

# California Integrated Waste Management Board

## Board Meeting

January 21, 2009

### AGENDA ITEM 4

**ITEM**  
Consideration Of The Tijuana River Valley And Estuary Goat Canyon Trash Capture And Removal System For The Solid Waste Disposal And Codisposal Site Cleanup Program (Solid Waste Disposal Trust Fund, FY 2008/09)

#### I. ISSUE/PROBLEM STATEMENT

California Integrated Waste Management Board (Board) staff has completed an evaluation and recommends approval of one new Board-managed project pursuant to the Solid Waste Disposal and Codisposal Site Cleanup Program (Program). Table 1 provides general information on the project. Detailed project information is in the agenda item attachment.

Table 1. Project Information Summary.

Site	Site Priority	Estimated Cost	Funding Mechanism	Cost Recovery
Border Field State Park Illegal Disposal Site -Tijuana River Valley And Estuary Goat Canyon Trash Capture And Removal System	A1	\$250,000	Board-Managed	Waiver

#### II. ITEM HISTORY

The Board has not previously considered the proposed project.

#### III. OPTIONS FOR THE BOARD

Options for the Board include:

1. Approve the proposed project;
2. Disapprove the project; or
3. Direct staff to provide additional information and bring the projects back to a future meeting of the Board.

#### IV. STAFF RECOMMENDATION

Staff recommends Option 1 and adoption of Resolution 2009-12.

#### V. ANALYSIS

##### A. Key Issues and Findings

The Program addresses cleanup of solid waste disposal and codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for a timely remediation and where cleanup is needed to protect public health and safety or the environment (Public Resources Code 48020-48028). Cleanup projects are implemented through Board-managed contracts, grants, and loans. The Board

approved Program policies in February and September 1994, March and September 1995, and February, June, and August 1999.

Regulations incorporating the approved policies were adopted by the Board in May 2000 and became effective September 11, 2000.

Title 14, California Code of Regulations, section 18904 specifically lists eligible and ineligible remedial actions under the Program and allows the Board to consider approval of any other remedial actions not specified as ineligible. Unless otherwise noted, specific actions proposed for each project are specifically eligible pursuant to the regulations.

By cleanup and prevention of illegal disposal sites and cleanup of solid waste disposal and codisposal sites, the Program supports implementation of the Board's Strategic Directives (SD) 4 and 8 to assure safe and adequate landfill disposal and long-term maintenance of landfills (SD-4), and to manage and mitigate the impacts of solid waste and tires on public health and safety and the environment (SD-8). The Program also specifically supports implementation of SD-8.9 to enhance local and regional capabilities to prevent and redress illegal dumping.

#### **B. Environmental Issues**

Based on available information, staff is not aware of any environmental issues related to this item. However, the proposed grant will clean up waste that poses a health and safety threat to the public health and safety and the environment.

#### **C. Program/Long Term Impacts**

Based on available information, staff is not aware of any long-term impacts related to this item.

#### **D. Stakeholder Impacts**

Based on available information, staff is not aware of any impacts to stakeholders related to this item.

#### **E. Fiscal Impacts**

Detailed fund balance and contract funding information are contained in Section VI. At the time this agenda item was prepared the amount available for contracts, grants, and loans was approximately \$4,350,200. The amount proposed in this item is \$250,000 for one Board-managed project to be funded out of the existing Southern California remediation contract (IWM07037). The fund and contract balance information in Section VI reflects the proposed Fiscal Year (FY) 2008/09 appropriation.

#### **F. Legal Issues**

Public Resources Code Section 48023 directs the Board to seek reimbursement for monies expended under the Program to the extent possible. Expended funds may be

recoverable from the property owners and other responsible parties in a civil action brought by the Board [Public Resources Code Section 48023(c)] and/or by imposing a lien upon the real property owned by the property owners that is subject to the remedial action [Public Resources Code Section 48023.5(a)].

Under the Program cost recovery policy (Resolution No. 1999-199), the Board may decide not to pursue cost recovery based on factors including, but not limited to: (1) publicly owned sites maintained for public benefit and use; (2) the owner did not cause the disposal of waste; (3) the owner will not gain a benefit due to condition of property; (4) the value of property significantly less than cost of cleanup; (5) hardship to the property owner; or (6) no responsible party. The decision not to pursue cost recovery requires four affirmative votes from the Board.

Provisions to indemnify the Board are contained in standard agreements with Board contractors. Cooperative agreements with site owners and grantees are established prior to the start of approved Board-managed and grant projects, which include, when applicable, specific cost sharing or cost recovery provisions in order to ensure that the Board is properly reimbursed, and provide indemnification against liability for acts or omissions of the owner and/or grantee. In addition, Section 25400 of the Health and Safety Code provides additional immunity from liability for the Board from cleanup projects.

Enforcement aspects for the project are summarized in the attachments. Cost recovery aspects of this item are summarized in Table 1 and are included in the attachments.

**G. Environmental Justice**

Based on available information, staff is not aware of any environmental justice issues related to this item.

**VI. FUNDING INFORMATION**

Solid Waste Disposal Trust Fund Status Information:

1. Fund Source	2. Amount Available	3. Amount to Fund Item	4. Amount Remaining	5. Line Item
Solid Waste Disposal Trust Fund	\$4,350,200	\$0 <sup>1</sup>	\$4,350,200	C & P

<sup>1</sup> See discussion regarding fiscal impacts in Subsection V(E).

Board-Managed Remediation Contract Status Information:

1. Fund Source	2. Amount Available	3. Amount to Fund Item	4. Amount Remaining	5. Geographic Area
Contract IWM07036	\$769,000	\$0	\$769,000	Northern California
Contract IWM07037	\$2,750,000	\$250,000	\$2,500,000	Southern California

**VII. ATTACHMENTS**

1. Tijuana River Valley And Estuary Goat Canyon Trash Capture And Removal System
2. Resolution Number 2009-12.

**VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION**

**A. Program Staff:** Scott Walker

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**B. Legal Staff:** Steve Levine

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**IX. WRITTEN SUPPORT AND/OR OPPOSITION**

**A. Support**

Support for specific sites is indicated in the attachment.

**B. Opposition**

Staff had not received specific opposition at the time this item was submitted for publication.