

**ATTACHMENT 1**

**RECOMMENDATIONS OF THE STATE/LOCAL ILLEGAL DUMPING ENFORCEMENT  
TASK FORCE**

**FOR**

**SUBMITTAL TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

**JANUARY 2007**

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Discussion of Findings  
State/Local Illegal Dumping Enforcement Task Force  
January 2007

Based on anecdotal information gathered in 2004 and 2005 about the nature and extent of illegal dumping, and recognizing that the problem was being addressed in a piecemeal manner by a variety of local, regional, state, and federal entities, the California Integrated Waste Management Board (CIWMB) decided to establish a multi-agency, State/Local Illegal Dumping Enforcement Task Force (IDETF) to gain a better understanding of the issue and discuss potential solutions. THE IDETF was announced in February 2006, and the first IDETF meeting was held on March 29, 2006. Following a staff discussion of the legal aspects of illegal dumping and current program activities, the March IDETF meeting concluded with the development of an initial list of issues that impact illegal dumping enforcement and prevention programs. At the IDETF meeting on May 24, 2006, some of these initial issues were modified, some were deleted and some were added. The third and final IDETF meeting on September 14, 2006 resulted in the twenty-four findings that are discussed below. These findings were generated by task force members who have both public and private expertise in illegal dumping and litter enforcement, abatement and prevention, interested parties who attended the IDETF meetings, and dozens of meetings held around the state with county and city staffs involved in illegal dumping and litter programs, local illegal dumping enforcement task forces, and committees of Local Enforcement Agencies for solid, hazardous and medical wastes.

The issues identified by the IDETF and subsequent recommendations, described in more detail below, are divided into four categories: Site Maintenance and Controls, Community Outreach and Involvement, Target Enforcement, and Program Measurement and Evaluation. The descriptive categories identified below are those used by the United States Environmental Protection Agency for state and local illegal dumping prevention programs. The task force findings are not all-inclusive, but do represent issues that need to be addressed if California wants to control the current plague of illegal dumping and littering.

I. SITE MAINTENANCE AND CONTROLS

1. Issue: Major appliances and furniture are the most commonly illegally dumped products and are cumbersome and expensive items for local agencies to collect and dispose.

Recommendation: An advanced disposal fee program for items that are most commonly illegally dumped should be developed and the fees used to support the local government cost of collecting and disposing of the items.

Background: Based on the local government cost surveys (1, 2) completed in 2006 by the IDETF, California State Association of Counties (CSAC) and the League of California Cities (League), the items most commonly dumped are furniture (74%), appliances (61%), tires (54%), household waste (51%), E-waste (35%), vehicles (26%), C & D Waste (26%), and hazardous waste (25%). Due to their bulk, collection, and disposal costs, illegally dumped furniture and appliances present the greatest financial burden to local government. California has implemented advanced disposal and/or redemption fees for e-wastes, used tires and beverage containers, but there are no predisposal fees for the bulky items such as

furniture and appliances to support local government costs of collection and disposal. Grants to help local government abate illegal disposal sites are available, and these include the Disposal and Co-disposal Site Grants, Farm and Ranch Grants, Waste Tire Grants and Household Hazardous Waste Disposal Grants from the CIWMB and Stormwater Grants available from the State Water Resources Control Board. These grants are primarily applicable to illegal dumping sites that have grown to illegal disposal sites, and are not intended to fiscally support the day to day illegal dumping collection and disposal activities faced by local government agencies. Thus, costs of illegal dumping abatement for local government programs are paid for by General Fund monies, fees from solid waste management programs, public works/gasoline road taxes, or through administrative fees or civil litigation.

The States of New Jersey and Washington have passed legislation (3, 4) that identifies the "Litter-generating products" that are commonly discarded in public places and imposes a user fee on sales of these products by the manufacturer, wholesaler, distributor, or retailer. These fees are collected by state agencies, and are distributed to local jurisdictions to assist them in the costs of abatement and enforcement of illegal dumping and littering and in the costs of public education.

Description:

- A. Implementation Options: One option is the establishment of an advanced disposal fee for bulky items that are commonly dumped illegally with the collected funds distributed to local governments by the responsible state implementing agency. Whether the funding was on a reimbursement per item basis (e.g., similar to the existing E-waste fee program) or as ongoing annual support grants for general illegal dumping cleanup activities would have to be determined. A second option would be to not develop a bulky item advanced disposal fee program but instead to provide support monies to local government to assist in their ongoing illegal dumping programs through the reallocation of existing fee monies coming to the state, modifying the existing use requirements of current grant programs, or increasing existing state fees. A third option is to make the advanced disposal fee a sales tax, as is done in New Jersey.
- B. Legislation: State legislation would be required to provide program authority, funding and structure.
- C. Agencies Involved: Whether an advanced disposal fee or a sales tax, the State Board of Equalization would be involved in collecting and forwarding the monies to the implementing agency. Assuming the CIWMB to be the implementing agency, it would be responsible for the distribution and auditing of the revenues to the local jurisdictions in accordance with the legislation.
- D. Funding: A new revenue source, either in the form of an advanced disposal fee or sales tax charged at the time of purchase of items identified by legislation would have to be developed.

E. Discussion Points:

Pros:

- Local government could recover some of the costs of their illegal dumping cleanup responsibilities.
- The fees would be charged on products that are most commonly dumped, and would be paying for the cost of their disposal.
- The manufacturers, wholesalers and retailers of the identified products might initiate alternative answers to the problem

Cons:

- Additional programs and funding mechanisms would have to be created
- Additional studies would probably have to be funded and conducted to more accurately identify the products that would be included in a predisposal fee or sales tax program.
- Individuals complying with disposal laws and practices would be paying for the acts of those who choose not to comply.

F. Task Force Priority: High

2. Issue: Illegal disposal of waste tires found along roadways and on private property is a major fiscal and waste management problem to local governments.

Recommendation: Inclusion of a waste tire redemption provision within the existing IWMB Tire Management Program would decrease the number of waste tires that are found discarded along highways and on private property.

Background: Used tires remain as one of the top four most common items being illegally dumped. The Task Force members feel that redemption values for beverage containers have significantly reduced the number of containers seen discarded along our roadsides and that a redemption value for used or waste tires would result in a similar decreased in illegal dumping of tires. This concept was strongly supported by participants in the community meetings held concurrently with the IDETF meetings. Task Force and public members also voiced an opinion that requiring vehicle owners or operators to leave the tires being replaced with the tire dealer(s) would also reduce illegal dumping of tires.

The Task Force members also agree that the Tire Management Program has helped reduce the frequency and extent of used and waste tires illegally dumped in the public and private rights of way. With the passage of the California Tire Recycling Act in 1989, the CIWMB was mandated to regulate and manage waste tires within the state. Funded by fees collected during the sale of new tires, the CIWMB Tire Management Program includes programs in tire recycling, cleanup, enforcement, rubberized asphalt technology, used and waste tire haulers, waste tire facility permits, and tire manifest programs. The demand for used tires continues to increase as the market for used tire products such as rubberized asphalt and shredded tires develops. The combined state and local programs effectively regulate individuals or businesses collecting and transporting used and waste tires, and retail or wholesale facilities dealing with new, used and waste tires.

Individuals purchasing new vehicle tires pay a per tire fee that includes the fee charged by the CIWMB Tire Management Program and any fee added by the tire dealer. The purchaser of the new tires is not required to leave their used tire(s) with the dealer nor do they receive a redemption value for the tires. Individuals bringing less than 10 used or waste tires to a dealer do not receive a redemption value for the tires, nor is the dealer required to accept the tires. Individuals or businesses that dispose of used or waste tires at solid waste disposal facilities normally pay the operator a per tire fee for the disposal service.

