



StopWaste.Org and its Member Agencies

Environmental Impact Report (EIR)

Public Scoping Meeting Minutes

From April 5th, 2011, 2:00 – 4:00 p.m.

At StopWaste.Org Board Room 1537 Webster Street, Oakland, CA 94612

In attendance: Ken Pianin (City of Fremont), Rebecca Jewell (Waste Management), Pamela Evans (ACGBP), Joe Cadelizo (Waste Management), James Madden (SAIC), Stephen Joseph (Save the Plastic Bag), Allison Chan (Save the Bay), Bob Canter (Emeryville Chamber of Commerce), David Tucker (Waste Management), Ronals Browder (Alameda County), Tom Padia (StopWaste.Org), Gary Wolff (StopWaste.Org), Justin Lehrer (StopWaste.Org), Rachel Balsley (StopWaste.Org), Janet Smartt (StopWaste.Org) Jessica Coe (Cascadia Consulting Group).

1. Welcome and Introductions: Akoni Danielsen, David J. Powers and Associates

The purpose of this scoping meeting is to introduce the subject of the EIR, identify upcoming steps, and solicit feedback regarding the EIR.

Background: CEQA passed in 1970, and requires that a public agency do analysis for any action that may have an environmental impact. The EIR should look at what environmental impacts will likely happen if the public agency decides to pursue that action.

This project consists of two companion ordinances – before either is adopted, the anticipated environmental consequences of their implementation will be examined through an environmental review under CEQA. If the environmental review reveals a possible environmental impact, the EIR will review mitigation measures for this action, and possible alternatives to this action.

2. Single Use Bag Reduction Ordinance: Tracie Bills, Cascadia Consulting Group

Ms. Bills provided context for the EIR explaining that it will be one EIR addressing both projects separately. It was also noted that the single use bag reduction and the mandatory commercial recycling review can be seen by referring to the following text from the NOP:

“The EIR will also evaluate an ordinance that would prohibit the distribution of single-use carryout paper and plastic bags at the point of sale (i.e., check-out) for all commercial retail businesses in Alameda County. An exception would be made for “green” paper bags containing a specified minimum percentage of recycled content, which can

only be provided to customers for a nominal fee to cover the cost to the business of providing the bags. WIC and food stamp transactions would be exempted from paying for the paper bags.

The ordinance would exclude plastic or paper bags that are used by customers or the store to protect or contain meat, fresh produce, food prepared at the establishment, or other goods that must be protected from moisture, damage, or contamination, and that are typically placed inside a carryout bag at the point of sale. Restaurants, take-out food establishments, or any other businesses that derive 90 percent or more of their revenue from the sale of food cooked or otherwise prepared at the establishment would be exempt from the ordinance, as would non-profit re-use vendors.”

3. Mandatory Recycling Ordinance: Debra Kaufman, StopWaste.Org

The mandatory recycling ordinance to be reviewed in the upcoming EIR is pursuit of goals set out by a 10 year strategic work plan adopted by Alameda County, in which not more than 10% of all readily recyclable and compostable materials will be sent to landfills by 2020.

The goal of this mandatory program is for generators to separate readily recyclable and compostable materials from garbage set out for collection; waste collectors would be required to deliver the separately collected recyclable and compostable materials to processing facilities that would prepare them to be made into new products by recyclers, and landfills in the County may be prohibited or restricted from receiving for disposal, loads containing significant amounts of designated recyclables and compostables. The ordinance would apply to all generators, collectors and processors of discarded materials in Alameda County, and to all landfills and transfer stations.

The EIR will review an ordinance that regulates all readily recyclable and compostable materials and all generators, though the actual ordinance may include a narrower range of material types. Our consultant, Cascadia Consulting Group, will establish baseline vehicle miles traveled under the current collection system, and contrast that baseline with how a projection of vehicle miles traveled under the most rigorous form of the ordinance (all generators and all materials covered).

The EIR will also review land use, aesthetics, hydrology, biological resources, etc.

StopWaste.org has not fleshed out the actual details of the ordinance, though the end goal of the ordinance is a maximum amount of materials being diverted from landfill and toward recycling and composting

Our goal for this meeting is to get feedback on the EIR and environmental impacts we should consider as we prepare it.

4. Environmental Review / Environmental Impact Report (EIR) Process: Akoni Danielsen, David J. Powers and Associates

The opportunities for public participation in the EIR process are as follows:

- The NOP has a 30 day comment period, which started 4/4/2011.
- The public can attend scoping meetings,

- After receiving feedback from the comment period of the NOP and from scoping meetings, David J. Powers will spend spring and summer writing the EIR. When the EIR is ready for public review, StopWaste.org will circulate a Notice (is this right--total?) notice of Availability, identifying where the draft EIR (initial analysis and conclusions) will be available for review and feedback from the public. Any member of the public may submit a written comment requesting clarification or more information within 45 days of when the draft EIR was released.
- After the close of this 45 day review period, CEQA mandates that responses be provided to all substantive comments on the draft EIR.

