

**ASSEMBLY BILL 939 WASTE DIVERSION:
ARE WE FINALLY MAKING PROGRESS?**

SUMMARY

In 1989, Assembly Bill 939 (AB939), known as the Integrated Waste Management Act, was passed in an effort to stem the flow of waste that is rapidly depleting California's landfill capacity. The California Integrated Waste Management Board (CIWMB) was created as the oversight agency with responsibility for approving each county's waste diversion plan and monitoring the results. Its authority is limited to the issuance of compliance orders and the ability to impose fines of up to \$10,000 for non-compliance. Since CIWMB was instituted in 1989, it has issued a fine only four times. The goal of Assembly Bill AB939 was to achieve a 25% waste diversion rate by 1995 and 50% by the year 2000. The provisions of the assembly bill were little more than a "Good Faith Effort" by all parties. There was little enforcement and a whole lot of faith that everyone would jump on the band wagon to "Save Our Landfill" and adopt the motto "Recycling Is Good for Our Environment." Few municipalities met the goals and even though the act allowed fines, fines were seldom levied. Rather, cities were granted extensions provided that they had "good faith" programs that were geared towards achieving the required diversion level.

As a result of AB939, each county was given the charge of establishing an County-wide Integrated Waste Management Plan administered by the Orange County Waste Management District (OCIWMD). The Orange County IWMD, like its counterpart, CIWMB, was not granted any enforcement authority related to waste diversion and the goals of AB939. IWMD's function is to monitor the waste streams, record the numbers, and to affect change and results through its collaborative efforts with the Orange County Waste Management Commission (OCWMC), representatives of the waste haulers, and the thirty-four county municipalities. As such, IWMD is powerless to prevent activities that are contrary to the AB939 mandates, such as haulers bypassing a Material Recovery Facility (MRF) and dumping loads with recyclable materials directly into an Orange County landfill.

OCWMC consists of representatives from each of the five supervisory districts. IWMD and OCWMC meet on a bi-monthly basis; they review results, conduct studies, research current waste management techniques, and assist in keeping those involved in waste management current on issues related to the industry.

Each year the IWMD produces an update to the Regional Landfill Options for Orange County Strategic Plan (RELOC). The 2004 RELOC update indicated that the overall county diversion rate was 48%. It also reported that 18 of 34 cities were still under the 50% diversion rate. Furthermore, some cities had experienced a decline.

There are several factors that have impeded the collaborative efforts to meet the mandate:

- There is a general distrust of the statistics provided by the reporting agencies;
- the results reported by the CIWMB lag two years, because the method used to determine actual diversion rates calculates the rate after the generation figures are adjusted for changes in population, employment, and sales taxes;
- non franchise (self haulers) deposit waste directly into landfills;

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- some haulers do not honor franchise haulers' territories; and
- there is no Material Recovery Facility in south Orange County.

In 2005, the parties responsible for waste management in Orange County became concerned about the county's inability to reach the AB939 mandate. IWMD, OCWC, haulers, cities, and the Board of Supervisors initiated investigative studies and corrective efforts are expected to yield positive results. Currently the overall diversion rate is above 50%; however, there are still some cities that have failed to meet the goal and are struggling to show improvement, and hurdles remain. Exhibit 1, "Orange County Jurisdictions with Mandatory Recycling Requirements in Contracts and C&D Diversion Programs," reflects the latest diversion rates for the county. South Orange County has nine cities with diversion rates under 50% and two that are over 50%.

REASON FOR INVESTIGATION

The 2006-2007 Grand Jury elected to pursue this topic because:

- Orange County has approximately 30 years of existing landfill capacity remaining;
- the land space available for additional landfill use is limited;
- alternative methods of waste disposal are unproven, too expensive, or unable to process the volume of Orange County's waste;
- waste produced by the 3.1 million residents of Orange County is significant;
- the county has failed to maintain a 50% diversion mandate; and
- some diversion rates have recently declined.

METHOD OF STUDY

The Orange County Grand Jury interviewed all agencies with responsibility for waste reclamation in Orange County. The study began with an interview of members of Orange County IWMD management to gain perspective on the challenges encountered in waste disposal. Members of the grand jury visited the three landfills: Olinda Alpha, Bowerman, and Prima Desecha, and obtained first hand knowledge of their operations. The Grand Jury made a study of several MRFs, observed their methods and queried them on the disposition of recyclable materials. The grand jury also met or interviewed waste management administrators of selected cities. The mix of cities selected for review included those that have met the 50% goal and those that are failing to meet the mandate. The plan was to select a cross section of the county. The grand jury also discussed waste management, AB939 history, and reclamation issues with the CIWMB and the California Department of Conservation. Finally, the grand jury interviewed a staff member from the Board of Supervisors and had a follow up discussion with IWMD management.

