBiz.com* (<http://www.greenbiz.com>)

What NASCAR Nation thinks about 'green'

By *Joel Makower*

Created 2014-05-19 03:11

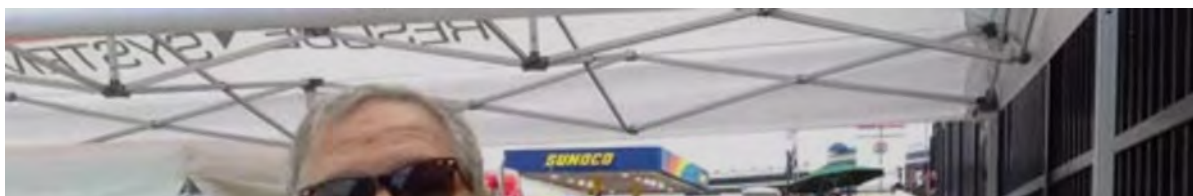
There's a reasonable chance that your response to the headline above is to say, "Hmmm." Or worse. That's a natural reaction for many, especially those with a strong environmental ethic, when it comes to putting auto racing and "green" in the same sentence.

But NASCAR, the stock-car racing organization whose massive events make it America's largest spectator sport, has been on an unlikely journey over the past few years, one with the potential to make an impact across a broad swath of the U.S. populace. The challenge, as so many other companies and organizations have found in influencing mainstream audiences on environmental topics and behaviors, is how to turn good intentions into good, green actions.

I've been hearing about NASCAR Green — the official name of the organization's five-year-old environmental outreach program — for several years. It began in 2011, at a dinner held for members of the GreenBiz Executive Network, GreenBiz Group's peer-to-peer learning group for sustainability executives. The meeting was hosted at Ingersoll-Rand, just outside of Charlotte, N.C. At each GBEN meeting, we hold a dinner at a restaurant or venue that's indigenous to the area.

The venue that evening was the LEED-certified garage for NASCAR racer Kyle Busch, a beautiful facility to house his cars and team — a classic southern meal of fried chicken and biscuits. We invited Dr. Michael Lynch, NASCAR's vice president of green innovation, to talk about the greening of NASCAR. There were a lot of skeptical faces when he stepped up to speak.

But not when he finished. Lynch spun a tale of NASCAR's journey: its commitment to use a percentage of renewable fuel in all race cars; its recycling of automotive fluids and tires at its events; its partnership with sponsors to bolster audience recycling at its venues, and more. (In 2012, the organization issued a "white paper" [[download-PDF](#)] on its environmental efforts.)



Joel Makower talks with Tom Carter of Liberty Tire Recycling about what happens to 250,000 or more used racing tires every year.

Lynch also described the research NASCAR has done on the environmental beliefs and attitudes of its massive audience — around 100 million fans who either attend races or watch them on TV. “NASCAR Nation,” as the audience is known, is distributed throughout the United States, according to Lynch, with strong representation in the Pacific Northwest and New England as well as the Deep South. That, he said, provided an opportunity to bring green messages to the mainstream.

Are fans "very green"?

NASCAR’s unique position as a green communications channel among was driven home last week, when the organization hosted another meeting of the Executive Network and invited members to stay the weekend to attend one of its seminal events — the NASCAR Sprint All-Star Race, at Charlotte Motor Speedway. About a dozen of us were given unique access to the race, NASCAR executives and partners, the drivers and vehicles, and the environmental operations of an event that attracts more than 100,000 rabid fans.

During our visit, Lynch presented the results of the latest data about NASCAR Nation, an update of that 2011 research. The survey compared environmental knowledge, beliefs and practices of NASCAR fans with those of non-fans. NASCAR fans skew slightly older than the overall U.S. population among those ages 35-64, and are split roughly 60/40 between males and females.

According to its 2014 study, when compared to non-fans, NASCAR fans are about twice as likely to say their household is “very green” and seeking ways to positively impact the environment. That number has risen since the earlier survey, when NASCAR fans were only 70 percent more likely to consider themselves “very green.” Four out of five fans believe the Earth is going through climate change, and three out of four agree they have a personal responsibility to do something about it.



Some of the 250,000-300,000 racing tires that NASCAR recycles each season.

Photo by Joel Makower.

The 2014 study also found that NASCAR fans are also big supporters of renewable fuels, such as ethanol — more than 50 percent more likely to support the use of ethanol blended with gasoline to fuel their own car. Moreover, 80 percent of NASCAR fans recycle, 66 percent have replaced incandescent light bulbs with more efficient ones, 60 percent buy energy-efficient appliances, 40 percent drive or own energy-efficient vehicles and 25 percent use public transportation or ridesharing.

Granted, those numbers seem high — for any cross-section of Americans, NASCAR or not. And without casting aspersions on NASCAR's research methodology, I'll be the first to view this data through a skeptical lens. As we've seen for years, Americans are prone to overstate their environmental attitudes and practices. And some of the questions make it easy to do so. After all, if you have a recycling bin at work or ever put a beverage container into the appropriate bin in a public place, you have recycled. Does that mean you do it regularly? Not necessarily.

