

**BEACH EROSION AUTHORITY
FOR CLEAN OCEANS AND NOURISHMENT (BEACON)
VENTURA AND SANTA BARBARA COUNTIES, CALIFORNIA**

In the Matter of Prohibiting Single-Use Bags

Resolution 2011-1

WHEREAS, a primary responsibility of the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) is the protection of our beaches and coast as well as the preservation, protection and enhancement of clean ocean waters, and;

WHEREAS, single-use plastic bags are a significant contributing factor to creek and ocean pollution, and;

WHEREAS, the continued use of single use bags hampers the ability of, and exacerbates the cost of, local agencies complying with the National Pollution Discharge Elimination System (NPDES), and total maximum daily loads (TMDL) limits for trash, pursuant to the federal Clean Water Act, and;

WHEREAS, the improper disposal of non-compostable plastic bags constitutes a major component of pollution and littering of our littoral streams and ocean waters, to the detriment of the environment, wildlife and our citizens enjoyment and use of these ocean and littoral resources, and;

WHEREAS, prohibition of single-use bags within BEACON's jurisdiction will reduce coastal and ocean impacts from plastic bags, and;

WHEREAS, BEACON recognizes other entities that have endorsed resolutions supporting the ban of single-use plastic bags such as the Channel Islands Marine Sanctuary Advisory Council.

THEREFORE, be it resolved that the Board of Directors of BEACON resolves to:


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Resolution 2011-1

1. Support and endorse efforts to ban and or restrict single-use bags by BEACON member agencies, other government agencies within the counties of Santa Barbara and Ventura, and other citizen initiatives to limit the adverse impact of single use plastic bags on our ocean's environment.
2. Support and encourage educational campaigns for voluntary use of reusable shopping bags.
3. To seek support from member agencies and other agencies within the counties of Santa Barbara and Ventura for BEACON to pursue a regional Environmental Impact Report (EIR) for the ban and or restriction of single-use bags.

Resolved by the Board of Directors of BEACON, this 23rd day of September, 2011.



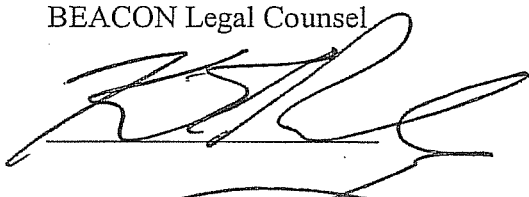
Salud Carbajal
BEACON Chair

Attest:

Brian Brennan
Executive Director

Approved as to Form:

BEACON Legal Counsel



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Resolution 2011-1

Kevin E. Ready, Sr.

beacon/resolutions/res2011-1.doc

STAFF REPORT

Meeting Date: 09/23/11
Agenda Item: 07

To: BEACON Board of Directors
From: Executive Director
Date: 09/15/11

Subject: Plastic Bag Ordinance

REQUIRED ACTION:

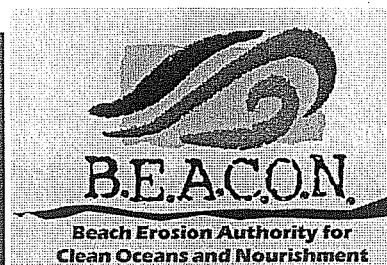
- a. Receive Verbal Report on Plastic Ban and Review Options for BEACON
- b. Consider Adoption of Plastic Bag Ban Resolution, Resolution 2011-1 (Attached)
- c. Determine that approval of Resolution 2011-1 is exempt pursuant to Section 15061(b)(3) of CEQA
- d. Provide Further Direction to Staff

DISCUSSION:

At the May 20, 2011 BEACON Board Meeting, a discussion item on single-use plastic bags was included on the Board agenda. The main discussion point was whether BEACON, as a regional agency, should consider a single-use plastic bag ordinance of some sort. At that time the California Supreme Court was considering a challenge by Save the Plastic Bag Coalition (SPBC), a lobbyist group representing a coalition of plastic bag producers, on a 2008 City of Manhattan Beach plastic bag ban. The Supreme Court heard arguments on May 4, 2011 and was expected to render an opinion sixty to ninety days following the hearing. The decision came down on July 14, 2011, details of which are described below. As a result, the Board directed staff to continue the item to the September 2011 BEACON Board Meeting, pending the results of the Supreme Court decision on the Manhattan Beach case.

Much State wide debate has occurred during the last three years regarding the banning of single-use plastic bags due to the environmental impacts they cause. To date at least thirteen municipalities within California have approved a ban on single-use plastic bags. Other municipalities within the U.S. outside of California have also issued bans or restrictions. In addition, single-use plastic bags are either restricted or banned in more than 25 percent of the world.

In 2010, LA County approved an EIR and Ordinance banning single-use plastic bags and asked Cities within the County to also adopt the Ordinance. Details on the LA County Ordinance and EIR are discussed below. Also in 2010, after a contentious debate, California lawmakers rejected a bill that would have made the State the first in the nation to ban all single-use plastic shopping bags. Opponents of the bill argued that the ban went too far to regulate personal choice.