After all responses to comments have been addressed, the document is ready for certification. The Final EIR will be publicly available, and provided to all who commented on the Draft EIR, a minimum of 10 days prior to the public hearing on the final EIR.

The Alameda County Waste Management Authority Board would be the first public agency to certify the EIR.

5. Questions / Public Comments on the Scope of Mandatory Recycling and Single Use Bag Reduction Ordinances EIR: Akoni Danielson, Debra Kaufman, Tracie Bills, Various Attendees

BOB CANTER, EMERYVILLE CHAMBER OF COMMERCE

Q: When the final EIR is certified, how do cities take it on? Will each City use the StopWaste.org ordinance as an example and develop their own program, or will each city adopt the same ordinance that StopWaste.org proposes?

A: This depends on what the Alameda County Waste Management Authority Board decides to do. Agency staff will put forth a county-wide ordinance.

Q: What about unincorporated areas of Alameda County?

A: Generators in the unincorporated areas are also affected. The Alameda County Waste Management Authority can adopt an ordinance that impacts all generators in Alameda County

Q: Will the ordinance propose some prospective effective date for the single use bag ordinance to let retailers use up existing supplies?

A: Yes, but we don't know yet what that date will be; it will be worked out in the ordinance.

Gary Wolff, Comment: StopWaste.org adopted landfill ban on plant debris in January 2009. That was a county-wide mandatory requirement, as everyone felt that imposing that ban county-wide was a better way to go for that action. The C&D recycling ordinance, however, jurisdictions adopted on their own.

STEPHEN JOSEPH, SAVE THE PLASTIC BAG COALITION

Q: Why a single EIR to cover both?

A: It's an efficient use of time and staff resources. They will be addressed separately: this is simply one EIR for two projects, but the impacts of each project are being considered separately.

Q: Are you going to assess cumulative effects of both projects separately?

A: We haven't done analysis yet, so it's hard to say, but if both ordinances would have a water quality issue, then we would describe the combined effect of both in the same section.

Q: Seems strange. How are you going to merge it all into one report? Mandatory recycling is not the same as the single use bag report.

A: If both were going to result in an incremental increase in truck travel, we would address both projects in the cumulative results review. However, each gets an individual analysis, based upon the particular environmental issue.

Q: Possibility that one would be adopted by county and one wouldn't. Are you doing offsetting between projects?

A: If there were a connection or relationship between the two it will be evaluated in the EIR.

Q: A quote from the single use bag reduction section of the NOP: "The fee for the 'green paper bags' would be nominal to cover the cost to businesses of providing bags." Would fee vary from different bags across the county and everyone would be charging a different fee?

A: We're still in the process of evaluating that, so it's not cast in stone.

Q: If the fee is based on the cost to the business of providing the bag, it's not necessarily a disincentive to consume. A larger fee may be required to make it an incentive to use reusable bags. How will you handle?

A: Everything is still being evaluated.

Q: A quote from the single use bag reduction section of the NOP: "There would be no banning of plastic bags at restaurants, take-out food establishments, or other food service businesses that derive 90% or more of revenue from food prepared in-house." What is the definition of prepared in house? Alternative definitions: does bag of chips count towards 90% or go towards 10%?

A: We will address that in the EIR.

REBECCA JEWELL, WASTE MANAGEMENT

Q: I assume that the "green paper bag" is not a literal color.

A: Correct.

Q: Questions that I would like to be answered eventually:

-What is required of the generator? Who will be enforcing and how?

-If someone needs to lift can lids to check for compliance, who will it be?

-If mandatory recycling were to pass, and requires construction of additional infrastructure, would construction of that building need to go through separate EIR, or could it be folded into this process?

A: To the degree that additional infrastructure would be needed, those impacts would be evaluated in the EIR. Would talk about it at the level of detail we could.

Q: How deep do you go?

A: Additional infrastructure to process recycling: would need to be evaluated before it's built. Do we have enough information about where and how these things will be operated? If we couldn't evaluate the infrastructure with the knowledge we have now, we would note that it may require a future environmental review.

Rebecca Jewell, Comment: When I hear that other communities have banned bags, it has resulted in lots of lawyers and the associated fees. I'm hoping we can take note of whatever we can to prevent a lawsuit, to know that we wouldn't lose money in the courts.

STEPHEN JOSEPH, SAVE THE PLASTIC BAG COALITION

Comment: If fee on paper bags is high enough, very unlikely that there would be a lawsuit. San Jose's fee for single use paper bags is 25 cents. If it were the same in Alameda, it would be a disincentive for any organizations to sue.