BACKGROUND

Integrated Waste Management

IWMD shared their knowledge of waste streams with the Orange County Grand Jury and indicated that demographics determine the volume and characteristics of a city's waste. IWMD's role, that of reporting agency without enforcement authority, makes it difficult for

them to impact diversion results. The collaborative process that IWMD is subjected to is time consuming and results are slow in coming.

Some of the demographics influencing cities' reclamation efforts are the mix of residential, commercial and multi-family properties, the income levels of the residents, property values, and population. Income levels not only influence the amount and the variety of a city's waste but also influence the residents' attitudes about recycling. Residents in lower economic areas are thought to have less interest in recycling, although diversion rates in Orange County tend to contradict that assumption.

Misreporting of waste sources negatively impacts a city's reclamation figures; this is especially true for smaller municipalities that do not have the volume to absorb an error in reporting. The grand jury learned that waste management in Orange County is more complicated than in other areas of the state. Three million residents, Orange County's population density, and the unavailability of land for landfill expansion all limit how the county manages its waste. This solution is further complicated by environmental agencies, organizations responsible for monitoring and controlling the quality of water, air, noise pollution and other factors influencing the quality of life.

Landfills

The grand jury found the Orange County landfills system to be very interesting and was impressed with the efforts made to extend its useful life. An example is a cooperative agreement between the city of Irvine and IWMD whereby modifications were made to the Bowerman Landfill allowing for an extension of its closure date, in exchange for \$1.50 per ton compensation to the city. Similar and mutually beneficial agreements exist between other landfill host cities and Orange County landfills. Prior agreements require that the landfills accept waste from any source; Prima Desecha and Olinda will accept waste from self haulers, but Bowerman requires evidence of business license before accepting self haul waste. Imported waste from other counties is accepted at the three landfills as part of the Orange County bankruptcy recovery plan. Neighboring counties have contractual agreements with Orange County whereby the county accepts a stated amount of waste at a fixed rate. This arrangement remains in effect till the year 2015, and contributes \$16 to \$20 million each year to Orange County's bankruptcy recovery effort.

The volume of waste accepted at Orange County landfills is reported to IWMD on a real time basis. When queried about their contribution to Orange County achieving a 50% diversion rate, representatives of landfills indicated that they have no influence on the diversion results. Under the existing landfill agreements, they have to accept whatever comes into the landfills. Their role is to report the source of the waste to IWMD and they have no policing role. This was evidenced when the grand jury observed roll offs and enclosed trucks disposing of loads that included a substantial amount of recyclable materials.

The by-products of a landfill operation are leachate water and methane gas. The water can be used to minimize dust pollution and to accelerate the decomposition process. The utilization of methane gas varies from one landfill to the next. Olinda presently markets its gas to an independent enterprise that converts the gas to electrical energy. However, the enterprise's electrical generation capacity limits the utilization of methane gas to just 50%; the remainder is burned off. Prima Desecha likewise has an arrangement with an enterprise

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that utilizes 100% of its methane gas which is converted to electrical energy. The Bowerman landfill has a financial arrangement with a private company under which methane gas is converted to liquid natural gas (LNG). Initially, the company was to provide the LNG to the Orange County Transit District for use as a fuel source for transit buses. This conversion process began in August of 2006 and the latest information is that the supply of LNG is too unreliable for OCTD's use. It is hoped that the intended "win-win" plan will come to fruition as the company gains experience. The grand jury feels that a more effective use of methane gas at the Olinda landfill needs to be addressed. Methane gas conversion is a contribution to our nation's efforts to gain independence from foreign oil.

