

The People are the City



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401 East Chapman Avenue – Placentia, California 92870

September 3, 2024

The Honorable Maria Hernandez
Presiding Judge, Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: 2023-2024 ORANGE COUNTY GRAND JURY REPORT ENTITLED “TALKING TRASH: RECYCLABLES AND ORGANIC WASTE”

Dear Judge Hernandez:

The City of Placentia has reviewed the 2023-2024 Orange County Jury Report, “Talking Trash: Recyclables and Organic Waste.” The report made several findings and recommendations on which the City of Placentia must comment, including Findings F1, F2, F3, F4, F5, F6, F7, F8, F9, F10 and recommendations R1, R2, R3, R4, R5, R6, R7. Please consider this letter as the City’s official response to these findings.

Finding 1 (F1): The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

City’s Response: The City of Placentia partially disagrees with this finding. The City is unaware of the requirements all Orange County jurisdictions impose on their haulers. The City of Placentia has not been able to require its hauler to distribute residential containers that meet the CalRecycle standardized colors due to the limitations of its current franchise agreement. Since 2020, the City has been actively engaged in contract negotiations with its hauler to amend the City’s waste franchise agreement to meet current SB 1383 regulations. The amended agreement will include the requirement of the distribution of standardized colors and labeling as required under Public Resources Code sections 18984.7 and 18984.8.

Finding 2 (F2): While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.

City's Response: The City of Placentia partially disagrees with the finding. The City is unaware of how other Orange County jurisdictions are enforcing the requirements of SB 1383 and collecting fines. The City of Placentia adopted an SB 1383-compliant ordinance in December 2021. This ordinance defines enforcement actions to be taken by the City.

Finding 3 (F3): All jurisdictions will eventually start collecting fines from residents for non-compliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.

City's Response: The City of Placentia agrees with this finding. The City is unaware of how all jurisdictions account for revenue generated from non-compliance fines. The current SB 1383 regulations allowed for enforcement and issuance of administrative penalties for non-compliance. These state regulations do not specify a requirement for the type of fund for collecting these fines. The City of Placentia has not yet decided whether revenues from non-compliance penalties will go into a waste and recycling enterprise fund or the City's general fund. The City will discuss this policy with the City Council when its amended franchise agreement is finalized.

Finding 4 (F4): In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.

City's Response: The City of Placentia partially disagrees with this finding. The City agrees that education and outreach are joint efforts between the jurisdiction and hauler in most cities. In some cases, Cities may utilize consultants to assist with this effort. Every city has different circumstances, resources, and franchise agreements that determine how information is disseminated to residents. The City of Placentia is committed to educating and engaging its community on solid waste and recycling through various methods. These include distributing information at City Hall and community events through flyers, in-person interactions, and staffed booths. The City also regularly shares information through its newsletters and social media channels. The City previously created a video series on recycling and SB 1383. The City's website also features dedicated pages on environmental programs. The City has observed its neighboring cities utilizing various outreach and education methods in addition to paper mailings.

Finding 5 (F5): Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.

City's Response: The City of Placentia partially disagrees with this finding. The City is unaware of the evaluation methods by all jurisdictions in Orange County to measure effectiveness.

Finding 6 (F6): There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.

City's Response: The City of Placentia agrees with this finding. We are currently in contract negotiations for the City's amended and restated franchise agreement with our waste hauler to comply with SB 1383. During the discussions, the City's hauler informed us of the need to introduce a mixed diversion plan to process all our organic waste. For example, the residential organic waste from the City will need to be sent to multiple composting facilities outside Orange County, as far as the Central Valley, for processing.

Finding 7 (F7): There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.

City's Response: The City of Placentia agrees with this finding.

Finding 8 (F8): The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.

City's Response: The City of Placentia agrees with this finding. The City's annual procurement target under SB 1383 is 4093.8 tons of organic waste or the equivalent of 2374.42 tons of compost. This is a significant amount for the City to procure effectively. In 2023, the City needed to procure 30% of the procurement target, which was 1228.15 tons of organic waste for compliance with State law. The City initially attempted to meet this target by procuring compost from OCW&R to give away to its residents for free. Through these initial efforts, the City could only distribute 19.82 tons of compost, which amounted to 2.78% of the procurement target for 2023. The City could only meet its procurement target by utilizing grant funding from CalRecycle's SB 1383 Local Assistance Grant Program to enter into a direct service provider agreement with Agromin to procure 712 tons of compost.

Finding 9 (F9): Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.