Description:

- A. Implementation Options: A tire redemption program could be incorporated into the existing CIWMB Tire Management Program. Inclusion of a tire redemption program into the consumer based container redemption programs managed by the Department of Conservation could also be considered.
- B. Legislation: State legislation would be required to provide program authority and funding. Local legislation may be required to permit expanded uses of existing or new recycling facilities.
- C. Agencies Involved: The CIWMB Tire Management Program would be the state agency primarily involved, with the Department of Conservation being potentially involved. At the local level, the Waste Tire Grant Program recipients would be involved along with the County and City Community Development/Planning Departments and the Solid Waste Local Enforcement Agencies.
- D. Funding: A redemption fee would have to be charged at the sale of the tire, and this fee would have to be forwarded to the implementing state agency. The consumer currently pays the tire dealer a fee that includes the tire hauler fees for the Tire Management Program and the additional handling fee the dealer chooses to charge.
- E. Discussion Points:
  - Pros:
    - The number of illegally dumped tires would decrease.
    - The collection and disposal costs to local and state government would decrease.
    - The scenic value of our streets and highways would improve
  - Cons:
    - A state and local tire redemption infrastructure would have to be created.
    - The implementation of a tire redemption program would require extensive restructuring of the existing program.
    - The potential for increased theft and fraud involving used tires.
    - Recycling facilities would be required to obtain additional permits to handle waste tires
    - The bureaucratic interference with the developing used tire market.
    - The beverage container program may not be an appropriate model as the annual percentage of recycled aluminum, glass and plastic containers has significantly decreased since 1995.
- F. Task Force Priority: High

3. Issue: Some illegal dumping enforcement agencies have not been empowered with a clean and lien authority for assistance in abating illegal dumps on private property.

Recommendation: A statewide clean and lien authority should be adopted for use by local illegal dumping enforcement agencies.

Background: City and County agencies involved in abatement of illegal dumping sites sometimes find the property owner unwilling to abate the problem. Many local code enforcement staffs have additional abatement authorities, including an administrative process that includes fines, citation power to the local court system, and implementation of a clean and lien process. The clean and lien process essentially enables the enforcing agency to have products that are illegally dumped on private property, whether or not they are the result of actions by the property owner, cleaned up and to recover the cost by placing a tax lien on the property. The cleanups of these small illegal dumps often cost between \$5,000 and \$10,000, which is considerably less than the costs of cleaning illegal disposal sites.

The process requires the adoption of a county or city code, and is an important and useful tool in the effort to abate illegal dumps, but is not included in the enforcement “toolbox” of all of the local jurisdictions in the state. The clean and lien enforcement option does include due process elements of notification of the property owner, notification of the local abatement cost, notification of proceeding and the right to hearing, appeals prior to the action, notification of the actual costs, and appeals prior to placement of the tax lien. The contracting firm removing and disposing of the illegally dumped materials normally requires payment at completion of the job and is not willing to wait until the tax lien is paid to the enforcing agency. Thus, some jurisdictions have established draw down accounts that are used to pay for the costs of cleanup then replenished when the monies are collected through the tax lien process.

However, the clean and lien authority is not included in the enforcement “toolbox” of all of the local jurisdictions in the state. Some local governments have not adopted clean and lien ordinances and some have not included the authority to all of the different departments commonly involved in illegal dumping enforcement. The administrative process, including field investigation requirements, property owner notification, the contractor bidding process, and time frames for hearings and appeals, varies between local agencies. The result is that some local agencies can make effective use of the clean and lien process; other agencies are faced with an extensive process before the illegal dump is abated, and others must utilize the citation process if they choose to pursue abatement on private property. Finally, some rural jurisdictions choose not to adopt and/or implement the clean and lien authority because annual budgets simply do not have General Funds available for cost recovery programs.

Description:

- A. Implementation Options: Local clean and lien codes or ordinances could be superseded by a state law that would provide all local agencies involved in illegal dumping enforcement the clean and lien authority and define a statewide standardized administrative process. A complimentary state level loan program also could be established that counties and cities could access to fund limited

illegal dumping cleanup projects, with the local jurisdictions repaying the account when funds are received through the lien process.

- B. Legislation: State legislation would be required to establish and delegate clean and lien program authority to all city and county governments. State legislation also would be required if a statewide standard administrative process is to be provided and if a local loan program is to be established. Legislation could delegate the authority to local governments and allow them to adopt their administrative processes.
- C. Agencies Involved: Local administration of statewide clean and lien authority would not involve a state agency. If a local loan program were established, it could be housed in the existing CIWMB grants programs.
- D. Funding: Funding for the delegation and administrative procedures would not be needed. Should a local loan program be adopted via legislation, long term funding for administration would have to be developed, initial funding for the loan program would have to be provided, and additional funding for the loans may have to be addressed if repayments to the fund are not timely.
- E. Discussion Points:
  - Pros:
    - An effective illegal dumping cleanup tool would be available to all local jurisdictions
    - Administrative procedures would be consistent statewide
    - Local elected officials would not have to approve ordinances that could affect their constituents
    - Local jurisdictions would not have delay cleanups due to insufficient funds
  - Cons:
    - Statewide clean and lien authority may be objectionable to private property owners
    - Local government jurisdictions may want grandfather clauses for their existing ordinances, codes and regulations
    - Local government shouldn't need a state loan program to implement delegated local option program authority
    - A loan program will increase the size of government
- F. Task Force Priority: Medium

- 4. Issue: The application process for Farm and Ranch Solid Waste Cleanup Grants (PRC Section 48100) is a deterrent to some applicants.

Recommendation: CIWMB staff should evaluate the application process to determine if streamlining of the permit process can be completed within the statutory authority of the Board.

Background: The Farm and Ranch Cleanup Grant program is funded at \$1 million/year, and provides grants of up to \$50,000 to cleanup illegal dumpsites on agriculture zoned properties. The grant application is submitted by a local government agency, tribe, or Resource Conservation District (RCD). CIWMB staff review and score the applications, review the site, and make recommendations to the Board. If approved by the Board, the

grant monies are sent to the coordinating agency which, in turn, works with the property owner to facilitate the cleanup. The PRC specifies that the property owner cannot apply directly for the grant, nor can they directly receive the monies for the cleanup. Although not a common event, the property owner can initiate a grant request for reimbursement of expenses previously incurred in the cleanup of an illegal dump on grant eligible property.

Description:

- A. Implementation Options: CIWMB Farm and Ranch Grant staff has initiated a review of the grant process. Representatives of the California Farm Bureau Federation (Farm Bureau) and the waste management industry have met with staff, discussed the issue, and will be submitting revision suggestions to the staff. CIWMB staff continues to participate in training meetings with Farm Bureau members and RCD staff on the grant application process. One suggested option received during outreach meetings is to provide a base grant to participating RCDs that could be spent on low cost cleanups on qualifying properties. In turn, the RCDs could submit several low cost projects at one time to the Board for reimbursement or to charge against an annual grant.
- B. Legislation: To be determined.
- C. Agencies Involved: California Integrated Waste Management Board
- D. Funding: No additional funding required.
- E. Discussions Points:
  - Pros:
    - Property cleanups would be quicker
    - Increased number of grant applications could be anticipated
    - Smaller sites would utilize the funding
  - Cons:
    - Additional workload on local and state staff
    - Reduced oversight of expended state monies
- F. Task Force Priority: Medium

5. Issue: Several separate state agencies provide project administration assistance and/or grant assistance for local illegal dumping abatement programs to the same local government agency.

Recommendation: Cooperative state funding of illegal dumping projects or grants should be implemented

Background: The local government cost survey completed by the IDETF, CSAC and League of California Cities found that the 36 reporting counties spend over \$18 million annually on illegal dumping programs, and the 36 reporting cities spend over \$14 million annually. This \$32 million annual cost does not include grant monies currently being received by local governments to support illegal dumping cleanup activities, nor does it include the \$55 million annual Cal Trans budget for litter and illegal dumping abatement along state highways.