Material Recovery Facilities

The MRFs are owned by the major haulers: Waste Management, Rainbow Disposal, CR&R, and others. The MRFs all perform the same services, but each one is unique in some ways. Waste is processed at various locations in Orange, Huntington Beach, Stanton, Santa Ana, Anaheim and Irvine. The MRFs will process materials from all sources as well as from their own contracted cities. They accept waste from self-haulers and from other counties. The goal is to process the material at the MRFs, recover all reusable materials and forward the remaining waste to the landfills. This is the most cost effective way to sort and retrieve recyclable materials. All areas of Orange County have a MRF conveniently located to facilitate the process except for South Orange County. Efforts to locate a suitable South County site have failed. One hauler recently opened a new facility in South County, but its use is restricted to its own trucks and the processing of Construction and Demolition waste (C&D) only, thus the critical need for a MRF in South Orange County remains. The IWMD recently reported to the Board of Supervisors that the Prima Desecha Landfill is the best location for a South County MRF. Solving this problem will be a long term process unless IWMD is able to get variances to short-cut the usual five years required to get approval for a MRF.

Orange County Integrated Waste Management Department requires all franchise haulers and imported waste haulers to process their loads through a MRF. Ideally, all franchise, non-franchise, self-haul, and C&D haulers should process waste through a MRF. The absence of a South County MRF is a major obstacle to moving towards having all County waste processed through a MRF.

California Redemption Value Fund

In 1986 the California Legislature established the Division of Recycling under the authority of the California Department of Conservation. The goal was to recycle 80% of all beverage containers as well as other recyclable products. To facilitate this goal, retailers are required to assess a Cash Redemption Value (CRV) for every aluminum, glass or plastic beverage container sold. The CRV proceeds go into a State administered fund; collectors can redeem beverage containers at redemption centers for the CRV value, and the centers are reimbursed from the CRV Fund. The container values were established at 4 cents per container under 24 ounces in size and 8 cents for larger beverage containers. The results of the recycling program were less than expected. The percentage of recycled beverage containers lingered in the 60% range, while the value of the CRV Fund grew larger. This is a real temptation for an alert politician. In 2006 Governor Schwarzenegger borrowed \$350 million from the CRV Fund to balance the California budget, the loan to be repaid by the year 2013, with interest.

The California Department of Conservation, recognizing that they could not simply watch the fund continue to grow and knowing that the fund's use is restricted to efforts to improve recycling, decided to institute changes that would hopefully allow the State to achieve the desired 80% recycling rate. Effective January 1, 2007 the beverage container values were increased to 5 cents for containers of less than 24 ounces, and 10 cents for larger containers. The Department of Conservation believes that the higher values will lead to an increased willingness of consumers to recycle their beverage containers.

Recoverable Materials Use

The value of recovered materials is market driven. The present booming Chinese and Indian economies provide a viable market for paper, cardboard, plastics, and cloth. The shipping containers arrive in the United States loaded with consumer goods and return with the recyclable material removed from our waste streams.

The market for colored and clear glass is erratic and sometimes it is difficult for the MRFs to dispose of these materials.

The generation of green waste materials in Orange County exceeds the market's demand for any alternate use. Green waste is diverted and converted to mulch and compost; some of this mulch is used as an alternate end of day ground cover at the landfills. Any excess mulch may end up in the landfills, however, reclamation credit is allowed for the effort. This may not assist in the efforts to extend the life of the landfills, but it helps to make the recycling rates appear higher.

Waste Stream Reporting

The franchise haulers collect the waste from the cities under contract. They record the tonnage, and reclaim all reusable materials. The remainder is forwarded to the landfills. The haulers provide IWMD and the cities an accounting of the waste collected, the amount of materials reclaimed and the remainder amount that is deposited in landfills. IWMD records the tonnage accepted by the landfills from the franchise haulers. These figures are provided to the cities and haulers on a daily basis via the internet.

It might be assumed that the cities would be able to reconcile the waste attributed to them by IWMD and their haulers, but the franchise waste is just part of the total waste. There are self haulers, landscape contractors, construction remodeling waste, and individual waste from residential clean-ups. At the landfill entrance the party depositing waste is asked where the waste originated. IWMD records this information expecting that the declaration is an honest one. Frequently, either out of confusion, deceit, or difficulty in determining the origin of a load, the load is charged to the wrong city. There are also incidents of commercial haulers bringing waste originating from a non-franchised city to the landfills, and reporting it as originating from cities where they do have contracts. There have been incidents where imported trash from Los Angeles County was intentionally declared as originating from Orange County. These misreportings contribute to municipalities' lack of confidence in the reporting of waste.

City Waste Characteristics

Inherently there are advantages and disadvantages to a city's waste stream. Villa Park is a

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small city, completely developed, with one strip shopping center, no multi-family residences, and no large employers and therefore it has a much simpler task of controlling its waste. Why did Villa Park experience a sharp decrease in its recycling efforts, from 65% in 2000 to 55% in 2004?

