

Jerry Pentin, **WMA, President**
City of Pleasanton, WMA, RB

Dan Kalb, **WMA 1st Vice President, EC President**
City of Oakland, WMA, EC

Greg Jones, **WMA 2nd Vice President, EC 1st Vice President**
City of Hayward, WMA, EC, RB

Lorin Ellis, **EC 2nd Vice President**
City of Union City, WMA, EC

Daniel O'Donnell, **RB President**
Environmental Organization, RB

Tim Rood, **RB 1st Vice President**
Piedmont, WMA, EC, RB

Toni Stein, **RB 2nd Vice President**
Environmental Educator, RB

Keith Carson, County of Alameda, WMA, EC

Jim Oddie, City of Alameda, WMA, EC

Peter Maass, City of Albany, WMA, EC, RB

Susan Wengraf, City of Berkeley, WMA, EC

Dave Sadoff, Castro Valley Sanitary District, WMA

Don Biddle, City of Dublin, WMA, EC

Dianne Martinez, City of Emeryville, WMA, EC, RB

Suzanne Lee Chan, City of Fremont, WMA, EC

Laureen Turner, City of Livermore, WMA

Luis Freitas, City of Newark, WMA, EC

Shelia Young, Oro Loma Sanitary District, WMA

Pauline Cutter, City of San Leandro, WMA, EC

Adan Alonzo, Recycling Programs, RB

Michael Peltz, Solid Waste Industry Representative, RB

Steve Sherman, Source Reduction Specialist, RB

Recycling Materials Processing Industry, RB, Vacant

AGENDA

**JOINT MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY (WMA) BOARD,
THE ENERGY COUNCIL (EC)
AND
THE SOURCE REDUCTION AND RECYCLING BOARD (RB)**

Wednesday, September 16, 2015

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 & RB)

II. ROLL CALL (WMA, EC & RB)

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

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

1	1. Approval of the Draft Minutes of July 22, 2015 (WMA & EC, separate Votes) (Gary Wolff & Wendy Sommer)	Action
5	2. Approval of the Draft Minutes of August 13, 2015 (RB only) (Wendy Sommer)	Action
9	3. Recycling Board Attendance Record (RB only) (Wendy Sommer) This item is for information only.	Information
11	4. Written Report of Ex Parte Communications (RB only) (Wendy Sommer) This item is for information only.	Information
13	5. Minutes of the July 21, 2015 Technical Advisory Group (TAG) (EC only) (Gary Wolff, Wendy Sommer & Karen Kho) This item is for information only.	Information

17	<p>6. Minutes of the August 18 , 2015 Technical Advisory Group (TAG) (EC only) (Gary Wolff, Wendy Sommer & Karen Kho) This item is for information only.</p>	Information
21	<p>7. Grants Under \$50,000 (WMA only) (Gary Wolff)</p> <p>V. OPEN PUBLIC DISCUSSION (WMA, EC & RB) An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the boards or council, but not listed on the agenda. Total time limit of 30 minutes with each speaker limited to three minutes.</p> <p>VI. REGULAR CALENDAR (WMA, EC & RB)</p>	Information
23	<p>1. Sale of a Conservation Easement to Golden Hills LLC (Wind Farm Developer) (WMA only) (Gary Wolff & Brian Mathews) Recommend that the WMA Board approve the draft purchase agreement provided in Attachment B.</p>	Action
	<p>2. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (WMA only) (Gary Wolff) (P&O and Recycling Board meeting, October 8th at 4:00 pm – StopWaste Offices, 1537 Webster Street, Oakland, CA)</p>	Action
71	<p>3. Enforcement Update (WMA & RB only) (Gary Wolff & Brian Mathews) This item is for information only.</p>	Information
	VII. COMMUNICATIONS/MEMBER COMMENTS (WMA, EC & RB)	Information
	VIII. ADJOURNMENT (RB only)	
	IX. REGULAR CALENDAR (WMA & EC)	
	<p>1. CLOSED SESSION: (WMA only) Pursuant to Government Code Section 54957(b) PUBLIC EMPLOYEE APPOINTMENT Executive Director</p>	
	<p>2. CLOSED SESSION: (WMA only) Pursuant to Government Code Section 54957.6 CONFERENCE WITH LABOR NEGOTIATOR Agency Designated Representative: Board Member Jerry Pentin. Unrepresented Employee: Executive Director (confidential materials mailed separately)</p>	
	<p>3. OPEN SESSION: (WMA only) Possible Consideration of a Contract for the Executive Director Position</p>	Action
83	<p>4. PG&E Local Government Partnership: Contract Amendment (EC only) (Wendy Sommer & Heather Larson) Adopt the Resolution attached.</p>	Action
	X. ADJOURNMENT (WMA & EC)	

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

Wednesday, July 22, 2015

3:00 P.M.

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

I. CALL TO ORDER

President Jerry Pentin, WMA, called the meeting to order at 3:00 p.m.

II. ROLL CALL

WMA & EC

City of Alameda	Trish Spencer, WMA, EC
City of Albany	Peter Maass, WMA, EC (arrived 3:05 p.m.)
City of Berkeley	Susan Wengraf, WMA, EC (via teleconference, logged off 4:45 p.m.)
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Don Biddle, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC
City of Fremont	Suzanne Lee Chan, WMA, EC (arrived 3:15 p.m.)
City of Hayward	Greg Jones, WMA, EC
City of Livermore	Laureen Turner, WMA
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Dan Kalb, WMA, EC (arrived 3:07 p.m.)
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Tim Rood, WMA, EC
City of Pleasanton	Jerry Pentin, WMA
City of San Leandro	Pauline Cutter, WMA, EC
City of Union City	Lorin Ellis, WMA, EC (arrived 3:30 p.m.)

Absent:

County of Alameda	Keith Carson, WMA, EC
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Staff Participating:

Gary Wolff, Executive Director
Wendy Sommer, Deputy Executive Director
Meri Soll, Senior Program Manager
Richard Taylor, Counsel, Authority Board
Arliss Dunn, Clerk of the Board

Others Participating:

Allison Chan, Save the Bay
Jim Scanlin, Alameda County Clean Water Program

III. ANNOUNCEMENTS BY THE PRESIDENTS

There were no announcements. The Board observed a moment of silence in honor of the police officer slain in the City of Hayward.

IV. CONSENT CALENDAR (WMA & EC)

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| 1. | Approval of the Draft Minutes of June 24, 2015 (WMA & EC-Separate Votes) (Gary Wolff) | Action |
| 2. | Minutes of the June 16, 2015 Technical Advisory Group (TAG) (EC only) (Gary Wolff, Wendy Sommer & Karen Kho) | Information |
| 3. | Grants Under \$50,000 (WMA only) (Gary Wolff) | Information |

Board member Cutter made the motion to approve the Consent Calendar for the WMA Board. Board member Turner seconded and the motion carried 13-0 (Carson, Chan, Ellis, and Kalb absent).

Board member Cutter made the motion to approve the Consent Calendar for the Energy Council. Board member Martinez seconded and the motion carried 10-0 (Carson, Chan, Ellis, and Kalb absent).

V. OPEN PUBLIC DISCUSSION (WMA & EC)

There was none.

VI. REGULAR CALENDAR (WMA & EC)

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| 1. | Reusable Bag Ordinance 2012-2: Proposed Budget and Schedule for Potential Expansion (WMA only) (Gary Wolff, Wendy Sommer & Meri Soll) | Action |
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Staff recommends that the WMA consider a budget adjustment to add \$75,000 from Facility Fee fund balance to Reusable Bag Project 1250 (FY 15/16), and reallocate 170 hours of staff time to the Reusable Bag Project, for implementation of the schedule in Attachment A.

Meri Soll provided an overview of the staff report and presented a Powerpoint presentation. The staff report and the presentation is available here:

<http://stopwaste.org/Reusable/Bags/Presentation/WMAJuly2015.pdf>

Wendy Sommer provided a brief pre and post bag ordinance perspective. Prior to implementing the ordinance there were an estimated 664 million single use plastic bags in the waste stream and after implementation of the ordinance there were an estimated 473 million fewer single use plastic bags thus a 62% reduction. The volume remaining in the waste stream is estimated at 291 million bags which translates to 1,763 tons. These figures do not account for restaurants. Board member Turner stated that this information is extremely important to the public and to the Board as they consider whether to move forward with the expansion, and staff should include this information in every Board package that include discussion of the expansion.

Board member Martinez inquired how SB270 would affect our ordinance. Ms. Soll stated if SB270 was to become law in 2016, it would limit our ability to change our ordinance; we could only change two aspects of our ordinance: the type of stores affected and the amount of the bag price. President Pentin inquired if there was discussion with Clean Water staff regarding additional funds for the pre adoption scope of work. Ms. Soll stated there are Clean Water representatives on the TAC and they are aware of the steps involved but she will have a conversation with them. Board member Biddle inquired if there have been conversations with the Clean Water staff regarding enforcement and ongoing program operations. Ms. Soll stated that the Clean Water program recommends a complaint based enforcement approach instead of our current enforcement approach (periodic inspection), because the current approach would be cost prohibitive given the number of stores involved in the expanded ordinance.

President Pentin inquired about the number of staff hours required to perform items 1-3 of the expansion schedule. Ms. Soll stated it will require approximately 110 staff hours. Board member Wengraf inquired if it will require a unanimous vote to adopt the expansion ordinance. Ms. Sommer stated no it will require a majority vote and the expansion ordinance will include an opt-out provision as did the original ordinance. Board member Maass stated if trying to get information on the number of sole proprietors in the County is proving difficult, perhaps we should expand to cover only the other stores. Ms. Soll replied that it is important to get this information in order to provide equal enforcement of the ordinance. Board member Kalb asked to hear a breakdown of the categories of stores that could be included in the proposed

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expansion as well as a breakdown of the number of stores by category. Ms. Soll stated that there are an estimated 7,000 additional retail stores (separate from the 1,288 stores covered under current ordinance) and 4,000 restaurants in Alameda County that could be included for expansion. Depending upon approach, an expansion could result in over 12,000 total stores affected by ordinance. There is a small subset of retail stores representing a variety of chain, franchise and big box stores not covered under the current ordinance, but that currently seem to distribute single use plastic bags in fairly large quantities. Staff estimates that the number of these stores range between 200 to 400 stores in Alameda County. Ms. Soll stated in the May staff report, staff conducted visual observations at a variety of stores to gather baseline data for ordinance effectiveness. Staff observed consumers at 48 retail stores not currently covered by our ordinance (for example, Home Depot, Michael's, Ross, and Best Buy) to assess the amounts and types of bags distributed in a one hour period. The results show that the 48 non-covered retail stores as a group distributed only 33% the number of single use plastic bags in a one hour time frame than the 17 food related stores as a group did prior to the start of the Ordinance. Ms. Soll added data regarding stores (not including sole proprietors) from the Board of Equalization indicate in Alameda County there are 1,200 Motor Vehicle and Parts Dealers, 670 Furniture and Home Furnishing, 1,000 Electronics and Appliances, 600 Building Materials and Garden Supplies, 2,200 Clothing and Accessory, 1,000 Sporting Good, Hobby, and Music, 500 General Merchandise, and 5,000 Miscellaneous Stores.

Board member Chan inquired if the \$75,000 would cover items 1-6 of the proposed schedule. Ms. Soll stated yes, and staff would then come back to the Board with a budget for implementation once a better estimate of the number of stores is available. Board member Martinez stated her appreciation for the information and noted information from cities such as San Jose that has an expanded ordinance is requiring 1 full time staff person due to complaint based enforcement

Board member Cutter made a motion for staff to do items 1-3 of the expansion schedule and to report back to the Board with results from items 1-3 and with a proposed schedule and options for moving forward. Authority Counsel Taylor suggested that the Board approve the budget adjustment with direction to staff for a check-in.

Board member Cutter amended the motion to approve the budget adjustment to add \$75,000 from Facility Fee fund balance to Reusable Bag Project 1250 (FY 15/16), and reallocate 170 hours of staff time to the Reusable Bag Project, for implementation of the schedule in Attachment A, with direction to staff to perform Items 1-3 of the schedule in Attachment A and then report back to the Board in December for a decision on whether to move forward with the remaining schedule. Board member Turner seconded and the motion carried 18-0 (Carson absent).

Board member Turner recommended that staff consider the schedule with respect to the fall 2016 elections and the possibility of newly seated Board members.

Allison Chan provided public comment on behalf of Save the Bay. Ms. Chan spoke to the merits of having an ordinance that covers all types of stores as it provides consistency for shoppers and suggested that staff look at San Jose's complaint based enforcement. Ms. Chan added Save the Bay continues to see the flimsy plastic take-out bags from restaurants in the creek beds. Jim Scanlin provided public comment on behalf of the Alameda Clean Water Program. Mr. Scanlin stated the MOU process should move fairly smoothly and the \$180,000 does include a complaint based enforcement system and expansion to include all retail excluding restaurants.

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| 2. WMA Vacancy on the Recycling Board (WMA only) (Wendy Sommer) | Action |
| Make an appointment to the Recycling Board. | |

Board member Sadoff made the motion to appoint Board member Martinez (Emeryville) as a WMA appointee to the Recycling Board. President Pentin seconded and the motion carried 18-0 (Carson absent).

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| 3. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (WMA only) | Action |
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(P&O and Recycling Board meeting, August 13th at 4:00 pm – StopWaste Offices, 1537 Webster Street, Oakland, CA)

Due to the August recess, Wendy Sommer inquired if any Board member required an interim appointment for the September Recycling Board meeting. There were no requests for an interim appointment for the September meeting.

President Pentin requested an interim appointment for the August 13th meeting. Board member Biddle stated that he would attend as the interim appointment. Board member Cutter made the motion to approve the interim appointment. Board member Chan seconded and the motion carried 18-0 (Carson absent).

The Board adjourned to Closed Session at 4:30 p.m. and returned to Open Session at 4:50 p.m.

4. CLOSED SESSION (WMA only)

PUBLIC EMPLOYMENT

(Pursuant to Government Code Section 54957)

Title: Executive Director

(confidential materials mailed separately)

The Board directed Agency Counsel to work with the Board President to negotiate a contract agreement with Wendy Sommer to serve as the next Executive Director, starting after Executive Director Wolff's retirement at the end of December. The Board will consider the agreement at the September 16th WMA meeting. The vote was 18-0: **Ayes:** Spencer, Maass, Wengraf, Sadoff, Biddle, Martinez, Chan, Jones, Turner, Hannon, Kalb, Young, Rood, Pentin, Cutter, Ellis. **Nays:** None. **Abstain:** None. **Absent:** Carson.

5. CLOSED SESSION:

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

The Board selected option 2 of the closed session staff report and directed the Executive Director to sign a term sheet regarding price terms of payment for sale of a conservation easement of up to 308 acres of the parcels described in the agenda item. We do not have a signed term sheet with NextEra at this time, but assuming one is signed by both parties it will be available upon request at that time. A full conservation easement agreement will likely be brought to the Board in September in open session. The vote was 16-1: **Ayes:** Biddle, Chan, Cutter, Ellis, Hannon, Jones, Kalb, Maass, Martinez, Pentin, Rood, Sadoff, Turner, Young. **Nays:** Spencer. **Abstain:** None. **Absent:** Carson, Wengraf

VII. COMMUNICATIONS/MEMBER COMMENTS (WMA & EC)

Information

Mr. Wolff announced that in response to a Board member request (Turner), the agency website has become a responsive website, as of the night before, that will work better with handheld devices such as cell phones, tablets, etc. Board member Martinez announced that she along with Board member Young observed benchmark sorting in San Leandro. She added the crew is very thorough and works well together and she was impressed at the small amount of garbage in the bins.

Board member Rood announced the vacancy on the Recycling Board for the Recycling Materials Processing Industry representative and encouraged Board members to share the announcement.

VIII. ADJOURNMENT (WMA & EC)

The meeting adjourned at 5:00 p.m.

**MINUTES OF THE REGULAR MEETING OF THE
PLANNING & ORGANIZATION COMMITTEE
AND
ALAMEDA COUNTY RECYCLING BOARD**

**Thursday, August 13, 2015
4:00 p.m.**

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

I. CALL TO ORDER

President Daniel O'Donnell called the meeting to order at 4:03 p.m.

II. ROLL CALL

Adan Alonzo, Recycling Programs
Don Biddle, City of Dublin for Jerry Pentin, City of Pleasanton
Greg Jones, City of Hayward
Peter Maass, City of Albany
Dianne Martinez, City of Emeryville
Daniel O'Donnell, Environmental Organization
Michael Peltz, Solid Waste Industry Representative
Tim Rood, City of Piedmont
Toni Stein, Environmental Educator (arrived 4:20 p.m.)
Steve Sherman, Source Reduction Specialist (via teleconference)

Staff Present:

Wendy Sommer, Deputy Executive Director
Tom Padia, Recycling Director
Meri Soll, Senior Program Manager
Kathleen Pacheco, Senior Deputy County Counsel
Arliss Dunn, Clerk of the Board

Others Participating:

Erik Nylund, Crowe Horwath, Ltd.
Miriam Gordon, Clean Water Action
Samantha Sommer, Clean Water Action

III. ANNOUNCEMENTS BY THE PRESIDENT

First Vice President Tim Rood welcomed Board member Dianne Martinez as a new WMA representative to the Recycling Board, and announced that the WMA Board directed Agency Counsel to work with the WMA Board President to negotiate a contract agreement with Wendy Sommer to serve as the next Executive Director, starting after Executive Director Wolff's retirement at the end of December.

IV. CONSENT CALENDAR

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| 1. Approval of the Draft Minutes of May 14, 2015 (Wendy Sommer) | Action |
| 2. Board Attendance Record (Wendy Sommer) | Information |
| 3. Written Report of Ex Parte Communications (Wendy Sommer) | |
| Information | |

Board member Rood made the motion to approve the Consent Calendar. Board member Biddle seconded and the motion carried 6-0-2 (Stein absent) (Maass and Martinez abstained).

V. OPEN PUBLIC DISCUSSION

There was none.

VI. REGULAR CALENDAR

1. Clean Water Action - Nonprofit Grantee Presentation (Wendy Sommer & Meri Soll)	Information
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This item is for information only.

Meri Soll provided a summary of the staff report and introduced Miriam Gordon and Samantha Sommer, Clean Water Action staff. Ms. Sommer provided an overview of the organizations efforts through the “Rethink Disposable” campaign. A copy of the PowerPoint presentation is available here:

<http://stopwaste.org/Rethink/Disposable.pdf>

Board member Biddle asked how initial contact is made to the businesses and their reaction. Ms. Sommer stated they track the trash generated in the commercial districts and canvas the businesses door to door. The auditors are trained to look for certain operations that qualify the businesses as good candidates. The goal is to audit large chain retail establishments but currently they are working with small local businesses where the managers are onsite. Board member Maass inquired if they have explored utilizing social media sites such as restaurant review portals such as Yelp to promote and advertise when a business has successfully completed the audit. Ms. Sommer stated that they have discussed it but have not pursued it. Board member Alonzo inquired if there is data available with respect to increase in water use from washing the units. Ms. Sommer stated that if there is concern from the business they will work with them on a case by case basis. They use a tool that can calculate water impacts and none of the businesses have reported any increase in water usage. They will be developing a new water conservation guide on their website.

Board member Stein inquired if there is opportunity to work with ABAG with respect to the Green Business program and to include the ReThink Disposable program as criteria. Ms. Sommer stated yes, and she made a presentation to ABAG and all of the regional Green Business programs and many of them are making it a requirement for food-related businesses to meet with the Clean Water Action staff. Board member Stein recommended that they include hospitals in their institutional portfolio. Ms. Gordon stated that right now it is a capacity issue but it is a long term goal. Wendy Sommer inquired if they had considered working with food truck vendors at fairgrounds. Ms. Sommer stated that they have not worked with them but considers it a good idea.

President O’Donnell thanked Ms. Sommer and Ms. Gordon for the presentation.

2. Recycling Board "Five Year Audit" - Recommendation to Accept Phase I Five Year Financial & Compliance Audit Report – FY 2011/12 – 2013/14 (Wendy Sommer & Tom Padia)	Action
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It is recommended that the Recycling Board accept the Phase I Five Year Financial and Compliance Audit by Crowe Horwath LLP and approve the recommendations therein, subject to the qualifications enumerated in the staff report.

Tom Padia provided an overview of the staff report and introduced Erik Nylund, Crowe Horwath. The staff report is available here: <http://stopwaste.org/Five/Year/Report.pdf>

Mr. Nylund presented the findings and recommendations from the Five Year Financial and Compliance Audit. The PowerPoint presentation is available here: <http://stopwaste.org/Five/Year/Presentation.pdf>

Board member Stein inquired about the disparity in Measure D fund balances at the end of June 30, 2014. Mr. Nylund stated that over the years the Board has incentivized the agencies to spend the funds in an expeditious fashion and there has been a penalty if certain balances exceed the total disbursements over the last two year period. If balances exceed the two year period threshold the agency must submit an expenditure plan and Crowe Horwath would follow up to ensure that the expenditure plan was accomplished. Predominantly, none of the agencies have exceeded the balance threshold. Mr. Padia stated that in the distant past the City of Hayward submitted an expenditure plan, and more recently the City of Livermore submitted an expenditure plan due to a staff vacancy that took longer than anticipated to fill.

Board member Stein inquired about the outcome regarding the Recycled Product Purchase Preference Program (RPPP). Mr. Nylund stated historically leftover funds were allocated for specific recycled content purchases. There were no leftover RPPP monies to allocate to member agencies for this purpose. Board member Stein recommended developing a diversion metric to present tonnage information in percentage form to illustrate that we want to get as high diversion as possible. Board member Peltz inquired if Measure D spoke to member agency fund balances or is it at the discretion of the Board. Mr. Padia stated that language is not included in the County Charter so it falls into the discretion and policy making decisions of the Board. The Charter directs the funding to be used for the maintenance and expansion of municipal recycling programs and we want to make sure the funding is used for this purpose.

Board member Rood inquired if the monies can be taken away from the member agencies. Mr. Padia stated that the Board passed a policy about what constitutes an adequate commercial recycling program and staff will be coming back to the Board probably at the end of this year regarding the City of Pleasanton as they do not currently have a commercial organics diversion program. The Board will need to determine their eligibility in continuing to receive Measure D funding. Additionally, all jurisdictions are required to have a curbside recycling program and all jurisdictions are currently in compliance. However, if a jurisdiction discontinues the program they will potentially become ineligible to continue to receive Measure D funding.

Mr. Padia provided an overview of the audit recommendations in the staff report. Board member Stein suggested with respect to Recommendation MA-1 Track Labor Costs, to collect duty statements to see if they align with the budgeted percentage.

Board member Biddle made the motion to approve the Recycling Board Five Year Audit subject to the staff recommendation. Board member Rood seconded and the motion carried 10-0.

VII. OTHER PUBLIC INPUT

There was none.

VIII. COMMUNICATIONS/MEMBER COMMENTS

Wendy Sommer introduced Kathleen Pacheco, Senior Deputy County Counsel. Ms. Pacheco will serve as interim Counsel for the Recycling Board while Audrey Beaman is on medical leave.

Board member Rood inquired if the Board is required to ask for public comment on an item prior to taking action. Mr. Padia stated that the Rules of Procedure states that any member of the public may comment on any item if recognized for that purpose by the meeting Chair. Ms. Pacheco added that generally if any member of the public would like to speak on a specific topic they will stand up during the public comment and the meeting Chair can then recognize them.

IX. ADJOURNMENT

The meeting adjourned at 5:20 p.m.

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2015 - ALAMEDA COUNTY RECYCLING BOARD ATTENDANCE

	J	F	M	A	M	J	J	A	S	O	N	D
REGULAR MEMBERS												
A. Alonzo	X	X	X	X	X	X	X	X				
L. Ellis	X	X	A	X	X	A	A					
G. Jones	X	X	X	X	X	X	X	X				
P. Maass	X	X	X	X	X	X	A	X				
D. Martinez								X				
D. O'Donnell	X	X	X	X	X	X	X	X				
M. Peltz	X	X	X	A	X	X	X	X				
J. Pentin	X	X	I	X	X	X	X	I				
T. Rood	X	X	X	X	X	X	X	X				
S. Sherman	X	X	X	X	A	X	X	X				
T. Stein	X	A	X	X	X	X	X	X				
M. Tao	X	A	X	X	X	A	X					
INTERIM APPOINTEES												
D. Biddle			X					X				

Measure D: Subsection 64.130, F: Recycling Board members shall attend at least three fourths (3/4) of the regular meetings within a given calendar year. At such time, as a member has been absent from more than one fourth (1/4) of the regular meetings in a calendar year, or from two (2) consecutive such meetings, her or his seat on the Recycling Board shall be considered vacant.

X=Attended

A=Absent

I=Absent - Interim Appointed

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DATE: September 9, 2015
TO: Recycling Board
FROM: Wendy Sommer, Deputy Executive Director
SUBJECT: Written Reports of Ex Parte Communications

BACKGROUND

Section 64.130 (Q)(1)(b) of the Alameda County Charter requires that full written disclosure of ex parte communications be entered in the Recycling Board's official record. At the June 19, 1991 meeting of the Recycling Board, the Board approved the recommendation of Legal Counsel that such reports be placed on the consent calendar as a way of entering them into the Board's official record. The Board at that time also requested that staff develop a standard form for the reporting of such communications. A standard form for the reporting of ex parte communications has since been developed and distributed to Board members.

At the December 9, 1999 meeting of the Recycling Board, the Board adopted the following language:

Ex parte communication report forms should be submitted only for ex parte communications that are made after the matter has been put on the Recycling Board's agenda, giving as much public notice as possible.