Still, something interesting is going on here, and NASCAR has potential to use its reach and marketing muscle to move behavior and build markets for greener products and services — at least as much clout and credibility as any environmental group or government agency.

As the above stats suggest, biofuels and ethanol seem to fuel much of NASCAR Nation's green ethic, and that fits nicely with the three pillars of NASCAR Green.

- Renewable energy helps conserve the environment.
- Renewable energy creates jobs in the United States.
- Renewable energy helps support enhancing U.S energy independence.

It's not just biofuels. Fully two-thirds (67 percent) of NASCAR fans support buying solar panels for use at home, though only 11 percent have done so to date, compared with just 4 percent of nonfans.

Like biofuels, solar speaks to NASCAR Nation's high interest in green jobs and energy independence. One likely reason: About 16 percent of NASCAR fans are in construction, building maintenance and contracting trades and industry — a rate about 60 percent higher than the general U.S. public. That equates to some 12 million Americans. For them, solar energy is about jobs, first and foremost.

All of this presents an opportunity for NASCAR to help nurture and support green attitudes, says Lynch, who came to NASCAR from Boston Consulting Group and who holds a PhD in developmental psychology and was formerly a tenured professor at Purdue University.

"We have the opportunity to be arguably the most impactful sustainability platform on a population scale that's ever existed in this country," he told me.

For Lynch, that means working with NASCAR sponsors to help bring green products and services to fans. The idea, he says, is to "strategically and very smartly and in a positive way that's good for the country help folks think their way through product offerings and solutions and technologies that otherwise might be difficult to figure out." LED lighting, for example, or solar energy or smart appliances. "These product spaces continue to be potentially confusing and mysterious to navigate, in terms of making a purchase."

"We would love to play a role in helping households adopt more solar," he told me. "It's a mix of smart business and doing the right thing by the country and by the environment. And we've got this communication channel that we know gets at some of the skepticism that we've learned about in focus groups. LED lighting is a great example, where it's difficult to make the right purchase decision without a lot of effort, yet the products are good products. So, how do you square that off to make it easy for a member of NASCAR Nation to go out and buy a light bulb for their house that they'll actually like and want to keep and then save money?"

It's a delicious dilemma. If NASCAR can marry its marketing clout with good, green messages and accelerate consumer uptake of environmental technologies, it stands to be a key player in the green marketplace. And perhaps some of the classic mosaic of



Dr. Mike Lynch, NASCAR's head of sustainability. Photo by Joel Makower.

corporate logos — found on its cars, drivers' uniforms and plastered just about everywhere you look at a NASCAR event — might someday represent the makers of electric vehicles, rechargeable batteries, green power and other goods and services of a low-carbon economy.

Ladies and gentlemen, start your ingenuity.

Race car photo at top courtesy NASCAR.com.

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Palo Alto fails to find compromise in compost debate

Local environmentalists divided over new proposal for city-run operation for treating organic waste

by Gennady Sheyner

After a brief respite, Palo Alto's leading environmentalists are once again clashing over the future of local composting -- a debate that brought a crowd to Tuesday's City Council meeting.

With no compromise in sight, the council agreed to defer a decision to a later date.

The latest round in the city's long and complex battle over how to handle the city's organic waste was prompted by a new recommendation from city staff to reject all three proposals that the city has received from the private sector for overhauling the city's process. Instead, staff proposed having the city take charge of building and operating a new waste-to-energy facility, which would first process sewage sludge and then in a second phase treat food scraps. Only later would staff deal with the city's yard trimmings, potentially through a different process.

The recommendation, at least in concept, initially seemed to bring closer together the two camps of environmentalists who clashed in November 2011 over Measure E, a successful measure that "undedicated" 10 acres of parkland in the Baylands and made the land available for an anaerobic-digestion plant. The debate had pitted environmentalists who wanted to keep a composting operation local against conservationists who argued against building an anaerobic digester in the Baylands.

During a brief discussion in February, speakers from both camps praised staff's proposal as a promising one, particularly in its determination that only about 3.8 acres of the Measure E site would be needed for a composting operation. But the enthusiasm has cooled considerably in recent two weeks, as staff released more details and supporters of Measure E realized that under the new timeline, the yard-trimmings portion wouldn't be in place until 2022. Residents who supported the Baylands anaerobic digester also challenged staff's economic analysis, which they said understates the costs of a city-run operation. They urged the council not to reject the proposals to build a Baylands plant from the firms Harvest Power and We Generation (a third proposal from the firm Synagro entailed exporting all three waste streams).