Irvine is a growing community, with a significant commercial base, numerous multi-family buildings, and burgeoning high tech business complexes; it has become the choice location for many business and financial enterprises in Orange County. All of these factors tend to complicate a city's effort to meet the reclamation mandate, yet Irvine has consistently maintained an above 50% diversion rate.

The city of Tustin has historically experienced the greatest difficulty in achieving a 50% diversion rate. Its city charter requires that it accept the lowest bid on any major contract. Waste hauling, being one of Tustin's largest long term contracts, was victimized by the low bid policy. Through a general election measure approved by the majority of voters, Tustin is now able to accept the contractor it feels will yield the best results. Secondly, Tustin has amended its waste hauling contract to include a required 50% diversion rate. Additionally, three yard bins were replaced with two yard bins in multi-family residences to accommodate recycling, and the city is meeting with commercial enterprises seeking their participation in an improved recycling process. With a reclamation rate of 21% in 2003, a vast improvement in results should be possible.

In the grand jury interviews with municipalities some common problems became evident.

- Some cities, while aware of the data provided by IWMD and their franchise haulers, are not utilizing the information to manage their waste.
- Non-franchise self haulers ("ghost haulers") are having a negative impact on cities' ability to meet the AB939 mandate.

IWMD needs to assist cities in understanding the data and making better use of the information they are provided.

In an unscientific polling of cities at the Sub-Region Group Meeting of March 15, 2007, 75% reported a problem with non-franchise haulers. Thirty percent already have ordinances outlawing the use of non-franchise haulers. Some cities have resorted to impounding agreements to control the presence of non-franchise bins in their cities. The presence of non-franchise haulers' trash bins, and the problem it creates in preserving the exclusive franchise agreements between cities and franchise haulers, can be addressed best by the cities through the use of strict ordinances.

Obstacles

Some of the factors that have become obstacles in achieving an acceptable reclamation rate are that cities:

- Some cities do not have three container residential trash collection systems;
- do not have periodic reviews with their haulers to discuss mutual accomplishments;
- do not have a 50% diversion rate requirement in their franchise agreements

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(Some cities have the false impression that including hold harmless agreements in their contracts, where the haulers are legally liable for any imposed fines, would yield the desired results);

- have exclusive franchise agreements for their residential waste, but not for commercial, multi-family residences and/or C&D, which makes it difficult to control haulers that disrespect franchise agreements; and
- tend to wait for the AB 939 State of California reclamation report to initiate any corrective action; since these reports lag actual results by two years, they would be further ahead by working with the reports from their franchise haulers and IWMD, if they could trust the information in those reports to be accurate.

Corrective Action

Much activity has been initiated to overcome the obstacles associated with reclamation. IWMD and the Waste Management Commission recommended that a surcharge be imposed on self haul waste delivered directly to the landfill bypassing the MRFs. Simultaneously, the MRFs lowered their rates to \$45 per ton, in a "good faith" effort to encourage greater usage of the MRFs. The self-haul surcharge was approved by the Board of Supervisors and it went into effect July 1, 2006. With an effective rate of \$46 per ton for self-haul, this rate is now nearly equal to the rates being charged by the MRFs.

The results of the surcharge are already being seen. The Waste Management Commission's agenda for March 8, 2007 indicates that self-haul tonnage at the landfills has decreased by 50,000 tons for the second quarter of fiscal year 2006/2007 compared to the same period in fiscal year 2005/2006. Exhibit 2a of that report shows a gradual reduction in the average daily self haul tonnage from a high of 2,366 tons in June 2005 to 956 tons in January 2007. It is also reported that IWMD's revenues decreased during the same period. Understandably, as waste is diverted from the landfills to the MRFs, it will result in a reduction of landfill revenues. This relationship needs to be studied and rate adjustments made when contracts between haulers and IWMD are renewed in the year 2010.