Per the previously adopted policy, all such reports received will be placed on the consent calendar of the next regularly scheduled Recycling Board meeting.

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Energy Council
TECHNICAL ADVISORY GROUP (TAG)

Tuesday, July 21 2015 – 1:00 pm to 3:00 pm

Attendance:

City of Alameda: Maria DiMeglio
City of Albany: Claire Griffing
City of Berkeley: Katy VanDyke and Neil DeSnoo (phone)
City of Dublin: Kathy Southern
City of Emeryville: Nancy Humphrey
City of Fremont: Rachel DiFranco (phone)
City of Hayward: Mary Thomas
City of Livermore: Judy Erlandson (phone)
City of Newark: Myvan Khuu-Seeman (phone)
City of Oakland: Shayna Hirschfield
City of Piedmont: Kevin Jackson
City of Union City: Avalon Schultz (phone)
County of Alameda: Damien Gossett
StopWaste: Heather Larson, Stephanie Stern, Karen Kho, Wendy Sommer, Miya Kitahara, Candis Mary-Dauphin

Meeting Notes

Board Updates

- EC Board meeting dates; July 22, August recess
- No EC agenda item for July

CCA Updates

- One meeting held since last TAG which focused on RFP. A summary of comments has been released. Release scheduled for 7/29. Added an EE section to the RFP – Energy Efficiency and Demand Reduction will be included in the scope of work.
- Some Advisory Committee members have voiced concerns about delays in the schedule.

Program Updates

- Multifamily & Single family programs status (see hand-out)
 - Single family program is expecting a transfer of an additional 1.5 million from PG&E for Home Upgrade rebates.
 - Program Design Updates for 2016
 - Considering dropping advanced upgrade assessment incentive of \$300.
 - Reconsidering outreach strategy – ways to improve support of contractors that promote the program
 - 2016 Multifamily program design changes include integrating water measures and looking at ratcheting up minimum requirement for projects from 10% to 15%. CPUC has released a water/energy calculator that has allowed for

- inclusion of cold water measures. Program has seen interest from HOA's, so we're developing an HOA pathway that addresses their unique opportunities and constraints.
 - Looking at inclusion of EV assistance. Not under the EE umbrella of the CPUC, but may be able to provide technical assistance
- Real Estate/Green Labeling– StopWaste has convened a working group that is developing a white paper with recommendations for program design and coordination.
- Codes and Standards
 - Contra Costa County will discuss the BayREN Regional Plan Check pilot at next TAG meeting
- Financing
 - A couple of additional lenders are interested in joining BAMCAP. They offer unsecured equipment leasing products. These will be accessible to borrowers that are not in the process of refinancing. One lender specializes in HOAs.
 - Starting to build pipeline of borrowers as well.
 - PACE – BayREN is taking on a regional PACE effort.
 - **Action Item** – See if BayREN is interested in doing one-stop trainings for multiple providers in cities.

Climate Action Plan Updates

- Piedmont – thinking about setting a goal beyond 2020. Success of achieving current goal depends on how CCA goes. Would like to revise current CAP. Would like to hear what other cities are doing. Climate action plan is not rolled into General Plan, and prefers it that way, as CAP is more dynamic. Recommends reviewing measures again, as measures that aren't in original plan are being implemented.
- Albany – expects to meet their target based on state mandates, so they're looking to set new targets. Have rolled targets into general plan – 65% reduction by 2035, and Net Zero by 2050. To meet this, working on Building Energy Assessment and Disclosure Ordinance, eventually a BESO, and also plans to join CCA.
- Emeryville – may not meet target due to growth. Still measuring progress. Set 2030 energy goals. Wants to revisit measures – relevancy, comprehensiveness, reflect the measures that city has power to impact. August 13-14 – attending Cal Poly conference on climate planning.
- Hayward – ZNE for municipal. Looking to integrate wastewater energy plant measures. Focus on community outreach geared toward increasing uptake on current programs. Looking for better tools for inventory data. SEEC Clearpath tool is having an online training next week. Integrated CAP into general plan – sprinkled throughout.
- Oakland – currently in the process of an update.
- Union City – had a consultant prepare CAP, assumptions were not accurate. Have been restricted to qualitative updates. Impact analysis of measures that align more with the baseline would be helpful.
- Dublin - revised CAP in 2010, and recalculated baseline.
- Fremont – Reduced emissions by 11%, but with economic growth, that might change. Might need new methodology to capture micro changes such as EV ownership
- Berkeley – challenges in reaching goal. Scoping plan for AB 32.

- For all cities:
 - Sharing of best practices and methodologies
 - Funding assistance – Bay Area Climate Action Cooperative and Civic Spark might be good resources.

Water Policy Forum in September

- Possible Topics
 - WELO implementation
 - Existing ordinance implementation
 - Examples of water policies for city operations
 - New Construction water policies
 - Additional Requests
 - Using well water – successes and failures
 - Promoting recycled and greywater systems
 - Requiring greywater hookup
 - Model Cities
 - Hayward – water recycling
- Bay friendly coalition – series of workshops in October on how to implement WELO
- Tentative date for Water Policy Forum – September 15th from 10-2 (instead of TAG), the 22nd might work as well

2016 East Bay Energy Watch Coordination

- StopWaste has been asked about serving as a fiscal sponsor for Brendan (Partnership Manager) as an independent consultant. PG&E can no longer keep him as an independent consultant. He would continue to implement the same scope of work, and report to the EBEW Strategic Advisory Committee.
- Arrangement would allow EBEW to apply for additional funding sources for EE work in 2016.
- TAG members expressed support for the proposal and asked how Contra Costa jurisdictions felt about it. Contra Costa County is on board with this proposed structure. Other jurisdictions will have opportunity to discuss at the SAC meeting.
- If the EBEW SAC approves the structure, staff would take this to the Energy Council Board in the fall as an amendment to the existing Local Government Partnership contract with PG&E.

Member Agency Scholarships and Memberships

- Cities are interested in BECC and ZNE related conferences
- Heather will send Scholarship and Membership list on spreadsheet and prompt cities for additions

MEMBER COMMENTS & DISCUSSION

- Fremont is going to implement a residential group solar program through the Vote Solar Initiative – 50% discount off of market price.
Action Item: coordinate with Steph on sending an email blast
- ICLEI recieved a grant to administer EE training in apartments in Hayward.

NEXT TAG MEETING: Tuesday, August 18 2015 from 1pm-3pm

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**Energy Council
TECHNICAL ADVISORY GROUP (EC TAG)**

Tuesday, August 18 2015 – 1:00 pm to 3:00 pm

AGENDA

Attendance:

City of Alameda: Maria DiMeglio (phone)
City of Albany: Claire Griffing (phone)
City of Berkeley: Billi Romain/Sarah Moore (phone)
City of Dublin: Kathy Southern
City of Fremont: Dan Schoenholz/Rachel Difranco
City of Hayward: Mary Thomas
City of Livermore: Judy Erlandson (phone)
City of Newark: Myvan Khuu-Seeman (phone)
City of Oakland: Shyana Hirshfield-Gold
City of Piedmont: Emily Alvarez
City of Union City: Avalon Schultz (phone)
StopWaste: Karen Kho, Heather Larson, Lisa Pontecorvo
Guest: Demian Hardman, Contra Costa County

Board Updates

- August recess
- September/October take contract amendment for East Bay Energy Watch Partnership manager.

CCA Updates

- Alameda County CCE RFP language has been approved for release. August meeting cancelled.
- Marin Clean Energy and BayREN addressing coordination issues regarding energy efficiency programs
- Question regarding what happens with contracts with vendors, such as Enovity, that require city to be a PG&E customer. Clarification needed on how joining CCE may impact program participation and city's liability.

Program Updates

- Single-family program continuing to see uptake, though rebate applications have slowed in July.
- Multifamily – on track to reserve 9500 units in the region. New lender – capital leasing provider joined.
- New BayREN website launched. General fatigue with PACE providers pitching their programs.

- All current PACE programs are financing artificial turf. Oakland tried to push back, but was not possible for a single jurisdiction to require this. Maybe this could be addressed by a regional “marketplace.”
- BayREN potential to take interest. Interest in having a marketplace /clearinghouse for the customer, Texas PACE website.
- PAYS status – new regional program model and looking to for a JPA for ABAG and water agencies to access capital.

Bay REN Regional Plan Check Pilot Overview

- Contra Costa County presentation (see PPT on basecamp)
- CCC has completed 4 weeks of training of senior plan checkers who specialize in the non-residential plan checks.
- RFP for regional e-permit process to be designed. This would be targeted towards smaller jurisdictions that are currently contracting out plan check services with consultants that are not even located in the Bay Area
- Demian available to meet with other building departments

2016 Program Design and Projections

- CPUC and Local Government Commission are floating a proposal to create a new Climate funding Marketplace for local governments. It would consolidate funding from 6 agencies for integrated programs.
- Exploring avenues of potential funding for a MF Electric Vehicles program. Conducting some market research through the BAMBE program to develop a technical assistance protocol for 2016.
- EBEW Strategic Advisory Committee voted for StopWaste to house the Partnership Manager. There are still labor hours for coordination and contract management that would be taken from the Strategic Energy Resources budget.
- May be opportunities for CivicSpark interns
- Green Real Estate white paper is available for comment. A Home Energy Score rebate is being offered through BayREN. In current hot real estate market, energy efficiency is not a factor in sales transactions.

CEC EPIC Challenge Grant for Advanced Energy Communities

- Integrate fully comprehensive approach to solar, ee, distributed generation;
- City of Fremont had a local firm apply for EPIC funding for a microgrid project at 3 sites
- BACC may be applying

Member Agency Scholarships and Memberships update

- Look for an email regarding scholarships and memberships from StopWaste for both green building and sustainable landscaping
- Each jurisdiction should indicate what their priorities are and submit a request so that overall budget can get allocated.

MEMBER COMMENTS & DISCUSSION

- Fremont hosting a workshop for residents or businesses on Sunshares. Pricing starts \$3.50/watt – good time to sign up before federal tax credit disappears

NEXT TAG MEETING:

- September EC TAG combined with Municipal Water Policy Forum; likely will be on Tuesday, September 15 2015 from 10am-2:30pm.
- October EC TAG meeting was scheduled for October 20, 2015, but will be rescheduled because it conflicts with the BECC conference.

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Date: September 9, 2015

TO: Authority & Recycling Boards

FROM: Gary Wolff, Executive Director
Wendy Sommer, Deputy Executive Director

SUBJECT: Informational Report on Grants Issued Under ED Signature Authority

The purchasing and grant policies were amended to simplify paperwork 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 informs Board members of the small grants issued at the next regularly scheduled Board meeting.

Grants – August – September 2015

Project Name	Grant Recipient	Project Type/Description	Location	Verification	Grant Amount	Board
Nonprofit ReUse Grant	Computer Technology and Resource Center	Collect and expand reusable Ewaste program. Funds will expand Ewaste pickup beyond City of Berkeley (Albany, Emeryville and North Oakland). Funds to be used for marketing and vehicle to pick up materials.	Berkeley	Final Report	\$15,000	RB
Nonprofit ReUse Grant	Move For Hunger	Food Donation and Delivery Program for Relocation Industry of Alameda County. Funding to cover costs of food collected and transferred to food bank from long term stay facilities utilizing the moving companies who move occupants out of long term facilities.	Countywide	Final Report	\$5,000	RB

Nonprofit ReUse Grant	Urban University	Urban University operates two reuse furniture stores in Oakland that serve as a platform to deliver transitional employment through reuse stores.	Oakland	Final Report	\$15,000	RB
Nonprofit ReUse Grant	Loved Twice	Clothing newborns-in-need in Alameda County with quality reused baby clothes. Project to clothe 600 babies, reusing 3 tons of clothing equivalent to 45,000 garments distributed and reused.	Berkeley	Final Report	\$15,000	RB
Nonprofit ReUse Grant	Wardrobe For Success	Find a Job Program. Collect donations of professional clothes and redistributes to low-income, job-seeking clients. 32,000 items of clothing reused each year reaching 2,000 unemployed members.	Oakland	Final Report	\$15,000	RB

DATE: September 9, 2015

TO: WMA Board

FROM: Gary Wolff, Executive Director

SUBJECT: Sale of a Conservation Easement to Golden Hills LLC (Wind Farm Developer)

Background and Summary of Draft Purchase Agreement

We own about 1600 acres in eastern Alameda County for the purpose of development as a publicly owned landfill or composting facility. We refer to the possibility of a future public landfill as the issue of “Reserve Landfill Capacity.” The purpose of a reserve is to ensure that adequate long-term capacity exists and will be available to Alameda County residents and businesses at a reasonable price.

We also have an easement on some of the land for a wind farm, and receive around \$375,000 of revenue per year at present under the terms of the easement. Replacement of the old wind generators with larger, but many fewer, wind generators began in April and is expected to be complete in December ('repowering'). The construction and maintenance of the wind farm involves impacts on terrestrial species habitat (red legged frog, tiger salamander, kit fox, and burrowing owls) that the project developer must mitigate.

The developer (Golden Hills LLC, a subsidiary of NextEra Energy) would like to purchase a conservation easement on some of our property that is outside the wind farm. None of this land is within the areas previously identified for a public landfill or composting facility, so granting an easement would not prevent development of these facilities. But the Authority will need to mitigate for habitat loss if a landfill is developed, so selling a conservation easement could increase the cost of developing a landfill on our land. However, such development is not likely for several decades and might never occur. And if it occurs, the Authority would very likely need to purchase additional land to provide a buffer zone around the area to be filled. Unless that land is already in a conservation easement, it or land we already own outside the easement desired by Golden Hills will be available to mitigate for any habitat impacts of landfill development.

The WMA Board at its July meeting provided direction to me regarding the price and terms of payment for Golden Hills LLC's purchase of a conservation easement on a portion of the Authority's property. Consistent with this direction, the term sheet (Attachment A) and draft purchase agreement based on it (Attachment B) include a 'guarantee' to purchase a minimum of 200 acres of easement at a minimum of \$9,500 per acre – conditional on approval of the Resource Agencies (CA

Department of Fish and Wildlife and the US Fish and Wildlife Service). If fewer than 200 acres are approved by the Resource Agencies, Golden Hills is obligated to pay us for all of the approved acres.

This amounts to a 'guaranteed' payment of up to \$1.9 million. They can also pay us \$9,500 per acre for up to another 108 acres at their sole option. They may or may not need these additional acres to meet their habitat mitigation obligations, which have not yet been fully defined by the Resource Agencies. If they were to pay for an easement on all 308 acres, at \$9,500 per acre, the total payment would be \$2.926 million. (To account for the time value of money, a higher price of \$10,000 per acre will apply if Golden Hills LLC records the easement after October 7, 2016.)

As is typical for conservation easements, the purchase agreement calls for a land trust (or other qualified entity) to hold and monitor compliance with the easement. Golden Hills LLC will not only pay us for the conservation easement but will also pay the land trust an endowment to pay for all future costs of maintaining and monitoring the conservation easement to ensure compliance with terms specified by the Resource Agencies. The endowment amount must be approved by the Resource Agencies, along with the written plan for maintenance and monitoring of the easement. Golden Hills LLC will choose the entity that will hold the conservation easement and endowment but that choice will be subject to our reasonable approval. We will be able to continue to use the property for activities consistent with habitat protection -- such as grazing or communications towers -- and keep all revenue from such activities.

The purchase agreement also requires Golden Hills LLC to pay us \$55,000 within 30 days after the purchase agreement is signed by both parties. This covers the high end of our cost estimate for staff and legal time to negotiate the purchase agreement and establish a conservation easement. This payment is in addition to the easement purchase payment described above.

Value of Conservation Easements:

Several sources of conservation easement value data are available. First, we had our property appraised for planning purposes in early 2013. The two parcels proposed for conservation easements appraised at about \$5,000 per acre, but the appraisal did not include an assessment of their value as conservation easements. Selling a conservation easement on these parcels will reduce their market value if the Authority were to sell the parcels outright at a later time; perhaps by 70% based on the technical memoranda described below.

The list of comparable properties in the 2013 appraisal did include four transactions where public agencies bought land (not just easements) for habitat mitigation purposes. The average of those four transactions after adjusting for the passage of time at 2.6% per year (see basis for that percentage below) was about \$6,600 per acre. Excluding one transaction that was far below the other three raises the average to about \$7,700. The highest of these land purchases was at \$10,727 per acre. The appraiser subtracted \$3,400 per acre from that price specifically to remove habitat mitigation value from their assessment of our parcel's market value excluding habitat value. Adding back \$3,400 per acre to the \$5,000 per acre appraised value of our parcels, then adjusting for passage of time, yields about \$9,050 per acre if we were to sell the parcels outright for conservation purposes.

Second, we asked several knowledgeable parties for more recent data. The California Rangeland Trust said that the few recent transactions they were aware of in eastern Alameda County ranged in price from \$5,000 to \$8,750 per acre. The Tri-Valley Conservancy said that recent transactions they are aware of north of Livermore were in the range of \$9,000 to \$10,000 per acre. They also said that transactions south of Livermore on land suitable for viticulture were much higher (over \$20,000 per acre). A consultant experienced with conservation easement transactions in Alameda County also said that recent transactions he is aware of were in the range of \$9,000 to \$10,000.

Third, we reviewed two technical memoranda and associated data that were developed as part of regional conservation planning efforts (Hausrath Economics Group, Assessment of Open Space Land Sales Used in Santa Clara Valley Habitat Plan Economic Analysis, April 6, 2012; and Economic and Planning Systems, NCCP/HCP Land Cost Data, EPS #11028, August 3, 2006). The actual transactions documented in these memos for larger parcels (120 acres +) were generally lower in price than are being discussed here, even after adjustment for the historic rate of inflation reported for open space purchase in eastern Contra Costa County (2.6% per year from around 1970 to around 2000). The 2012 memorandum provides a table of 'proposed land acquisition cost assumptions' in Santa Clara County that shows \$6,000 per acre for 'remote hill areas' and \$8,000 per acre for 'near hill areas', in 2010 dollars. Adjusting for six years at the 2.6% figure noted above yields possible average values of about \$7,000 ('remote hills') and about \$9,300 ('near hills').

However, many of the parcels were purchased for open space, not specifically due to the presence of species habitat. Three transactions in Santa Clara County did reportedly include similar habitat to that which may exist on our properties. The parcels involved were sold for \$5,461 (April 2003), \$6,280 (October 2001), and \$10,167 (January 2007) per acre, in the month and year indicated in parentheses. The highest valued parcel reportedly had wetlands and ponds and habitat for all four species named above. But the relevance of an eight year old land purchase in Santa Clara County is difficult to assess. This transaction was before the real estate bubble burst in 2008, and it was a land purchase not just an easement purchase. Also, the 'guarantee' in our draft agreement has value. These transactions typically involve an option, which the potential purchaser might or might not execute after seeking options on more acres than are necessary. The 'guarantee' prevents Golden Hills LLC from using our agreement as a bargaining tool with other property owners, but then failing to close a deal with us if one of those owners agrees to a lower price per acre. Although that could happen with the 108 acres above the 200 acre 'guarantee', it is less likely because the incremental cost to Golden Hills LLC of adding acres to a 200 acre conservation easement with us is small compared to creating another easement altogether, and the Resource Agencies prefer large contiguous conserved areas, rather than the same acreage spread among multiple non-contiguous parcels.

Recommendation:

Recommend that the Board approve the draft purchase agreement provided in Attachment B.

Attachment A: signed term sheet

Attachment B: draft conservation easement purchase agreement

Financial Term Sheet for Purchase of Conservation Easement

Between Golden Hills Wind, LLC and ACWMA

Offer 2

The Alameda County Waste Management Authority ("ACWMA") and Golden Hills Wind, LLC ("Golden Hills") hereby agree to enter into an agreement for the purchase of a conservation easement ("Purchase Agreement") for the approximately 308 acre South Flynn and Patterson Pass properties shown on the attached map ("Conservation Easement Property") subject to the financial terms below and such other terms as are reasonable and customary for the purchase and sale of conservation easements.

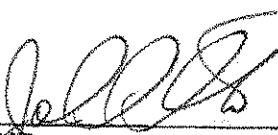
See 7(24)15

1. Golden Hills shall pay ACWMA fifty-five thousand dollars (\$55,000) within thirty (30) days after Golden Hills and ACWMA have entered into a Purchase Agreement that guarantees Golden Hills's purchase of at least two hundred (200) acres of the Conservation Easement Property. This payment is non-refundable and will not be credited against the conservation easement purchase price described in paragraph 2 and 3 below.
2. Upon recordation of the conservation easement, Golden Hills shall pay ACWMA nine thousand five hundred dollars (\$9,500) per acre of the Conservation Easement Property included in the conservation easement. If recordation of the conservation easement occurs after October 7, 2016, Golden Hills shall increase the amount it pays ACWMA to ten thousand dollars (\$10,000) per acre of the Conservation Easement Property included in the conservation easement. If recordation of the conservation easement does not occur prior to August 1, 2017, then prior to August 31, 2017, Golden Hills shall pay ACWMA the ten thousand dollar (\$10,000) per acre price for two hundred (200) acres of the Conservation Easement Property, or for that acreage (if any) suitable for mitigation pursuant to paragraph 3.
3. Golden Hills shall compensate ACWMA for two hundred (200) acres within the Conservation Easement Property unless the California Department of Fish and Wildlife ("CDFW") or the United States Fish and Wildlife Service ("USFWS") determines and states in writing that there are not two hundred (200) acres of the Conservation Easement Property that are suitable for mitigation and identifies the location of the unsuitable acreage, in which case, Golden Hills shall compensate ACWMA for only the portion of the Conservation Easement Property that is suitable for mitigation, if any. If no such written statement is provided prior to August 31, 2017, Golden Hills shall pay ACWMA the ten thousand dollar (\$10,000) per acre price for two hundred (200) acres of the Conservation Easement Property.
4. Golden Hills shall convey funds to the holder of the conservation easement (or other qualified entity) for an endowment to pay for the costs of long-term management and stewardship of the Conservation Easement Property, including the costs of maintaining, inspecting, monitoring, or otherwise managing the conservation easement. The endowment, or other mechanism acceptable to the Authority, shall include funds to

GHW

- compensate ACWMA for any additional costs it incurs to improve, insure, or restore the Conservation Easement Property in compliance with any conservation easement, CDFW, or USFWS requirements. Such costs shall not include ACWMA legal or staff costs.
5. The holder of the conservation easement and endowment are subject to approval by ACWMA. Such approval may not be unreasonably withheld.
 6. ACWMA will retain all payments made by tenants, lessees, and licensees of the Conservation Easement Property, and ACWMA will be able to continue grazing the Conservation Easement Property and undertaking any other activity on the Conservation Easement Property allowed by the conservation easement with tenants, lessees, and licensees of ACWMA's choice.
 7. Each person executing this term sheet on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of such party and that all requisite approvals of such party have been obtained.

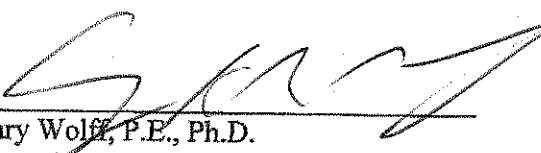
Golden Hills



John DiDonato
Vice President, Golden Hills Wind, LLC

Date: July 24, 2015

ACWMA



Gary Wolff, P.E., Ph.D.
Executive Director
Alameda County Waste Management Authority

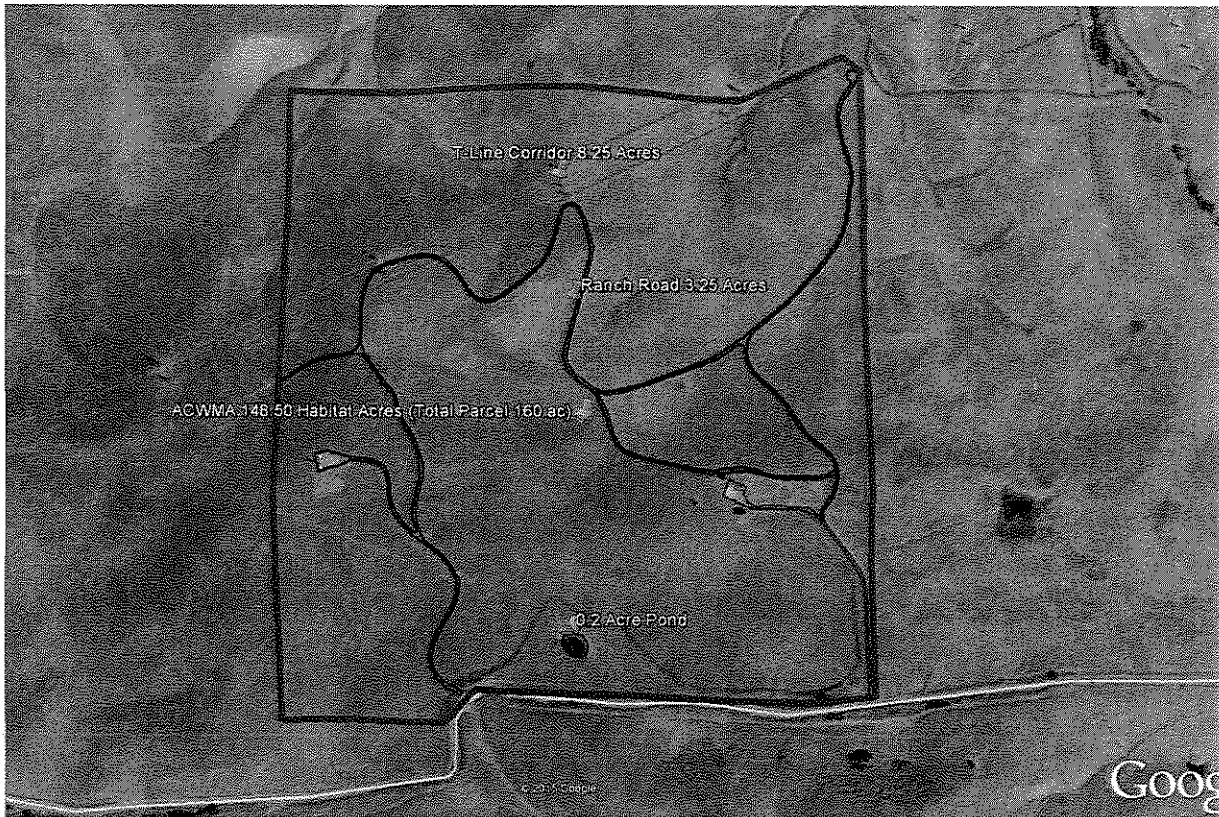
Date: 7/24/15

695139.2

Attachment A

Maps for discussion on the 6-5-2015 conference call

Preliminary draft map of the ACWMA Patterson Pass Rd. property for review



**Habitat acreage could further be reduced by disked fire breaks, title encumbrances that could not be subordinated, and/or any other wildlife agency required reductions (e.g., set back from Patterson Pass Road).