There are a number of State grant programs, as described below, that provide some funding related to illegal dumping. However, there is no overall illegal dumping program and little coordination among agencies. The IWMB currently provides grant monies to local communities. Grants directly related to the abatement of illegal disposal are made available through the Solid Waste Disposal and Co-disposal Site Cleanup Program and the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program. Funds from these programs go directly to the cost of remediating illegal disposal sites, and can be used for the cleanup of public and private property. The grant monies are occasionally used in prevention (property fencing) and surveillance (cameras) activities, but cannot be used for educational activities or community cleanups. The IWMB also has monies available to local government agencies that are involved in implementing the Waste Tire Management Program, the Used Oil Program, and the Household Hazardous Waste Management Program. Depending on the program, the use of the funds to cover the costs of local prevention education programs, community clean-ups, solid waste disposal vouchers, and related activities that are non-site specific are allowed under specified conditions. The State Water Resources Control Board has grant monies available to local government agencies in the Stormwater Program, and these monies may be used for cleanup of some illegal disposal sites, community cleanups, public relations and public education. The State Air Resources Control Board has surveillance equipment available to local jurisdictions involved in illegal dumping enforcement, and the Department of Conservation provides local funding for public education programs in recycling. The Department of Transportation provides local funding for ongoing litter cleanup projects, community cleanup days and public prevention education.

Description:

- A. Implementation Options: One option is to provide enabling authority to allow grant funds from one program to supplement program activities of another program. This would require an agency and departmental analysis of the number of local grant or contract programs that involve cleanup of illegal disposal sites, litter abatement, and public education. A second option is to combine existing grant monies that can be used for cleanup, enforcement and education into a block grant and authorize local government to use the money in the ways that best meets the needs of the communities.
- B. Legislation: Legislation may be required to authorize utilization of grants in more than one program if the enabling authority is not included in the existing statutes. Legislation would be required to create an illegal dumping block grant program that utilizes funds from one or more departments or agencies.
- C. Agencies Involved: Several state agencies and departments could be involved in implementation of the concept; these agencies were discussed in the Background section above.
- D. Funding: If the legislature determines that additional funds are needed to support local government activities in illegal dumping cleanup, legislation will be needed.

E. Discussion Points:

Pros:

- Local authority to use funds from different grants to facilitate cleanup activities or public education is more effective and efficient
- A block grant program would allow local government to determine the most effective use of the grant monies
- Duplicative reporting could be reduced

Cons:

- Greater opportunity for funding abuse
- Complexity of relationships between state agencies makes funding cooperation difficult
- Distribution of block grant funds between counties and cities would be challenging
- Legality of using funds originally dedicated for another purpose

F. Task Force Priority: Medium

6. Issue: Local government agencies are required to provide separate program delivery and fiscal tracking for each state grant that is supporting the same program.

Recommendation: Expand the scope of existing programs and allow local government to combine state grant funds from one program with another.

Background: Currently, local Waste Tire Management program grantees can use a portion of the grant for public education and prevention, but it must be related to waste tires. Likewise, local Stormwater program grantees can use a portion of the grant for public education and public relations, but the expenditure must be related to the prevention of water contamination illegal dumping can cause. Monies from the Disposal Site Cleanup Program and, in limited cases, the monies from the Farm and Ranch Grant Program can be used for surveillance and fencing/signs, but it cannot be used for public education or public relations programs. The IDETF identified related issues on this subject, one that program authority for all of the grants needs to be expanded to allow expenditures related to public education and public relations and, second, that local jurisdictions should be able to combine parts of the monies from all of the grants to fund local public education/public relation projects.

Description:

- A. Implementation Options: Obtain administrative or regulatory authority to allow utilization of existing department and agency grant funds, which currently only address limited aspects of illegal dumping, in all aspects of illegal dumping, including cleanup, enforcement, prevention and public education, and allow comparable grant funds to be combined. In essence, \$5,000 from a Stormwater Grant will only pay for a limited public education program. Combining \$5,000 each from the Stormwater, Waste Tired, and Disposal Site Programs will enable the local agency to develop a more comprehensive \$15,000 public relations program.

- B. Legislation: Legislation could be required if the current grant statutes limit the categorical use of the funds, contain specific prohibitions on the use of the funds, or prohibit the combination of different grant funds to be used in a common project or program.
  - C. Agencies Involved: CIWMB and SWRCB would be the primary agencies involved, while additional agencies could include the Air Resources Board, the Department of Toxic Substances Control, and the Department of Conservation.
  - D. Funding: The need for additional funding would be determined by the Legislature
  - E. Discussion Points:
    - Pros:
      - Local government would be able to more effectively fund and operate all aspects of illegal dumping programs
    - Cons:
      - Complexity of the grant and audit process could increase
      - Legislation may be required
  - F. Task Force Priority: Low
7. Issue: Abatement of illegal dumpsites on private properties is a fiscal burden to the property owners.

Recommendation: CIWMB evaluate the potential and cost of expanding the Farm and Ranch Grant Program to include other property owners.

Background: The cleanup of illegal dumpsites on private property is the fiscal and operational responsibility of the property owner. Some property owners are aware of occasional or ongoing illegal dumping on their property and will make a continuous effort to clean the property. Other property owners are not aware of illegal dumps on their property until they are notified of their responsibility to cleanup and properly dispose of the dumped materials. Some property owners will fence their property to discourage illegal dumping and others make no effort to cleanup or prevent illegal dumping on their properties. Whether a responsible property who initiates cleanup action on their own, or a property owner who ignores an order to abate the illegal dump, the cost of remediation can be expensive. The collection, transport and disposal of illegally dumped materials can range from the cost of the vehicle, owner's time, and disposal fees to the common cost of contractors to clean the property commonly ranging from \$1,000 to \$5,000 or more. The local government illegal dumping cost survey previously referenced did not address the cost of illegal dumping to private property owners. The ability of property owners to claim the cost(s) of cleanup of illegal dumping on their property as a income tax write-off for property maintenance was not addressed.

Description:

- A. Implementation Options: Enhancement of an existing loan or grant program to assist property owners with the expense of cleaning up illegal dumpsites on their property. A second option is to fund or encourage local funding of a solid waste disposal voucher program that would waive the disposal fees for documented illegal dump sites.

- B. Legislation: Legislation would be required for a grant or loan program to the property owner as well as for a state funded solid waste disposal voucher program.
- C. Agencies Involved: CIWMB and the Department of Finance would be the primary agencies involved.
- D. Funding: A direct loan or grant program would require legislative appropriation of new funding. Several county waste management agencies already make disposal vouchers available to property owners of documents illegal dumpsites.
- E. Discussion Points:
  - Pros:
    - Property owners may clean up illegal dump quicker
    - Property owner not being penalized for someone's illegal action
  - Cons:
    - Establishment of additional local and state program
    - Cleanup responsibilities come with ownership of property
    - Funding process could result in delays of small cleanups
    - Additional funds would have to be allocated to support the program.
    - Potential for fraudulent activities
- F. Task Force Priority: Low

## II. COMMUNITY OUTREACH AND INVOLVEMENT

8. Issue: There is no coordinated public education program on prevention of illegal dumping at the state and/or local level.

Recommendation: CIWMB should develop and conduct a statewide illegal dumping prevention campaign in partnership with local governments, non-profits and tax-paying businesses to raise awareness of illegal dumping issues and encourage prevention.

Background: Individuals who litter are committing an intentional or unintentional act that has no economic gain. In contrast, illegal dumping is an intentional act that is done for economic gain. Littering occurs along roadways and in commerce centers, while illegal dumps are typically found at the end of urban and rural streets, canyons, vacant parcels, and open lands. Reports reviewing the state programs in New Jersey and Washington (5, 12) found that public prevention programs play a key role in reducing both litter and illegal dumping and that a public prevention program is only effective if state government plays a lead media role. Illegal dumping reduction can be correlated to the effectiveness of anti-litter campaigns, but litter reduction does not correlate with illegal dumping reduction campaigns (6).