IWMD reported to the Board of Supervisors (BOS) in August, 2006 that 17 of 34 cities have achieved the mandate and, that as a whole, Orange County is reclaiming 50% of its waste. The BOS, after having conducted a study, charged IWMD with the following responsibilities; the status is to be reported within 30 days and quarterly thereafter:

1. Study the possible banning of roll-off containers from the landfills, unless it can be substantiated that the materials have been processed through a MRF;
2. continue to monitor the MRF rates and provide the BOS with regular updates; MRFs establish their own rates, and it is important that there be a financial incentive to self haulers for channeling their waste to the MRFs;
3. work with cities to include mandatory recycling levels in their franchise agreements and support their efforts to better track their generated and recycled waste;
4. work with each city to encourage an effective C&D ordinance;
5. include mandatory recycling levels in all franchise agreements for the unincorporated areas of Orange County; the IWMD is already working on a Request for Proposal (RFP) to include mandatory recycling levels in their franchise terms and conditions;
6. work closely with the Local Enforcement Agency (LEA) and the Resources &

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- Development Department (RDMD) to streamline the approval process for a MRF in South Orange County;
7. develop a better spending plan for the AB939 surcharge revenues that includes usage of the money to develop diversion programs and achieve the mandated 50% recycling rate;
 8. work with South County cities to identify a suitable site for a MRF by November 2007;
 9. develop a commercial recycling program for Orange County that is not burdensome to the businesses involved; and
 10. identify any old transfer sites that can be used for self-haul drop-off and processing stations so that self-haul waste is processed before going to the landfill.

The effort to meet the diversions goal has been accelerated by the BOS's mandate to IWMD. Activity is evident in all the areas highlighted in the BOS request. Follow up reports from IWMD to the BOS and the OCWC agendas and minutes reflect the effort being undertaken.

One of the mandates to IWMD is the development of a spending plan for the AB939 surcharge. The fund has already accumulated \$7 million and there is the potential for it to grow unchecked similar to the CRV Fund.

The grand jury study has identified the absence of a South County MRF as the biggest impediment to the implementation of an effective reclamation plan encompassing the BOS mandates. CIWMB, in its 2003/2004 biennial study, appears to have come to the same conclusion. The Waste Management Commission March 8, 2007 meeting agenda announced that CIWMB has granted Orange County a "Good Faith Effort" designation subject to the following conditions:

- The establishment of a mandatory C&D policy and procedure;
- the establishment of a policy that supports the procurement of post consumer products; and
- a continued effort to locate a site for a MRF in South Orange County.

Item 8 of the BOS directive is a reflection of their interest in solving the MRF problem. There is conflicting information as to whether a location for the South County MRF has been identified. One hauler has a MRF operation in that area; however, its use is restricted to their trucks to process C&D waste only. Prima Desecha Landfill is another location that has been mentioned, and an additional alternate site may have been found.

Item 6 is also indicative of the Board's interest in making a South County MRF a priority. Overcoming the traditional five-year approval process requires cooperation from environmental regulatory agencies. The grand jury has identified two hurdles that need to be overcome, should Prima Desecha be selected as the site. Both of these situations will complicate any efforts to shortcut the approval process.

- San Clemente desires to make La Pata Avenue a primary east/west corridor; there have already been objections from homeowners in the area with concerns about

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increased traffic. La Pata Avenue is the main access to the Prima Desecha landfill and locating a MRF there will add to traffic concerns.

- Prima Desecha is located in close proximity to homes valued in excess of \$1 million and a new high school scheduled to be open in the fall of 2007.

IWMD and the Waste Management Commission are taking action on the remaining BOS directives.

The grand jury wishes to acknowledge the contributions of the waste haulers, among which are distributing informational newsletters, creating public awareness, and informing the public of special events. A commendable example is the door-to-door pickup of used motor oil and hazardous materials available in some cities.

A major waste problem is the disposal of plastic bags. These ubiquitous eye-sores are even a problem at landfills, which have 20-foot fences to keep them in the confines of the sites. Affectionately called “parachutes,” these plastic bags have little redemption value. Several proposals are under study by the California legislature to address this problem, most of which place the burden on major grocery stores to assess a redemption value on plastic bags. In Ireland, a 15 cent assessment is made for each plastic bag. Other examples of community efforts are the Irvine Public Works Department and CR&R plastic bag awareness program. The Irvine Public Works Department visits middle schools encouraging students to become more socially conscious. CR&R waste management encourages South County residents to put all their plastic bags into one bag and place it in their recycling bin.

The grand jury is concerned about the continuing plastic bag dilemma, and suggests utilizing the AB939 surcharge fund to solicit ideas on the best methods for recycling plastic bags. Children’s contests for best ideas with a cash reward could generate some answers. Pursuing joint sponsorship with local entertainment venues, Disneyland, Knott’s Berry Farm, and the Los Angeles Angels of Anaheim would yield positive images for the venues and good ideas for recycling.