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a final upward stroke.

Attachment A

Preliminary draft map of the ACWMA So. Flynn Rd. property for review



**Habitat acreage could further be reduced by disked fire breaks, title encumbrances that could not be subordinated, and/or any other wildlife agency required reductions (e.g., set back from Flynn Road).

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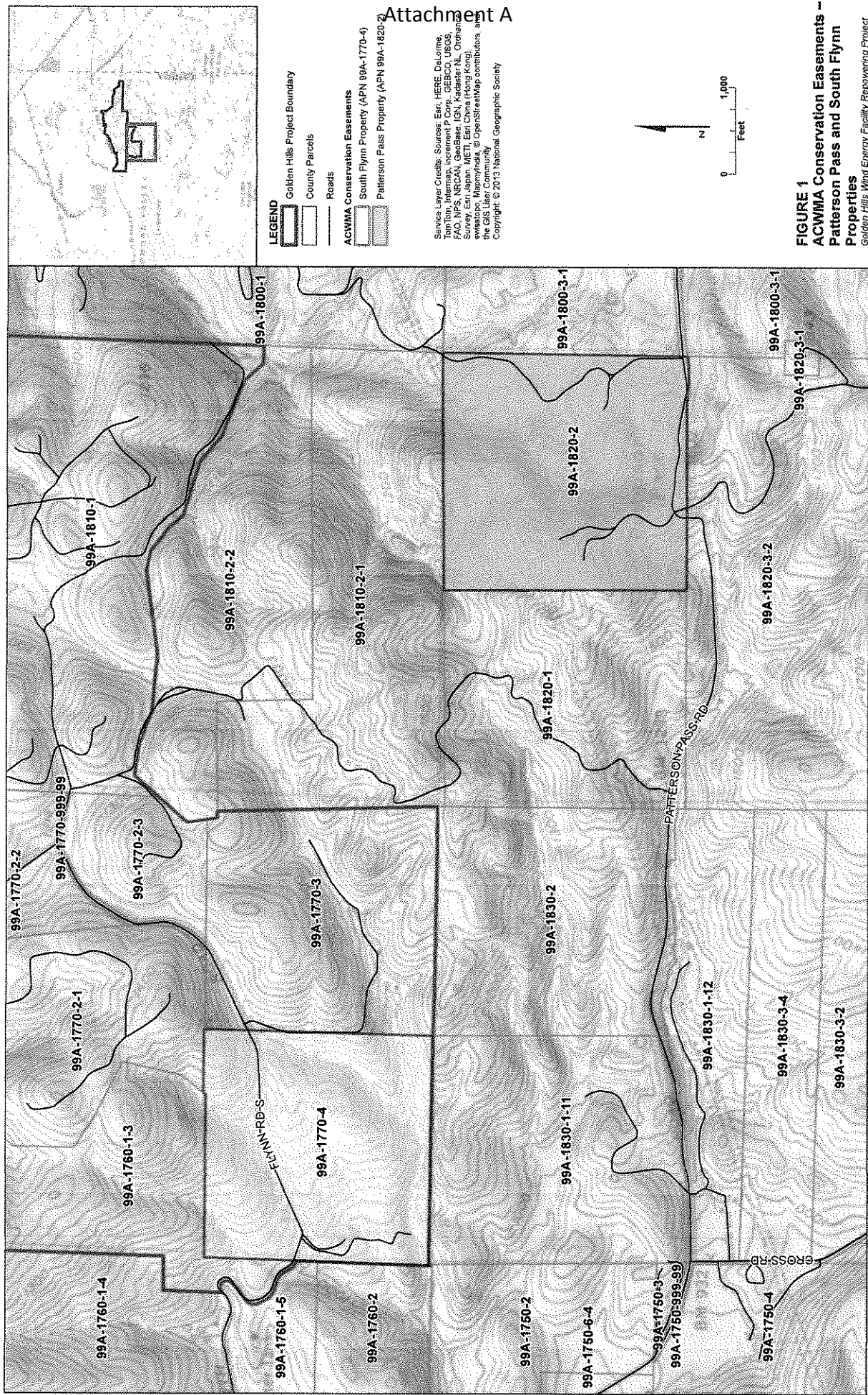


FIGURE 1
ACWMA Conservation Easements –
Patterson Pass and South Flynn
Properties
Golden Hills Wind Energy Facility Repowering Project

BA078991 C:\PROJECTS\GOLDEN HILLS\MAPS\ACWMA\STOCK_PATTERSON_PASS\GOLDEN_HILLS_PATTERSON_PASS_12_14_12.TIF

GW

AGREEMENT FOR PURCHASE OF CONSERVATION EASEMENT

This Purchase Agreement ("Agreement") is made and entered into by and between Alameda County Waste Management Authority ("Seller") and Golden Hills Wind, LLC ("Buyer") as of _____, 2015 ("Effective Date"). Seller and Buyer are the herein referred to as "Parties," and each is a "Party."

RECITALS

A. Seller is the owner in fee simple of certain real property consisting of approximately 1,632.45 acres located in the unincorporated area of Alameda County, California, of which the land that is the subject of this Agreement is described in Exhibit A, attached hereto and incorporated herein ("**Conservation Easement Property**" or "**Property**").

B. Buyer desires to purchase a conservation easement from Seller that will then be granted by Seller to a mutually agreed upon land trust or other entity authorized to hold conservation easements ("**Grantee**") and that is acceptable to Grantee, the California Department of Fish and Wildlife ("**CDFW**") and the United States Fish and Wildlife Service ("**USFWS**") (collectively, "**the Resource Agencies**"). This conservation easement will be managed in accordance with a mitigation plan required in connection with Buyer's permit for the Golden Hills Wind Repowering Project ("**Repowering Project**").

C. The Seller has agreed to grant to Grantee a conservation easement on the Property, in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants contained herein, the Parties agree as follows:

AGREEMENT

1. PURCHASE AND SALE

Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller for the consideration and subject to the terms and conditions set forth in this Agreement, a conservation easement, which will be granted to Grantee; negotiated by Seller, Grantee, and the Resource Agencies; and substantially in the form and substance of the instrument attached hereto as Exhibit B and incorporated herein by reference (the "**Conservation Easement**").

2. PURCHASE PRICE

2.1 Administrative Costs

Buyer shall pay Seller fifty-five thousand dollars (\$55,000) within thirty (30) days after Buyer and Seller have entered into this Agreement. This payment is non-refundable and will not be credited against the payments required in Sections 2.2 and 2.3.

2.2 Purchase Price

(a) Buyer shall compensate Seller for purchase of a Conservation Easement on at least two hundred (200) acres within the Conservation Easement Property unless CDFW or USFWS provides written documentation stating or showing that there are not two hundred (200) acres of the Conservation Easement Property that are suitable for mitigation and identifying the location of the unsuitable acreage, in which case, Buyer shall compensate Seller for only the portion of the Conservation Easement Property that is suitable for mitigation, if any, as provided in Section 2.2(b). The amount that Buyer must pay Seller under this Agreement for the purchase of the Conservation Easement is the “**Purchase Price.**”

(b) The amount of the Purchase Price is contingent on the date that the Conservation Easement is recorded, if ever. The Purchase Price shall be as follows:

(1) If the Conservation Easement is recorded on or before October 7, 2016, Buyer shall pay Seller nine thousand five hundred dollars (\$9,500) per acre of the Conservation Easement Property included in the Conservation Easement. If the acreage included in the Conservation Easement is less than two hundred (200) acres and CDFW or USFWS has not provided written documentation stating or showing that there are not two hundred (200) acres of the Conservation Easement Property that are suitable for mitigation and identifying the location of the unsuitable acreage, then Buyer shall also pay Seller nine thousand five hundred dollars (\$9,500) per acre for the difference in acreage between 200 acres and the acreage included in the Conservation Easement.

(2) If the Conservation Easement is recorded after October 7, 2016, but on or before July 31, 2017, Buyer shall pay Seller ten thousand dollars (\$10,000) per acre of the Conservation Easement Property included in the Conservation Easement. If the acreage included in the Conservation Easement is less than two hundred (200) acres

and CDFW or USFWS has not provided written documentation stating or showing that there are not two hundred (200) acres of the Conservation Easement Property that are suitable for mitigation and identifying the location of the unsuitable acreage, then Buyer shall also pay Seller ten thousand dollars (\$10,000) per acre for the difference in acreage between two hundred (200) acres and the acreage included in the Conservation Easement.

(3) If the Conservation Easement is not recorded prior to August 1, 2017, then prior to August 31, 2017, Buyer shall pay Seller directly ten thousand dollars (\$10,000) per acre for two hundred (200) acres of the Conservation Easement Property. However, if CDFW or USFWS has provided written documentation prior to August 31, 2017 stating or showing that some portion of the Conservation Easement Property is not suitable for mitigation, pursuant to Section 2.2(a), Buyer shall pay Seller ten thousand dollars (\$10,000) per acre for only that acreage of the Conservation Easement Property (if any) that is suitable for mitigation.

2.3 Endowment

Buyer shall convey funds to Grantee for an endowment that is sufficient to pay for the costs of long-term management and stewardship of the Conservation Easement Property, including the costs of maintaining, inspecting, monitoring, or otherwise managing the Conservation Easement in accordance with the Repowering Project mitigation plan. The endowment, or other mechanism acceptable to Seller, ("**Endowment**") shall include funds to compensate Seller for any additional costs it incurs to improve, insure, or restore the Conservation Easement Property in compliance with any Conservation Easement, CDFW, or USFWS requirements. Such costs shall not include Seller's legal or staff costs. Buyer shall provide Seller all documents related to calculation of the Endowment, and the amount and coverage of the Endowment shall be subject to review and approval by Seller, which shall not be unreasonably withheld.

3. GRANTEE EASEMENT HOLDER

The Grantee shall be a land trust or other entity authorized to hold conservation easements in the State of California. In addition to acceptance of Grantee by the Resource Agencies, any Grantee for the Conservation Easement shall be subject to approval by Seller, whose approval may not be unreasonably withheld.

4. SELLER'S LEASES ON PROPERTY

Seller shall retain all payments made by the tenants, lessees, and licensees of the Conservation Easement Property. Seller and any current or future tenants, lessees, and licensees of Seller's choice shall be able to continue grazing the Conservation Easement Property and to undertake any other activity on the Conservation Easement Property allowed by the Conservation Easement.

5. FUTURE AGREEMENTS

Seller and Buyer agree to negotiate in good faith with Grantee and the Resource Agencies to reach an acceptable form of the following documents and instruments, if required by Grantee or the Resource Agencies:

5.1 Conservation Easement to be conveyed to Grantee substantially in the form of Exhibit B, attached hereto.

5.2 Subordination and non-disturbance agreement by and between Grantee, Seller and any mortgagee having lien rights and each tenant having possession rights over the Easement Property, pursuant to which such mortgagee and tenant agrees, among other things, not to disturb Grantee's possession and use of the Property.

5.3 Agreement for conveyances of the Conservation Easement by and between Seller, Grantee and Buyer.

5.4 Property assessment and warranty for the benefit of the Resource Agencies, which may be conclusively relied upon by them in approving the Mitigation Agreement. Buyer shall reimburse Seller for any out-of-pocket costs incurred to obtain such assessment or warranty, excluding attorney's fees.

5.5 Mitigation agreement by and between Seller, Grantee and Buyer pursuant to the mitigation plan in connection with the Repowering Project.

5.6 Escrow instructions for the closing of this transaction.

5.7 Access easement to be conveyed to Grantee, if the Conservation Easement Property does not have legal access to a public road, over lands of the Seller ("**Access Easement Property**").

5.8 A title commitment insuring the Grantee's easement interest in the Conservation Easement Property and Access Easement Property, if any, in an amount of coverage required by Grantee and with title exceptions acceptable to Grantee ("**Title Commitment**").

6. ACCESS TO AND INSPECTIONS OF PROPERTY

After the Effective Date and until the Closing Date, Buyer shall have the right to use all existing easements and roads providing access to the Property and to enter upon the Property and to perform, at its expense any tests, surveys, studies or other activities (collectively, “activities”) needed to determine the suitability of the Property for mitigation or the acreage of all or a portion of the Property. Buyer shall not interfere with Seller’s (including its lessees’, licensees’ and tenants’) operations on the Property while conducting any such activities and shall promptly repair any damage to the Property caused by its, Grantee’s, or the Resource Agencies’ entry onto the Property. Buyer shall indemnify, defend, protect and hold Seller harmless from and against any and all loss, cost, damage, injury, claim (including claims of lien for work or labor performed or materials or supplies furnished), liability, or expense (including reasonable attorneys’ fees) as a result of, arising out of, or in any way connected with the exercise of Buyer’s, Grantee’s, the Resource Agencies’ (or their agents, contractors, employees, or authorized representatives) entry onto the Property in connection with this Agreement except for (i) any loss, liability, cost or expense due solely the acts of Seller or any tenants, (ii) any diminution in value of the Property arising from or related to matters discovered by Buyer during its investigation of the Property, (iii) any latent defects in the Property discovered by Buyer, (iv) liability which results from the release of preexisting toxic or Hazardous Materials on or about the Property resulting from normal environmental testing procedures, and (v) liability which arises from the results or findings of such tests. This indemnification provision shall survive termination of this Agreement. Buyer shall provide to Seller a copy of the results of any survey or other activities.

7. CLOSING CONDITIONS

It shall be a condition precedent to closing that each of every one of the following conditions shall have been satisfied at or before closing:

7.1 Purchase Price

Buyer will deliver to the Escrow Holder the full Purchase Price in cash or other immediately available funds.

7.2 Covenants

All of the covenants (including, but not limited to, those in Section 5 herein), representations, warranties, and agreements of the Parties set forth in this Agreement shall be true, correct, and complete as of the Effective Date and as of the Closing Date.

7.3 Title

The Title Commitment shall be acceptable to the Grantee.

8. ESCROW AND CLOSING

8.1 Opening of Escrow

Promptly upon execution of this Agreement, the Parties shall open an escrow with Chicago Title Insurance Company or any other title company acceptable to all Parties (“**Escrow Holder**”) by delivering a fully-executed copy of this Agreement to the Escrow Holder. This Agreement shall constitute not only the terms for the Purchase and Sale of the Conservation Easement, but also instructions to Escrow Holder for the consummation of this Agreement through Escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending this Agreement unless specifically so instructed by the Parties or Grantee. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard general escrow provisions on the condition that this Agreement shall supersede any conflicting escrow instructions executed upon Escrow Holder’s request. Escrow Holder is hereby appointed and instructed to conduct the Escrow in accordance with the terms of this Agreement, applicable law, and custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the U.S. Internal Revenue Code, Title 26, and the California Revenue and Taxation Code.

8.2 Closing Date

The Parties shall close this Escrow on the date that the Conservation Easement is recorded. If the Conservation Easement has not been recorded and this Escrow closed prior to September 30, 2017, the Escrow Holder shall, unless notified by both Parties to the contrary, return to the depositor thereof items which may have been deposited hereunder.

8.3 Escrow Instructions

Seller and Buyer shall deposit with Escrow Holder all funds, documents, instructions, and instruments necessary to consummate the transaction contemplated by the Agreement within the time specified herein or within a reasonable amount of time after the Effective Date but before the Closing Date.

8.4 Seller’s Delivery of Documents

(a) Within thirty (30) days after the Effective Date, Seller shall deliver to Buyer the following instruments and items to the extent these items are in the Seller’s possession or control:

- (1) All reports covering underground soil and water conditions at the Property and in the possession of Seller or its agent;

- (2) Copies of all licenses and other permits and inspection reports with respect to the Property issued by appropriate governmental authorities;
- (3) All current leases, licenses, and any other agreements for any portion of the Property;
- (4) All existing surveys for any portion of the Property;
- (5) All existing title policies for any portion of the Property; and
- (6) All existing environmental reports for any portion of the Property.

(b) On or before the Closing Date, Seller shall deliver to Buyer through Escrow Holder the following:

- (1) An executed and recordable Conservation Easement, if not delivered by Grantee;
- (2) Executed and recordable, if required, originals of those agreements and documents referred to in Section 5.2 through 5.7 herein; and
- (3) All other documents reasonably required by the Escrow Agent or Title Insurer.

8.5 Buyer's Delivery of Documents and Purchase Price

On or before the Closing Date, Buyer shall deliver to Seller through Escrow Holder the following:

- (a) The full Purchase Price in cash or immediately available funds;
- (b) An agreement for the conveyances of the Conservation Easement by and between Seller, Grantee, and Buyer;
- (c) The mitigation agreement by and between Seller, Grantee, and Buyer pursuant to the mitigation plan for the Repowering Project;
- (d) All documents reasonably required by the Escrow Agent or Title Insurer; and

(e) All closing costs including state, county, and city transfer taxes payable in connection with the Conservation Easement, if any; the title insurance premium for the Owner's Policy for Grantee; the escrow fees; and any recording fees payable in connection with recording the Conservation Easement.

8.6 Other Documents

Seller and Buyer shall, during the escrow period, execute any and all documents and perform any and all acts reasonably necessary or appropriate to consummate the purchase and sale pursuant to the terms of this Agreement.

8.7 Expenses

Buyer shall pay the escrow fees, all recording costs and fees, and the cost of title insurance for Grantee.

8.8 Closing Instructions

Escrow Holder shall, when all required funds and instruments have been deposited into the Escrow by the appropriate parties and when all other conditions to closing have been fulfilled, cause the Conservation Easement, any Subordination and non-disturbance agreements, any Access Easement and any other documents required by Grantee to cure any objections to title to be recorded in the Office of the County Recorder of Alameda County. Upon closing, Escrow Holder shall deliver the original policy of title insurance required herein or an acceptable Title Commitment to Grantee and the Escrow Holder's check (or wired funds) for the Purchase Price to Seller. Escrow Holder shall also deliver, as the case may be, all other necessary documents or instruments to the Parties.

9. TERMINATION

9.1 Failure of Condition

Should any condition set forth in this Agreement not be satisfied (or waived), the Parties shall have the right to terminate this Agreement. In the event this Agreement is terminated and Escrow is canceled for any reason provided in this Agreement, all Parties shall be excused from any further obligations hereunder. Upon any such termination of Escrow, Buyer shall be liable to Escrow Holder for payment of its title and escrow cancellation charges unless such termination was due to the fault of Seller, in which case Seller shall be liable to Escrow Holder for such charges. Each Party expressly reserves any and all other rights and remedies which it may have against any other Party by reason of a wrongful termination, failure to close Escrow, or failure to pay the full Purchase Price.

9.2 Failure to Record Easement

If a Conservation Easement has not been recorded on or before September 30, 2017, this Agreement shall terminate, and no Party shall have any further obligations with regard to a conservation easement for all or a portion of the Conservation Easement Property. Regardless, even if this Agreement terminates, Buyer must pay to Seller any amounts due under this Agreement, including the Administrative Costs as set forth in Section 2.1 and any amounts due pursuant to Section 2.2(b)(3).

9.3 Written Notice of No Suitable Mitigation Acreage

If, prior to August 31, 2017, CDFW or USFWS provides written documentation stating or showing that none of the Conservation Easement Property is suitable for mitigation, this Agreement shall terminate, and no Party shall have any further obligations with regard to a conservation easement for all or a portion of the Conservation Easement Property. Regardless, even if this Agreement terminates, the Buyer must pay to Seller the Administrative Costs as set forth in Section 2.1.

9.4 Notice of Termination

Any Party wishing to terminate this Agreement under this Section must first give five (5) days written notice to the other Party of its decision to terminate the Agreement. This notice shall explain the reason(s) for termination.

10. REPRESENTATIONS, WARRANTIES, AND COVENANTS

10.1 Authority and Execution

Each person executing this Agreement on behalf of a Party represents and warrants that such person is duly and validly authorized to do so and has full right and authority to enter into this Agreement and to incur all of its obligations hereunder.

10.2 Code Violations

Seller has no actual knowledge of and has not received any notice of any unresolved code violation affecting the Property.

10.3 Accuracy of Documents

To Seller's actual knowledge, all of the documents and records provided in connection with the transaction contemplated herein shall be true and correct copies of such documents and records.

10.4 Public Improvements; Condemnation

Seller has no actual knowledge of any intended or contemplated public improvements or condemnation of the Property.

10.5 Litigation

To Seller's actual knowledge there are no pending claims or lawsuits, and to Seller's knowledge, there are no threatened claims or lawsuits relating in any manner to the Property or on account of the surface or subsurface physical characteristics of the Property.

10.6 Environmental Laws; Hazardous Materials

(a) Seller warrants and represents to Buyer that to Seller's actual knowledge the Property is not now, has not been during the period of Seller's ownership, and was not during any period prior to Seller's ownership:

(1) In violation of any past or present federal, state, or local statute, regulation, ordinance, administrative order, judicial order, or any similar requirement having the force and effect of law, relating to the protection of human health or the environment (an "**Environmental Law**") including, but not limited to, any federal, state, or local regulation relating to industrial hygiene or soil or ground water conditions; or

(2) Used to generate, manufacture, store, refine, or dispose of any flammable, explosive, or radioactive material; hazardous waste; toxic substance or related material; oil, waste oil, or other petroleum based materials; or any other substance or material defined or designated as a hazardous or toxic substance, material, or waste by any federal, state, or local law or environmental statute, regulation, or ordinance presently in effect or as amended or promulgated in the future (a "**Hazardous Material**"). Notwithstanding any other provision of this Agreement, the term "Hazardous Material" shall not include any material customarily used and legally permitted for forestry, agricultural, or limited residential purposes, which material is used in customary quantities and in accordance with label instructions and applicable Environmental Laws.

(b) Seller warrants and represents to Buyer that, except as disclosed by Seller to Buyer in writing prior to the Effective Date, Seller has no actual knowledge of receiving any written notice from any local, state, or federal governmental entity or agency or other source of any use, discharge, release, generation, storage, or disposal on, above, in, under, or around the Property of any Hazardous Materials, and Seller has no actual knowledge of the use, discharge, or release of such Hazardous Materials on the Property .

(c) Seller covenants to Buyer that from the Effective Date until the Closing Date, Seller shall not, in violation of any of the Applicable Hazardous Materials Laws, knowingly use, generate, manufacture, place, store, treat, release, dispose, or discharge any Hazardous Materials on, in, or under the Property or the ground or surface waters thereof, or cause or suffer any such activity to occur, in violation of any of the applicable Environmental Laws.

10.7 Bankruptcy

Seller has not filed for bankruptcy or other proceeding for the protection of debtors under state or federal law and knows of no similar involuntary proceeding that have been filed or threatened against it.

10.8 Closing Warranties

All representations, warranties, and covenants in this Section shall be true and accurate on the Closing Date.

10.9 Title. Seller has fee simple title as of the Effective Date, and shall have fee simple title, as of the Closing Date to the Conservation Easement Property and Access Easement Property, if any.

10.10 Future Title Matters. Seller shall not, after the Effective Date, consent to or subject the Conservation Easement Property to any liens, encumbrances, covenants, conditions, restrictions, easements, or rights-of-way, or seek any zoning changes or take any other action that might affect or modify the status of title to the Conservation Easement Property (other than curing or removing title exceptions as contemplated herein) without Buyer's prior written consent. If Seller violates the provisions of the preceding sentence, Seller shall, prior to the Closing Date, and at its expense, effect the release of any such liens, encumbrances, covenants, conditions, restrictions, easements and rights-of-way, and take such steps as are necessary to return the zoning and title of the Conservation Easement Property to the condition that existed as of the Effective Date or as agreed to by Buyer.

10.11 Other Agreements. That as of the Effective Date, except as shown on the Preliminary Reports for the Conservation Easement Property that have been provided to Buyer (Title No. 12-59043491-MK and 12-59043492-MK), there are no leases or other agreements for occupancy in effect with respect to the Property other than an unrecorded grazing lease, an agreement with the East Bay Regional Communication System Authority regarding a communication tower, and agreement with the Bay Area Air Quality Management District regarding an air monitoring station, a lease with Altamont Infrastructure for a radio tower, and the Amended and Restated Easement Agreement entered into by Seller and Green Ridge Power dated October 21, 2004, and the First

Amendment to Amended and Restated Easement Agreement entered into by Seller and Green Ridge Power dated June 6, 2014, which has been assigned to Buyer.

10.12. No Right of First Refusal. With the exception of this Agreement, no person or entity has a right of first refusal, option to purchase, or other right to purchase the Conservation Easement Property pursuant to an agreement to which Seller is a party.