DAVID TUCKER, WASTE MANAGEMENT

Q: Will there be a consultation with authors of bills on a state level regarding mandatory recycling, so Waste Management doesn't get hit with local ordinance and then a state ordinance?

A: We're in close watch of what's happening on the state level. We shouldn't be inconsistent with what results they're asking for, but differences in how cities implement and enforce: that part is flexible.

BOB CANTER, EMERYVILLE CHAMBER OF COMMERCE

Q: I've heard that some cities have tried to pass a single use bag ban and it's tied up in courts. How can we avoid that?

A: San Jose adopted an ordinance, and it has now passed the legal point to challenge it. San Francisco has a bag ban in place, as does unincorporated LA County. Oakland rescinded theirs, because they hadn't done an environmental impact report.

Many of the challenges have been over the level of environmental review jurisdictions have prepared: something short of an EIR: EIR is fullest, broadest level of review possible.

Q: Is this supplemental to AB 939?

A: Yes, cities and counties are enforcing AB 939; complying with the draft mandatory state regulation goes above and beyond what AB 939 does. Mandatory recycling is part of the AB 32 scoping plan: gives local jurisdictions and counties flexibility for possible implementation tactics. AB 32 doesn't include performance standards. State says to jurisdictions: you figure out how to implement mandatory commercial (or beyond) recycling.

STEPHEN JOSEPH, SAVE THE PLASTIC BAG COALITION

Comment: There are only two pending lawsuits for single use bag bans: Manhattan Beach and Marin County. These lawsuits came about because those two cities haven't done an environmental review.

David J Powers did the San Jose EIR also. When Save the Plastic Bag objected to the final EIR, we raised points, but let those points go, because 25 cents was sufficiently high to insure against a negative environmental impact from single use bags. Instead, there will be a massive shift to reusable bags.

Our concern is that those elements that we let go in the San Jose EIR will reappear in Alameda because David J. Powers will use the San Jose EIR as a template for the Alameda County EIR. The objections we raised in San Jose will come up again, and I encourage David J Powers to review Save the Plastic Bag's comments to use as a starting point for building the Alameda elements. IF Joseph were inclined, provide a short letter.

Answer (Akoni): In that instance, San Jose was the lead agency. StopWaste.Org is also its own agency. The Alameda Waste Management Authority Board would consider certifying the EIR, and the EIR's conclusions will reflect the Board's independent judgment and analysis, not San Jose's. The Board is directly elected with 17 members.

Stephen: Is it standard procedure for the Board to certify EIRs? That doesn't seem right.

Gary Wolff: This has been standard procedure for more than 30 years. For complying with CEQA, EIRs, etc., the Board has done all of that over the years for projects within their purview.

JAMES MADDEN, SAIC

Q: As Alameda County continues to increase recycling, we must remember that these materials go to China, and that market is changing. As China increases consumption, they will create own feedstock for recyclable materials. Is there anything we could look at in the long range regarding those impacts? What would be environmental impacts of a changing materials market in China, and how could we support materials recycling in Alameda County?

Rebecca Jewell, comment: Is a changing materials market within the scope of this EIR?

A: That is an excellent point. Please write that on your comment card so we are sure to address that point in our EIR.

Gary Wolff, comment: When the EIR says that we propose something, it's a proposal for the purpose of the EIR, not what we would necessarily propose as a public policy option. We are structuring the EIR so the version of the project proposed in the EIR is that which would have the largest environmental impact possible. We have to call it the proposed project under CEQA, but that doesn't mean that we will propose to adopt the version of the ordinance set in stone. Certain things will be cast in stone for the purpose of environmental evaluation, not for adoption by Alameda County.

Stephen Joseph, comment: I suggest that you look at the LA County ordinance on plastic bags: we see that as a model, and it seems like a model that will be fairly widely adopted. San Jose had a slightly different model, but LA had very good elements, too. I advise that David J Powers not just jump into San Jose as the model ordinance.

The LA ordinance seems to be a better ordinance, not because of the fee (too low in LA) but it has better definition of reusable bags, want to have same definition everywhere if possible. The definition of stores is more limited in LA, to see how the ban would work in a handful of stores before implementing it everywhere. There are too many different kinds of bags and stores considered in San Jose.

Gary Wolff, comment: Just so I know I'm hearing you right, the three items that you would like to see us look to other ordinances for guidance on are: universe of stores affected, definition of reusable bags, and the fee level.

DAVID TUCKER, WASTE MANAGEMENT:

Q: Could you review the timeline again?

A: 30 days to review the Notice of Preparation from 4/4. The next scoping meeting is Tuesday 26th of April at 6pm. David J. Powers will be writing the EIR in spring and early summer. The draft EIR will be out for public review later in summer, early fall. The EIR will be certified by the board by the end of 2011. The EIR will eventually be available at StopWaste.org/EIR.