The grand jury's conclusion is that everyone is making a conscious effort; there are several issues that need to be addressed. The 50% mandate has to be kept at the forefront, and improvement in the reclamation percentage will require amending or implementing contractual agreements and/or the creation of ordinances.

FINDINGS

In accordance with California Penal Code Section 933 and 933.05 each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2006-2007 Orange County Grand Jury has arrived at the following findings.

F-1. There is an absence of a MRF in South County to facilitate diversion of waste.

F-2. Methane gas recovery efforts at Alpha Olinda fail to utilize 100% of the gas generated.

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F-3. The plastic bag dilemma requires that a solution be found.

F-4. City waste disposal managers do not have sufficient working knowledge of the information provided by IWMD, which is intended to assist them in the control of their reclamation results.

F-5. There is a need to explore additional markets for green waste.

F-6. The presence of non-franchise haulers and so-called “Ghost Haulers” bins, in cities which bypass the recycling system, needs to be corrected in order to establish the waste haulers’ confidence that their municipalities are looking out for their best interests.

A Response to Finding F-1 is required from the Orange County Board of Supervisors.

Responses to Findings F-1 through F-5 are requested from the IWMD.

A Response to Finding F-6 is required from all 34 Orange County City Councils.

RECOMMENDATIONS

In accordance with California Penal Code section 933 and 933.05, each recommendation will be responded to by the government agency to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings of this report, the 2006-2007 Orange County Grand Jury makes the following recommendations:

R-1. The Board of Supervisors and IWMD need to find a suitable location for a South County MRF, and work towards environmental agencies approval of that site as expeditiously as possible.

R-2. IWMD needs to find a way to utilize 100% of Alpha Olinda's methane gas recovery.

R-3. IWMD needs to find a solution for the recycling of plastic bags.

R-4. IWMD needs to provide training to municipalities that require a better understanding of the data they are provided.

R-5. IWMD needs to explore alternative markets for green waste reuse.

R-6. Municipalities need to solve their unauthorized waste bin problems by enacting city ordinances forbidding these practices, imposing fines, including stepped-up fines for additional violations, and impounding unauthorized bins.

A Response on Recommendation R-1 is required from the Orange County Board of Supervisors.

Responses on Recommendations R-1 through R-5 are requested from the IWMD.

A Response on Recommendation R-6 is required from all 34 Orange County City

Councils.

REQUIRED RESPONSES:

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report. The specific sections are quoted below:

§933.05(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

EXHIBIT 1 ON FOLLOWING PAGES

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Orange County Jurisdictions with Mandatory Recycling Requirements in Contracts and C&D Diversion Programs Completed as of September 5, 2006			
City	Mandatory Recycling Requirements	C&D Diversion Programs	2004* Diversion Rates
1. Aliso Viejo ¹	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes 5000k sq. ft. or 50K, \$50 dollars per ton but not less than 1,500 deposit, requires 50% diversion.	25%
2. Anaheim	No - No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No - Above 50% so does not plan to implement new program.	51%
3. Brea	No - No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No. C&D ordinance in process. Plans to implement ordinance within next year.	42%
4. Buena Park	No - No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No.	41%
5. Costa Mesa	Yes - Residential. 50%diversion of residential waste (San. Dist.). Yes- Commercial. Must meet 50% or permit/non-exclusive franchise to haul revoked.	No- Residential. No - Commercial. Does not plan to implement an ordinance as C&D haulers already divert 50% or more under permit/franchise.	54%
6. Cypress	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No. Plans to implement ordinance within next year.	58%
7. Dana Pt.	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes - Every applicant over 250 sq. ft. shall divert from landfills 75% measured by tonnage of all C&D debris.	36%
8. Ft. Valley	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes - Every applicant over 1000 sq. ft. (only 1 so far) shall divert from landfills 50% measured by tonnage of all C&D debris	50%
9. Fullerton	No - No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No. The City currently is tracking their bigger projects and is discussing creating a C&D ordinance at this time..	50%
10. Garden Grove	No - however, updates to current agreements are pending.	No - Above 50% so does not plan to implement new program.	51%
11. Hunt. Beach	Yes - to meet or exceed AB 939 requirements to extent of franchise area & indemnify city from fines & penalties	No - Above 50% so does not plan to implement new program.	65%
12. Irvine	Yes - to meet or exceed AB 939 requirements to extent of franchise area & indemnify city from fines & penalties	Yes - Standard development conditions requiring developers to submit recycling plans (used mainly for demolition) & verification of diversion prior to issuing grading permit	54%
13. La Habra	No - No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes - Single Family residences exempt. But requirement for recycling is 50%. Not deposit based, but permit based.	46%