11. REMEDIES ON DEFAULT

In the event that Buyer or Seller default in the performance of a material covenant or agreement to be performed (for purposes of this Section a “**Defaulting Party**”) by the Defaulting Party under this Agreement, the non-defaulting party shall have the following remedies:

11.1 Specific Performance

The non-defaulting party shall have the right to institute legal action for specific performance of the terms of this Agreement to the extent that such action is available at law or in equity with respect to such default.

11.2 Right to Terminate

If, prior to the Closing Date, Seller or Buyer fails to perform any obligation to the other under this Agreement for any reason other than the failure to occur of a condition precedent to the Party’s obligations hereunder, the non-defaulting party shall give the Defaulting Party prompt written notice of such a default or failure. If by thirty (30) days after that written notice of such default or failure, the Defaulting Party fails to cure such breach, the non-defaulting party may terminate this Agreement, in which event the Parties shall have no further obligations or liabilities to one another except those obligations specifically stated herein to survive termination of this Agreement.

11.3 Damages

(a) A Defaulting Party shall not be liable to a non-defaulting party for damages caused by any default of the Defaulting Party, including general, special, or consequential damages except in the following circumstances:

(1) Buyer’s Damages. If Seller defaults in the performance of a material covenant or agreement to be performed by Seller under this Purchase Agreement, or one of Buyer’s condition precedent is not satisfied because Seller frustrated such fulfillment by some affirmative act or negligent omission, and, solely as a result of either such circumstance, Buyer is prevented from or elects not to

proceed with the purchase of the Conservation Easement and Buyer terminates this Agreement, then Buyer's damages shall be limited to:

(A) Seller's reimbursement to Buyer of the Administrative Costs payment described herein in Section 2.1; and

(B) Seller's reimbursement to Buyer of any actual and reasonable title, escrow, legal, and inspection fees incurred by Buyer in connection with the performance of its investigation due diligence review of the Property consistent with this Agreement.

(2) Seller's Damages. If Buyer defaults in the performance of a material covenant or agreement to be performed by Seller under this Purchase Agreement, or one of Seller's condition precedent is not satisfied because Buyer frustrated such fulfillment by some affirmative act or negligent omission, and, solely as a result of either such circumstance, Seller is prevented from or elects not to proceed with the sale of the Conservation Easement and Seller terminates this Agreement, then Seller's damages shall be limited to Buyer's payment to Seller of the amounts due under this Agreement, including payment in full of the Administrative Costs pursuant to Section 2.1 and any amount due pursuant to Section 2.2(b)(3).

(b) In the event that this Purchase Agreement is terminated because CDFW or USFW, prior to August 31, 2017, provides written notice that none of the Conservation Easement Property is suitable for mitigation, no Party shall be liable to the other Party for any damages except as otherwise provided in this Agreement.

THE PARTIES HAVE AGREED THAT BUYER'S AND SELLER'S ACTUAL DAMAGES IN THE EVENT OF THE CIRCUMSTANCES SPECIFIED ABOVE WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, BUYER'S AND SELLER'S RIGHT TO RECOVER AS SPECIFIED ABOVE IS A REASONABLE ESTIMATE OF THE DAMAGES THAT BUYER AND SELLER WOULD INCUR IN SUCH EVENT. BY PLACING ITS INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: Buyer: AK Seller: _____

12. MISCELLANEOUS

12.1 Survival; Termination

The representations and warranties of the Parties contained or provided for in this Agreement shall survive the Closing Date and any termination of this Agreement and shall be and continue in effect notwithstanding the fact that any Party may waive compliance with any other term, provision, or condition of this Agreement.

12.2 Notices

Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests, and other communications required or permitted by the terms hereof to be given to any person or entity shall be in writing, and any such notice shall become effective five (5) business days after being deposited in the United States mail, certified or registered, with appropriate postage prepaid for first-class mail or, if delivered by hand, overnight courier (such as Federal Express), or in the form of a confirmed facsimile transmission, when received. All notices shall be directed to the address of such person or entity set forth below, or at such other address as any Party shall hereafter designate in writing and deliver to the others in accordance with this paragraph:

Seller:

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

Buyer:

Golden Hills Wind, LLC
700 Universe Blvd.
Juno Beach, FL 33408
Attention: Business Management

12.3 Severability

Unless a term or provision is material consideration for this Agreement, the invalidity or unenforceability of any term or provision of this Agreement or the non-application of any such term or provision to any person or circumstance shall not impair or affect the remainder of this Agreement, and the remaining terms and provisions of this

Agreement shall not be invalidated but shall remain in full force and effect and shall be construed as if such invalid, unenforceable, or inapplicable provision were omitted so long as the purposes of the Agreement can still be carried out.

12.4 Waiver; Modification

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the Party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the Parties arising out of or affecting this Agreement or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing and duly executed as required by this Section.

12.5 Amendments

The terms of this Agreement may be waived, modified, and amended only by an instrument in writing duly executed by Seller and Buyer.

12.6 Time of Essence

Time is of the essence for each provision of this Agreement in which time is an element.

12.7 Assignment

Except as expressly permitted herein, neither Party to this Agreement shall assign its rights or obligations under this Agreement to any third party without the prior written approval of the other Party, which approval shall not be unreasonably withheld.

12.8 Binding on Successors and Assigns

This Agreement and all of its terms, conditions, and covenants are intended to be fully effective and binding, to the extent permitted by law, on the successors and permitted assigns of the Parties.

12.9 Counterparts

This Agreement may be executed by the Parties in separate counterparts, and all such counterparts shall together constitute one and the same instrument. This Agreement may also be executed by delivery of e-mail transmission or confirmed facsimile transmission to the Parties, as set forth above, of an executed counterpart original of this Agreement. The Parties shall thereafter exchange the original documents bearing original signatures, but the failure to do so shall not affect the enforceability of this Agreement.

12.10 Governing Law

This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of California applicable to agreements made and performed entirely within the State, including all matters of construction, validity, and performance.

12.11 Broker's Commission

Each Party represents and warrants to the other Party that it has retained no broker or other party to whom a commission or finder's fee is due with respect to this transaction. Each Party shall defend, indemnify, and hold the other Party harmless from and against all claims, expenses, or costs arising in connection with a breach of this warranty and representation.

12.12 Costs

Regardless of whether closing occurs, each Party shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including, without limitation, fees of attorneys, engineers, and accountants, except as otherwise expressly provided herein.

12.13 Attorneys' Fees

In the event of any action or proceeding brought by any Party to enforce the terms of or arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred in connection therewith, including reasonable attorneys' fees.

12.14 Cooperation

Each Party hereto will, upon the reasonable request of the other Party, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such further instruments and documents as may be reasonably necessary in order to fulfill the intents and purposes of this Agreement.

12.15 Entire Agreement

The Parties intend that this Agreement (including all of the attached exhibits, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The Parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever

(including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement.

12.16 Interpretation

Each Party acknowledges that it and its legal counsel have reviewed this Agreement. The Parties agree that the terms and conditions of this Agreement shall not be construed against any Party on the basis of such Party's drafting, in whole or in part, of such terms and conditions. Wherever used herein, the singular number shall include the plural and vice versa, and the use of any gender shall include all other genders, all as the context may require.

12.17 No Agency

The Parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Agreement.

12.18 Exhibits

All exhibits referred to herein are deemed to be incorporated in this Agreement in their entirety.

12.19 Headings

The headings in this Agreement are for convenience only and are not intended to, and will not be construed to, limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provisions hereof.

12.20 Business Days

If any action is required under the provisions of this Agreement to occur by a date that is a Saturday, Sunday, or legal holiday, such date shall be extended to the first day thereafter that is not a Saturday, Sunday, or legal holiday.

12.21 Execution and Condition Precedent to Enforcement

This Agreement shall be effective and enforceable on the later of the last date of execution by the undersigned Parties. This Agreement shall not be binding upon either Party until approved and signed by each Party. Each of the Parties has been represented by legal counsel in the negotiation and review of this Agreement and enters into this Agreement informed by the advice of counsel.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

SELLER:

**Alameda County Waste
Management Authority**

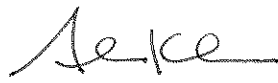
Date

Gary Wolff, P.E., Ph.D.
Executive Director

BUYER:

Golden Hills Wind, LLC

9/10/15
Date


~~John DiDonato~~ Andrew Kushner
Vice President, Golden Hills Wind, LLC

699040.5

EXHIBIT A

Conservation Easement Property

Parcel 1

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. 099A-1770-004

Parcel 2

The Northeast 1/4 of Section 10, Township 3 South, Range 3 East, Mount Diablo Base and Meridian.

Assessor's Parcel No.: 099A-1820-002

EXHIBIT B TO AGREEMENT FOR PURCHASE OF CONSERVATION EASEMENT

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Space Above Line for Recorder's Use Only

CONSERVATION EASEMENT DEED

THIS CONSERVATION EASEMENT DEED ("Conservation Easement") is made as of the ____ day of _____, 201__, by [owner] ("Grantor"), in favor of [conservation manager] ("Grantee"), with reference to the following facts:

RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately [] acres, located in the unincorporated area of the County of Alameda, State of California, and designated Assessor's Parcel Number(s) [] (the "Preserve Property"). The Preserve Property provides [] acres of habitat conservation for [State and Federally listed endangered species]. The Preserve Property is legally described and depicted in **Exhibit A** attached to this Conservation Easement and incorporated in it by this reference.

B. The Preserve Property possesses [wildlife and habitat] values of great importance to Grantee, the people of the State of California and the people of the United States.

C. The Preserve Property provides high quality natural, restored and/or enhanced habitat for the [], and contains breeding, non-breeding, foraging and dispersal habitats for these species. Individually and collectively, these wildlife and habitat values comprise the "Conservation Values" of the Preserve Property.

D. The California Department of Fish and Wildlife ("CDFW") has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of these species pursuant to California Fish and Game Code Section 1802. CDFW is authorized to hold easements for these purposes pursuant to California Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

E. The United States Fish and Wildlife Service ("USFWS"), an agency within the United States Department of the Interior, has jurisdiction over the conservation, protection, restoration and management of fish, wildlife, native plants, and the habitat necessary for

biologically sustainable populations of these species within the United States pursuant to the federal Endangered Species Act, 16 U.S.C. Section 1531, *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. Sections 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. Section 742(f), *et seq.*, and other provisions of federal law.

F. Grantee is authorized to hold this conservation easement pursuant to California Civil Code Section 815.3 and Government Code Section 65965. Specifically, Grantee is (i) a tax-exempt nonprofit organization qualified under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and qualified to do business in California; (ii) a “qualified organization” as defined in section 170(h)(3) of the Internal Revenue Code; and (iii) an organization which has as its primary and principal purpose and activity the protection and preservation of natural lands or resources in its natural, scenic, agricultural, forested, or open space condition or use.

G. This Conservation Easement is granted pursuant to the California Endangered Species Act Incidental Take Permit No. [] by and between GOLDEN HILLS WIND, LLC, a Delaware limited liability company (“Golden Hills Wind”) and CDFW, dated [] (the “Permit”) and as a means to implement certain agreed upon conservation measures as described in the Biological Opinion, USFWS File No. [], issued by the Sacramento Field Office of the USFWS. The conservation measures in the Biological Opinion are proposed by Golden Hills Wind as a means of minimizing the effects of the Golden Hills Wind Repowering Project on species listed under the federal Endangered Species Act. The Permit and conservation measures in the Biological Opinion provide mitigation for certain impacts of decommissioning and reclaiming [] wind turbine generators and [] wind turbine foundations, and constructing [] new wind turbine generators and associated infrastructure located in the County of Alameda, State of California and require implementation of a final [Golden Hills Wind Ecological Preserve Management Plan] (as applicable, the “Management Plan”) created thereunder. CDFW and USFWS are together referred to in this Conservation Easement as the “Wildlife Agencies”

H. The Permit, the Biological Opinion, and the Management Plan are incorporated by this reference into this Conservation Easement as if fully set forth herein.

I. A final, approved copy of the Permit, the Biological Opinion, the Management Plan, and any amendments thereto approved by the Wildlife Agencies, shall be kept on file at the offices of the Wildlife Agencies. If Grantor, or any successor or assign, requires an official copy of the Permits, the Management Plan, or any amendments thereto, it should request a copy from the Wildlife Agencies at the addresses for notices listed in Paragraph 12 of this Conservation Easement.

J. All section numbers referred to in this Conservation Easement are references to sections within this Conservation Easement, unless otherwise indicated.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the United States and the State of California, including California Civil Code Section 815, *et seq.*, Grantor hereby voluntarily grants and

conveys to Grantee a conservation easement in perpetuity over the Preserve Property.

1. Purposes.

The purposes of this Conservation Easement are to ensure that the Preserve Property will be retained forever in its natural, restored, or enhanced condition as contemplated by the Permits and the Management Plan, and to prevent any use of the Preserve Property that will impair or interfere with the Conservation Values of the Preserve Property. Grantor intends that this Conservation Easement will confine the use of the Preserve Property to activities that are consistent with such purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats implemented in accordance with the Permits and the Management Plan.

2. Grantee's Rights.

To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:

(a) To preserve and protect the Conservation Values of the Preserve Property.

(b) To enter the Preserve Property at reasonable times, in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, the Permits, and the Management Plan and to implement at Grantee's sole discretion Permits and Management Plan activities that have not been implemented, provided that Grantee shall not unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Preserve Property.

(c) To prevent any activity on or use of the Preserve Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Preserve Property that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement.

(d) To require that all mineral, air and water rights as Grantee deems necessary to preserve and protect the biological resources and Conservation Values of the Preserve Property shall remain a part of and be put to beneficial use upon the Preserve Property, consistent with the purposes of this Conservation Easement.

(e) All present and future development rights appurtenant to, allocated, implied, reserved or inherent in the Preserve Property; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Preserve Property, nor any other property adjacent or otherwise.

3. Prohibited Uses.

Any activity on or use of the Preserve Property that is inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties are expressly prohibited:

(a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; weed abatement activities; incompatible fire protection activities;

and any and all other activities and uses which may impair or interfere with the purposes of this Conservation Easement except for vegetation management and weed abatement and the prevention of catastrophic wildfire as specifically provided in the Management Plan when these activities do not involve the disturbance to burrows or the destruction of aquatic habitat.

(b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways as illustrated in the Management Plan or as needed for land management activities or emergency uses as specified within the Management Plan, provided however the use by [] shall not be a prohibited use.

(c) Agricultural activity of any kind except grazing as specifically provided for in the Management Plan.

(d) Recreational activities and facilities, except for low-intensity recreational activities so long as such activities are consistent with the purposes of this Conservation Easement and specifically provided for in the Management Plan. "Low-intensity activities" are defined as activities that allow passive enjoyment of wildlife and other resources provided by the Property, including, but not limited to, hiking, wildlife viewing, or guided interpretive or educational activities.

(e) Commercial, industrial, residential, or institutional uses.

(f) Any legal or de facto division, subdivision or partitioning of the Preserve Property.

(g) Construction, reconstruction, erecting or placement of any building, billboard or sign, or any other structure or improvement of any kind except for the purpose of limiting access onto the Preserve Property as specifically provided in the Management Plan.

(h) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials.

(i) Planting, introduction or dispersal of non-native or exotic plant or exotic animal species.

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extracting minerals, loam, soil, sand, gravel, rock or other material on or below the surface of the Preserve Property, or granting or authorizing surface entry for any of these purposes.

(k) Altering the surface or general topography of the Preserve Property, including but not limited to any alterations to habitat, building roads or trails, paving or otherwise covering the Preserve Property with concrete, asphalt or any other impervious material, except for those management activities specified in the Permits or Management Plan.

(l) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for (i) fire breaks, (ii) maintenance of existing foot trails or roads, or (iii) prevention or treatment of disease, except for vegetation management, and weed abatement

as specifically provided in the Management Plan.

(m) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Preserve Property, and any activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters except for pond maintenance or restoration activities in existing pond features or created pond features as specifically provided in the Management Plan to promote California red-legged frog and California tiger salamander breeding habitat.

(n) Without the prior written consent of Grantee, which Grantee may withhold, transferring, encumbering, selling, leasing, or otherwise separating the mineral, air or water rights for the Preserve Property; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights, or other rights in and to the use of water historically used on or otherwise appurtenant to the Preserve Property, including but not limited to: (i) riparian water rights; (ii) appropriative water rights; (iii) rights to waters which are secured under contract with any irrigation or water district, to the extent such waters are customarily applied to the Preserve Property; and (iv) any water from wells that are in existence or may be constructed in the future on the Preserve Property.

(o) Engaging in any use or activity that may violate, or may fail to comply with, relevant federal, state, or local laws, regulations, or policies applicable to Grantor, the Preserve Property, or the use or activity in question.

4. Grantee's Duties.

(a) To ensure that the purposes of this Conservation Easement as described in Section 1 are being accomplished, Grantee and its successors and assigns shall:

(1) Perform, at a minimum on an annual basis, compliance monitoring inspections of the Preserve Property; and

(2) Prepare reports on the results of the compliance monitoring inspections, and provide these reports to the Wildlife Agencies on an annual basis.

5. Grantor's Duties.

Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Preserve Property or that are otherwise inconsistent with this Conservation Easement. In addition, Grantor shall undertake all necessary and reasonable actions to perfect and defend Grantee's rights under Section 2 of this Conservation Easement, and to observe and carry out the obligations of Grantor under the Permits and the Management Plan.

6. Reserved Rights.

Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from Grantor's ownership of the Preserve Property, including the right to engage in or permit or invite others to engage in all uses of the Preserve Property that are not prohibited or limited by, and are consistent with the purposes of, this Conservation

Easement.

7. Grantee's Remedies.

If Grantee determines that a violation of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation ("Notice of Violation"). If Grantor fails to cure the violation within thirty (30) days after receipt of a Notice of Violation, or if the cure reasonably requires more than thirty (30) days to complete and Grantor fails to begin the cure within the thirty (30)-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction for any or all of the following: to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values of the Preserve Property; to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies; to pursue any other legal or equitable relief, including but not limited to, the restoration of the Preserve Property to the condition in which it existed prior to any violation or injury; or to otherwise enforce this Conservation Easement. Without limiting the liability of Grantor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Preserve Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values of the Preserve Property, Grantee may pursue its remedies under this Conservation Easement without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement.

Grantor agrees that Grantee's remedies at law for any violation of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to the remedies set forth in California Civil Code Section 815, *et seq.* The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

(a) Costs of Enforcement.

All costs incurred by Grantee, where Grantee is the prevailing party (as determined in any litigation, alternative dispute resolution process, or by agreement of the parties), in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by Grantor's negligence or breach of this Conservation Easement, shall be borne by Grantor.

(b) Grantee's Discretion.

Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this

Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any rights of Grantee under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(c) Acts Beyond Grantor's Control.

Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Preserve Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Preserve Property resulting from such causes; (ii) acts by Grantee or its employees; or (iii) acts by third parties who unlawfully enter the Preserve Property despite Grantor's compliance with Section 5 of this Conservation Easement.

(d) Enforcement; Standing.

All rights and remedies conveyed to Grantee under this Conservation Easement shall extend to and are enforceable by the Third-Party Beneficiaries (as defined in Section 14(m)). These enforcement rights are in addition to, and do not limit, the rights of enforcement under the Permits or the Management Plan. If at any time in the future Grantor uses, allows the use, or threatens to use or allow use of, the Preserve Property for any purpose that is inconsistent with or in violation of this Conservation Easement then, despite the provisions of California Civil Code Section 815.7, the California Attorney General and the Third-Party Beneficiaries each has standing as an interested party in any proceeding affecting this Conservation Easement.

(e) Notice of Conflict.

If Grantor receives a Notice of Violation from Grantee or a Third-Party Beneficiary with which it is impossible for Grantor to comply consistent with any prior uncured Notice(s) of Violation, Grantor shall give written notice of the conflict (hereinafter "Notice of Conflict") to the Grantee and Third-Party Beneficiaries. In order to be a valid, a Notice of Conflict shall be given within fifteen (15) days of the date Grantor receives a conflicting Notice of Violation, shall include copies of the conflicting Notices of Violation, and shall describe the conflict with specificity, including how the conflict makes compliance with the uncured Notice(s) of Violation impossible. Upon issuing a valid Notice of Conflict, Grantor shall not be required to comply with the conflicting Notices of Violation until such time as the entity or entities issuing said conflicting Notices of Violation issue(s) revised Notice(s) of Violation that resolve the conflict. Upon receipt of a revised Notice of Violation, Grantor shall comply with such notice within the time period(s) described in the first grammatical paragraph of this Section 7. The failure of Grantor to issue a valid Notice of Conflict within fifteen (15) days of receipt of a conflicting Notice of Violation shall constitute a waiver of Grantor's ability to claim a conflict.

(f) Reversion.

If CDFW or USFWS determines that Grantee is not holding, monitoring or managing this Conservation Easement for conservation purposes in the manner specified in this Conservation Easement or in the Permits or the Management Plan then, pursuant to

California Government Code Section 65965(d), this Conservation Easement shall revert to the State of California, or to another public agency or nonprofit organization qualified pursuant to Civil Code Section 815.3 and Government Code Section 65965 (and any successor or other provision(s) then applicable) and approved by the Wildlife Agencies.

8. Fence Installation and Maintenance. Grantor shall install and maintain a fence reasonably satisfactory to Grantee to facilitate the grazing regime of the Preserve Property and protect the Conservation Values of the Preserve Property, including but not limited to wildlife corridors, all as specifically provided for in the Management Plan.

8. Access.
This Conservation Easement does not convey a general right of access to the public.

9. Costs and Liabilities.
Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Preserve Property. Grantor agrees that neither Grantee nor Third-Party Beneficiaries shall have any duty or responsibility for the operation, upkeep or maintenance of the Preserve Property, the monitoring of hazardous conditions on it, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Preserve Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals required for any activity or use permitted by this Conservation Easement and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency laws, statutes, ordinances, rules, regulations, orders and requirements.

(a) Taxes; No Liens.
Grantor shall pay before delinquency all taxes, assessments (general and special), fees, and charges of whatever description levied on or assessed against the Preserve Property by competent authority (collectively "Taxes"), including any Taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor shall keep the Preserve Property free from any liens (other than a security interest that is expressly subordinated to this Conservation Easement, as provided in Section 14(k)), including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Preserve Property.

(b) Hold Harmless.
(1) Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "Grantee Indemnified Party" and collectively, "Grantee's Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and collectively, "Claims"), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Preserve Property, regardless of cause, except

that this indemnification shall be inapplicable to any Claim to the extent due to the negligence of Grantee or any of its employees; (ii) the obligations specified in Sections 5, 9 and 9(a); and (iii) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Grantee's Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Grantee's Indemnified Party.

(2) Grantor shall hold harmless, protect and indemnify Third-Party Beneficiaries (as defined in Section 14(m) below) and their respective directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "Third-Party Beneficiary Indemnified Party" and collectively, "Third-Party Beneficiary Indemnified Parties") from and against any and all Claims arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Preserve Property, regardless of cause and (ii) the existence or administration of this Conservation Easement. Provided, however, that the indemnification in this Section 9 (b) (2) shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Claim to the extent due to the negligence of that Third-Party Beneficiary Indemnified Party or any of its employees. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by reason of any Claim to which the indemnification in this Section 9 (b) (2) applies, then at the election of and upon written notice from the Third-Party Beneficiary Indemnified Party, Grantor shall defend such action or proceeding by counsel reasonably acceptable to the applicable Third-Party Beneficiary Indemnified Party or reimburse the Third-Party Beneficiary Indemnified Party for all charges incurred for services of the California Attorney General or the U.S. Department of Justice in defending the action or proceeding.

(c) Extinguishment.

If circumstances arise in the future that render the preservation of Conservation Values or other purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

(d) Condemnation.

The purposes of this Conservation Easement are presumed to be the best and most necessary public use as defined at California Code of Civil Procedure Section 1240.680 notwithstanding Code of Civil Procedure Sections 1240.690 and 1240.700.

10. Transfer of Conservation Easement or Preserve Property.

(a) Conservation Easement.

This Conservation Easement may be assigned or transferred by Grantee upon written approval of the Wildlife Agencies, which approval shall not be unreasonably withheld or delayed, but Grantee shall give Grantor and the Wildlife Agencies at least sixty (60) days prior written notice of the proposed assignment or transfer. Grantee may assign or transfer its rights under this Conservation Easement only to an entity or organization: (i) authorized to acquire and hold conservation easements pursuant to California Civil Code Section 815.3 and Government Code

Section 65965 (and any successor or other provision(s) then applicable), or the laws of the United States; and (ii) otherwise reasonably acceptable to the Wildlife Agencies. Grantee shall require the assignee to record the assignment in the county where the Preserve Property is located. The failure of Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way. Any transfer under this section is subject to the requirements of Section 11.

(b) Preserve Property.

Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Preserve Property, including, without limitation, a leasehold interest. Grantor agrees that the deed or other legal instrument shall also incorporate by reference the Permits, the Management Plan, and any amendment(s) to those documents. Grantor further agrees to give written notice to Grantee and the Wildlife Agencies of the intent to transfer any interest at least sixty (60) days prior to the date of such transfer. Grantee or the Wildlife Agencies shall have the right to prevent any transfers in which prospective subsequent claimants or transferees are not given notice of the terms, covenants, conditions and restrictions of this Conservation Easement (including the exhibits and documents incorporated by reference in it). The failure of Grantor to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way. Any transfer under this section is subject to the requirements of Section 11.

11. Merger.

The doctrine of merger shall not operate to extinguish this Conservation Easement if the Conservation Easement and the Preserve Property become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, unless Grantor, Grantee, and the Wildlife Agencies otherwise agree in writing, a replacement conservation easement or restrictive covenant containing the same protections embodied in this Conservation Easement shall be recorded against the Preserve Property.