City's Response: The City of Placentia agrees with this finding. The City of Placentia has faced challenges meeting these organic waste reduction targets due to delays in implementing a citywide organic recycling program. These delays have stemmed from prolonged contract negotiations between the City and its waste hauler regarding an amended and restated franchise agreement, which has hindered the City's ability to address this mandate effectively.

Finding 10 (F10): The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.

City's Response: The City of Placentia agrees with this finding. The City is actively working on updating its City Purchasing Policy to incorporate all the SB 1383 procurement requirements and exploring all available options to meet the procurement target for 2024 and beyond. However, the City does consider the current procurement requirements mandated by SB 1383 to be unrealistic and likely unachievable without modifying the requirements or receiving additional assistance from the State to meet these needs.

Recommendation 1 (R1): All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

City's Response: The recommendation has not yet been implemented. The City of Placentia has not been able to require its hauler to distribute containers that meet the CalRecycle standardized colors and labeling that explain SB 1383 requirements due to the limitations of its current franchise agreement. The City is actively engaged in contract negotiations with its hauler, Republic Services. The City will be able to ensure the distribution of compliant containers and labeling once an amendment to its franchise agreement has been finalized and approved.

Recommendation 2 (R2): By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.

City's Response: This recommendation has not yet been implemented. The City agrees that its waste hauling agreement should be in compliance with State statutes and is actively working on this recommendation. The City is still undergoing SB 1383 contract negotiations with its hauler, Republic Services (Republic), to amend its solid waste franchise agreement to comply with current state regulations. Since April 2021, the City has been diligently engaged in negotiations with Republic to amend our existing agreement in accordance with SB 1383 requirements. Despite our concerted efforts, we have not reached a mutual agreement with Republic on the rates and terms to implement SB 1383. Compounding these challenges, key members of Republic's negotiating team and management staff have turned over, further prolonged the negotiation process, and added to the time and cost incurred by the City to achieve compliance with SB 1383. Despite our continued negotiations with Republic, an agreement has yet to be reached, and there were delays in receiving an SB 1383 cost proposal for the new agreement from Republic. The City received this proposal on August 15, 2024, and is actively reviewing it.

The terms of the final amended and restated franchise waste hauling agreement will dictate the fines collected by a hauler.

Recommendation 3 (R3): The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

City's Response: This recommendation will require further analysis and a policy discussion with the Placentia City Council.

Recommendation 4 (R4): By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.

City's Response: This recommendation has been implemented. The City of Placentia already utilizes a diverse approach to providing education and outreach to its community. The City disseminates relevant solid waste and recycling information throughout the year at City Hall and through various community events. This includes the distribution of flyers, in-person interactions, and staffing booths at events. In addition, the City regularly includes this information in its weekly and quarterly newsletters and social media platforms. The City previously created a video series on recycling and SB 1383. This video series is available to view on the city's YouTube channel. The City maintains and regularly updates webpages on its website dedicated to providing information and resources on environmental programs in the City. The City partners with its waste hauler, Republic Services, to distribute annual mailings to customers, including a dedicated recycling newsletter.

Recommendation 5 (R5): By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

City's Response: This recommendation has not yet been implemented. The City of Placentia will work on developing new methods to measure the effectiveness of its education and outreach efforts.

Recommendation 6 (R6): By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

City's Response: This recommendation has been implemented. The City of Placentia has an active partnership with OCW&R. City staff meet regularly with OCW&R staff through

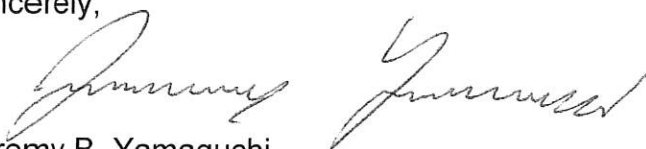
the OWC&R Recycling Coordinator's Quarterly Meetings and the recently formed OC ReGroup. The City will continue to partner with OCW&R to develop a county-wide approach to organics recycling programming.

Recommendation 7 (R7): By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.

City's Response: This recommendation has not yet been implemented, but the City of Placentia supports it. It will require a coordinated effort between the County and all Orange County cities to develop proposed modifications to the current SB 1383 procurement requirements that reflect Orange County's unique landscape. The City is open to partnering with the County and all Orange County cities to accomplish this by December 31, 2024.

Thank you for giving the City this opportunity to comment on the Grand Jury's findings and recommendations. Please do not hesitate to contact my office if you have any questions or need clarification regarding the City's responses.

Sincerely,



Jeremy B. Yamaguchi
Mayor, City of Placentia

cc: Placentia City Council
Damien R. Arrula, City Administrator
Orange County Grand Jury