Faced with pressure from Measure E supporters, Public Works staff on Tuesday morning issued an alternative recommendation. The last-minute proposal would reject the private-sector offers but also calls for the immediate issuance of a new request for proposals for waste management, with a provision that explicitly states the city's desire to use the Measure E site for composting of yard waste. The recommendation irked conservationists who opposed Measure E.

Shani Kleinhaus, environmental advocate for the Santa Clara Valley Audubon Society, praised the original plan proposed by staff -- a plan that would not use the Measure E site in the near term.

"Now, it's completely changed again," Kleinhaus said of the eleventh-hour recommendation, noting that her organization will probably oppose it.

Emily Renzel, who led the opposition to Measure E, likewise praised staff's initial recommendation and panned the Tuesday alternative, which places a greater emphasis on compost and the 10-acre site. She said the original plan succeeded in merging two separate goals: building facilities to treat biosolids (and thereby retire the city's sludge-burning incinerators) and coming up with a way to process the other two streams of organic waste. Staff's proposed Organic Management Plan, she said, "makes efficient use of city resources, including land."

She criticized the city for introducing the alternative recommendation Tuesday morning.

"It has been most distressing to have a last-minute substitute presented by staff after at least four months of participating in what was supposedly a collaborative process," said Renzel, who was one of nearly 80 residents at the meeting. "Some of us in the community feel betrayed by this latest change outside of the public eye."

This feeling of betrayal was the only thing that united the two sides on Tuesday. Proponents of Measure E said the initial staff proposal, which saves composting for the final phase, runs counter to the wishes of the 65 percent of voters -- those who supported the measure.

"If you decide to keep composting in Palo Alto, you will have the support of a huge majority of the citizens," said Carolyn Curtis, who helped lead the Measure E drive.

Some residents submitted letters with similar sentiments. Jeffrey Hook argued that "local processing of all of our compostable materials makes the most ecological sense and therefore the most economic sense."

Former Mayor Peter Drekmeier, another Measure E campaign leader, said he was puzzled by staff's assertion that a local composting operation cannot be put in place before 2020 or 2022. He said he and his group, Palo Alto Green Energy, opposed staff's prior recommendation but can accept the Tuesday addition "in the spirit of compromise."

"We appreciate that it does address the issue of compost," Drekmeier said of the new recommendation. "It's really important to send a strong message to staff that the people voted to undedicate the Measure E (land), to make it available. That is the site where we should put the composting."

The latest skirmish in the simmering environmentalist feud flummoxed the council and Public Works staff, who just weeks earlier felt like they were getting close to an agreement. Phil Bobel, assistant director of Public Works, said staff had thought its initial recommendation would strike a compromise and "would get us through these landmines out there without running into them."

"The closer we got to tonight, the more we realized that we didn't have that," Bobel said.

Staff responded by crafting an alternative, Bobel said, only to learn that conservationists are "vehemently opposed" to the revised proposal.

When Councilman Karen Holman observed that the two sides seemed close to a compromise just two months ago and ask what happened, she didn't get any clear answers. City Manager James Keene noted that "there's a difference of opinion in the community" and that "there's never a guarantee" that people will agree on everything until the process gets closer to the conclusion.

The council Tuesday did agree on one thing: to defer any decisions to a future date. Given that staff's alternative recommendation was just released earlier that day, Councilman Larry Klein

proposed at the beginning of the discussion that the council not take any action. His colleagues quickly agreed and unanimously voted to delay action until a future meeting, possibly as early as May 12.

"I've learned a lot in my 15 months on the council but on top of the list is how important process is to Palo Alto, especially when it comes to contentious issues and important issues, and this issue is clearly both," Councilman Marc Berman said.

Meanwhile, Harvest Power and We Generation continue to hold out hope that they'll ultimately be selected. On Tuesday, the two companies submitted a joint letter to the council in which they disputed staff's cost projections for a city-led operation and offered to work together on a proposal that would meet all of Palo Alto's needs. The existing proposals, the two companies wrote in a joint letter, have "everything in place to move ahead immediately in implementing a state-of-the-art facility."

The city's proposed process, they wrote, creates the potential for higher costs, could lead to a longer project completion schedule and could bring "inefficiencies in communication and job completion." They also wrote that if "something doesn't work properly regarding price, schedule, or performance, the potential exists for the designer to point to the construction contractor for poor performance and for the construction contractor to point to poor design."

"Resulting disputes must be resolved by the City and ultimately may lead to the City paying to 'fix' the problem," the letter states, describing a situation that very closely resembles Palo Alto's [recent struggles](#) to complete the new Mitchell Park Library and Community Center.

Paul Sellew, founder of Harvest Power, said he agrees with the goals of the city's plan for organic waste, but argued that the partnership of his firm and We Generation could produce the results far faster. The partnership could create and support a facility that takes care of all three waste streams by 2018 at the latest, he said. Tom Bintz, representing We Generation, also asked the council to consider the private-sector solution on the table.

"We want to see the city have a showcase facility that exceeds expectations," Bintz said.