12. Notices.

Any notice, demand, request, consent, approval, or other communication that Grantor or Grantee or Third Party Beneficiary desires or is required to give to the other shall be in writing, with a copy to each of the Wildlife Agencies, and shall be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class registered United States mail, postage fully prepaid, addressed as follows:

To Grantor:	[owner] [owner address]
To Grantee:	[conservation manager] [address]
To CDFW:	[Department of Fish and Wildlife Bay Delta Region, Region 3 7329 Silverado Trail Napa, CA. 94558]

Attn: Regional Manager]

With a copy to: [Department of Fish and Wildlife
Office of General Counsel
1416 Ninth Street, 12th Floor
Sacramento, CA 95814-2090
Attn: General Counsel]

To USFWS: [United States Fish and Wildlife Service
Sacramento Field Office
2800 Cottage Way
Room W-2605
Sacramento, CA. 95825
Attn: Field Supervisor]

or to such other address a party or a Signatory Agency shall designate by written notice to Grantor, Grantee and the Wildlife Agencies. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by registered first class mail, five (5) days after deposit into the United States mail.

13. Amendment.

This Conservation Easement may be amended only by mutual written agreement of Grantor and Grantee and written approval of the Wildlife Agencies, which approval shall not be unreasonably withheld or delayed. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of the county in which the Preserve Property is located, and Grantee shall promptly provide a conformed copy of the recorded amendment to the Grantor and the Wildlife Agencies.

14. Additional Provisions.

(a) Controlling Law.

The interpretation and performance of this Conservation Easement shall be governed by the laws of the United States and the State of California, disregarding the conflicts of law principles of such state.

(b) Liberal Construction.

Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of California Civil Code Section 815, *et seq.* and Government Code Section 65965. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability.

If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to any other persons or circumstances.

(d) Entire Agreement.

This document (including its exhibits and the Permits and Management Plan, all of which are incorporated by reference in this document) sets forth the entire agreement of the parties and the Wildlife Agencies with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements of the parties relating to the Conservation Easement. No alteration or variation of this Conservation Easement shall be valid or binding unless contained in an amendment in accordance with Section 13.

(e) No Forfeiture.

Nothing contained in this Conservation Easement will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors.

The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties and their respective personal representatives, heirs, successors, and assigns, and shall constitute a servitude running in perpetuity with the Easement Property.

(g) Termination of Rights and Obligations.

A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Preserve Property, except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

(h) Captions.

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) No Hazardous Materials Liability.

(1) Grantor represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Easement Property, or transported to or from or affecting the Preserve Property.

(2) Without limiting the obligations of Grantor under Section 9 (b), Grantor hereby releases and agrees to indemnify, protect and hold harmless the Grantee's Indemnified Parties (defined in Section 9 (b) (1)) from and against any and all Claims (defined in Section 9 (b)(1)) arising from or connected with any Hazardous Materials or underground

storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Preserve Property at any time, except any Hazardous Materials placed, disposed or released by Grantee or any of its employees. This release and indemnification includes, without limitation, Claims for (A) injury to or death of any person or physical damage to any property; and (B) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the Grantee's Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from the applicable Grantee Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Grantee Indemnified Party.

(3) Without limiting the obligations of Grantor under Section 9 (b), Grantor hereby releases and agrees to indemnify, protect and hold harmless the Third-Party Beneficiary Indemnified Parties (defined in Section 9 (b)(2)) from and against any and all Claims arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Preserve Property at any time, except that this release and indemnification shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Hazardous Materials placed, disposed or released by that Third-Party Beneficiary Indemnified Party or any of its employees. This release and indemnification includes, without limitation, Claims for (A) injury to or death of any person or physical damage to any property; and (B) the violation or alleged violation of, or other failure to comply with, any Environmental Laws. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by reason of any such Claim, Grantor shall, at the election or and upon written notice from the applicable Third-Party Beneficiary Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Third-Party Beneficiary Indemnified Party for all charges incurred for services of the California Attorney General or the U.S. Department of Justice in defending the action or proceeding.

(4) Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee or any Third-Party Beneficiaries any of the following:

(A) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, *et seq.*; hereinafter, "CERCLA"); or

(B) The obligations or liabilities of a person described in 42 U.S.C. § 9607(a)(3) or (4); or

(C) The obligations of a responsible person under any applicable Environmental Laws; or

(D) The right to investigate and remediate any Hazardous Materials associated with the Preserve Property; or

(E) Any control over Grantor's ability to investigate, remove,

remediate or otherwise clean up any Hazardous Materials associated with the Preserve Property.

(5) The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, *et seq.*; hereinafter, "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. §5101, *et seq.*; hereinafter, "HTA"); the Hazardous Waste Control Law (California Health & Safety Code § 25100, *et seq.*; hereinafter, "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code § 25300, *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement. The term "Hazardous Material" shall not include any material customarily used and legally permitted for uses of the Preserve Property allowed under this Conservation Easement, provided such material is used in customary quantities and in accordance with label instructions and applicable Environmental Laws and is specified in the Management Plan.

(6) The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents warrants and covenants to Grantee and Third-Party Beneficiaries that activities upon and use of the Preserve Property by Grantor, its agents, employees, invitees and contractors will comply with all Environmental Laws.

(j) Warranty.

Grantor represents and warrants that Grantor is the sole owner of the Preserve Property. Grantor also represents and warrants that, except as specifically disclosed to and approved by the Wildlife Agencies pursuant to the Property Assessment and Warranty dated [], signed by Grantor and incorporated herein by reference as **Exhibit B** attached hereto, there is no outstanding mortgage, lien, encumbrance or other interest in the Preserve Property (including, without limitation, mineral interest) which conflicts or is inconsistent with this Conservation Easement has expressly subordinated such interest to this Conservation Easement by a recorded subordination agreement approved by Grantee and the Wildlife Agencies.

(k) Additional Interests.

Grantor shall not grant any additional easements, rights of way or other interests in the Preserve Property (other than a security interest that is expressly subordinated to this Conservation Easement), nor shall Grantor grant, transfer, abandon or relinquish (each a "Transfer") any mineral, air, or water right or any water associated with the Preserve Property, without first obtaining the written consent of Grantee and the Wildlife Agencies. Such consent may be withheld if Grantee or the Wildlife Agencies determine(s) that the proposed interest or Transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the Conservation Values of the Preserve Property. This Section 14(k) shall not limit the provisions of Section 2(d) or 3(n), nor prohibit transfer of a fee or leasehold interest in the Preserve Property that is subject to this Conservation Easement and complies with Section

10. Grantor shall provide a copy of any recorded or unrecorded grant or Transfer document to the Grantee and Wildlife Agencies.

(l) Recording.

Grantee shall record this Conservation Easement in the Official Records of the County in which the Preserve Property is located, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

(m) Third-Party Beneficiaries

Grantor and Grantee acknowledge that the CDFW and USFWS (the “Third-Party Beneficiaries”) are each third party beneficiaries of this Conservation Easement with the right of access to the Preserve Property and the right to enforce all of the obligations of Grantor including, but not limited to, Grantor’s obligations under Section 14, and all other rights and remedies of the Grantee under this Conservation Easement.

(n) Funding.

Endowment funding for the perpetual management, maintenance and monitoring of the Preserve Property is specified in and governed by the Permits and the Management Plan.

IN WITNESS WHEREOF Grantor has executed this Conservation Easement Deed the day and year first above written.

<p>GRANTOR:</p> <p>[owner]</p> <p>By: _____</p> <p>Name: _____</p> <p>Its: _____</p> <p>Dated: _____</p>	<p>GRANTEE:</p> <p>[conservation manager]</p> <p>By: _____</p> <p>Its: _____</p> <p>Dated: _____</p>
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EXHIBITS

- A – Preserve Property Legal Description
- B – Property Assessment and Warranty

Approved as to Form:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____
[Terry R. Gibson
Deputy General Counsel]

Dated: _____

Approved as to form:

OFFICE OF THE REGIONAL SOLICITOR, PACIFIC SOUTHWEST REGION
OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR

By: _____
[James A. Monroe
Assistant Regional Solicitor]

Dated: _____

**Exhibit A to
Conservation Easement Deed**

LEGAL DESCRIPTION OF PRESERVE PROPERTY

[A MAP OF THE PRESERVE PROPERTY FOLLOWS.]

**Exhibit B to
Conservation Easement Deed**

PROPERTY ASSESSMENT AND WARRANTY

[Grantor, Grantee and the Wildlife Agencies each have a copy of the Property Assessment and Warranty dated [], which is incorporated herein by reference.]

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DATE: September 9, 2015

TO: Alameda County Waste Management Authority Board

FROM: Gary Wolff, Executive Director

BY: Brian Mathews, Senior Program Manager & Enforcement Officer

SUBJECT: Enforcement Update

BACKGROUND

This memo updates the Authority Board on activities related to the enforcement of Alameda County Waste Management Authority ordinances. The Board has requested an annual update on the prior year's enforcement activities. The memo is in five parts: General Overview, Mandatory Recycling, Reusable Bag, Facility Fee collection, and HHW Fee ordinances. The plant debris landfill ban ordinance is implemented in conjunction with the mandatory recycling ordinance.

At the September 2014 Authority Board meeting, staff presented the second update on enforcement activities conducted for the implementation of ordinances adopted by the Board. Some key reminders from that update are:

- Ordinances have been adopted when a voluntary approach was deemed insufficient by the Board after a public engagement process.
- Ordinances are an attention-getting device to facilitate behavioral change toward social norms that support one or more social benefits.
- The agency's approach is to emphasize education and technical assistance prior to enforcement, and this approach is reflected in how resources are allocated.
- Authority enforcement efforts take a progressive approach. This means multiple opportunities are given to the regulated party, including coordinated offers of assistance from the City, hauler, and the Authority, before monetary penalties are assessed.
- Revenue generation from fines is not an objective of our enforcement program.

How Much is Spent on Enforcement?

The budget for enforcement activities are distributed through five projects: (1250) Waste Prevention - Reusable Bag Implementation; (2090) Mandatory Recycling Ordinance Implementation; (2312) Household Hazardous Waste Facilities; (3220) Disposal Reporting; and (3240) Fee Enforcement. See the Table below for details on these five projects.

The FY15-16 budget has an increase for enforcement activities of \$52,223 as compared with the FY 14-15 budget. Increases of about \$11,000 for new fee collection work associated with the new HHW fee and a \$95,000 for increased work in the Mandatory Recycling Ordinance (MRO) for implementing Phase II (adding organics and small businesses) were not fully offset by decreases in enforcement of the reusable bag ordinance and disposal reporting. The bulk of the MRO increase is attributable to postage (\$60,000). The direct labor allocation to enforcement activities is 3.01 full time equivalents (FTEs) distributed across 12 staff. This is slightly less than in FY 14-15 due to the implementation of an on-line reporting system for facility fee collection.

The current budget (FY15-16) for enforcement activities as a percentage of each project cost varies: the enforcement component is 21% of Reusable Bag Implementation, 51% of the Mandatory Recycling project, less than 1% of Household Hazardous Waste Facilities, and 11% of disposal reporting. Of the five projects only project 3240 – Fee Enforcement -- is 100% dedicated to enforcement activities.

Project	Direct and Indirect Staff Cost plus Overhead Hard Cost	Project Hard Cost	Total Enforcement Activities in Project Budget	% of Total Project Budget
1250 - Reusable Bag	\$55,690	\$0	\$55,690	21%
2090 - Mandatory Recycling	\$670,824	\$503,000	\$1,173,824	51%
2312 – HHW Facilities	\$11,075	\$0	\$11,075	<1%
3220 - Disposal Reporting	\$42,880	\$0	\$42,880	11%
3240 - Fee Enforcement	\$194,664	\$162,000	\$356,664	100%
Total	\$975,133	\$665,000	\$1,640,133	

Core Budget	\$11,414,810
% of Core	14.30%
Total Agency	\$38,034,486
% of Total Agency	4.31%

Who Enforces?

The Executive Director (ED) is the Enforcement Official as specified by the ordinances. In that capacity the ED has final authority and responsibility for implementing the ordinances. The ED

has delegated to Brian Mathews (Senior Program Manager), the role of Lead Enforcement Officer with the responsibility of interpreting the ordinances and maintaining policies and procedures necessary for the fair, equitable and transparent enforcement process. The enforcement team also includes Tom Padia, Elese Lebsack, Adrienne Ramirez, Nisha Patel, and other staff on occasion; Authority Counsel, two retired annuitants from the County Sheriff's office, and three inspectors employed by a contractor.

Enforcement of the Mandatory Recycling and Reusable Bag ordinances is done in consultation and coordination with the Primary Enforcement Representative (PER) of each member agency. No citations will be issued for either ordinance without the approval of the PER who is designated by the chief executive of each participating member agency.

Enforcement is a partnership between the Authority, member agency staff, franchised haulers, and the regulated community. It requires timely and accurate communications. To facilitate the interactions we need a common understanding of the procedures and practices of enforcement. The Authority provides regular updates to the member agency technical advisory committee and routinely sends to all member agency PERs updates and guidelines of how the ordinances are being interpreted, implemented and enforced. The mandatory and bag ordinances each have their own websites (www.recyclingrulesac.org and www.reusablebagsac.org) which provide detailed and up-to-date frequently asked questions (FAQs) and answers, resources such as signage and handout templates, and staff contacts. A hotline is in place for phone inquiries and email addresses are provided for enforcement staff.

Training and communication are key components to successful ordinance implementation. Agency enforcement staff and contractors have all been certified by the CalEPA Basic Inspector Academy; a two-part 40 hour course which familiarizes staff with topic areas such as constitutional protections, environmental law, safety, interview skills, elements of a violation, evidence, note taking and report writing. Each course has a mock inspection, enforcement and trial element. Most member agency staff in the role of PER have also passed the CalEPA course or have equivalent experience. Monthly inspector trainings are conducted in-house by qualified staff, and inspection materials are updated frequently to keep current the understanding of how inspections should be conducted and how inspectors should conduct themselves. Senior program staff has more extensive training including code enforcement and course work on criminal investigations and environmental law.

How Do We Enforce?

The intent of enforcement is to change behavior rather than to punish or generate revenue through fines. This intent is codified by the enforcement policies for each ordinance which require a three step process of Official Notification, Warning, and finally as a last resort, Citation. Implementing these policies requires staff and inspector trainings, inspections, and official communications with regulated parties about enforcement (including legal review). It also requires integrating these enforcement activities with other activities such as outreach

material development, media, website development, technical assistance, hauler-customer-jurisdiction relations, budget and project management, etc.

At each step of the enforcement workflow, education and technical assistance are emphasized and offered from multiple sources, including web-based materials, handouts during inspections, brochures included in Official Notifications, hotline assistance and on-site training provided by StopWaste or member agency staff, contractors, or franchised haulers.

Enforcement activities are complex and typically involve greater legal and financial exposure for the agency than most other activities. Consequently, we have and will continue to invest in our staff capabilities via training. In FY 14-15, one staff completed a 40 hour course on rules and responsibilities of initiating an accusatory process, and another completed a course on the California Public Records Act. In addition, the Board recently approved reclassification of two existing positions from senior program services specialists to executive assistant and program manager, in part to reflect the key roles and complex duties associated with enforcement.

MANDATORY RECYCLING ORDINANCE

Summary of Ordinance

The Mandatory Recycling Ordinance (ACWMA Ord. 2012-01) (MRO) was adopted by the Authority Board on January 25th, 2012. For most regulated businesses, multi-family property owners, and transfer stations and landfills, the ordinance became effective July 1, 2012 with enforcement starting January 1, 2013. (Note: Pleasanton chose to participate in the countywide ordinance on an 8 month delayed implementation schedule.) Not all member agencies participate in the ordinance; the covered jurisdictions are Unincorporated Alameda County, Alameda, Albany, Berkeley, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City. Dublin, and the portion of the Oro Loma Sanitary District not in San Leandro or Hayward, are not participating. Approximately 90% of the county is covered by the ordinance. Castro Valley Sanitary District initially opted out of the ordinance but has since opted in for all accounts for Phase I and Phase II materials (with a delayed implementation date for Phase II materials via a compliance schedule waiver.)

The MRO was developed to be implemented in two phases with the first phase requiring the separation of traditional high value dry recyclables such as bottles, cans, cardboard and paper from the disposal stream. Phase I requirements applied to commercial properties with 4 cubic yards of service and above and multi-family properties with 5 units or more. Phase II of the ordinance became effective July 1, 2014 with enforcement beginning January 1, 2015 and added food scraps and compostable paper to the list of materials that must be separated from the garbage and expanded the ordinance to all commercial accounts regardless of garbage service size. Several jurisdictions have asked for and been granted compliance schedule waivers which delay the enforcement of Phase II requirements until the jurisdiction has the pieces in place for their community to comply.

The ordinance requires multi-family commercial property owners to provide recycling containers adequate to receive all covered materials generated by their tenants, arrange for covered materials collection service, and distribute educational materials upon move-in and move-out of tenants, as well as annually to on-going tenants.

An alternative compliance path for commercial and multi-family property owners who don't want to separate "covered materials" is to have their waste collected and processed through a High Diversion Mixed Waste Processing Facility (HDMWPF). In July 2014, the Authority tested and certified the Davis Street Transfer Station Dry Mixed Waste Line at their Material Recovery Facility for Phase I recyclables (bottles, cans, paper, corrugated cardboard). That facility is now going through upgrades to accommodate multi-family (MF) material sourced from the City of Oakland and will be recertified once the upgrades and a trial-run period has been completed. Through the testing and certification process Waste Management of Alameda County demonstrated that its facility could process mixed waste and have less than 10% of the residual stream be composed of high value Phase I covered materials. The San Leandro facility is the first and only (to our knowledge) facility in the State of California with this certification.

Member agencies opted into Phase II effective July 1, 2014 are Alameda, Albany, Berkeley, Emeryville, Livermore, Piedmont and unincorporated Alameda County. Castro Valley, Fremont, Hayward, Newark, Oakland, and San Leandro have opted into Phase II on a delayed implementation schedule. The Cities of Dublin, Pleasanton, and Union City and the Oro Loma Sanitary District (for the unincorporated area within the District) have opted out of Phase II. Union City staff has stated an intention to opt into Phase II after franchise issues are resolved.

Enforcement To Date

Table 1 summarizes enforcement activity to date under the MRO. The number of inspections is higher than the number of covered accounts because many commercial properties have been inspected two or three times, sometimes as part of a progressive approach to enforcement and sometimes because access was limited on the first visit.

The ordinance prohibits the disposal of covered materials and initially the violation threshold for a "covered material in the garbage" violation was set at approximately 25% or more by volume of the contents of a container. With the implementation of Phase II and the beginning of citations, a new inspection metric has been tested and approved, 10 gallons in a cart, or 20 gallons in a bin. These volumes are equivalent to approximately the threshold of the 10% De Minimus waiver granted in the ordinance. Typically a cart is 96 gallons and 10 gallons would be slightly over the 10% threshold. The volume of a 1 cubic yard bin is about 202 gallons. Using 20 gallons as the threshold is easy to quantify/visualize for the inspectors in quantities of five gallon buckets. Two five gallon buckets of covered material in a cart and four five gallon buckets in a bin constitute a violation. The new violation threshold aligns with our countywide objective to achieve less than 10% "good stuff in the garbage".

The ordinance actually has a zero tolerance for disposal of recyclable material, which renders arguments about exact quantities unnecessary if we need to issue a citation. Nonetheless, we use a violation threshold above the legal threshold of zero, in order to make clear to the regulated community that we are not enforcing against petty violations. If a business is sent an Official Notification, they are given 90-120 days to correct the deficiency. If no violation is found upon re-inspection, the frequency of future inspections will be reduced.

Table 1: Mandatory Ordinance Enforcement Activity to Date

Activity	Count 2014	Count 2015	% Change
Regulated Parties	10,416	24,739 ¹	238%
Inspections Conducted ²	16,224	23,974	132%
Official Notifications Sent ³	1,889 (18%)	3,161 (12.7%) ⁴	
Warnings Sent ⁵	272 (2.6%)	478 (1.9%) ⁴	
Citations Pending	N/A	63	
<ol style="list-style-type: none"> 1. 7,203 Multi-Family accounts, 17,535 business accounts. Business accounts increased nearly 400% from 4,415 in 2014 2. Inspections conducted are to date from inception of the ordinance and are higher than regulated parties at the 2014 update due to repeat inspections. 3. The majority of notices sent are for not having recycling service. This is a 'one-time violation' once corrected. 4. The lower percent in 2015 is due to the increased number of accounts under Phase II 5. 1.9% of the regulated community have violated the ordinance twice 6. 63 citations were pending meaning the member agency Primary Enforcement Representative is reviewing the citation to approve or disapprove it. 			

Technical Assistance Related to the Ordinance

The Business Technical Assistance (TA) team provided assistance to every covered commercial account that requested TA from us, unless the member agency or hauler asked that the account be referred to them for follow-up. In total, the team reached 1,264 covered commercial accounts in FY14/15. Of those businesses reached, 33% were accounts that had been worked with in a prior year and 67% were businesses that the TA team had not previously reached out to before. The Technical Assistance Team documented a total of 309 businesses that began new recycling and/or organics collection programs. The TA team targeted businesses in two ways: through enforcement referrals such as official notification letters and the Ordinance Help Line, and through proactive targeting coordinated with City staff to reach out to businesses with little or no recycling service, with the former being an increasing proportion after enforcement actions began with Phase II newly covered accounts in January 2015. A pilot program providing technical assistance to multi-family property owners and manager to implement or improve their organics collection programs was also conducted that reached 61 multi-family properties

A full report of the FY 14-15 Business Technical Assistance project will be available in October, with some highlights from the year below

- Businesses are far more responsive to set up a recycling program after receiving a letter of violation than they were in the past, under a voluntary setting. In many cases, businesses contact their service providers without assistance or prompting from our Business TA team to initiate new recycling service after receiving an enforcement letter.
- The Customer Relations Management (CRM) system we have developed has allowed Client Representatives to communicate with enforcement staff and be on the same page about where a business is on the enforcement spectrum. Additionally, photos from inspections allowed Client Representatives to have a more engaging and informed conversations with businesses around compliance issues.
- Through a new Free Indoor Food Scraps Bin program within the Mandatory Recycling Ordinance project, over 320 businesses were approved allocations of up to \$500 worth of organics collection equipment to help start-up or improve their food scraps diversion programs.

Enforcement Challenges and Lessons Learned

The enforcement effort relies heavily on data from six major and several minor service providers who all track and manage their customer account information differently. Data from the haulers are difficult to maintain because the data sets are not formatted for easy synchronization with our data management system. The hauler data sets are often incomplete for our needs, which necessitate reformatting for electronic transfer. The lengthy process of data manipulation results in our day to day data being out of date. A tremendous amount of coordination is needed with haulers to verify information and do data clean-up. After two cycles of data updates staff is exploring different approaches to securing hauler account data.

A critical piece of infrastructure is the Microsoft Dynamics CRM database we developed and deployed (and are continuing to develop and deploy as Phase II begins) which provides inspectors and technical assistance with real time account information and allows them to collect data on tablets and upload pictures of compliance issues for timely processing by enforcement staff. Maintaining the software platform and data management will continue to be a challenge moving forward.

Another challenge has been access at multi-family and commercial properties. Inspectors strictly adhere to constitutional privacy protections and only conduct plain view inspections at the point of garbage collection. If access is not immediately available, permission is sought from a property manager or responsible party. Frequently property managers are absent and/or security barriers stymie inspectors' access to the garbage collection location. Still, nearly 75% of multi-family buildings that we attempted to inspect (and we inspected more than 50% of all multi-family buildings) were inspected successfully in the first round. Of violations found, 98% were for inadequate recycling service.

As Phase II is implemented the no-access challenges will only increase. Many cart accounts do not set their cart out until the night before, and/or carts, due to their size, are stored on the premises out of plain view sight. To overcome these access challenges, the enforcement staff is expanding its administrative compliance review procedure previously only used for multi-family to commercial accounts with carts. The procedure entails reviewing hauler account information to determine if recycling service is being provided. If no record of recycling service is evident, the property is sent an Official Notification requiring them to get recycling service or demonstrate through invoice or other records that service is being provided. Future inspections for multi-family buildings will focus on those situations where the property owner or manager does not respond to the notice in a satisfactory manner.

As Phase II rolls out new challenges are being identified and addressed: 1) the number of covered business accounts increased by nearly 300%, 2) not all business accounts generate sufficient amount of organics to warrant getting organics recycling service, 3) inspection resources will be stretched to maintain a “routine” inspection program. To manage the increase, cart accounts will be inspected opportunistically when co-located with bin service. The remaining will go through an administrative review. By not inspecting business cart accounts, the increase in the inspections is somewhat more manageable at a 200% increase over Phase I inspections. Additional agency resources will eventually be needed for inspections.

Not all business accounts will need to get organics recycling service because they don’t generate significant quantities of organics. The MRO team will target organics inspections to High Organics Generators (HOG’s) identified as those businesses that have food handling permits from the County or City of Berkeley Environmental Health Departments, California Dept. of Food and Agriculture, or other food permitting regulators like USDA. This will facilitate an “innocent-until-proven-guilty” enforcement approach, and reduce the burden on the regulated community of having to get organics recycling service they may not use very much.

The MRO enforcement team is working to absorb the increase in demand for inspection within the resources already allocated. Using the administrative review process is one approach which does not increase the agency’s exposure to risk while keeping the regulated community informed of the need to conform to new requirements. Another approach being considered is to use blanket notifications, meaning to send “Official Notifications” to all regulated parties, regardless of whether an inspection was conducted and a violation observed or not.