The California Department of Transportation has a \$55 million annual budget for litter control and abatement along the state highways, and funding is included for both state and local media prevention programs. Local grantees in the Waste Tire Management Program can spend a portion of their grants on public education. The local waste tire public education events usually utilize flyers and posters to encourage the proper disposal of waste tires. Likewise, local grantees in the Stormwater Programs can spend a portion of

their grants on public education, and these concentrate more on not allowing fats, oils, and greases into stormwater drains than illegal dumping. There is not a central function within the CIWMB or other agency to coordinate, integrate, and strengthen illegal dumping prevention and cleanup efforts statewide.

Description:

- A. Implementation Options: Adoption of legislation establishing an effective, ongoing state and local level illegal dumping public education program.
- B. Legislation: State legislation would be required to provide program authority and funding.
- C. Agencies Involved: CIWMB, in cooperation with the Cal Trans anti-litter program.
- D. Funding: Reallocation of existing CIWMB monies may assist, but a permanent legislative allocation will be needed.
- E. Discussion Points:

Pros:

- Public education will decrease the cost of illegal dumping cleanup and enforcement to local and state government
- Partnering with non-profits, tax-paying businesses and local government agencies with expertise in public education could minimize state staffing needs
- Responsible agency designation fills a void in state government

Cons:

- Illegal dumping is a statewide problem that must be solved locally
- Additional state government and funding requirements
- Use of funds originally dedicated for another purpose
- Public education is not always effective in changing behaviors

- F. Task Force Priority: High

- 9. Issue: There is no state level coordinated program that provides training to illegal dumping enforcement staff and volunteers in investigation, enforcement and abatement procedures.

Finding: Illegal dumping enforcement training should be enhanced statewide for both the private and public sector.

Background: At the local level, illegal dumping enforcement is the responsibility of a number of different individuals working in different departments under different position series specifications. Included in the mix of “illegal dumping enforcement officers” are Sheriff’s and Police Department officers, Code Enforcement Officers working in Code Enforcement, Building, Community Development and Environmental Health Departments, Environmental Health and Hazardous Materials Specialists working in Environmental agencies, District Attorney Investigators, Park Rangers and even Equipment Operators in Public Works Agencies. Some of the employees are POST trained (Peace Officer Specialized Training), some are Certified Code Enforcement Officers, some are Registered Environmental Health Specialists or Hazardous Materials Specialists and some are trained by experience. Regardless of their employer or job

specification, many have completed specialty training in enforcement through the Cal EPA Basic Environmental Enforcement classes, classes offered through the Attorney General, seminars offered by the CIWMB, DTSC and the ARB, community college and university academic and/or extended learning classes, and through on-the-job training.

However, with the exception of the CIWMB sponsored seminar in Illegal Dumping Enforcement in early 2000, most training and/or certification classes contain very little information on or recognition for illegal dumping. The POST classes, CIWMB LEA training classes, and Cal EPA Environmental Enforcement classes do contain applicable information and procedures on rules of evidence, case preparation, arrest, citation writing, and testimony, but there is limited coverage of what constitutes state and local illegal dumping codes, enforcement standards and penalties.

Many local government agencies are providing outreach brochures and public service announcements to the public on illegal dumping prevention and enforcement. However, the effectiveness of public participation is often limited by their ability to provide adequate evidence for prosecution and their level of willingness to testify when requested.

Description:

- A. Implementation Options: Existing agencies, organizations and schools that provide training in environmental enforcement should be provided with guidelines on illegal dumping enforcement procedures and encouraged to include these guidelines in their existing curriculums. Likewise, the CIWMB and appropriate Cal EPA agencies should provide ongoing training in illegal dumping abatement, investigation, and enforcement to local and state staff working in areas of illegal dumping enforcement. Further, state/local public seminars should be developed and offered to educate the public on the role they can play in reducing illegal dumping.
- B. Legislation: State legislation would be required to formally add the responsibilities of a comprehensive illegal dumping program to the CIWMB, and private and public training could be included in this mandate.
- C. Agencies Involved: One agency, potentially the CIWMB should play a lead coordination role in the inclusion of illegal dumping enforcement training in the existing environmental enforcement training classes offered by the various Boards, Departments and Organizations (BDOs) in Cal EPA, with the Department of Justice for the POST classes, and with the professional organizations and non-profit organizations that currently offer training to state and local government employees working in environmental enforcement.
- D. Funding: Agency staff time would be needed to develop an illegal dumping training curriculum focused on enforcement, but some of the training needs could be handled by existing staff providing training in the BDOs of Cal EPA. Existing funding allocations for travel and tuition for state and local staff attending CIWMB/Cal EPA training classes should be increased to assist local government in covering training costs.

E. Discussion Points:

Pros:

- Inclusion of illegal dumping enforcement procedures in environmental enforcement curriculums will reduce illegal dumping
- Consistent statewide training in illegal dumping enforcement will not exist until a responsible state agency is identified and operational
- Knowledge and use of illegal dumping and litter laws will provide peace and public officers with an important enforcement tool
- Increased public knowledge and participation in illegal dumping abatement and enforcement will reduce the incidence of dumping

Cons:

- Local jurisdictions will want additional fiscal support to pay for the training
- Illegal dumping is not as important as other criminal or civil issues.
- The public won't be willing to actively participate in enforcement

F. Task Force Priority: High

10. Issue: The impact of local illegal dumping programs is limited by the absence of program coordination between counties, cities and regions that bear the impact of the illegal dumping.

Recommendation: One state agency should help coordinate local programs, and there should be more locally initiated coordination between county and city illegal dumping and litter programs.

Background: Local illegal dumping abatement, enforcement and public education programs have evolved in response to public abatement demands on elected and appointed officials, recognition of the cost of abatement and enforcement to local governments, recognition of the public health impacts of illegal dumping, and the recognition of the economic benefits of clean communities. In response to public demands, many counties and cities have formed task forces composed of county or city staff while others have formed community based task forces. The CIWMB IDETF was charged with evaluating the impact of illegal dumping on local government and part of this project included staff outreach to cities, counties, and community illegal dumping and litter task forces. When the composition of local task forces included membership from program staff, staff of other state and local agencies, the business community, the public and environmental groups, the agendas changed from addressing abatement at specific and/or "hot spot" locations, to developing long range abatement plans, community cleanup days and public education projects. Some staff task forces concentrate on enforcement, and have effective working relationships between city staff and county staff. However, in the opinion of the IDETF Coordinator who attended numerous local task force meetings, intentional, conscientious planning and delivery of illegal dumping programs between counties and the cities in the county were the exception and not the norm. The feedback to the IDETF Coordinator and task force members was that the presence of CIWMB staff at local illegal dumping task force meetings, local government staff meetings, regional roundtables and state level meetings was and is appreciated and

the information provided by CIWMB staff and the CIWMB illegal dumping website will result in improvements in local illegal dumping and litter control programs.

Description:

- A. Implementation Options: Establish a formal illegal dumping outreach program within one agency and staff one or more positions to formalize the program.
- B. Encourage counties and cities to work together on illegal dumping abatement, enforcement and public education issues. Review the grant process to determine if separate grants to cities and counties impede or benefits effective cooperation between counties and the cities in the county.
- C. Legislation: Ongoing outreach activities in illegal dumping cleanup, enforcement and education would be formalized by legislation. Program cooperation between cities and counties would not be a legislative issue.
- D. Agencies Involved: The CIWMB could be the lead agency once the responsibility is formalized.
- E. Funding: The need for additional funds to be allocated by the legislature would be dependent on how the Board wants to structure and staff the ongoing program.
- F. Discussion Points:
  - Pros:
    - Cooperation between state, counties and cities will result in more effective illegal dumping programs
    - The CIWMB should be responsible for and provide an effective illegal dumping outreach program to local governments.
  - Cons:
    - The level of concern and response to illegal dumping varies between counties and the cities, making cooperation unrealistic.
    - Cooperation at the local level is an unneeded mandate
- F. Task Force Priority: Medium

11. Issue: The issuance of disposal vouchers to property owners who are the victims of illegal dumping is an effective cleanup tool and state fiscal support of the program is desirable.