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14. La Palma	No – No specific recycling % requirement. Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No.	66%
15. Laguna Beach	No – mandatory recycling level in waste agreements or in permit requirements.	In process – The city is in the process of considering different options.	42%
16. Laguna Hills	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes - Self-haul waste must submit waste plan, admin fee, deposit, divert at least 50%, and final div. report. Or waste haulers deliver all C&D in roll-off containers to a C&D processing facility approved by city.	29%
17. Laguna Niguel	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes - Self-haul waste must submit waste plan, admin fee, deposit, divert at least 50%, and final div. report. Or waste haulers deliver all C&D in roll-off containers to a C&D processing facility approved by city or use franchised hauler.	43%
18. Laguna Woods ²	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – Began July 21, 2006. Standard development conditions requiring developers to submit deposit (3% of project or 50K whichever is less) recycling plans (used mainly for demolition) & verification of diversion	50%
19. Lake Forest	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	No - Above 50% so does not plan to implement new program.	65%
20. Los Alamitos	No – Commercial/Residential. No specific % recycling requirement. Yes – Commercial/Residential. All waste collected is to be processed through a MRF to maximize diversion.	No. Plans to implement ordinance within next 6 months.	26%
21. Mission Viejo	No -no specific recycling % requirement. Yes - Must meet AB 939 requirements to extent of agreement and indemnify city from fines & penalties	Yes – 2 ways to comply. 1) Use franchised waste hauler services + deposit & final div. report. No admin. fee or waste plan required. 2) Self-haul waste must submit waste plan, admin fee, deposit, divert at least 75%, and final div. report. Or waste haulers deliver all C&D in roll-off containers to a C&D processing facility approved by city.	44%
22. Newport Bch	Yes – to meet or exceed AB 939 requirements to extent of franchise area & indemnify city from fines & penalties	Yes – Standard development conditions requiring developers to submit recycling plans (used mainly for demolition) & verification of diversion prior to issuing grading permit	47%
23. Orange	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – City has requirements for weight tickets to show recycling on all public Works projects.	52%
24. Orange Uninc.	No – Commercial/Residential. No specific % recycling requirement, but in process to change that.	No - Plans to implement ordinance within next 6 months.	29%
25. Placentia	Yes - Indemnify city from AB 939	No	49%

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	finer & penalties for late reports or not meeting goals		
26. Rancho S M ¹	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – Ordinance requires 3% of the valuation of the project.	28%
27. San Clemente	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – Original recycling receipt required as proof of recycling.	38%
28. San Juan Cap.	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – Original recycling receipt required as proof of recycling.	45%
29. Santa Ana	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – It should begin in Fall 2006, but there are requirements to take C&D to a MRF.	57%
30. Seal Beach	Yes – Resolution for Recycling Programs	No - Above 50% so does not plan to implement new program	55%
31. Stanton	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals	Yes – As a condition of permit approval, the City of Stanton Requires that the contractor show where unused the materials were taken.	34%
32. Tustin	Yes - Has indemnification language with Federal Disposal.	Yes - Self-haul waste must submit waste plan, admin fee, deposit, divert at least 50%, and final div. report	9%
33. Villa Park	Yes - Contract agrees to indemnify the City for any penalties in the event the requirements of AB 939 are not met by the City as a result of the Contractors actions or inactions in its performance of the Agreement.	No - Above 50% so does not plan to implement new program.	55%
34. Westminster	Yes - Indemnify city from AB 939 fines & penalties for late reports or not meeting goals.	No - Above 50% so does not plan to implement new program.	59%
35. Yorba Linda	Contractor agrees to indemnify the City for any penalties or fines arising out of, or any way connected to the conditions of the Agreement, as a result of any action by the Contractor (Old agreement –pre AB 939).	No	50%

*2003 & 2004 numbers are preliminary and have not been approved by the California Integrated Waste Management Board (CIWMB). State review/approval of diversion numbers is on a biennial basis. 2003 & 2004 are currently being reviewed by the State.

¹ Newly incorporated city required to report diversion for first time in 2004.

² Newly incorporated cities required to report diversion for the first time in 2003.

Source: Orange County Integrated Waste Management