



VIA EMAIL AND U.S. MAIL

May 3, 2010

The Honorable Councilmember Ed Reyes  
The Honorable Councilmember José Huizar  
The Honorable Councilmember Paul Krekorian  
Planning and Land Use Management Committee  
200 North Spring Street, Room 395  
Los Angeles, CA 90012-4801

Re: Proposed Bradley Landfill Transfer Station/Materials Recycling Facility  
Council File No. 10-0468

Dear Committee Members,

At the end of the Planning and Land Use Management Committee hearing on April 27, Councilmember Reyes enumerated three outstanding issues pertaining to the proposed Bradley Landfill Transfer Station/Materials Recycling Facility (TS/MRF). We submit these comments on those issues on behalf of our clients, who are low-income Sun Valley families who will suffer from the significant adverse environmental and health impacts of the proposed TS/MRF, and as a member of One LA-IAF.

We appreciate the Committee's recognition of the significant environmental justice concerns that this project raises and its delay of the vote on the project until its concerns could be addressed. As we have argued, there are two primary mitigation measures that would most effectively minimize the environmental justice implications of the TS/MRF: a reduction in the scale of the facility and an enclosure of the green waste. These mitigations would complement the proposed financial mitigations by reducing the actual physical harms of the proposed facility on the surrounding community.

In response to the Committee's specific concerns, we offer the following comments.

1. **Enclosure of the green waste.** The proposed expansion of the green waste processing—which is done in the open air without any enclosure—would violate the Los Angeles Municipal Code and set a dangerous precedent for the city.

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The Municipal Code only permits green waste processing in an M2 or an M3 zone in an enclosed building. The plain language of code expressly permits, in an M2 zone, “[c]uring, composting, and mulching facilities . . . as well as chipping and grinding facilities *when conducted in a wholly enclosed building.*” City Code, § 12.19(A)(15) (*italics added*). The Code further states that “[a]ny use permitted in the ‘M2’ zone,” is allowed in the M3 zone (with specific exceptions that do not pertain to the green waste use described in § 12.19(A)(15)). City Code, § 12.20(A)(1).

On its face, the M3 zone provision imports the uses permitted in the M2 zone without any alteration of the description of the use in the M2 section. Nowhere does the Code state that the conditions included in the M2 descriptions should be ignored or excluded in the M3 zone. Therefore, the plain language of the Code permits green waste processing in an M3 zone only in the “wholly enclosed building” explicitly required in the M2 section of the Code.

Waste Management not only refuses to agree to such an enclosure, but it claims that open air green waste processing is permitted “by right” in a M3 zone.<sup>1</sup> Waste Management bases this assertion on a 1994 letter from the Chief Zoning Administrator to the City Council in which he opines that green waste facilities are permitted by right in an M3 zone. This letter is not legally binding, nor does it contain any analysis to support its off-handed conclusion. Waste Management’s argument must, therefore, be rejected, especially since it would establish a harmful city-wide precedent for green waste operations.

Similarly, other regulatory agencies have raised concerns about the impacts of the expansion of the green waste that Waste Management and the Planning Department have failed to address. In its comments on the EIR, the South Coast Air Quality Management District (SCAQMD) concluded that “the SCAQMD believes that additional control of odors is warranted for the proposed project and, therefore, also recommends enclosing the green and wood waste operation and that both enclosures should be vented.”<sup>2</sup> Similarly, the Bureau of Sanitation found that “the potential odor impact needs to be more adequately discussed in the analysis.”<sup>3</sup>

The comments by the SCAQMD and the Bureau of Sanitation buttress the plain language of the Municipal Code requiring green waste facilities to be wholly enclosed. The City must, therefore, at a minimum require Waste Management to enclose its green waste processing as a condition of its proposed expansion to 2,500 tpd.

2. **The “no fly zone.”** We fully support the concept of a City Council ordinance that would restrict the traffic routes of trucks serving the TS/MRF and direct them away from surrounding residences. The City Planning Commission and the community have raised repeated concerns about the air, noise, and traffic impacts of the additional 1,829 truck

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<sup>1</sup> Letter from Andrea Leisy to Franklin Quon dated November 26, 2007.

<sup>2</sup> Letter from SCAQMD to Jimmy Liao dated April 5, 2006, included in Final EIR at page 4-72.

<sup>3</sup> Letter from Bureau of Sanitation to L.A. Department of City Planning dated April 5, 2006, included in Final EIR at page 4-122.

trips that will be generated by the proposed TS/MRF, particularly since the nearest residential use is only 415 feet away. The proposed “no fly zone” ordinance would be a positive step in limiting the physical impacts of these trucks on the surrounding community. To be effective, such an ordinance must include a workable mechanism for enforcement, but we are confident that the City Council could create an effective enforcement scheme. We therefore support such an ordinance as a mandatory condition of approval of any expansion.

3. **Enforceability of the tipping fees.** We have always believed that the proposed tipping fees would be enforceable by the City; it is Waste Management who repeatedly asserted to the City Planning Commission that such fees lacked a sufficient legal basis. As Waste Management representative Dale Goldsmith argued in his December 3, 2009 letter, “There is no nexus to support the City’s imposition of a host fee requirement.” We have reviewed the recently negotiated covenant and remain concerned that, in it, Waste Management carefully avoids acknowledging that the host fee bears a legally sufficient nexus to the project.

We agree with the Planning Department’s recommendation in its December 17, 2009 Revised Recommendation Report that a Development Agreement would be a better mechanism for securing the host fees.<sup>4</sup> As the Planning Department noted, the Development Agreement—which would be a binding contract between Waste Management and the City—could also include other public benefits, including enclosure of the green waste. Unlike the proposed covenant, a Development Agreement is a more common and thus time-tested method for securing mitigations.