Recommendation: Local governments and solid waste authorities should be encouraged to implement the use of disposal vouchers or fee waivers for documented victims of illegal dumping on property they own.

Background: Several counties, including Monterey, will issue disposal vouchers to private property owners who have been victimized by illegal dumping and are willing to cleanup and transport the waste to a local transfer station or landfill. The voucher option may occur as part of an illegal dumping investigation or the property owner may initiate the request, but the Local Enforcement Agency or other designated agencies must determine that the illegal dump is not the action of the property owner before the voucher will be issued. Vouchers are not issued as often as they are available because local staff often find that the property owner will just go ahead and cleanup the illegal dumpsite once they realize that vouchers are available. Interviews with both public and private solid waste authority managers revealed that it is easier

for them to absorb the cost of the voucher than it is to try and recover the cost from local government. Whether additional local governments would implement voucher programs if state support funding was available was not determined.

Description:

- A. Implementation Options: Encourage the issuance of disposal vouchers as an effective tool to timely property cleanup. Mandate that disposal vouchers be made available and fund the cost of the local program.
- B. Legislation: Legislation would not be required to include the concept in a CIWMB outreach program. Legislation would be required to make the program a mandate and to provide local support funding.
- C. Agencies Involved: The CIWMB would be the lead agency.
- D. Funding: Additional funding would not be required if the option is included in an established outreach program. If the program became a local mandate that was supported by state funding, an ongoing funding and administrative support element would have to be established.
- E. Discussion Points:
  - Pros:
    - Disposal vouchers can expedite cleanup by property owners at a minimum expense to local government and solid waste authorities.
    - Disposal vouchers can change owner irritation to owner cooperation
  - Cons:
    - Local government must bear the administrative cost
    - Property owners shouldn't need disposal vouchers to get them to perform their cleanup responsibilities
- F. Task Force Priority: Medium

12. Issue: Some local jurisdictions have established environmental trust funds where monies from prosecutions are held in trust for use in local education and enforcement programs.

Recommendation: Statewide authority for the establishment of local environmental trust funds to help support illegal dumping program activities should be considered.

Background: Several local jurisdictions, including Riverside County, have established environmental trust funds that serve as a protected depository for fines resulting from settlements of environmental crime litigations. The funds are deposited in the environmental trust fund, which is ongoing and isolated from the annual governmental budget process. The environmental trust funds are used to pay for the cost of training local staff in environmental crime enforcement, purchase of equipment, funding local public education programs, community cleanups, and other activities that can be related to the prevention of environmental crimes. The funds are held in trust by the local agencies administering the programs where the fines are generated, and these include the District or City Attorney office and environmental health/hazardous materials programs. Some jurisdictions have adopted enabling legislation and implemented the trust fund while others have been given counsel that questions the legality of implementing environmental trust funds. Without the

environmental trust fund option, fines generated by environmental enforcement agencies are included into the annual operating budget of the administering department or agency.

Description:

- A. Implementation Options: Provide statewide statutory authority to enable local environmental crime jurisdictions to establish environmental trust funds.
- B. Legislation: Enabling legislation could provide consistent statewide authority.
- C. Agencies Involved: The CIWMB and the other Cal EPA BDOs (Boards, Departments and Offices) involved in enforcement of environmental crime laws, and the Department of Justice.
- D. Funding: State program funding would not be required.
- E. Discussion Points:
  - Pros:
    - Environmental trust funds insure that fines resulting from environmental crime settlements are retained by the enforcing programs
    - Statewide authority minimizes local implementation arguments
    - Statewide authority means offenders can expect the same settlement options in all local jurisdictions
  - Cons:
    - Elected officials should determine how fines from settlements are spent
    - Environmental trust funds become additional unbudgeted revenue generators for implementing agencies
- F. Task Force Priority: Low

III. TARGETED ENFORCEMENT

13. Issue: There are no statewide standards of acceptable evidence and prosecution policies for illegal dumping enforcement actions.

Recommendation: Encourage local enforcement and prosecution organizations, including the California District Attorney's Association, the California County Counsel Association, the California Code Enforcement Officers Association and other interested parties, with work with the Cal EPA enforcement staff to develop guidelines and standards for enforcement and prosecution of illegal dumping investigations.

Background: The public and its legislators desire active illegal dumping enforcement programs, yet the staff involved in enforcement often find the judicial process is inconsistent in what constitutes enforceable evidence, what will be prosecuted, the length of time an illegal dumpsite will remain until the legal prosecution is completed, and the administrative time and costs of prosecution outweighs the benefits. Legislation passed in 2005 (AB 2253, Canciamilla) elevates many illegal dumping offenses from infractions to misdemeanors, and increases the fines for all illegal dumping and littering violations. Several local jurisdictions are modifying programs to increase prosecution with examples being the Environmental Court program in San Francisco, the last Friday of each month being the court prosecution day for environmental crimes in San Joaquin County, and

Riverside County adding staff working in the environmental health/hazardous materials programs to the District Attorney's Office. Kern County has adopted a local ordinance (7) that makes the discovery of two pieces of evidence (i.e., mailing labels, receipts, charge card slips) bearing the same name at an illegal dump site as prima face evidence of ownership and enables enforcement staff to issue a misdemeanor citation to the party. The legality of this authority is questioned by prosecutors in other jurisdictions, so an effective tool is not utilized on a statewide basis. The use of digital and video surveillance cameras as an enforcement tool at chronic illegal dumping sites is becoming an effective tool, yet the willingness to prosecute these cases varies with jurisdictions. Likewise, some local jurisdictions are trying to minimize the need for citizen testimony in witnessed illegal dumping cases by utilizing follow-up investigations by the staff.

Description:

- A. Implementation Options: Development of a statewide guideline for that would standardize the operational procedures of illegal dumping enforcement programs and identify statewide illegal dumping enforcement standards. If unachievable, legislation on rules of evidence and prosecution could be considered.
- B. Legislation: If it is determined that desirable standards cannot be achieved without state statutory authority, legislation would be required.
- C. Agencies Involved: In addition to CIWMB staff, the Legal Counsel offices of the Cal EPA BDOs would be involved along with the Department of Justice. Development of enforcement guidelines would also have to include the active involvement of local government judicial and enforcement agencies.
- D. Funding: Short term funding for coordinating staff would need to be identified or allocated.
- E. Discussion Points:
  - Pros:
    - Statewide enforcement standards will result in increased, effective enforcement and subsequent reduction in illegal dumping
    - Local jurisdictions will not have to spend staff time developing their own local program enforcement standards
    - Equal enforcement of offenses statewide
  - Cons:
    - Local judicial bodies can best determine the content and standards of their enforcement programs
    - The judicial system is already overloaded
- F. Task Force Priority: High

14. Issue: Public oversight of the refuse hauler service provider industry is minimal, and consumers lack insurance that their waste will be legally disposed at a landfill or transfer station.

Recommendation: Refuse hauler service providers should be required to operate under a local permit program.

Background: In most cities and counties, local government agencies administer franchise agreements with residential and commercial waste hauling businesses. These franchise agreements provide the refuse hauler with exclusive, geographically based operational authority to collect, transport, and dispose of solid waste generated by the residents of the dwelling units and businesses. In turn, the franchisee has the obligation to provide the refuse removal service on a scheduled routine basis, often to provide containers for the waste (these often include separate containers and services for green wastes and recyclable wastes), to maintain the refuse hauling equipment in an acceptable manner, to transport the refuse in covered units, and to dispose of the materials at a approved transfer station or sanitary landfill.

