



**SWANA**<sup>®</sup>

SOLID WASTE ASSOCIATION  
of North America

**CALIFORNIA CHAPTERS**

FOUNDING

SIERRA

GOLDRUSH

**LEGISLATIVE TASK FORCE**

[www.swanacal-leg.org](http://www.swanacal-leg.org)

**LEGISLATIVE ADVOCATES**

PAUL J. YODER

YVETTE GOMEZ AGREDANO

Shaw/Yoder, Inc.

1414 K Street, Suite 320

Sacramento, CA 95814

(916) 446-4656

FAX (916) 446-4318

[paul@shawyoder.org](mailto:paul@shawyoder.org)

[yvette@shawyoder.org](mailto:yvette@shawyoder.org)

**CHAIR**

WILL DICKINSON

Placer County

Solid Waste Division

11476 C Avenue

Auburn, CA 95603

(530) 886-4980

[wdickins@placer.ca.gov](mailto:wdickins@placer.ca.gov)

**VICE CHAIR**

MIKE MOHAJER

Los Angeles County

IWM Task Force

P.O. Box 3334

San Dimas, CA 91773

(909) 592-1147

[mikemohajer@yahoo.com](mailto:mikemohajer@yahoo.com)

**TREASURER**

R. SCOTT JOHNSTON

Merced County Public Works

Solid Waste Division

2222 M Street, Room 206

Merced, CA 95340

(209) 385-7388

[lrsj@co.merced.ca.us](mailto:lrsj@co.merced.ca.us)

**SECRETARY**

MARK URQUHART P.E.

EMCON/OWT, Inc.

A SHAW Group Company

1326 North Market Boulevard

Sacramento, CA 95834

(530) 626-4771

[Mark.Urquhart@shawgrp.com](mailto:Mark.Urquhart@shawgrp.com)

July 7, 2005

The Honorable Loni Hancock  
Chair, Assembly Natural Resources  
1020 N Street, Room 164  
Sacramento, CA 95814

**RE: SB 928 (Perata & Lowenthal) Public resources: solid waste—OPPOSE**

Dear Assemblywoman Hancock,

The Solid Waste Association of North America (SWANA) is composed of approximately 7,000 public and private sector solid waste management professionals throughout North America dedicated to the development and enhancement of environmentally and economically sound practices and policies for the integrated management of municipal solid waste. There are approximately 900 members of SWANA in California.

SWANA is opposed to SB 928 (Perata & Lowenthal), as amended May 2, 2005. The bill would amend provisions of the Integrated Waste Management Act (IWMA) to require cities and counties to increase diversion of solid waste from disposal or transformation from the current 50 percent level to an unspecified percentage by the year 2011.

SWANA strongly opposes any increase in the State diversion mandate unless and until issues central to local compliance and IWMA reform are addressed and resolved. Among these issues are the following:

- 2000 Goal Unmet
- Current State Diversion Measurement System Flawed
- Limitation on Local Authorities for Compliance
- Market Development Barriers for Post-Recycled Residuals
- Cost Versus Benefit

**2000 GOAL UNMET**

The most current data available from the California Integrated Waste Management Board (CIWMB) on diversion progress (2003) indicates that **242 of 442 jurisdictions in California have failed to meet the year 2000 50 percent diversion mandate.**

Moreover, to date in 2005 the CIWMB has considered 44 applications from local agencies to establish alternative diversion requirements or time extensions to the 50-percent diversion requirement. By law, these extensions can only be granted through December 31, 2005.

In light of the significant number of local jurisdictions still experiencing difficulties in meeting current statutory requirements, the proposal to increase State diversion mandates is premature.

**CURRENT STATE DIVERSION MEASUREMENT SYSTEM FLAWED**

Since the late 1990s we have expressed our concern to the Legislature and the CIWMB that the current State Diversion Measurement System used to calculate a jurisdiction's diversion rate is inherently flawed. The system has created an uncertain end result (with significant consequences) where on one hand, many jurisdictions have legitimately implemented all

feasible waste diversion efforts but could not demonstrate it mathematically, and on the other hand, some jurisdictions would benefit from inaccuracies with high diversion rates not merited by their level of program implementation.

To address this issue, the State legislature enacted SB 2202 of 2000 to investigate and remedy this issue. Pursuant to SB 2202, the CIWMB in 2001 prepared a report entitled "A Comprehensive Analysis of the Integrated Waste Management Act Diversion Rate Measurement System." **The report determined that there is no clear nexus between the current Diversion Rate Measurement System and its ability to accurately determine a jurisdiction's compliance with the State's 50 percent waste reduction mandate.** The current diversion rate as measured by the State's Diversion Measurement System is simply an indicator rather than an absolute determination of a jurisdiction's diversion rate and should be treated as such.