In the three step enforcement process (Official Notification, Notice of Violation (warning), Citation) the “Official Notification” serves the same purpose as a speed limit sign does for traffic compliance. Much like a speed limit sign, the “Official Notification” informs the regulated community of their obligation to adhere to certain limits on disposal. It is not a legal requisite that a violation be observed during an inspection to warrant issuance of an Official Notification. We have done that to date because mandatory recycling was new, but mandatory recycling is

no longer new -- it began more than three years ago. Blanket notifications seem reasonable as an efficiency measure going forward.

Finally, despite our best efforts, sometimes we get it wrong. The inspector didn't see the recycling container or the database of hauler account information was not up to date for that account, etc. We've sent out Official Notifications erroneously. When an Official Notification has gone out erroneously and is brought to our attention, we ask the customer to provide some form of receipt showing the service is being provided and update our records. We also apologize for the error and explain what we are doing to prevent such errors in the future.

In early August, Brian Mathews presented an overview of the Phase II Mandatory Recycling enforcement program in contrast to the requirements of AB 1826, (requires organics recycling at businesses of certain types by 2020) to attendees of the California Resource Recovery Association meeting in Los Angeles. As Phase II rolls out, we will likely have the largest locally enforced mandatory recycling program in California.

REUSABLE BAGS

Summary of the Ordinance

The Reusable Bag Ordinance (ACWMA 2012-02) (RBO) was adopted by the Authority Board on January 25th, 2012. The purpose of the ordinance is to reduce the use of single use carryout bags and promote the use of reusable bags at the point of sale in Alameda County. All fifteen member agencies with stormwater management responsibilities, covering the entire County, chose to participate. The ordinance affects approximately 1,288 full-line, self serve retail stores in Alameda County. They include grocery stores, pharmacies, convenience stores that sell milk, bread, soda and snack food, and liquor stores.

Enforcement To Date

Much like the MRO, the RBO ordinance implementation relies heavily on education and outreach rather than on enforcement. Marketing materials, table top and counter displays at check-out locations, posters, post-cards and other informational material have been critical to informing affected businesses and customers of the change. There was an extensive outreach campaign in 2012, prior to the beginning of enforcement in 2013. Enforcement activities are summarized in Table 2.

Table 2: Bag Ordinance Enforcement Activity to Date

Activity	Count
Regulated Parties ¹	1,288
Previous Enforcement Inspections ²	1,368
Notifications Sent ³	207 (16%)
Planned Follow-ups ⁴	207
<ol style="list-style-type: none"> 1. Regulated parties dropped as a result of an inspection which found they did not meet the definition of Store per the ordinance. 2. All covered stores were inspected once by the end of FY 13-14. Inspections are greater than regulated parties per note number 1. 3. Enforcement actions only occur for distributing single use non-reusable bags, or not charging or not itemizing the charge on the customer receipt. 4. 207 Stores will be re-inspected in FY 14-15 using MRO inspection resources. 	

Enforcement Challenges and Lessons Learned

The biggest lesson learned is the unintended consequence of some stores migrating to ‘thicker plastic’ bags which may or may not meet the strict definition of reusable in the ordinance. A second lesson is that the ordinance relies on a definition of reusable bag which can only be determined by laboratory testing and therefore it can be costly to engage in an enforcement action. In addition, the lab tests the Authority has conducted have had mixed results with some bags passing and seemingly identical bags failing. The factors which dictate pass/fail sometimes are as minor as which batch of resin was used or other factors of manufacturing which cannot be anticipated or tested for.

There are many vendors and varieties of thicker plastic bags and issuing citations against those that fail testing would not address the entire problem. It is most often the small corner market that is buying bags by the case who would suffer from a more deliberate enforcement effort. They are buying bags which are being marketed to them as meeting the requirements of the ordinance, and some do and some don’t. The ordinance does not apply to manufactures and distributors where enforcement could affect more of a change. To enforce based on the strict definition in the ordinance would require a significant increase in the testing budget of the project. Laboratory test results would be the evidence to take enforcement action which would hold up to challenge and to show plastic bags did not meet the reusable standard in the ordinance. In the meantime, we point stores to the website which has a list of compliant bags which are available and have been tested. We call this the ‘safe harbor’ list of bags.

The Authority Board will be considering the merits of expanding the ordinance to all retail stores and possibly include restaurants. As proposed by staff an expansion of the project would necessitate a change in the enforcement approach from a routine inspection program to a complaint-based program. Under a complaint-based approach, once a complaint is received the enforcement staff will need to conduct an inspection to verify the complaint and determine

if a violation has occurred. The process for enforcing against violations would conform to the General Enforcement Ordinance adopted by the Authority Board in 2013 and the Reusable Bag Ordinance. As with the current approach resources will need to be dedicated to maintaining the administrative process, but we expect that need to be smaller under the new approach.

FACILITY FEE COLLECTION

The Authority's facility fee of \$4.34 per ton landfilled applied historically only to 'disposed tons' (mostly, conventional waste from residences and businesses) at landfills in Alameda County, or disposed tons hauled by franchised haulers to out of County landfills. [The phrase 'disposed tons' is a term of art created by the CA legislature in 1995 when they created a category of wastes deposited in landfills but not considered as disposed (so-called "beneficial reuse," which includes "alternative daily cover.")]

The Authority Board adopted the Facility Fee Collection Ordinance (ACWMA Ord. 2009-01) in 2009 in order to provide clear administrative procedures for enforcing collection of the facility fee. Prior to adopting the ordinance, the only means of enforcing the fee was litigation. In 2009, the Board expanded the coverage of the fee to all waste (disposed and other) originating in Alameda County and deposited in landfills anywhere in California. This expansion in the coverage of the fee was done to create a more equitable distribution of fee burden across types of waste and landfill locations. However, the fee on "other waste" (contaminated soils, biosolids, auto shredder fluff, and other wastes categorized as beneficially reused by the landfill operator) was sunset as of January 1, 2013 as part of agreements with the two companies that own landfills in County (Waste Management and Republic Services) in exchange for investments in diversion facilities and assistance in designing a more effective fee system.

Collecting the fees on waste exported from the County continues to be challenging. For the most part, once a hauler has been identified and the obligations of the ordinance are made know to them, the hauler generally complies. In FY 2014-15 Authority Staff collected \$273,449 in out of county fees. That figure is less than what was collected in FY 13-14. The fee is enforced in arrears when non-payment occurs. FY 14-15 saw decline in collections as less waste went out of county, or went to landfills which shield the haulers from discovery of waste being disposed.

In FY 14-15 the Facility Fee enforcement team introduced an on-line fee payment program to facilitate a more user friendly and paperless reporting and payment process. The platform is a web-based program which allows regulated entities to register, report and remit the Facility Fee payments on line. The program, MyGov, is widely used in city building departments for project permitting and inspection. Those same features have been customized to track Facility Fee payments and enforcement actions.

To date, the only appeal of a Facility Fee citation occurred in FY 13-14. The amount of the citation was for \$70,983 of which \$66,583 was Facility Fees and the remainder was the fine for

non-payment. The regulated party challenged several aspects of the citation including our authority to issue an administrative citation, the regulated party's obligation under the ordinance, and the administrative process. The appeal process called for a review in front of an appeal hearing officer, arranged by Pat Cabrera in her role as hearing administrator (separate by policy from the ED's role as Enforcement Official), and was held at the Authority offices. Brian Mathews, supported by Authority Counsel, and Alameda County Sheriff's Office contract Investigator Dean Stavert, represented the Authority at the hearing. The regulated party was represented by an attorney who strongly made the case for dismissal. The appeal hearing officer upheld the citation against the regulated party, who then exercised their right under the appeal process to request Superior Court review of the citation. Authority Counsel was then placed in a leadership role for the collection process. Before the calendared hearing was to occur, however, the regulated party sought to settle. The settlement we agreed to was for the full amount of the citation (fee plus fine).

Although the appeal process was new to us, and resource intensive, it was a positive experience overall that validated our enforcement policies and procedures. One lesson learned from the process resulted in a minor modification to future citation language.

Challenges continue for Facility Fee enforcement. To collect fees from fee evaders, solid evidence is required. Obtaining such evidence is a significant work effort, and there are limitations to how effective our fee enforcement can be under current conditions. Options to strengthen our position include statewide legislation, local legislation, or legal actions to obtain information under current laws. These options have been discussed with the Board previously, and we will continue to consult with the Board as we work to more effectively collect fees in the future. Note also that reducing fee evasion is not just a revenue issue, it is also essential to be fair to those who do pay fees.

One very positive effort this year is our work with State Assemblyman Gordon (San Mateo County), CalRecycle, other local government agencies, and the industry, to develop language in Assembly Bill 901 that would significantly improve the data available to local government from disposal facilities for fee collection purposes, and CalRecycle's legal authority to enforce the requirements of the DRS. We are hearing that the legislation is likely to pass.

RECOMMENDATION

This report is for information only.



DATE: September 9, 2015

TO: Energy Council

FROM: Wendy Sommer, Deputy Executive Director

BY: Heather Larson, Program Manager

SUBJECT: PG&E Local Government Partnership: Contract Amendment

BACKGROUND

The Energy Council has an open contract with PG&E for Local Government Partnership activities. Last fiscal year, these activities included sponsoring a multifamily property management training and supporting local Climate Action Plan implementation in the commercial sector. The Energy Council Technical Advisory Group (TAG) has provided ongoing input on their priorities for Local Government Partnership activities and coordination with the East Bay Energy Watch (EBEW).

East Bay Energy Watch is collaboration between PG&E and local governments, non-profit and for-profit energy service providers dedicated to providing energy efficiency solutions for residents and businesses throughout Alameda and Contra Costa Counties. In 2014 PG&E hired an EBEW Partnership Manager to provide management, technical, strategic and administrative support to the EBEW Strategic Advisory Committee (SAC) and its subcommittees. Currently, the Partnership Manager is an independent contractor hired by PG&E. In June 2015 the Partnership Manager, PG&E and the EBEW SAC co-chairs from Alameda and Contra Costa Counties approached StopWaste about serving as a fiscal sponsor for the Partnership Manager.

DISCUSSION

The EBEW SAC is comprised of staff from jurisdictions in Alameda and Contra Costa Counties and, in partnership with PG&E, has decision making authority over the activities and budget of the EBEW programs. The EBEW SAC requested that the Energy Council become the fiscal sponsor for the Partnership Manager. The Energy Council will contract with the Partnership Manager as an independent contractor and revisit this arrangement in one year. The EBEW SAC also approved a budget for the Energy Council to coordinate programmatic activities. The scope of work and budget for these tasks is described in Attachment A.

At its July 21 meeting, the Energy Council TAG discussed the proposal for sponsoring the EBEW partnership manager and indicated their support for it. This arrangement will facilitate strategic

planning and improve coordination of energy efficiency activities throughout the County. Staff will participate in SAC meetings and work directly with the Partnership Manager to integrate program offerings for 2016 and beyond. Immediate program coordination opportunities exist in the commercial, municipal, residential and school sectors.

RECOMMENDATION

Adopt the Resolution in Attachment B authorizing the Executive Director to amend the existing agreement with PG&E by \$202,575 to include the fiscal sponsorship of the Partnership Manager and staff coordination of programmatic activities.

Attachment A

PG&E Local Government Partnership

Additional Scope of Work

Independent East Bay Energy Watch (EBEW) Partnership Manager (PM) Fiscal Sponsorship & Programmatic Coordination

Total Contract Amount: \$ 202,575

East Bay Energy Watch

EBEW is a collaboration between PG&E and local governments, non-profit and for-profit energy service providers in the East Bay dedicated to providing innovative energy efficiency solutions for residents and businesses in communities throughout Alameda and Contra Costa Counties. The Strategic Advisory Committee (SAC) is comprised of representatives of the cities and counties served by the EBEW. In 2016, StopWaste will work with EBEW by administering a sub-contract between PG&E and SAC's Independent Partnership Manager (PM), as well as by coordinating the Agency's programmatic activities with EBEW offerings as described in more detail in tasks 1 & 2 below.

Task 1: Partnership Manager Fiscal Sponsorship (Task 1 Budget NTE: \$178,575)

The EBEW SAC hired a Partnership Manager (PM) in 2014 to provide management, technical, strategic and administrative support to the SAC and its subcommittees. Currently, the PM is an independent contractor hired by PG&E. The term of this contract period is up. The SAC has voted to maintain this management structure by housing the PM at StopWaste in the form of a consultant/fiscal sponsor relationship.

Task 1 Deliverables of Partnership Manager

- Convening the SAC, facilitating meetings, drafting minutes
- Monitoring and reporting on program performance
- Providing strategic and technical guidance on existing and proposed initiatives, including budget allocations and goals, including time-sensitive recommendations to the SAC as conditions change
- Recommending changes to rebate levels, measures and other program rules to maximize program effectiveness
- Preparing program proposals in coordination with existing and prospective energy efficiency service providers
- Preparing EBEW marketing materials
- Maintaining EBEW website
- Preparing other informational materials, including a monthly newsletter
- Coordinating relations amongst PG&E program managers, service providers and PG&E field staff, as needed
- Support the management of AmeriCorps members working in EBEW/Civic Spark partner cities
- Maintain an active presence at the CPUC as it related to policy involving EBEW programs and initiatives
- Seek funding from non-Investor Owned Utility sources

Task 1 Deliverables of StopWaste

- Contract with PM as an independent contractor for the duration of one year (2016-2017)

- Revisit PM's contract with both the PM and SAC June 2016 (at the end of StopWaste's fiscal year)
- Execute and administer agreements with PG&E and Partnership Manager (PM), including legal review and Board approval

Task 1 Due Dates

On-going between January 1, 2016-December 31, 2016

Task 1 Budget of \$178,575 includes \$146,432 for the Partnership Manager salary and benefits, \$14,643 for StopWaste Administrative Overhead, and \$17,500 for expenses and contractor insurance.

Task 2: Programmatic Coordination and Partnership Manager Mentorship (Task 2 Budget NTE 24,000)

The SAC has also approved a scope of work for StopWaste staff as part of their Strategic Energy Resources (SER) budget for programmatic coordination and mentorship of the Partnership manager.

Task 2 Deliverables of StopWaste:

- Meet with Partnership Manager to coordinate EE activities between organizations
- Participate in EBEW SAC and related coordination meetings
- Provide support to Partnership Manager on strategic planning and civic stakeholder engagement
- Connect PM to relevant resources that support the EBEW mission
- Provide guidance and collaboration on pursuing joint funding opportunities
- Assist with challenges facing the PM and discuss pathways to overcome those challenges
- Advise on networking opportunities, support PM's professional and leadership development

Task 2 Due Dates

On-going between January 1, 2016-December 31, 2016

Task 2 budget of \$24,000 includes \$24,000 for StopWaste staff time and expenses related to coordination and mentorship.

Total Contract Budget will be billed to PG&E as follows

Administration	\$73,453.67
Marketing	\$56,310.67
Implementation	\$48,810.67
Strategic Energy Resources (SER) - Energy Council / SAC Coordination	\$24,000.00
Total	\$202,575.00

Attachment B

**ENERGY COUNCIL
RESOLUTION #EC 2015 –**

**MOVED:
SECONDED:**

AT THE MEETING HELD SEPTEMBER 16, 2015

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO AMEND PG&E LOCAL
GOVERNMENT PARTNERSHIP CONTRACT AND OTHER RELATED ACTIONS**

WHEREAS, The Energy Council recognizes that it is in the interest of the local, regional, state, and federal agencies to stimulate the economy; create and retain jobs; reduce fossil fuel emissions; and reduce total energy usage and improve energy efficiency; and

WHEREAS, Energy Council has embarked on an ongoing, coordinated effort to reduce the emissions that cause global warming, improve air quality, reduce waste, cut energy use and save money; and

WHEREAS, the Energy Council has entered into a Local Government Partnership with PG&E to conduct multifamily outreach in Alameda and Contra Costa Counties as part of the East Bay Energy Watch (EBEW) and to provide coordinated climate action plan implementation in Alameda County; and

WHEREAS, PG&E has asked the Energy Council to amend its Local Government Partnership scope of work to include fiscal sponsorship and mentorship to the Independent EBEW Partnership Manager and provide direct Programmatic Coordination with the EBEW; and

WHEREAS, the Energy Council will be awarded \$202,575 to sub-contract with the Independent EBEW Partnership Manager and participate in the EBEW Strategic Advisory Committee (as described in further detail in Attachment A); and

NOW THEREFORE, BE IT RESOLVED, that the Energy Council hereby authorizes the Executive Director to:

1. Enter into all necessary contracts and agreements with PG&E in order to amend the current Local Government Partnership contract and add \$202,575 to that contract
2. Amend the FY 2015/16 budget to reopen Project 1348: PG&E Energy Programs and add \$202,575 to that project
3. Approve any required time extensions, modifications, or amendments thereto
4. Allocate the necessary resources to implement and carry out the amended scope of work

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAINED:

Gary Wolff, PE, PhD
Executive Director

October 2015 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 9:00 AM Programs & Administration Committee <hr/> 4:00 PM Planning & Organization Committee /Recycling Board StopWaste Offices	9	10
11	12 AGENCY HOLIDAY	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28 3:00 PM WMA & EC Meeting	29	30	31

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PEOPLE ON THE MOVE

► SPOTLIGHT

MINNA TAO

Recology

Minna Tao has been promoted to Golden Gate area general manager by Recology, a San Francisco-based waste collection, recycling and composting company. The Golden Gate area includes residences and businesses spanning SoMa to the Presidio.

Tao is the third Asian-American appointed to a top leadership position in recent years at Recology, following the appointment of Sylvia Kwan as board director and Dennis Wu as the board chairman.

Recology is 100 percent employee-owned. "Minna is a champion of our employee-



ownership culture and works closely with our employees to provide outstanding service to all of our customers," Michael Sangiacomo, Recology's president and CEO, said in a statement.

Tao held management positions in operations,

technology, finance and marketing before joining Recology five years ago. She has also served as deputy assessor recorder for the City and County of San Francisco.

During an 11-year tenure at Bank of America, she held various management positions, including senior vice president of e-commerce and interactive banking.

Tao has been co-chair of the Chinese Cultural Center board of directors since 2012 and serves on the East Bay Conservation Corp. and the Alameda Waste Management Recycling Board.

"Minna's outstanding business acumen, integrity, and sound judgment are all qualities we seek in company leaders," Sangiacomo said.

— Todd Johnson

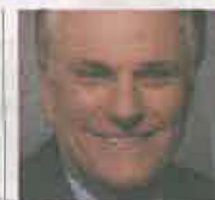
► HEALTH CARE

**John Darbani**

Darbani has been hired as client executive by Freed Associates, in Kensington.

**Jay Wohlgenuth**

Wohlgenuth has been hired as chief healthcare officer by HealthTap, in Palo Alto.

**Bill Marsh**

Marsh has been hired as associate executive director, government relations and care delivery IT by The Permanente Federation, LLC, in Oakland.

► REAL ESTATE

**Jeff Badstubner and Christine Firstenberg**

Badstubner and Firstenberg have been hired as senior vice presidents by JLL, in San Francisco.

**Melissa Bush**

Bush has been hired as sales manager by The Grubb Company, in Oakland.

► MEDIA & MARKETING

**Caitlin Scott and Sarah Hersh**

Scott has been hired as communications counselor by Full Court Press Communications, in Oakland. Hersh has been promoted to vice president. Previously, Hersh was senior communications counselor.

**Keith Kawahata**

Kawahata has been hired as vice president and general manager of role playing games by GREE International Inc., in San Francisco.

► GOVERNMENT

**Jim Steele**

Steele has been promoted to assistant city manager by the city of South San Francisco. Previously, Steele was finance director.

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Waste Dive

What happens when our oceans become landfills?

By Linda Tufano | July 23, 2015

As the nation focuses on recent [shark attacks](http://www.usatoday.com/story/news/nation/2015/06/30/shark-attacks-east-coast/29519371/) that have shaken coastal communities, an even bigger problem is lurking in the water: the overwhelmingly large amount of trash that is harming both marine life and humans.

Some huge numbers have been [reported](http://news.nationalgeographic.com/news/2015/01/150109-oceans-plastic-sea-trash-science-marine-debris/) to demonstrate the enormous impact that this pollution has on Mother Earth:

- 5.25 trillion: the number of pieces of plastic in the world's oceans.
- 269,000 tons: the amount that floats on the surface.
- 4 billion: the number of plastic microfibers per square kilometer in the deep sea.

But perhaps the most effective number is 1.

A picture of one snapping turtle named [Mae West](http://www.planetexperts.com/meet-the-famous-turtle-with-a-serious-plastic-problem/) recently made the Internet rounds when she was settled into a new home at the Star Eco Station in Culver City, CA. As a hatchling, Mae West walked into a plastic milk jug ring and couldn't shake it. As she grew, her shell became deformed, giving her an hourglass shape.



Credit: [Gyres Institute](http://www.planetexperts.com/wp-content/uploads/2015/07/turtle.png)

Thousands of other marine animals like Mae West, including seabirds and whales, are suffering from the hazards of plastic pollution through choking, intestinal blockage and starvation. At least 267 species are [affected](http://www.cleanwater.org/feature/problem-of-marine-plastic-pollution/), including 86% of sea turtle species, 44% of seabird species and 43% of marine mammal species.

The victims of plastic pollution

The harm of plastic doesn't stop in the ocean. Scientists are investigating the long-term effects of plastic pollution on human health from consuming toxic pollutants in fish and other marine life.

Oceanographer and chemist Charles Moore of the Algalita Marine Research Foundation says the chemicals in plastic can potentially cause [cancer](http://news.nationalgeographic.com/news/2009/08/090820-plastic-decomposes-oceans-seas.html) in humans.

Rolf Halden, associate professor in the School of Sustainable Engineering at Arizona State University, says it is almost impossible to determine the exact health effects of plastic on humans because the contamination is [global](http://serc.carleton.edu/NAGTWorkshops/health/case_studies/plastics.html) — there are almost no humans who have not been exposed.

Where does the trash come from?

Tony Haymet, former director of the Scripps Institution of Oceanography, told National Geographic in 2014 that the best way to keep plastic out of the ocean is to persuade people to [stop littering](http://news.nationalgeographic.com/news/2014/04/140414-ocean-garbage-patch-plastic-pacific-debris/) — which may be easier said than done.

An estimated 80% of ocean plastic comes not from marine sources like discarded fishing equipment, but from beach litter that washes out to sea or is carried downstream in rivers, according to a three-year study by CSIRO (<http://www.csiro.au/>), Australia's national science agency. About half of that litter is plastic bottles; most of the rest is packaging.

In order to eliminate the beach litter, lawmakers must trace back to the source of the trash: consumers. States and municipalities are turning to new legislation, such as plastic bag bans, to halt the destructive effects on the environment.

California became the [first state](http://www.wastedive.com/news/history-is-made-ca-passes-first-statewide-bag-ban-in-us/315570/) (<http://www.wastedive.com/news/history-is-made-ca-passes-first-statewide-bag-ban-in-us/315570/>) to ban single-use plastic bags. "This bill is a step in the right direction," said Gov. Jerry Brown when he signed the law last year. "It reduces the torrent of plastic polluting our beaches, parks, and even the vast ocean itself. We're the first to ban these bags, and we won't be the last."

The Container Recycling Institute favors [bottle-deposit laws](http://www.bottlebill.org/about/benefits/waste.htm) (<http://www.bottlebill.org/about/benefits/waste.htm>), which have been enacted in 10 states. Beverage makers oppose these laws, citing an increased cost of beverages. The CRI [reports](http://www.container-recycling.org/index.php/issues/bottled-water) (<http://www.container-recycling.org/index.php/issues/bottled-water>) that states that have a bottle law recycle 490 containers per person, while states without a deposit recycle 191 containers per person.

Additionally, the U.S. State Department announced its [Trash Free Waters](http://water.epa.gov/type/oceb/marinedebris/) (<http://water.epa.gov/type/oceb/marinedebris/>) program last year, which uses sustainable product design, material recovery, and reuse of materials to eliminate waste before it gets to the ocean.

But what about the trash that's already in the ocean?

Boyan Slat, 20, founder and CEO of [The Ocean Cleanup](http://www.theoceancleanup.com/blog/show/item/worlds-first-ocean-cleaning-system-to-be-deployed-in-2016.html) (<http://www.theoceancleanup.com/blog/show/item/worlds-first-ocean-cleaning-system-to-be-deployed-in-2016.html>), announced in May that his system to passively clean up plastic debris from oceans will be deployed in 2016, possibly off the coast of Tsushima, an island between Japan and South Korea.

His [Ocean Cleanup Array](http://www.wastedive.com/news/teen-invents-machine-that-could-eliminate-pacific-garbage-patch/276062/) (<http://www.wastedive.com/news/teen-invents-machine-that-could-eliminate-pacific-garbage-patch/276062/>) uses solar panels and "arms" to direct plastics into a tube without harming ocean life. The machine costs an estimated \$43 million a year.

The corporate interest of eliminating ocean debris

In order to make an impact on the ocean cleanup, several companies are working to create usable products from salvaged plastic.

German apparel maker Adidas has created a prototype for a sustainable [shoe](http://www.huffingtonpost.com/2015/06/30/adidas-shoe-made-of-ocean-trash_n_7699632.html) (http://www.huffingtonpost.com/2015/06/30/adidas-shoe-made-of-ocean-trash_n_7699632.html), making its upper from yarns and filaments reclaimed from illegal deep-sea gillnets and other ocean waste. The product is the first to come out of the company's partnership with [Parley for the Oceans](http://www.parley.tv/#unxparley) (<http://www.parley.tv/#unxparley>).

The shoe is not yet for sale, but the company reportedly will begin using recycled plastic in its shoes by early next year.