In contrast, the refuse hauler service provider industry, commonly referred to as a “mom and pop” refuse hauler, operates outside of the exclusive franchise agreements because they provide the service on an as-requested basis, usually physically remove the waste materials from the subject property and place it in their own vehicles for transport and disposal, and collect the removal and disposal fee directly from the individual requesting the service. Refuse hauler service providers include a growing number of franchise based businesses, the private entrepreneur with the pickup and sideboards, commercial gardeners that remove the yard waste as part of their service, and special districts that haul their own landscape wastes. The refuse hauler service provider will sometimes increase their profit margin by disposing of the waste they collect along a road or on a vacant lot and retain the disposal fee they charged the customer. Some counties and cities, including Sacramento and Monterey, maintain a list of refuse hauler service providers that have registered with the local agency and encourage the public to only employ individuals or firms on the list. At least one county, Contra Costa, has an ordinance in place requiring the annual permitting of the haulers, but it does not apply to the cities within the county or to haulers operating from outside of the county. Thus, effective regulation of the refuse hauler service provider industry is absent, yet the operators are recognized by local illegal dumping enforcement agencies as being a significant contributor to the statewide illegal dumping problem.

Description:

- A. Implementation Options: Create the requirement for annual permitting and inspection of the vehicles used in the refuse hauler service provider industry, delegate the authority and responsibility to counties, and authorize the local jurisdiction to charge annual fees for the permit and inspection program, provide the authority to charge penalty fees for vehicles operating without permits, and provide legal authority for the administering agency to pursue civil or criminal penalties should an owner or operator not comply with the permit requirements. The program should include the requirement that an operator obtain vehicle permits for each county they enter into business, and that local jurisdictions can also require businesses licenses outside of the refuse hauler service provider permit.
- B. Legislation: State legislation would be required to establish the annual permit requirement, delegation of program authority and responsibility and authority to recover the costs of the state mandated program.

- C. Agencies Involved: Minimal state agency involvement would be anticipated, and it would be dependent on the content of the enabling legislation. If the statute also requires the development of regulations, a state agency existing within the Department of Consumer Affairs could feasibly incorporate the program into their
- D. existing responsibilities. Involvement of an agency within Cal EPA is not anticipated.
- E. Funding: If an administrative or regulatory responsibility evolves from the legislation, the delegated state agency may have to allocate additional short or long term funds.
- F. Discussion Points:
- Pros:
- Refuse hauler service provider permit will reduce illegal dumping
  - The permit program would provide needed consumer protection
  - The permit program would protect legitimate businesses
- Cons:
- The permit costs would result higher fees to the consumer
  - The permit program would punish low income people who are trying to make a living
  - A local permit and inspection program would have to be established
- G. Task Force Priority: High
15. Issue: Illegal dumping enforcement staffs find that effective enforcement is hampered by the absence of cradle to grave ownership responsibility.

Recommendation: Owners of disposed materials should be held responsible for the approved transportation and disposal of the materials they discard.

Background: Field investigations of illegal dumping incidents sometimes result in the finding of receipts, letters and invoices in the dump that contain the name of the same individual. When the individual is contacted by the enforcing agency, the response often is that the individual is not responsible for the illegal dump because he/she paid an individual or firm to haul and dispose of the waste, or a neighbor "let me add my material" to a load he/she were already taking to the landfill. The accused will sometimes admit fault or responsibility and cleanup the illegal dump, but the enforcing agency is usually faced with the fact that the invoices or letters are not adequate evidence of ownership.

Some counties, such as Kern and Butte (7, 8), have adopted local ordinances that legally define two or more pieces of material with the same name on it as prima face evidence of ownership. Without such definition, the enforcing agency must rely on the actual illegal dumping action being witnessed by a peace officer or a person who is willing to testify in court, video surveillance (providing the prosecuting agency recognizes the use of video surveillance) or as a result of intensive follow-up investigation by the enforcing agency. The typical resident does not feel any responsibility for the disposal of their waste materials once it leaves their property.

Description:

- A. Implementation Options: Define legal evidence standards for ownership of residential waste materials and the ownership responsibility to insure their proper disposal.
- B. Legislation: State legislation to add ownership evidence standards to the existing Penal Codes on illegal dumping would be required.
- C. Agencies Involved: If passed by the legislative, implementation actions by the CIWMB would not be needed. This would be an enforcement provision in code that any local program could take advantage of.
- D. Funding: Additional state funding would not be required.
- E. Discussion Points:

Pros:

- Increased effectiveness of enforcement will reduce illegal dumping
- Increased utilization of permitted refuse hauler service providers

Cons:

- Individual responsibility for disposal of materials not fair or realistic
- Discarding owner shouldn't be responsible for someone else's illegal act

- F. Task Force Priority: High

16. Issue: Local government agencies recognize the need for assigned staff to enforce illegal dumping codes and ordinance, yet many counties and cities do not have sufficient funding to support the staff positions. This funding issue is particularly true in rural and lower income jurisdictions, which are also areas that are common sites for illegal dumping.

Recommendation: Provide additional funding for local delivery of illegal dumping enforcement programs.

Background: The two main deterrents to reducing illegal dumping and the costs incurred by local jurisdictions are active enforcement programs and ongoing public education programs. In cities and counties, illegal dumping enforcement responsibilities are usually assumed by or assigned to entities that have an enforcement responsibility. The most common illegal dumping enforcement staff are the code compliance officers in the Building Inspection or Code Enforcement Departments, the Environmental Health or Hazardous Materials Specialist or Technician staff in the Environmental Health and Hazardous Materials Department or Agency, the Deputy Sheriff or Policemen in the Sheriff's Office or Police Department, and the District Attorney Investigators in the Office of the District or City Attorney. While some staff in local jurisdictions are assigned sole responsibility to enforcement of illegal dumping laws and the related abatement actions, most combine the illegal dumping enforcement responsibilities with the other responsibilities of their job. Such responsibilities can include routine law enforcement, abandoned vehicle abatement, building code compliance, street maintenance, nuisance complaints, permit inspections, mandatory refuse collection exemptions, and zoning code compliance. Increased response to the public demand to abate illegal dumping sites is often done at the expense of other programs. The limited amount of staff available for illegal dumping enforcement also means that the program is

complaint driven and time to spend on a comprehensive prevention and enforcement program is often not available.

Description:

- A. Implementation Options: Options include: (a) direct state funding to support illegal dumping programs in counties and cities; (b) increase of state funding to the existing Rural Environmental Crimes Circuit Prosecutor Program to fund one or more District Attorney Investigator Positions; (c) allowing the greater use of locally generated solid waste fees to support illegal dumping programs; and (d) incorporating LEA time in illegal dumping enforcement into the annual Enforcement Program Plan (EPP).
  - B. Legislation: The need for legislation would be dependent on whether direct funding would consist of new monies or reallocated monies and whether statutes would have to be amended to allow changes in allocation or use formulas.
  - C. Agencies Involved: CIWMB could act as the lead agency in the study and implementation.
  - D. Funding: Required, but could range from reallocation of existing funding sources to raising the tipping fees paid to the CIWMB by local transfer stations and landfills.
  - E. Discussion Points:
    - Pros:
      - Increased local enforcement will reduce illegal dumping and its associated costs
      - Increased enforcement will result in abatement of more existing sites
      - Increased staff in rural and low income areas addresses environmental justice realities
    - Cons:
      - Justification for rural or underserved communities to receive additional state funding
      - Increase in state administration and staffing responsibilities
  - F. Task Force Priority: High
17. Issue: Illegal dumping laws and enforcement standards vary between counties and cities.

Recommendations: In cooperation with local enforcing and prosecuting agencies, CIWMB staff should develop a supplement to the existing Illegal Dumping website that will detail the basic components of illegal dumping enforcement programs, and encourage local associations to develop guidelines and standards for illegal dumping enforcement.