### **LIMITATION ON LOCAL AUTHORITIES FOR COMPLIANCE**

Local governments are assigned sole programmatic responsibility for IWMA diversion compliance, but have not been granted the corresponding authority to require all waste generators within their geographical boundaries to participate in diversion programs.

For example, state agencies/institutions and special districts are statutorily exempt from local jurisdiction. Other large-scale waste generators, manufacturers and retailers may be major contributors to a local government's disposal calculation, but have limited responsibility to divert these wastes. Any revision to the mandated diversion rate must include corresponding statutory obligations on state agencies, special districts, and other large-scale generators to achieve defined levels of recycling and diversion. This would provide uniformity and statewide consistency, and increase the likelihood of achieving current and future diversion goals.

Local governments also bear 100% of the financial liability for non-compliance with diversion mandates. Most local governments, however, do not provide municipal solid waste services, but instead contract with private sector solid waste enterprises. Their solid waste franchises or service contracts may contain diversion programs or requirements. But the State has limited—by law—the ability of local governments to hold solid waste enterprises financially responsible for failing to achieve diversion. Any revision to the mandated diversion rate must acknowledge the role of solid waste enterprises in solid waste management and diversion, and hold not only local governments but solid waste enterprises responsible for source reduction and recycling planning and diversion mandates.

### **MARKET DEVELOPMENT BARRIERS FOR POST-RECYCLED RESIDUALS**

Since the initial passage of the IWMA in 1989, cities and counties have put thousands of source reduction and recycling programs into place, and participated in the building of a new statewide infrastructure for the recovery of materials from the solid waste stream. Over the past 15 years, local government efforts have pushed the statewide diversion rate to an unprecedented 48 percent.

Arguably, however, the "low hanging fruit" have, in most cases, already been picked for recycling. The greatest potential for significant new gains in landfill diversion lies in the post-recycled fraction of the waste stream, i.e. the portion from which marketable recyclables have already been removed. About 75 percent of the materials disposed or incinerated in California consist of various forms of biomass—materials that can be converted to feedstocks for new power, fuel, and chemical markets.

Current law, however, creates significant barriers to the commercialization of these new technologies and markets. These barriers include outdated technology definitions, feedstock access, and equation of conversion technologies with disposal. SWANA supports provisions contained in AB 1090 (Mathews), which would amend IWMA definitions for scientific accuracy, recognize conversion technologies as a "beneficial use," and empower the Integrated Waste Management Board to grant diversion credit where such facilities are demonstrated to both preserve and enhance the local recycling infrastructure.

Any proposal to change the State diversion mandate must recognize the practical limitations of existing technologies and markets, and provide incentives for the commercialization of new industries that can utilize non-recyclable portions of the waste stream.

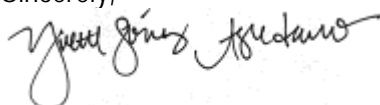
### **COST VERSUS BENEFIT**

From both environmental and economic standpoints, there are costs as well as benefits to increasing diversion efforts. For example, curbside recycling programs can increase traffic impacts, energy consumption and air pollution. In addition, local governments have been forced to raise tipping fees and collection rates significantly to fund current State-mandated diversion and regulatory requirements. None of these impacts were evaluated prior to enactment of the IWMA, nor has there been any subsequent assessment of the incremental effects of increasing diversion mandates.

SWANA believes that prior to implementing new diversion mandates, life-cycle assessments should be conducted and utilized to determine both the potential environmental effects of new materials recovery efforts, and the optimal technologies and markets to accomplish these goals. In addition, a source of funding to implement alternative management strategies must be identified, and associated costs of these new programs must not be placed as an unfunded mandate on local governments.

The California Chapters of SWANA oppose SB 928 (Perata & Lowenthal) and *any* increase in the diversion rate in California unless and until the issues outlined above are resolved. We appreciate your consideration of our position.

Sincerely,



Yvette Gómez Agredano  
Legislative Advocate  
SWANA, California Chapters

cc: Members, Assembly Natural Resources  
The Honorable Don Perata  
The Honorable Alan Lowenthal  
Consultants, Assembly Natural Resources  
Will Dickinson, Chair, SWANA California Chapters Legislative Task Force  
Mike Urquhart, Secretary, SWANA California Chapters Legislative Task Force