



CITY OF ORANGE

OFFICE OF MAYOR

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August 22, 2007

Honorable Nancy Wieben Stock
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: *Orange County Grand Jury Report
Assembly Bill 939 Waste Diversion:
Are We Finally Making Progress?*

City of Orange Amended Response

Dear Judge Wieben Stock:

Pursuant to a phone conversation between City Attorney David De Berry and Bill Guidas on behalf of the Grand Jury, the City of Orange files this response to replace its previous response dated July 17, 2007. The City has been requested to respond to Finding No. 6 and Recommendation No. 6 contained in the above reference Grand Jury Report. The following constitutes the City's response.

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.

Response. The City disagrees partially with the finding. This has only been a minor problem in the City of Orange and there is little evidence that it has significantly impacted diversion rates in the City. Perhaps it is a matter of semantics, but the City does not believe that it should necessarily be looking out for the best interests of its franchised waste haulers. Perhaps a better way to phrase it would be to say such problems need to be corrected in order to optimize diversion.

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.

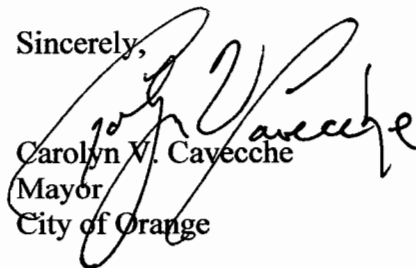
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Response. The recommendation has been implemented. The City of Orange has an active code enforcement program that "tags" unauthorized commercial bins. Rarely has the City actually imposed fines for such unauthorized bins because generally they are removed promptly upon notice. However, the City's laws permits such bins to be impounded and we charge \$365 for an impound release. In addition, the City is only required to notify a company once before impounding a bin. In other words, repeat offenders can have their bins impounded with notice the second time around. Often bins that are reported as unauthorized by the City's contract waste hauler turn out to not be owned by the business and thus, not covered by the City's franchise agreement. The City's code enforcement staff does not believe that there is an extensive problem in the City with such unauthorized bins. Code enforcement staff has been instructed by the City Attorney's office to begin forwarding to the City Attorney's office and/or citing, repeat problem offenders.

Although not on the list of recommendations by the grand jury, but discussed in the Grand Jury's report, the County should continue to review whether or not it should accept self-hauled construction and demolition waste at its landfills. The City recognizes that there are several considerations, one of which is that self-haulers need to have competitive options and convenient locations and the siting of an MRF in South Orange County is one possible consideration. If a policy of not accepting self-hauled construction and demolition waste were in place, cities across the County may not need to individually adopt ordinances addressing it.

Thank you for the opportunity to respond to the Grand Jury's Report on behalf of the City of Orange.

Sincerely,



Carolyn V. Cavecche
Mayor
City of Orange