Background: The California Penal, Vehicles and Health and Safety Codes (9, 10, and 11) contain statutory laws that define illegal dumping and littering, define the violations of the codes, and establish the maximum penalties for code violations. Local county and city codes typically contain abatement and prevention authorities related to illegal dumping. Included in local codes are mandatory refuse collection requirements, clean and lien authorities, evidence of ownership definitions, zoning requirements for refuse related industries, vehicle impoundment authority (Chapter 765, Statutes of 2006),

administrative hearing authorities and procedures, and requirements for refuse hauler permits. Not all cities and counties have adopted comprehensive illegal dumping enforcement and abatement codes, and the enforcement and prosecution procedures vary between jurisdictions. In 2006, the Legislature passed and the Governor signed AB 1992 (Canciamilla), which updated the solid waste definitions in existing code, and upgraded the civil and criminal penalties for violating codes relating to littering and illegal dumping. The legislation should enable local jurisdictions to increase the impact of enforcement activities, but does not insure that all jurisdictions have and utilized needed supplemental authorities.

Description:

- A. Implementation Options: CIWMB continue the enhancement of the Illegal Dumping website to include delineation of existing state statutes, recommended local authorities, and examples of existing local ordinances. In addition, work with local associations to develop standards and procedures for illegal dumping enforcement activities.
- B. Legislation: State legislation would not be required.
- C. Agencies Involved: CIWMB
- D. Funding: Web enhancement can be completed by existing CIWMB staff, but at least one staff position should be permanently appointed into an illegal dumping education and outreach capacity.
- E. Discussion Points:
  - Pros:
    - Local government agencies should be responsible for developing standards and enforcement guidelines for their local ordinances.
    - The CIWMB Illegal Dumping website is an existing assistance tool for local government that can be effectively enhanced.
    - The CIWMB should provide education and outreach assistance on illegal dumping issues to local government
  - Cons:
    - Consistent statewide enforcement of illegal dumping laws will only occur when local codes become state statutes
- F. Task Force Priority: Medium

18. Issue: Illegal dumping will decrease when the vehicles involved in the act of dumping are impounded by enforcing authorities.

Recommendation: Local enforcement agencies should proceed with implementing the statewide illegal dumping vehicle abatement authority resulting from the passage of AB 2253 (Hancock) in 2006.

Background: Several local jurisdictions, including Los Angeles City and County, Riverside County, Kern County and Butte County, have adopted local ordinances that include impound, seizure, and forfeiture authority of vehicles involved in illegal dumping activities. These local codes have played a significant role in educating the public that illegal dumping is not a good choice. The IDETF identified this issue

prior to the passage of AB 2253, which authorizes a court to impound a vehicle used in illegal dumping under prescribed criteria.

Description:

- A. Implementation Options: CIWMB include the AB2253 statute in the Illegal Dumping website and encourage counties and cities to work with their law enforcement agencies to implement the program.
- B. Legislation: Completed
- C. Agencies Involved: Local implementation.
- D. Funding: Not required.
- E. Discussion Points:
  - Pros:
    - Impounding vehicles is an effective deterrent to illegal dumping
  - Cons:
    - Authority penalizes low income people who are trying to make a living
    - Additional workload for local court systems
- F. Task Force Priority: Medium

19. Issue: Mandatory refuse collection/subscription requirements are a deterrent to illegal dumping.

Recommendation: Local government bodies should adopt mandatory refuse collection/subscription ordinances, and these ordinances should include exemption, hearing and appeal criteria.

Background: Local ordinances that require property owners or occupants to subscribe to a routine refuse collection service are based on the protection of public health, welfare and safety. Most ordinances require that residential and commercial facilities be provided with refuse containers, that the occupant utilize the containers, that collection of refuse from the containers occur on a regular and frequent basis, provide an exemption criteria and process, and allow the governing authority the right to initiate service on properties that have not met the mandate and recover the cost of service on a tax lien. An administrative hearing and appeal process is also included in the ordinances. Exemption criteria are based on factors such as (1) the premises being unoccupied; (2) collection service is not available to the premises due to distance from the nearest collector's area or other reason; and (3) that no unsanitary condition, hazard to health, or public nuisance will occur if collection is not provided. Mandatory collection/subscription ordinances are common in most urban areas of California as well as in the most populated rural areas. Illegal dumping often occurs in rural areas where there is no mandatory collection ordinance, but the source cannot always be attributed to individuals who generate refuse but have no collection service. However, regardless of on-property recycling and reuse, occupants generate refuse that is either disposed of properly at a landfill or transfer station or ends up illegally disposed on their own property or on other property.

During the outreach process to local jurisdictions during the term of the IDETF, it was found that local support of mandatory collection/subscription was present, but the general

request was that it be left the responsibility of the local governing agencies. The IDETF agreed to honor this request.

Description:

- A. Implementation Options: CIWMB support the adoption of local mandatory subscription/collection ordinances in California, and list the option as a core illegal dumping prevention program on the Illegal Dumping website, and include links to local ordinances on the website.
- B. Legislation: None required
- C. Agencies Involved: CIWMB could include the adoption of mandatory subscription/collection ordinances in their outreach program.
- D. Funding: Additional state funding would not be required.
- E. Discussion Points:
  - Pros:
    - Refuse collection and disposal is critical for the protection of public health, welfare and safety
    - Illegal dumping occurs more often in areas not having mandatory collection ordinances
    - Mandatory subscription stabilizes the refuse collection system
  - Cons:
    - Individuals should be allowed to handle their refuse as they please.
    - Local program administration and resulting costs are increased.
    - Reduction of competition results in higher consumer costs
- F. Task Force Priority: Medium

20. Issue: Illegal dumping surveillance equipment is expensive to purchase or rent.

Recommendation: CIWMB and Cal EPA Boards, Organizations and Departments provide additional surveillance equipment for use by local enforcement agencies.

Background: Surveillance equipment, including motion-activated digital cameras, continuous recording or motion-activated video cameras, and sound recording machines are useful enforcement tools in the enforcement of illegal dumping statutes and ordinances. The sophistication and reliability of surveillance equipment has increased to the level that one piece of equipment can now record pictures simultaneously of vehicle drivers, vehicle license plates, and actual illegal dumping, and the information can either be immediately sent through telemetry to a central location or it can be recorded on an internal or external computer and downloaded at the operator's convenience. The purchase costs of surveillance equipment starts around \$4,000 per monitor, with multi-functional equipment priced higher. Some local jurisdictions buy or rent a limited number of surveillance monitors, then rotate the monitor to different illegal dumping "hot spots". The CIWMB, in cooperation with the Air Resources Board and Cal EPA, makes a limited number of pieces of surveillance equipment available for loan to local jurisdictions. In addition to purchasing their own surveillance equipment, local government code

enforcement agencies have indicated their support to expand the CIWMB equipment loan program.

Description:

- A. Implementation Options: CIWMB/ARB continues to fund and purchase additional surveillance equipment that can be made available for loan to local illegal dumping enforcement agencies. In addition, expanding the authority to expend monies in existing grant programs for the purchase or rent of surveillance equipment by local government.
- B. Legislation: None required unless it is determined to amend the existing grant provisions.
- C. Agencies Involved: CIWMB, ARB, SWRCB and any of the other BDOs in Cal EPA that provide local grant programs.
- D. Funding: An increase in existing allocated funds may be required, and legislative requirements on the use of grant monies for equipment purchase may have to be amended.
- E. Discussion Points:
  - Pros:
    - Surveillance equipment is an important component of an illegal dumping enforcement program.
    - Enforcement results in reduction of illegal dumping
    - Reduction in abatement costs to local government
  - Cons:
    - Prosecution limits
    - Evolving technology quickly outdates purchased equipment
    - Equipment loan program administration required
    - Additional state funding could be required.

Task Force Priority: Medium

21. Issue: Illegal street vendors contribute to the illegal dumping problem.

Recommendation: Local government enforcement agencies actively enforce existing state and local codes and/or adopt local codes that more effectively regulate street vendors.