In order to minimize the need for such facilities and promote environmental justice, the City should invest in long-term strategies that reduce the amount of waste to be transferred to outlying landfills. As the attached April 28, 2010 op-ed piece from the New York Times suggests, implementation of a comprehensive waste-to-energy plan could both reduce dependence on transfer stations and landfills and create city cost savings through energy production. Los Angeles is ahead of New York in that regard, though, since the RENEW LA policy adopted by the City Council in 2006 outlines such a plan. RENEW LA has the additional benefit of promoting environmental justice by calling for waste-to-energy plants in each of Los Angeles’s waste sheds. Thus, the plan avoids the over-concentration of facilities like the Bradley TS in low-income communities like Sun Valley, ensuring that no community is forced to bear more than its fair share of the City’s waste burden.

Again, we thank the Committee for its careful consideration of the proposed Bradley TS/MRF and the environmental justice issues that it raises. Given the over-concentration of polluting facilities in Sun Valley, the Committee should only approve the proposed TS/MRF with mitigations—including a reduced tonnage per day and enclosure of the green waste—that will minimize the physical harms to the community.

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<sup>4</sup> Department of City Planning Revised Recommendation Report, December 17, 2009, at ASSR-1.

Sincerely,

  
Josh Stehlik, Esq.

cc: The Honorable Councilmember Tony Cardenas

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OP-ED CONTRIBUTORS

**Power From Trash ...**By **NORMAN STEISEL** and **BENJAMIN MILLER**

IT'S been 25 years since the New York City Board of Estimate, under Mayor Edward Koch's leadership, approved a plan to reduce the need for putting municipal garbage in landfills by developing facilities to burn it to create energy. At the same time, the city took the first steps toward creating a recycling program. Since then, disposal costs have risen faster than inflation, and the need to find better methods of getting rid of wastes is even greater.

That fledgling recycling program evolved into the effective system the city has in place today, but no waste-to-energy plants were ever built. Instead, in 2001, Mayor Rudolph Giuliani closed the city's last remaining landfill, and since then the city has sent every pound of nonrecycled municipally collected trash out of the city — about 15 percent of it to a waste-to-energy plant in Newark, but most of it to destinations in western Pennsylvania, eastern Ohio, Virginia and South Carolina. In such places, New York's waste despoils the landscape at a rate of 140 acres a year.

As New York City's garbage decomposes, it releases some 1.2 million metric tons a year of carbon dioxide and its equivalents — primarily methane — into the atmosphere. On top of that, the fuel it takes to haul 11,000 tons of waste hundreds of miles six days a week releases an additional 55,000 tons of greenhouse gas per year.

When commercial waste collected by private carters is added to the total, hauling New York City's waste to landfills uses half as much fuel every year as the city's taxi fleet running 24/7. The combined annual greenhouse emissions from hauling and putting this waste in landfills amount to half as much as Con Edison releases to produce the city's electricity.

Since New York began exporting its garbage, the Sanitation Department's budget has more than doubled, to \$1.3 billion in the current fiscal year from less than \$600 million in 1997. And in the past seven years, the costs of the city's landfill contracts have gone up more than \$90 million, enough to pay 1,000 full-time firefighters, nurses or teachers.

So what should we do? For starters, New York should try to reduce the amount of waste its citizens produce — for example, by imposing a fee for collection of waste but not recyclables. Much of what remains could be recycled or composted; these are the most cost-effective and environmentally benign ways to deal with waste. But they cannot handle everything that people throw out.

The city's Solid Waste Management Plan calls for hauling the rest of the garbage away by train rather than by truck. But while trains use only a third as much fuel as trucks do, and produce only about a third of the emissions, they will still burn some 3.5 million gallons of diesel fuel, emit 50,000 tons of greenhouse gases

and cost tens of millions of dollars — all to carry away New York's garbage every year.

We can do better. The fraction of New York's garbage that requires disposal should be processed in waste-to-energy plants — which not only produce energy but are also cheaper and less polluting than landfills. (The city's Newark contract is its least costly disposal arrangement, and it produces only one-forty-fifth of the greenhouse gases that putting the same amount of garbage in landfills would.) If all of the city's nonrecycled waste were sent to local energy recovery facilities instead of distant landfills, the city would save diesel fuel and generate enough energy to supply 145,000 homes — thus avoiding the combustion of nearly three million barrels of oil to generate electricity.

The main impediment to moving ahead on waste-to-energy plans has been a lack of political will. But Mayor Michael Bloomberg, in his final term and free of electoral constraints, has the opportunity to make new plans to build a sustainable waste-management system that could serve for decades.

Since not all of the facilities could be built at one time, the plan could include a mix of both long-established technologies and some whose advantages are just beginning to be demonstrated. The most widely used kinds of waste-to-energy facilities — mass-burn, steam-turbine electric generators that use waste for fuel (rather than gas, oil or coal) — are typically relatively large. Newer kinds of facilities — like those that subject waste to hot plasma to produce a synthetic fuel gas, or those that use anaerobic digestion to make methane — could be built on smaller sites.

More than a decade ago, countries in the European Union committed themselves to stop burying anything other than inert materials (like broken glass and construction rubble) that are not easily recycled, biodegraded or burned. By immediately taking steps to do the same, New York City could reduce its use of costly landfills — ultimately by 90 percent or more. It's the only responsible way for the city to manage its waste.

*Norman Steisel was the New York City sanitation commissioner from 1978 to 1986. Benjamin Miller, the author of "Fat of the Land: Garbage in New York, the Last Two Hundred Years," was the Sanitation Department's director of policy planning from 1989 to 1992.*

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