Professional surfer Kelly Slater's sustainable menswear label, Outerknown, has launched the [Evolution Series](http://ecowatch.com/2015/07/20/kelly-slater-outerknown/) (<http://ecowatch.com/2015/07/20/kelly-slater-outerknown/>) of board shorts and jackets made from Econyl, a nylon yarn made from nylon waste including old fishing nets.

Even musicians have been investing in the cause. Last fall, Pharrell Williams launched G-Star's [RAW for the Oceans](http://rawfortheoceans.g-star.com/) (<http://rawfortheoceans.g-star.com/>) line of clothing that creates denim using what Williams has dubbed "Bionic Yarn," made from recovered ocean plastic.

"I have a connection with the ocean," Williams says on the product's website. "It yields so much life including our own. So we owe it."

So, what's next?

More of the same, if humans do not change their habits.

In 10 years, the amount of plastic entering the oceans could [double](http://www.rsc.org/chemistryworld/2015/02/plastic-waste-entering-worlds-oceans-set-double) (<http://www.rsc.org/chemistryworld/2015/02/plastic-waste-entering-worlds-oceans-set-double>) to an alarming 8 million tons. Efforts to remove it through technology and finding ways to reuse reclaimed plastic are exciting, but do not solve the problem entirely.

"It is not a question of either cleanup or prevention," says [Slat](http://www.outsideonline.com/1999216/ocean-doubt/) (<http://www.outsideonline.com/1999216/ocean-doubt/>). "It's cleanup and prevention."

Top Image Credit: [Flickr](https://www.flickr.com/photos/epsos/5444678656/) (<https://www.flickr.com/photos/epsos/5444678656/>)

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[Markets & Policy](#)

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Listen Up America: You Need to Learn How to Recycle. Again.

Recycling is one of the first post-industrial successes that mixed environmentalism with business. Instead of being buried underground, certain types of waste stream from consumer's homes to special facilities to be sorted by type, broken down, and shipped off to manufacturers to begin life anew. Recycling makes environmental *and* economic sense.

Or at least, it did. Sure, Americans are recycling more than ever before, but the business side of things is in a lull. Some recycled goods just aren't worth as much as they used to be, and the downturn has hit the industry hard. Companies have reported losses in the millions, some have shuttered facilities, and several are talking about renegotiating contracts so cities help foot the bill. There's no easy solution. But it sure would help if Americans relearned how to recycle.

Don't believe me? Listen, you don't know how to recycle:

- "I just think we need to be focusing more on the education." — Amy Perlmutter, Perlmutter Associates, a recycling consulting firm.
- "It always goes back to education." — Steve Sargent, director of Rumpke Recycling.
- "Maybe a better way to look is if we can better educate everybody that what they can put in their bin is recyclables that would be better." — Jason Pelz, vice president of recycling projects with the Carton Council of North America.

How the heck do you mess up recycling?

Selling out

It's best to start from the other side, the output. Recycled goods are used to make new products. That means they have to compete in commodities markets, and right now those markets aren't doing so hot. "We're experiencing the longest historic drop in commodities values in the residential recycling market," says Sargent, of Rumpke. In the last five years, the average price for all the recyclables Rumpke sells back to the market has dropped from \$140 to \$70 or less.

Aluminum is down. Paper is down. Plastics are down. The whole industry is down. In its second quarter earnings statement, recycling industry behemoth Waste Management posted a \$59 million loss. And just like in any business, the best way to solve that is leaner operations. The company has closed down several sorting plants. That's the breaks.

On top of that, second hand commodities is a buyer's market, which means the goods have to be top quality. But recyclables that aren't well sorted become contaminated—flattened pieces of plastic getting

mixed in with the paper, for instance. So sorting plants, where all the things you throw into your recycling bins get conveyer-ed into various categories, compressed, and baled for sale, are crucial. Sorting plants are formally known as materials recovery facilities—or “murfs” (MRFs) if you’re in the biz. Go ahead and giggle. I did.

Cross contamination in these plants is a big problem, so much so that some have tried to trace back all of recycling’s issues to the ubiquitous blue bin. “Single stream recycling results in a doubling of contamination rates,” says Susan Robinson, Waste Management’s director of public affairs. But it also gets more people to participate, which is the main reason why fewer and fewer cities are asking you to sort. In the end, the big blue bin is still boss.

But sorting’s biggest menace isn’t cross-contamination, it’s non-recyclables that come along for the ride. “The single biggest problem material at recycling facilities are plastic bags,” says Robinson. “We get a surprising number of garden hoses, Christmas lights, and shower curtains,” says Robinson. “All those materials wrap around equipment, sometimes for hours,” resulting in hours of lost productivity while the material is fished out.

It’s not even that people are being lazy. Rather, Americans are in some ways too enthusiastic about recycling. “One thing we’ve learned is that people do a lot of wishful recycling, where folks want so bad to recycle so they throw things in by default,” says Anderson.

Which means it’s the recycling industry that’s not doing a good enough job at letting people know what is not allowed. Part of this is messaging. “Sure, plastic bags can technically be recycled, by taking them back to the supermarket,” says Amy Perlmutter, the recycling consultant. But she says a lot of people think it’s equally OK to put them in the bin. Likewise, the recycle symbol on the bottom of your plastic soda bottle is a code so manufacturers know where the bottle came from, not instructions for you about where to put it when it’s empty.

Added to the mixed messages are absent messaging. Hoses and shower curtains are plastic, too, so hey why not? And Christmas lights are... Ok, c’mon seriously who’s putting fricking Christmas lights in the recycle bin?

Sorting right

Which brings us back to you, the American who needs a recycling reeducation. Company after company, spokesperson after spokesperson, all told me that they were toiling away at how to keep consumers up to date on what is and is not allowed in the bin. The industry is focused on educating consumers, because their livelihood depends on it. They mentioned fliers, newspaper ads, websites, and social media, but none had a good way to reach you, nor did they have a comprehensive list of what-is-or-is-not-recyclable. Why aren’t you getting the message?

Partly, because what-is-or-is-not-recyclable is always changing. Some of this is market driven. “My job would be so much easier if every couple of months I wasn’t telling people ‘Oh no that’s not recyclable

anymore because the market has changed’,” says Tony Hair, Portland State University’s waste management coordinator.

And some of it is geographic, because every community has different standards for what can and can’t be recycled. “I think a standardized, nationwide list of what’s recyclable would be great, but every community is different,” says Derric Brown, vice president of sustainability at the Carton Council (PROTIP: Don’t crush your cartons before you recycle them, otherwise they’ll get sorted in with normal paper!)

The recycling industry is justifiably concerned about how to keep their profits intact. But you should care, too, and not just for environmental reasons. Those recycling economics could come full circle, back to you. In many places, recycling is part of the cultural identity. In many others, it’s the law. Even in the worst case scenario—commodity values stayed low, contamination rates high—cities won’t abandon the practice. Instead, they’ll have to help with the bottom line.

Already, Waste Management and Rumpke have renegotiated contracts with some cities where commodities sales are no longer offsetting operating costs. “Who is going to pay that cost? It’s going to be the government through taxes,” says Jerry Powell, executive editor of Resource Recycling, an industry magazine. And in some places, these costs will go directly to rate payers, depending on how much they recycle.

Of course, it’s not just up to you to get smarter. The recycling industry at large is still relying on low tech gadgets like magnets, fans, and human hands to sort the myriad—and changing—streams of recyclable waste. The biggest trend in modernization is new technology, like optical scanners. Which should help sort out all your bad recycling habits, even if you don’t manage to unlearn them.

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RECYCLING IS NOT DEAD!



An industry expert explains how commodity prices and material shifts have created a major pinch for MRFs—and details the straightforward path back to profitability. BY PATTY MOORE

Recently, we've seen many reports of the ruination of recycling due to low oil prices. This is nothing new: A quick Internet search shows recycling's death has been predicted whenever scrap prices fall.

Prices are now slowly recovering, yet the doom-and-gloom has not abated. Why? Quite simply, the material mix has changed and MRF design has not kept up with the change. MRFs are still predominantly built to separate two-dimensional paper items from three-dimensional bottle and container products.

This existing MRF design served the recycling industry well in the last 10 years. According to EPA data, we recycled 22 million more PET and HDPE bottles, aluminum cans and glass bottles in 2012 than we did in 2005—that's an increase of 30.5 percent, in units. Furthermore, we recycled 4,710 tons more cardboard in 2012 than we did in 2005, an increase of 21.3 percent.

Our generation of non-packaging paper dropped by 12,370 tons, or 19.4 percent, between 2005 and 2012, while the recovery rate for that type of material increased from 31 percent to 33.6 percent. It's worth noting that the significant recycling growth across major material categories happened at a time when per capita waste generation dropped by 8 percent.

So why are we hearing about the demise of recycling? Put simply, a series of factors has driven up the cost to recycle, escalated material loss at MRFs and increased contamination of recyclables, lowering yields.

The heavy effects of lightweighting

Demand for sustainable products and packages ballooned in the last few years. Many brand owners have seen that one of the best ways to reduce greenhouse gas emissions is to create lighter products and packaging. Such aspirations often mean a switch to plastic or lightweight existing products: Pouches as well as thinner bottles and

containers are examples of this change in the marketplace.

Lightweighting, alongside the noted drop in newspaper readership and printing and writing paper use, sparked a situation where the percentage of paper in the recyclable material mix dropped significantly. MRF operators, of course, observed this change in packaging, and they initially saw profit opportunities. Plastic products have very high scrap values per ton—the second-highest of all traditionally recycled materials (behind only non-ferrous metals)—and markets and demand for most plastic materials have shown continued strength.

Thus, MRFs welcomed the expanded material mix. When scrap prices were high, we all were happy. But the recent downturn of prices for all commodities and the concurrent increase in demand for quality—due in part to China's Operation Green Fence—revealed that high prices were covering a multitude of sins. To arrive at tonnage and value levels on par with previous years, MRFs must move significantly higher volumes of today's lightweighted materials through their systems and that typically means significantly higher costs.

Now bring in the traditional 2-D/3-D MRF design noted earlier and you have an even more complex issue. With lightweighting and package changes, the line between 3-D rigid bottles and containers and 2-D paper is very blurry. Think about items like multi-laminate pouches and other modern plastic products. Clearly multiple forces are wreaking havoc on bottom lines.

Seeing plastic as paper

An industry research effort called the MRF Material Flow Study was recently commissioned by the Carton Council, American Chemistry Council, Association of Postconsumer Plastic Recyclers and the Foodservice Packaging Institute. The study documents that overall loss rates of 3-D containers into the 2-D paper commodities varied from 2 percent to 12 percent, and total material loss—into residue

and other commodities – was even greater.

The study notes that “materials that held their shape had a higher tendency to flow to the container line [and be recovered] than those that flattened. Lightweight water bottles had a loss rate of 15 percent.” In short, a number of 3-D products and packages are being treated as 2-D paper in the processing stage. This phenomenon results in two problems: loss of recyclables and increased contamination. Bale quality has dropped, and that’s led scrap reclaimers to push back because they cannot operate profitably with low yields. The industry’s outdated separation technology can no longer be relied upon.

In fact, I believe the most pressing issue in recycling today is the lack of MRF separation technology that reflects the change in our material stream. It’s clear we need significant research and development and capital investment into post-consumer material separation infrastructure that reflects the sustainability-driven product and packaging mix of today and tomorrow.

And as we are developing the technology, we have to address the hard questions around how to structure the costs and benefits of recycling. In other words, who should pay for our materials recovery

systems and innovations and who should benefit? What materials make sense to collect curbside? And are there alternatives to curbside collection that are more appropriate for some materials?

Our industry will thrive again

Recycling is expanding: Every year we are collecting and recycling more material types and more volume. Billions of dollars are invested in the capacity to collect, separate, reclaim and use recycled materials in place of virgin products. And the U.S. recycling industry employs millions of people.

Scrap prices will always fluctuate, and the industry can certainly withstand the modern climate. Recycling will thrive again once we upgrade our collection and separa-

Loss rate of packaging materials to the paper streams

Form	Average loss rate to paper stream	Loss rate at best performing Single-stream MRF
Plastic bottles	5 percent	2 percent
Plastic cups	10 percent	3 percent
Plastic containers	12 percent	2 percent
Plastic clamshells	29 percent	12 percent
Asseptic and gable top cartons	18 percent	0 percent

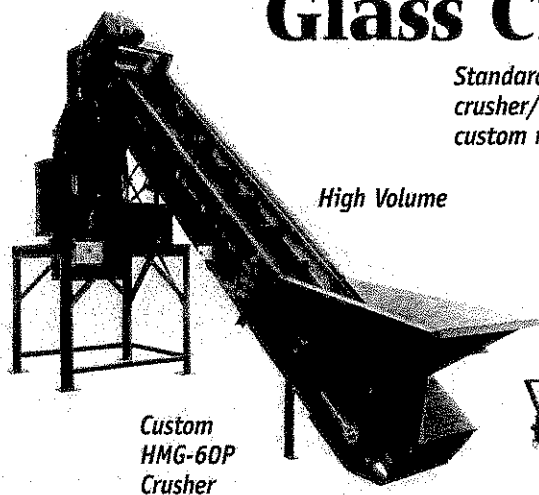
Source: MRF Material Flow Study, 2015. Consultancy RRS served as primary contractor.

tion systems with technology that focuses on the changing material mix. No natural system evolves without the re-utilization of resources. There is no waste in nature, and it’s time for our own industry and society to take a page from that ecological playbook. **RR**

Patty Moore is president of Moore Recycling Associates Inc., a consulting and business management firm established in 1989. Moore began working in the recycling industry in 1983. She is a fierce advocate of recycling and can be contacted at patty@moorerecycling.com.

Glass Crushers

Standard Units, combination type crusher/conveyor, modified and custom manufactured.

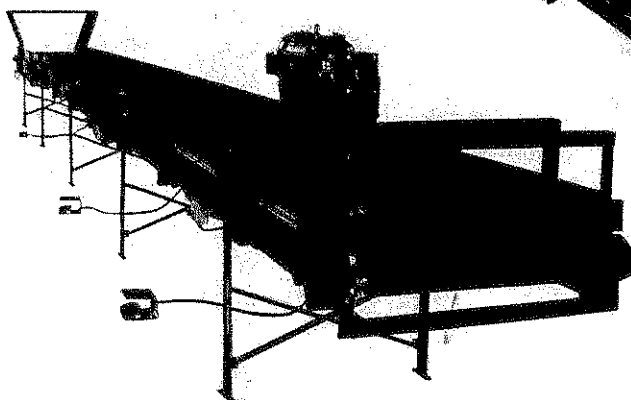


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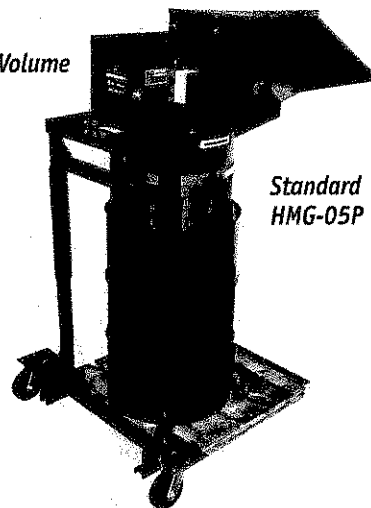
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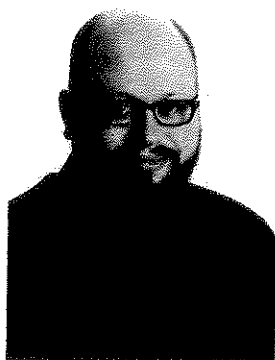
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Editorial Perspective



Got to be real

It's not often that recycling makes it into the mainstream news. There are the big stories (China's Operation Green Fence) or novel one-offs (a shoe being thrown at Hillary Clinton at the ISRI convention last year), but usually the news items are simple communication pieces letting folks know they should keep plastic bags out of their bins or toss more types of plastic into them.

Well, we've been on a run lately, with recycling making it to the mainstream media again, and most of the news is not good. A recent article in The Washington Post breathlessly talks about recycling being ruined by the "big blue bin." The story was even shared in my Facebook feed by a non-industry friend.

The article stays focused on how little money cities and companies are currently making from curbside recycling, and it notes single-stream collection (alongside fallen commodity prices) is at the root of the problem.

The Post story followed a flurry of articles following a panel of hauling executives at last month's Waste Expo, which inspired headlines such as, "'Heavy Hitters' in waste management call recycling 'broken model.'" These stories also declaimed single-stream collection as the ill that is causing all of recycling's woes.

"It's the single-stream, high-volume residential stream that's completely broken," David Steiner, CEO of Waste Management, commented. "We all screwed it up."

Certainly, single-stream collection of recyclables has its issues – as I've mentioned here before, I'm a fan of the glass-on-the-side, "single-stream plus" model – but the issue isn't necessarily dual-stream vs. single-stream. The issue is how we view recycling in general.

Nearly all the recent alarm-raising recycling articles have been predicated on the notion that recycling should be making cities and companies money hand-over-fist. While I might quibble with writers who compare recycling profits made at peak market conditions to those posted in the current climate, mostly I want to push back against the idea of recycling as a huge profit center.

Does recycling create jobs? It sure does. Is it better for the environment and the economy than landfilling? Yup – many studies have shown this to be the case. But does it happen at no cost? Of course not.


There are costs to recycling, plain and simple. And I'm of the opinion that we shouldn't hide those costs. We should be up front about what society gains from recycling, and we should be clear that there are costs involved.

Recycling programs, MRFs and recycling trucks don't run on pixie dust. There are costs to collect and process recyclable materials – just as there are on the other side of the end-of-pipe equation – and those costs are fixed or rising. The monies that come from the sales of commodities fluctuate (sometimes widely), of course, and there's the rub.

But it's not an unfixable situation. As Patty Moore writes on page 26 of this magazine, "Recycling is not dead!"

There are quite a few hard questions being asked right now. Does glass belong in single-stream? How do we pay for increased recycling education? How do we manage new packaging types in the material stream? Lots of smart folks are trying to develop answers in those areas.

But we can try and answer those hard questions without tearing down what we have already built. The cost of recycling is not a cuttable line item.


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Wendy Sommer

From: cpsc-stakeholders-listserv@googlegroups.com on behalf of Heidi Sanborn
<Heidi@calpsc.org>
Sent: Wednesday, August 19, 2015 11:41 AM
To: CPSC Stakeholders List (cpsc-stakeholders-listserv@googlegroups.com)
Subject: FW: [UPSTREAM RU] HEIDI SANBORN: What Does the Supreme Court Alameda Ruling Mean for EPR and the Waste Industry?

"Products widely covered by EPR in other countries include e-waste, batteries, solvents, pesticides, solar panels, paint and even product categories as large as packaging. ... based on the calls being received at CPSC, we suspect there will be more ordinances in more states covering more products than pharmaceuticals."

Waste Advantage Magazine

August 2015

EDPR

Supreme Court Stays Alameda Ordinance that Producers Share in Responsibility for Product Waste: What Does That Mean for the Waste Industry?

The paradigm change to shared responsibility systems is not easy, but worth doing. We need to work together to be successful at reducing waste and the negative impacts of waste, and move to a more circular economy where we provide a positive and viable alternative to the "make, take, dispose" linear economic model we have now.

By Heidi Sanborn

As we all know, local governments and service providers are struggling to meet the public demand for services and trying to do more with less. One such example is public utilities trying their best to prevent household hazardous waste (HHW) from disposal via the garbage or flushing, but that is a real challenge and is costly knowing the variety of issues that come with products such as pesticides, batteries, needles and pharmaceuticals. Many problems are associated with safely collecting and managing some products translates into high costs; we have heard stories from jurisdictions that literally stop advertising their HHW collection

program because they can't afford to increase collections. California Product Stewardship Council (CPSC) is working with the National Association of Counties and counties like Alameda, San Francisco, San Mateo and their hauling companies in the hopes to work to find solutions where producers of products share in the responsibility to reduce public impacts at the source and help provide more convenient collection opportunities with no charges at point of disposal. CPSC is a powerful network of local governments, non-government organizations, businesses and individuals supporting policies and projects where producers share in the responsibility for managing problem products at end of life. CPSC's Board includes a producer of needles, haulers (such as Marin Sanitary Service and Republic Services), a hospital and local governments including Los Angeles County and the rural county of Tehama.

Leading the Paradigm

Extended Producer Responsibility (EPR) is supported by 26,160,171 Californians. That's more than 67 percent of the state population and includes cities as big as Los Angeles and as small as like Arvin. California has passed 138 resolutions by local jurisdictions and organizations supporting a more sustainable and toxic-free environment through product stewardship.



From left to right: Judge M. Christen, Judge N.R. Smith and Judge Piersol. Inset: Arthur J. Shartsis representing Alameda County.

Photo courtesy of the California Product Stewardship Council.

California and other states are looking to the producers, retailers and others in the product chain to assist with funding collections and public education for the proper management of problematic products in water such as pharmaceuticals and needles. California passed legislation on mercury thermostats in 2008, reducing copper in brake pads and recycling carpet and paint in 2010, and mattresses in 2013 to ensure producers have some share in the responsibility. However, passing statewide legislation for products where the producers do not want to share in any responsibility is hard to do, even when they have done it in many other countries for more than two decades.

California is leading the U.S. in this paradigm shift to producers sharing in the responsibility and the “legal rules of the road” are being laid down per CPSC’s press release on the Alameda County Ordinance being

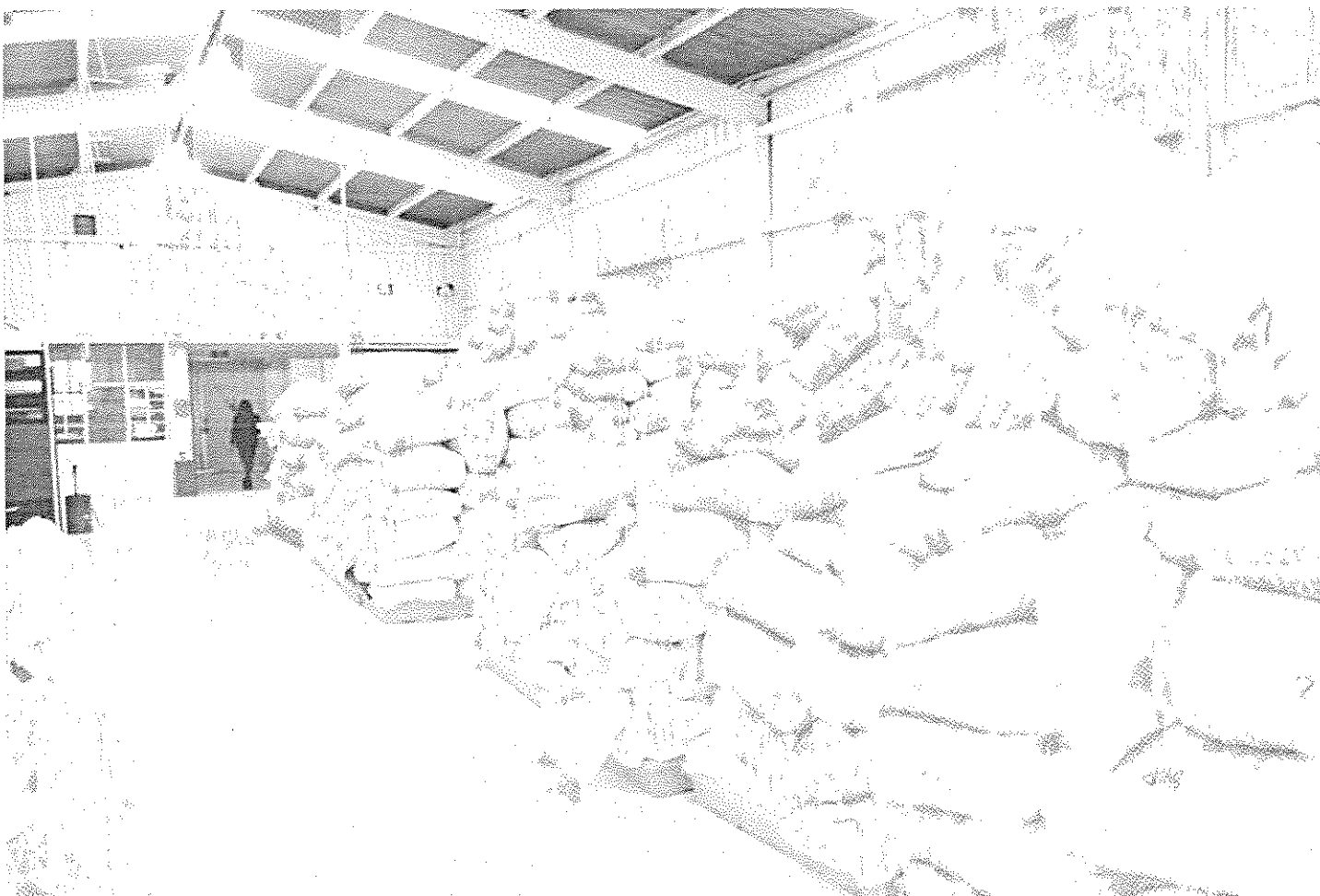
upheld when the Supreme Court refused to hear the case on May 26, 2015. King County, WA (www.takebackyourmeds.org) also passed an EPR ordinance for medicines in 2013 and was sued by the same pharmaceutical associations, and it was also upheld.

The video of the hearing posted on www.calpsc.org is worth watching for 40 minutes (it starts 1 hour 2 minutes into the proceedings), as the court decided whether any county or local government can pass legislation that will make the manufacturers of pharmaceuticals or any product, share in the responsibility for its lifecycle costs. In the case of prescription drugs in Mexico, Brazil, Canada, France, Spain and other countries, the programs are funded by the pharmaceutical companies who design the collection, which has always been done by the pharmacies. CPSC has developed fact sheets on how those countries' programs work posted at <http://calpsc.org/products/pharmaceuticals>.