Background: Street vendors commonly set up temporary stands on vacant properties or offer products for sale from mobile vehicles in urban areas. Common street vendors include fruit and produce stands, flag stands, ice cream push carts, carpet and rug stands, and preserved food product stands. These vendors usually operate without required health permits or business licenses and are in conflict with local zoning codes and land use permits. Operating on a day-to-day basis, these vendors will often leave waste products on site when they close for the day or relocate to a better site. Efforts to control these vendors by Code/Zoning Enforcement units and Environmental Health staff are time consuming, usually needed on weekends which are not normal staff workdays, and are an ongoing issue. The vendors not only leave waste products that require abatement by government agencies and/or the property owner, but sell unregulated, uninspected

products usually at a lower price than businesses that operate from approved structures, have the required permits, and pay their required sales taxes.

Description:

- A. Implementation Options: Development of local options ranging from a total prohibition of street vendors to allowing them in certain locations with permission of the property owner and with required waste collection containers and disposal practices. Include impound, seizure and forfeiture authority for enforcement agencies, and active, funded enforcement programs.
- B. Legislation: None unless it is determined that specific authorities should be amended into the existing Food Code.
- C. Agencies Involved: The State Department of Health Services delegates regulatory authority of retail food vehicles and stands to local environmental health agencies, and would be the lead agency in any amendments to the Health and Safety Code.
- D. Funding: No state funding is involved.
- E. Discussion Points:
  - Pros:
    - Reduction of litter and waste left by vendors or customers
    - Greater assurance of safe food products
    - Reduces neighborhood nuisance complaints
    - Eliminates unfair business practices
  - Cons:
    - Eliminates income for vendor operators
- F. Task Force Priority: Low

22. Issue: Many beverage and cardboard redemption facilities do not provide waste containers for their customers.

Recommendation: Redemption centers should have waste containers available for their use by their customers, and the customers should be encouraged to use the waste containers.

Background: Redemption centers for beverage and cardboard are located throughout the state, and the Department of Conservation regulations do not require the provision and use of waste containers at the centers. Many individuals bringing materials to the centers will store and transport the recyclable materials in plastic bags or similar storage containers. Some centers provide waste containers for the plastic bags and encourage the customers to use them, while others return the plastic bags to the customer once the recyclable containers or materials have been dumped from the bags. Some customers will take the bags with them and discard them in appropriate waste containers, while others will discard them on the sidewalks or along the streets. The result is more litter and illegal dumpsites that have to be abated by the public or private property owner.

Description:

- A. Implementation Options: Local government agencies require redemption centers to provide and maintain waste containers for use by their customers through the passage and enforcement of zoning codes, land use permits and/or mandatory waste collection ordinances.
- B. Legislation: State legislation would not be required.
- C. Agencies Involved: State agency involvement would not be necessary.
- D. Funding: State funding would not be required.
- E. Discussion Points:
  - Pros:
    - Refuse often illegally dumped would remain at the redemption centers
  - Cons:
    - Homeless could lose some materials they use for shelters
    - Additional disposal costs to the redemption centers
- F. Task Force Priority: Low

23. Issue: Solid waste transfer stations and landfills should be able to amend their hours of operation on an as needed basis.

Recommendation: The IDETF recommended that the CIWMB should not initiate action to allow solid waste transfer stations and landfill operators to amend their hours of operation in a manner other than currently defined in regulations.

Background: The hours of operation for solid waste facilities are specified in the facility land use permit and the facility operational permit. These hours are originally identified in the environmental impact report for the facility and have been through public review and hearings before they are included in the permits. Changing the hours of operation is defined as a major change in the operational permit, and would be subject to the CEQA review process and approval by the Board. The LEA does have the authority to approve a temporary change in operational hours under specified emergency conditions. During the IDETF meetings, several comments were made that illegal dumping often occurs when an individual or business needs to dispose of materials after the normal hours of facility operation. In lieu of waiting until the next day to dispose of the materials, they simply dump the materials along roadsides or on private property. Thus, the premise was that illegal dumping would be decreased if solid waste facilities could change their hours of operation at will.

Description:

- A. Implementation Options: a) Status quo: The operator can amend the hours of operation of the facility under the existing permit amendment or permit renewal processes; b) The operator could consider the use of key-locked areas where dumpsters can be accessed for after hours disposal of waste materials; c) Code enforcement authorities could increase surveillance and enforcement along roads leading to solid waste facilities; d) Change existing permitting requirements.

- B. Legislation: State legislation could be required if it is decided to amend the existing procedures for establishing or changing the hours of operation for solid waste facilities.
- C. Agencies Involved: CIWMB would be the lead agency if it is determined that amendments are appropriate.
- D. Funding: No additional state funding would be required.
- E. Discussion Points:
  - Pros:
    - Illegal dumping could potentially decrease if solid waste facility operational hours were extended.
    - The current codes and regulations restrict business opportunities for landfills and transfer stations.
  - Cons:
    - Illegal dumpers dump for economic reasons and changing the hours of operation will only mean they dump later in the day.
    - Keeping solid waste facilities open later will result in impacts from traffic and noise on the community.
- F. Task Force Priority: Low

#### IV PROGRAM COORDINATION AND MEASUREMENT

24. Issue: There is no one state agency charged with the responsibility of coordinating and evaluating enforcement and education activities in illegal dumping.

Recommendation: The Board serves as a coordinating agency for illegal dumping programs in California.

Background: The Public Resources Code specifies that the CIWMB is responsible for the permitting and inspection of solid waste landfills and transfer stations and the abatement of illegal disposal sites. The Penal Code, Sections 374 and 374.3, defines illegal dumping and littering, but does not identify the responsible state enforcement or administrative agency. Since illegal dump sites often become locations for additional dumping that eventually results in an illegal disposal site, it can be argued that the CIWMB could assume lead responsibility in the coordination of illegal dumping programs at the state and local level.

Description:

- A. Implementation Options: A program proposal should be developed that identifies the needed components of an Illegal Disposal Program, and this should include lead activities such as outreach with local illegal dumping enforcement programs and development of a state level public information presence in illegal dumping. The proposal should include identification of existing CIWMB funding to local programs that may be directly or indirectly related to the support of local illegal dumping programs, identification of and

justification for additional local support funding needs, and identification of how the program should be staffed and the cost of managing the program.

- B. Legislation: Legislation would be required to incorporate Board responsibility for illegal dumping in the Public Resources Code. Additional legislation may be required to recognize the use of existing funds or identification of additional funds to support the staffing of the program any needed local assistance funds.
- C. Agencies Involved: The CIWMB would act as the lead agency.
- D. Funding: Additional funding or reallocation of existing funding would be required for adequate staffing of the program, the costs of public education and outreach, and any additional local government grant support that could become part of the program.
- E. Discussion Points:
- Pros:
- There should be a designated agency responsible for illegal dumping education, outreach and support and CIWMB is the logical agency.
  - Illegal dumping is an act that local government must respond to, but state level leadership has been missing and is critical to addressing the issue.
- Cons:
- Additional responsibility for CIWMB means additional staffing and administrative costs.
- F. Task Force Priority: Medium

## REFERENCES

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5. New Jersey Litter Survey, 2004; The New Jersey Clean Communities Council; Gershman, Brickner & Batton, Inc. Fairfax, VA, and Institute For Applied Research, Sacramento, CA; January 28, 2005
6. Conversation with Daniel Syrek, Institute For Applied Research, June 27, 2006
7. Kern County Ordinance Code, Title 8 Illegal Dumping, Chapters 8.47-8.54; 2005 amendments
8. Butte County Ordinance Code, Chapter 49, Unlawful Dumping, 2005 amendments
9. California State Penal Code, Sections 372-374.4
10. California State Vehicle Code, Sections 23112-23114(a)
11. California State Health and Safety Code, Section 117555
12. Washington 2004 State Litter Study, March 2005, Publication No. 05-07-029, Solid Waste and Financial Assistance Program