

*Allied Waste Services, Inc.  
California Refuse Removal Council  
Norcal Waste Systems, Inc.  
SCS Engineers  
Waste Management  
Sanitation District of Los Angeles County  
Solid Waste Association of North America, California Chapters*

April 19, 2006

Honorable Loni Hancock, Chair  
and Members  
Assembly Natural Resources Committee  
State Capitol, Room 4126  
Sacramento, CA 95814

**Subject: AB 2296 (Montanez) – Solid Waste Landfill Post-Closure Care – OPPOSE**

Dear Ms. Hancock:

We are writing to express our respectful opposition to AB 2296 (Montanez) that seeks to impose additional post-closure financial assurance burdens on solid waste landfills operating in California. We are an informal coalition of solid waste industry companies and organizations that provide comprehensive solid waste collection, processing, recycling, and disposal services.

Proponents argue that AB 2296 would protect health and safety and taxpayers' dollars by requiring that future costs of closed private landfills be covered by the landfill operators, not by government. However, the case for how this bill would achieve either goal has not been clearly or convincingly established.

First, AB 2296 does not improve upon existing State and Federal health and safety protections. California already has the safest, most heavily regulated landfills in the U.S.

- Regulations are the most comprehensive and restrictive of any state in the nation.
- Permitting and siting standards are among the most stringent.
- California's unique CEQA requirements are stringently applied to all new and expanded landfill projects.
- California's hazardous waste regulations divert approximately 5 times more hazardous waste from solid waste landfills than do federal regulations. More so than any other state -- wastes with hazardous constituents, such as Universal Wastes (electronics, cell phones,

batteries, fluorescent tubes, etc.), are required to be diverted from solid waste landfill disposal.

The practice of “co-disposal,” where hazardous, solid and liquid wastes are all disposed in unlined pits and trenches has been outlawed in California for more than 30 years. Modern California solid waste landfills simply have not been shown to pose the same type of long-term threat and danger as the co-disposal sites. In fact, there are many examples today where closed California landfills are beneficially used as sites for industrial development, shopping centers, hotels, golf courses, concert facilities and recreation areas. The California Integrated Waste Management Board (CIWMB) recently held two workshops discussing numerous landfill projects that have successfully employed significant beneficial post-closure land uses.

Secondly, the CIWMB already has the authority and ability to comply with the federal regulations extending the owner responsibility. Existing federal regulations establish the framework for extending post-closure care in perpetuity as long as the landfill poses a threat to human health and the environment.

1. Initially establish a 30-year post-closure care period on the date the landfill closes.
2. Provide the state agency with the authority to lengthen (or shorten) that 30-year period based on a finding that such lengthening is necessary to protect human health or the environment [40 CFR 258.61 & 258.72].

This renders AB 2296 unnecessary. Additional redundancies and inconsistencies in the bill language exist, clouding the exact purpose this bill is meant to serve:

- AB 2296 contains language that financial assurance for post-closure care of landfills should include the ability to respond to known or reasonably foreseeable releases” – yet this language is already in the Title 27 regulations adopted by both the CIWMB and State Water Resources Control Board for landfills [27 CCR 20380 & 22221]
- AB 2296 suggests that the final cover of a closed landfill must be replaced at intervals not less than some undefined “guaranteed period”. This language simply does not make sense. Only an unimaginable catastrophic event would require an entire cover to be totally replaced. A final landfill cap typically needs some level of ongoing relatively low-cost maintenance that can typically be incorporated into the ongoing land use of the closed landfill (development, recreation, etc.).
- AB 2296 suggests that financial assurance must be provided for the repair of clogged leachate lines. This type of technical detail is simply not appropriate for legislation. There is no evidence that clogged leachate lines is a significant problem or concern. A clogged leachate line is extremely unlikely – they are required by regulations to be designed not to clog. Once a landfill is closed, the potential for clogging diminishes with capping of the landfill and control of moisture inflow. However, in the unlikely event of a clogged leachate line the proper response may not be to “repair the clogged line”. Alternative mitigation strategies may be much more appropriate.

- AB 2996 suggests that post-closure care and corrective action be maintained for a minimum of 30 years. However, this is already a requirement of existing regulations. Further legislation is not necessary.

Finally, suggesting that this bill will protect taxpayer dollars is misleading. Unnecessarily increasing the cost of landfilling waste will increase the cost of waste management services. The cost of providing unnecessary additional financial assurance on landfills will be passed on to the municipalities and citizens served by the facility.

The CIWMB has been holding a series of workshops over the past two years to evaluate the current landfill post-closure care and financial assurance regulations. To date, the CIWMB has yet to offer any specific findings or recommendations pursuant to this review. We respectfully suggest that AB 2996 is premature and should await the conclusion of the review currently underway by the CIWMB. Likewise, the US EPA is also reviewing the solid waste landfill post-closure care and financial assurance regulatory framework for solid waste facilities at the federal level. We strongly request that the California legislature not act until there has been a full and complete dialogue on this matter before the state and federal agencies charged with regulating post-closure care at solid waste landfills.

The solid waste industry is not trying to avoid responsibility in this area. We recognize that owners of closed landfill property will be responsible for maintaining and caring for that property as long as such care is needed. In fact, the solid waste industry has taken a leadership position by working with the Environmental Research and Education Foundation (EREF) to develop scientific and engineering procedures for evaluating the ongoing post-closure monitoring and maintenance requirements at a closed landfill. The final results of this project will be available in the near future. We strongly suggest that these new EREF tools be implemented and used to evaluate the need for extended (or shortened) post-closure at solid waste landfills in California. If extended (or shortened) post-closure care is needed, procedures already exist in state and federal law to adjust the post-closure care period and provide the necessary financial assurance.

Instead of enacting AB 2996, a better approach would be for the US EPA and CIWMB to conclude their review of the existing regulatory structure for solid waste landfill post-closure care and financial assurance. The US EPA and CIWMB may conclude that adjustments to existing regulations are warranted. If the agencies determine that statutory authority is unclear, then discussion of legislative changes would be appropriate at that time.

Until such time we remain steadfastly opposed to AB 2996. We strongly urge your NAY vote.

Sincerely,

Chuck Helget, President  
Sector Strategies  
for Allied Waste Services, Inc.  
916-563-7123

Kelly Astor, Esq.  
for the California Refuse Removal Council  
714-634-8050

Loni Hancock, Chair, Assembly Natural Resources Committee  
AB 2296 (Montanez) – OPPOSE  
April 19, 2006

Page 4

Don Gambelin, Vice-President  
Environment and Planning  
Norcal Waste Systems, Inc.  
415-875-1194

Pat Sullivan, Vice-President  
SCS Engineers  
916-361-1297

S. Kent Stoddard, Vice-President  
Waste Management/ West  
916-552-5859

Sharon N. Green  
Legislative & Regulatory Liaison  
Sanitation District of Los Angeles County  
562-699-7411 x 2503

Yvette Gomez Agredano  
Legislative Advocate, Solid Waste  
Association of North America, California  
Chapters  
916-446-4656 x 1025

Cc: Assemblywoman Cindy Montanez  
Members, Assembly Natural Resources Committee  
Kyra Ross, Consultant, Assembly Natural Resources Committee  
Margo Reid-Brown, Chair, California Integrated Waste Management Board