This case is just the beginning of the movement towards producers sharing the responsibility for a wide variety of products. As the appellant lawyer Michael Carvin, stated "There are 3,000 counties in the United States. If this court upholds this statute, what county is not going to go for this deal? What county is not going to say 'I can either charge a lot of out-of-state pharmaceutical companies or I can charge the taxpayers who are going to re-elect me next time for this kind of waste disposal?'"

Impacting the Solid Waste Industry

So how does this impact the solid waste management industry? Now that the Alameda, CA and King County, WA ordinances have been upheld, every local government will be able to regulate to make producers pay for management systems for their end of life products—for any products not just pharmaceuticals. The floodgates have opened and just in the last few months, San Francisco, San Mateo and Santa Clara counties have all adopted similar ordinances for safe medicine disposal. In addition, Los Angeles County and Santa Barbara have begun public discussions about doing the same and Los Angeles is considering sharps/needles as well



"With containers in the large pharmacy chains, it's easy to find a place to drop off these expired or leftover products," says Jose Antonio Aedo, General Manager of SINGREM.
Photo courtesy of SINGREM and José Antonio Aedo Sordo.

So what about sharps—will they be next for an EPR approach? Sharps are a health and safety issue for the industry; a recent study documented that 7 percent of users still flush needles as a disposal method. A new report titled "Sustainable and Safe Recycling: Protecting Workers Who Protect the Planet" produced by the National Council for Occupational Safety and Health in partnership with MassCOSH, Partnership for Working Families and GAIA, states, "Growth in the recycling economy has the potential to not only conserve the environment, but also create 1.5 million new jobs. However, research indicates that recycling work can be dangerous, with injury rates more than double the national average." This report lists needle sticks as a significant issue on sort lines, but EPR policies to reduce them from ending up in the trash in California died two years straight due to producer opposition and denial—that it is a problem. The court ruling may entice local governments to start implementing EPR ordinances for needles—or maybe the hauling community will request this to help increase proper collections so that they don't end up on the sort line. In several provinces of Canada, sharps are managed and paid for by the pharmaceutical and sharps producers through the Health Product Stewardship Association of Canada. Why can't the same companies that do it in Canada and Mexico provide the same sharing of responsibility in the U.S. What other products are ending up in waste streams and water where producers could help by redesigning the product or paying for cleanup?

There are many products that might be ripe for an EPR approach such as those that currently do not have a market, are problematic/costly to manage, and have negative health and environmental impacts. Products widely

covered by EPR in other countries include e-waste, batteries, solvents, pesticides, solar panels, paint and even product categories as large as packaging.

A Positive and Viable Alternative

The paradigm change to shared responsibility systems is not easy, but worth doing, and we need to work together to be successful at reducing waste and the negative impacts of waste. We need move to a more circular economy where we provide a positive and viable alternative to the “make, take, dispose” linear economic model we have now. EPR is a policy approach that is a tool towards driving a more circular economy like Denmark has done while achieving a 60 percent recycling rate and creating jobs and closed loop recovery systems.¹ As described in the new report by the Ellen MacArthur Foundation titled “Delivering the Circular Economy—A Toolkit for Policy Makers”, Denmark has much more it can do, but it is a leader and is showing the way to how we can drive a circular economy through policy changes that support the change, and EPR is one of those approaches.

Will other counties and cities across the country start adopting EPR ordinances for pharmaceuticals, sharps and other products? Will producers of these products now offer a voluntary solution? We don't know for sure, but based on the calls being received at CPSC, we suspect there will be more ordinances in more states covering more products than pharmaceuticals. We will continue to share the latest policies developed with others across the country to reduce costs, collect and properly manage more product waste to protect public health, promote worker safety and the environment. | [WA](#)

Heidi Sanborn, M.P.A. is the Executive Director of the California Product Stewardship Council (Sacramento, CA). Heidi has worked in the solid waste field in California for 23 years starting as a consultant, advisor to the chair at the California Integrated Waste Management Board and was a founding director of CPSC. She can be reached at (916) 706-3420 or heidi@calpsc.org. For more information on sharing responsibility systems and how they are working or how to become engaged on this issue visit CPSCs Web site at www.calPSC.org.

Note

“Delivering the Circular Economy—A Toolkit for Policy Makers”, Ellen Macarthur Foundation 2015 p. 91.

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California Adds Fourth R—Refill—to Keep Propane Tanks Out of the Trash

[Elizabeth McGowan](#)

Mon, 2015-08-24 03:37

Five months ago, a fire at the materials recovery facility (MRF) in Sunnyvale, Calif., destroyed \$3,000 worth of cardboard and shut down the processing plant for three hours.

The culprit? A small propane gas cylinder exploded on March 17 when crushed within a bale of curbside-collected tin cans. Sparks ignited 30 tons of shipment-ready recyclable cardboard nearby.

Californians are supposed to take one-pound cylinders—which power everything from camp stoves, lanterns and heaters to scooters, boat engines and lawn care equipment—to hazardous waste collection events. However, thousands are deposited in trash and recycling bins annually.

For instance, workers yanked 5,000 canisters off the sorting lines at the Sunnyvale MRF in 2014, says Karen Gissibl, the city's environmental programs manager. The MRF also serves the Bay area cities of Palo Alto and Mountain View.

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"They are dangerous and as soon as they hit the tipping floor, they are being handled," Gissiblsays. "That exposes all waste workers to this potential hazard."

Californians purchase some 4 million of the 40 million disposable one-pounders sold annually nationwide, according to industry estimates. To keep them out of the wastestream, the Golden State is promoting small refillable canisters that make reuse as simple and routine as exchanging the 20-pound propane containers that fuel barbecue grills.

Enter Kamps Propane. The 46-year-old company, based east of Oakland in Manteca, has taken a leadership role with a statewide campaign called Refuel Your Fun, funded with a CalRecycle grant. About a year ago, Kamps devised Little Kampers, refillable one-pound cylinders that can be bought and traded in via the company's network of retail outlets and exchange services.

"We see the marketplace favoring refillables as an intelligent environmental and economic alternative," says Josh Simpson, marketing director at Kamps. "The convenience of disposables will always have a place but volume will be reduced when people know you can save money and stop waste."

Disposable one-pounders cost up to \$9 at discount stores and sporting goods stores, while the refillable Little Kamper has a price tag of \$11.99, Simpson says. Each exchange is \$1.99, so users doing the math soon realize the cost-effectiveness.

Kamps, which buys its refillable canisters from Flame King, is indebted to the Los Angeles branch of that business for designing one-pound cans that meet U.S. Department of Transportation safety standards.

Earlier this month, the California Product Stewardship Council recognized Kamps with an achievement award for its initiative in rallying producers, distributors, retailers, public agencies and other stakeholders around the refillable cause.

“This isn’t going to make them rich,” Heidi Sanborn, CPSC executive director, says of Kamps. “Instead, they’re trying to do the right thing.”

She is hoping this California model of a cradle-to-cradle system that favors refilling over trashing will be duplicated nationwide.

One-pound disposables—which can be recycled like any other steel once they are freed of gas by qualified hazardous waste experts—have become an eyesore and a financial headache at iconic landmarks, Sanborn says.

For instance, Sequoia & Kings Canyon National Parks spent \$2,656 for proper handling and recycling of the 2,125 cylinders it collected last year. And the Sunnyvale MRF spent upward of \$144,000 to properly dispose of the 16,000-plus cylinders workers pulled from sorting lines between 2010 and 2013, Gissibl says.

Communities such as Sunnyvale have spent grant money educating the public about keeping disposables out of the trash and recycling. The city also is collaborating with Sanborn’s organization to encourage citizens to switch to refillables and support retailers that offer refill and exchange services.

Kamps, Flame King and Manchester Tank are the three manufacturers of refillables listed on the Refuel the Fun Web site. One of its newest online additions is a template for a letter or postcard that residents can send to encourage sporting goods stores, discount stores and other retail outlets to do their part on the refillable front.

“We’re a small company with a small footprint,” Simpson says about Kamps, which provides wholesale, retail and resale propane distribution statewide. “We’d love for other retailers to offer refillables because it’s consistent with good product stewardship. That way we’ll let the market take it to scale on volume.”

He emphasizes that residential and commercial propane customers don’t throw away their economy-size tanks when they run out of fuel—they reuse them.

Energy companies are often barked at for not being models of sustainability, Simpson says, but advancing the cause for refillable cylinders allows Kamps an opportunity to be recognized for something beyond donating money to community programs.

“I grew up in California, our company is based in California and year-round recreation is a big part of being a Californian,” he says. “This was something bigger and much more interesting and challenging. We felt we needed to take a swing at it.”

Source URL: <http://waste360.com/legislation-regulation/california-adds-fourth-r-refill-keep-propane-tanks-out-trash>

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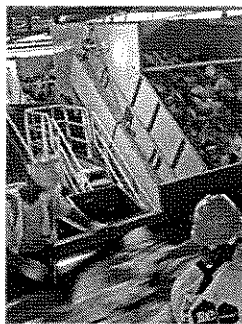
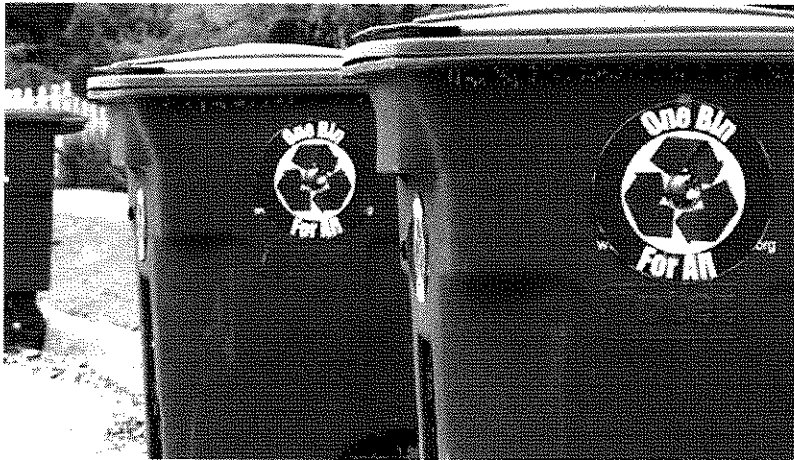
ISRI Pushes for Ban on One-Bin Collection

Elizabeth McGowan

Aug 14, 2015

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COMMENTS 2



CHOOSE RESULTS

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ISRI considers itself a leading voice for the recycling industry. But the Washington, D.C.-based Institute of Scrap Recycling Industries thought its chorus wasn't vocal enough.

That prompted the trade association to launch a new advocacy Web site in late July, designed to allow its 1,600-plus members to chime in more emphatically with state and federal lawmakers on issues as diverse as taxes, transportation, metals theft, and one-bin collection.

The latter, also called mixed waste processing, puts the onus on so-called dirty materials recovery facilities (MRFs) instead of trash generators to separate recyclables from garbage because everything is tossed together into one curbside receptacle.

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ISRI members oppose one-bin collection. They claim contamination caused by the mixing reduces both the quantity and quality of recyclables, especially paper, plastic and glass. It's particularly problematic for mills that rely on unsoiled recycled paper to create food packaging and plants that need clean recycled glass to manufacture fiberglass insulation, jars and bottles.

Private-sector recyclers generate nearly \$90 billion annually by selling metal, paper, plastic, glass, rubber, textiles and electronics to manufacturers that can reuse it, according to ISRI figures. By foregoing virgin materials, these manufacturers can save energy and water, reduce emissions of heat-trapping gases and preserve natural resources.

"Take single-stream recycling and give it steroids, and you've got one-bin," Scott Horne, general counsel and vice president of government affairs at ISRI, tells *Waste360*. "Our industry has been around since Paul Revere. We always try to make the point that our members are manufacturers. They have to meet certain specifications because those buying recyclables must have consistent quality. Otherwise, quality is destroyed."

Results of an Earth911/ISRI Opinion Poll conducted via the Earth911 site between April 16 and May 20 indicate that a majority of the respondents recognized the importance of collecting recyclables and garbage separately.

The question asked on the online poll was: "Is it worth the convenience to not separate your recyclables from your trash if when sorted after collection, it negatively impacts the amount of materials that can be recycled?" Of the 1,700 taking the poll, 75 answered "No, it's not that difficult," 17 percent answered "I'm not sure" and 9 percent answered "Yes, added convenience is worth losing some recyclables to a landfill."

ISRI isn't alone in its opposition to one-bin collection. It's joined by other members of the Recycling Industries Coalition, including the Paper Recycling Coalition, the American Forest & Paper Association, the Glass Packaging Institute, the Steel Recycling Institute, Knauf Insulation, Owens-Illinois and Waste Management.

Recently, *Waste360* quizzed Horne about the evolution of one-bin recycling and why ISRI wants to be instrumental in ending the practice.

Waste360: First off, don't members of ISRI count on you, as their trade association, to handle advocacy for them?



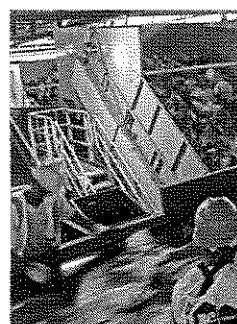
Scott Horne: Certainly, a lobbyist from our association can go in and talk to a congressman or senator. But it's a well-known in Washington, D.C., that it is far more effective when a congressman or senator hears directly from a constituent because then there's a relationship and the legislator knows it's coming from the heart. This is really important outreach for those who are actually suffering the consequences of any particular regulation.

Waste360: Isn't one-bin collection more of a local issue than a federal one?

Scott Horne: Our message is that this is a very local issue. What we ask members to do in any community is talk to the mayor and council members. Lots of municipalities aren't seeing the forest through the trees. What we want them to understand is the market-based nature of commodities and why it's important to do recycling right. But keep in mind that recycling goals and solid waste regulations are set by states, so it's important that our members also go to state legislators. If they're made aware of the issues, state legislators will be very influential with local government officials.

Waste360: Why bother with this campaign against one-bin collection?

Scott Horne: The best answer is because this type of collection will adversely impact a portion of our membership, and perhaps a significant amount of our membership, depending on results. You hate to see municipalities and other political entities make a multi-million dollar mistake. While it would be very easy to let them go ahead and when they fall go, ha-ha, that's not a good way to do things.



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Waste360: *Is it too late to turn the proverbial trash truck around when it comes to municipalities starting or switching to one-bin collection?*

Scott Horne: It's not a runaway train yet. It's more like that arcade game of Whac-A-Mole. ISRI and its coalition, the Recycling Industries Coalition, are trying to educate government folks on the full story. We think they're getting the story through rose-colored glasses. We want to make sure that if they're going to make a decision, that they make it in an enlightened manner.

Waste360: *Educating citizens about recycling has proven difficult. Might recycling rates jump significantly if left to the professionals at dirty MRFs?*

Scott Horne: The minute you go to one-bin collection you automatically have 100 percent participation in your recycling program. Great. But when you mix poopy diapers, broken glass and newspapers, what a MRF will recover that can be used in lieu of virgin materials will be limited in quality, at best. Much of it will not be usable and the recycling rate will plummet.

Waste360: *News reports indicate that proposed dirty MRFs have failed or never gotten off the ground in counties and cities in Maryland, Illinois, Georgia, Louisiana, South Carolina and other states. Is there any sort of pattern for one-bin collection?*

Scott Horne: I don't have hard data but it does appear that early targets are cities without curbside or with very low participation rates. Some might consider it state of the art but it's not what it's cracked up to be. Recycling rates have leveled off with curbside collection and people want to drive that up. Somebody got the bright idea of throwing everything in one bin. Here we are in 2015 and we've set ourselves back 27 years.

Waste360: *You mean to the time before curbside recycling when everybody had just a trashcan?*

Scott Horne: Yes. When curbside recycling was initiated back in the late 1980s and early 1990s, it was typically done as dual-stream. You had a trashcan, a recycling bin for metal and plastic, and grocery bags for paper. That was a great means for collecting high-quality material.

Fast forward to the early 2000s when the vast majority of urban and suburban areas had curbside recycling. It was easy to convince municipalities that single-stream recycling (all recyclables in one bin) was cheaper because you didn't have to run two separate recycling trucks. But nobody ever looked at this carefully and, for instance, mills trying to use recycled paper found their rollers and screening systems were wearing out because of glass and other contaminants.

Waste360: *Does China play a role in this debate about one-bin recycling?*

Scott Horne: From 2004 to 2010, the market was on fire in China. The country needed paper desperately and was willing to take it from our single-stream sources even if it wasn't high quality. But in 2013, the Chinese government got tired of low-quality goods, referring to it as scrap without the "s." That led to inspection of all inbound containers of recyclables. They started seeing that certain commodities, like metals, weren't as problematic as single-stream paper and post-consumer plastic.

Waste360: *Who is advocating one-bin collection?*

Scott Horne: Waste-to-energy companies are pushing this because it gives them increased BTU (British thermal unit) value. Waste-to-energy might be an energy source but it is not recycling. I am not criticizing WTE but once you burn a resource, it's gone forever. That is not sustainable because it isn't a beneficial recovery of resources. It doesn't align with the Environmental Protection Agency's Sustainable Materials Management Program and it hasn't accomplished the goals of reducing, reusing and recycling.

Waste360: What do you make time for when you're not focused on recycling?

Scott Horne: I treasure spending time with my family, I am an avid sports fan, and I enjoy making homemade half-sour pickles.

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ReasonableInsider

on Aug 14, 2015

How does this even get coverage? This is entirely biased and one-sided. "Is it worth the convenience to not separate your recyclables from your trash if when sorted after collection, it negatively impacts the amount of materials that can be recycled?" This is an extremely leading question and flat out incorrect. Why not simply ask, "If banning one bin recycling would make you rich, would you support the ban?" A recent GBB study found that with a single stream bin available, less than 30% of recyclables end up in the correct bin, per EPA, 9% of plastics in this country are recycled. People either by choice or convenience do not place most recoverables into the recycling bin. By increasing participation with a one bin system, operators have access to 100% of recyclables, including organics. The overall quantity of material recovered will be much higher. Response bias: placing an extremely leading poll on Earth911 is like placing a gun control poll on FoxNews.com. The fact that ISRI would push for this is anti-recycling. Why not ban waste from going straight to landfill? Mixed waste processing is a good thing, whether by itself (in the south, where recycling is not popular) or in a best case scenario (as we do in Californin), in addition to single stream recycling.

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Dana McCormick

on Aug 14, 2015

I'm all for more recycling and if the reality is that a one-bin collection means you get access to all the recyclables, then let's do that and spend the money to get the latest technology to separate out the recyclables and get the quality needed. Even if you lose some due to contamination, it is still recovering more than recycling programs with stagnant participation rates. Let's face it, people are lazy and many don't pay attention to what they put in their recycling bin and there is already a lot of contamination in "separated" recyclables. When you add in the cost and environmental impact of running separate collection trucks for recycling bins then it's a no brainer. For another view, here's an article on a one-bin program in Montgomery Alabama: www.rewnag.com/rew1214-municipal-recycling-Montgomery-Alabama.aspx

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Head of Sonoma County Waste Management Agency to resign

BY KEVIN MCCALLUM THE PRESS DEMOCRAT on August 13, 2015, 12:05PM08/13/2015

The executive director of the embattled Sonoma County Waste Management Agency is resigning, citing the agency's uncertain future, which is clouded by an ongoing legal battle and questions over whether it will exist in two years' time.

Henry Mikus announced his decision in a letter to the agency's 10-member board last week, noting that he has accepted the position of engineering manager for the city of Sebastopol.

Mikus, who has led the agency since 2011, cited in his letter the "very uncertain future for the agency" as well as his "desire to provide stability while my youngest child completes his schooling."

Mikus was a public works director in Virginia before taking the helm of the waste agency. He has a 16-year-old son who is a junior at El Molino High School.

He said the time seemed right for a change given that his contract with the agency is up in December and the entity's board remains split on what the agency's role should be past February 2017.

That's the expiration date of the 1992 deal between local cities and the county to form the agency in order to coordinate and promote regional recycling efforts.

Discussions have been underway about how the agency's core functions — facilitating the composting of green waste, disposing of hazardous waste, public education and reporting to the state — can be accomplished through a revised joint-powers authority or by other entities.

The agency is talking with Sonoma County about having Republic Services, the county landfill operator, take over some of its functions. Another regional public agency, the Regional Climate Protection Authority, could handle future public education and policy functions.

Complicating matters for the waste agency has been an ongoing legal fight over the compost operation it oversees at the county's landfill west of Cotati. The green waste operation, now set to shut down by October, has been the subject of two lawsuits brought by landfill neighbors.

Given that backdrop, Mikus' decision doesn't come as much of a surprise, Sonoma County Supervisor David Rabbitt said.

"I think the system pushed Henry into a box, or into a corner," he said.

The waste agency has faced numerous challenges during Mikus' tenure. Foremost among them, it had to defend itself against a Clean Water Act lawsuit filed by neighbors who alleged the compost operation atop the landfill had long polluted Stemple Creek.

It faced steep fines from water quality regulators, forcing the agency to build a larger stormwater pond and haul excess water off site for treatment.

It also had to study and select a new home for that compost operation, a long-delayed and highly political process that has resulted in project costs soaring to \$52 million.

And it has had to do all of it with a 10-member board that needed unanimity for any major decisions.

Dan St. John, Petaluma's public works director and chairman of the agency board, stressed that the organization has managed to find ways to maintain compost service for customers, largely by hauling green waste to other facilities.

He said the board members remain committed to constructing a new, modern facility near the site of the old one, despite not knowing who will finance, build and operate that facility.

"I can't tell you today what things will look like in 18 months, but I can tell you that you've got 10 very committed agencies with their shoulder to the task," St. John said.

Mikus's resignation could be effective in the middle of next month, pending the outcome of his planned request to the agency's board.

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Improving your soil will prevent problems when the rains come

By Joan Morris jmorris@bayareanewsgroup.com

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MercuryNews.com

If you've tried being green by going brown, things could get a bit troublesome if hopes for an El Niño year develops.

Lori Caldwell, owner of CompostGal consulting and landscaping who works with the StopWaste organization in Alameda County, says all that hard, dry clay soil will shed water quickly, which may lead to flooding.

Caldwell, speaking at Our Garden this week, gave tips on improving the soil and making it more able to accept all that wonderful rain water, should it materialize.

- Compost will do wonders for you soil, Caldwell says, helping to balance the nutrients and keep them in the soil longer. She compared it to the difference between eating an orange and taking a vitamin C pill. The pill will give you vitamin C, but it will quickly pass through your body while the orange will give you fiber, nutrients and fluid, and will stay with you longer.
- Covering the soil with mulch also will improve its health and water retention. Mulch can be anything from rocks to wood chips, but materials that will break down -- wood chips, not rocks -- will help feed the soil.
- The best compost is the one you make yourself. You know exactly what went in it and how long it's been cooking, and it's available when you need it.
- If your only option is to purchase compost, give it the "nose test." Compost should smell sweet and earthy, and have hardly any odor at all. If it has a strong smell, you may want to cover it with a tarp for a while and let it compost longer.
- Caldwell recommends getting your mulch from tree trimmers and arborists, but put your request in early as you may have to wait for a while. By law, tree trimmers and arborists cannot give you mulch derived from diseased trees.
- Sheet mulching is your best option for removing a lawn and for improving your soil. It builds healthy soil, saves time and money, saves water, creates a uniform landscape, suppresses weeds and creates a sort of reservoir of water for your plants.

How to sheet mulch

- First, call your local water district to find out what rebates are being offered. All of the water districts are offering rebates in order to encourage people to remove their lawns and conserve water. Some districts may also offer rebates on irrigation supplies, coupons, mulch and design consultation.
- You may need to supply a drawing of your yard or a plan showing what you've got in mind. A portion of the rebate may be paid in advance, with the remainder paid after the work is completed. Be patient. The districts are busy with requests.
- Gather your supplies. Caldwell recommends cardboard, but you also can use newspapers or burlap. You'll also need compost and mulch, and the parts for your irrigation system.

- Prepare the site. If you are planting trees or large plants (5 gallon or larger) put these in first. Plant high as the area will then be covered in several inches of cardboard, compost and mulch. You don't want to bury the crown of the plant.
- Cap off your existing irrigation system, or install a new drip system.
- Trench along the edges of hardscape, angling toward the sidewalk or asphalt so that the cardboard can be bent down into the trench, which is then filled with compost and mulch to hold the cardboard down.
- If you have Bermuda grass, oxalis or other tenacious plant life, you can treat the area with a mixture of one gallon of vinegar to two cups of Epsom salts before sheet mulching. You'll also need to double up on the cardboard to ensure the plants are completely smothered.
- Cover the entire area with a layer, or two, of cardboard, overlapping six to eight inches, and water well. Then cover the cardboard with a 2-inch layer of compost. Place irrigation lines and then cover everything with about 3 inches of mulch.
- For difficult weeds and grass, you may need to wait up to nine months before planting.
- When ready to plant, cut an X in the cardboard and rough up the soil. Place the plant on the ground and use compost and mulch to mound around it. For smaller plants, you can put them directly on top of the cardboard. The cardboard is breaking down with time and the roots will be able to penetrate it.
- Don't put sheet mulch next to your house or near the trunk of existing trees. Sheet mulching holds water like a sponge, slowly releasing it the ground beneath. That much water next to foundations and trunks can lead to problems. Create a 12 inch buffer zone around these objects.

Next time in the Garden, invasive plants.

Our Garden

More information

To learn more about sheet mulching, check out StopWaste's website at www.StopWaste.org/sheetmulch.