A California Joint Powers Agency

Member Agencies

City of Carpinteria
City of Goleta
City of Oxnard
City of Port Hueneme
City of San Buenaventura
City of Santa Barbara
County of Santa Barbara
County of Ventura

Santa Barbara Address:

105 East Anapamu, Suite 201
Santa Barbara, CA 93101

Ventura Address:

501 Poli St.
P.O. Box 99
Ventura, CA 93001

Telephone:

(805) 662-6890

Facsimile:

(805) 568-2982

Email:

Beacon.ca.gov

Internet:

<http://www.beacon.ca.gov>

BEACON BOARD OF DIRECTORS' MEETING

Friday, September 23, 2011

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Many of the BEACON member agencies have also considered a plastic bag ban within their respective jurisdictions. However, to date no BEACON member agency has moved forward with a ban.

Attachment A to this staff report is a summary of information and history of single-use plastic bag bans and restrictions.

Why is BEACON Interested?

BEACON's mission is coastal protection, clean oceans and nourishment. As a result, BEACON would have an interest in anything causing the deterioration of the marine environment within and contiguous to the jurisdictions of BEACON's member agencies.

Manhattan Beach Case.

On July 14, 2011, the California Supreme Court ruled in favor of the City of Manhattan Beach's single-use plastic bag ban, holding that state law does not require the City to complete a full Environmental Impact Report ("EIR") in order to impose the ban. This decision will make it easier for similar sized cities to prohibit stores from distributing plastic grocery bags without having to do an EIR.

Previously, California cities have been deterred from acting to pass local ordinances because of the potential to be sued by opponents to single-use plastic bag bans. This decision means that it is safe for smaller cities to proceed in enacting a local bag ban ordinance with merely an accompanying Negative Declaration rather than a full Environmental Impact Report (EIR) to fulfill their California Environmental Quality Act (CEQA) requirement. The decision does focus on Manhattan Beach being a smaller city, with a population of approximately 36,000, as one of the justifications for environmental impact being low.

A significant distinguishing factor between the Manhattan Beach case and the more recent bag bans that have been passed in California is that it also includes a 5-cent fee on single-use paper bags. By deterring all single-use bags (both plastic and paper), there is less of an argument that a restriction on plastic bags will increase the use of paper bags – an argument often argued by the plastic bag coalitions.

The object of all cities that are trying to regulate bags in California is to encourage consumers to shop with reusable bags and to encourage the habit of bringing your own bag to the store. The Manhattan Beach ordinance that regulates both paper and plastic, achieves the greatest environmental benefit and stops a waste of natural resources used to make the single-use bags.

Finally, the Supreme Court ruling does not discount cumulative impacts. So while a city may be small, if adjacent cities or communities have a ban in place, there may be cumulative impacts that would justify a full EIR.

LA County EIR on Single Use Plastic Bag Ban and Ordinance.

In 2010 LA County certified an EIR assessing the potential environmental impacts associated with a proposed ordinance banning plastic carryout bags in LA County from certain stores. (See attached cover – full document is on the BEACON website - www.beacon.ca.gov/meetings/1109/agenda_1109.htm). The EIR identified a number of areas of controversy; these included socioeconomic impacts, impacts of compostable bags, impacts to public health, and impacts of the plastic carryout bags versus impacts of paper carryout bags.

The analysis undertaken in support of the LA County EIR determined that there are several environmental issue areas related to CEQA that are **not** expected to have significant impacts resulting from implementation of the proposed project. These issue areas are agriculture and forest resources, aesthetics, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, mineral resources, noise, population and housing, public services, recreation, and transportation and traffic. These issue areas, therefore, were not carried forward for detailed analysis in the EIR.

Certain plastic bag industry representatives have suggested that the banning of plastic carryout bags could potentially result in the increased manufacture of paper carryout bags, which may lead to potentially significant environmental impacts. As a result, LA County decided to carry forward five environmental issues for more detailed analysis in the EIR. The issue areas were air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and utilities and service systems. The EIR assessed that the proposed ordinance would not result in any significant adverse impact in any of these study areas and would result in a beneficial impact for biological resources.

What Could BEACON as an Agency Do?

As a joint powers agency, BEACON could adopt some form of single-use plastic (and paper) bag ban and/or use fee. This plastic bag ban ordinance would apply to the entire unincorporated counties of Santa Barbara and Ventura and the six coastal cities of Goleta, Santa Barbara, Carpinteria, Ventura, Oxnard and Port Hueneme. Non-coastal cities within the two counties would not be subject to the ordinance but could choose to consider adoption of the same or a similar ordinance.

As a lesser position, BEACON could adopt a Resolution supporting the ban of single-use plastic bags.

What Are the Risks/Costs to BEACON of Adopting a Single-Use Plastic Ban Ordinance?

A number of risks and costs would need to be addressed should BEACON pursue the development of some sort of plastic-bag ban or restriction ordinance. These are the following:

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- Given the size of BEACON's collective jurisdictions it would have to prepare a full EIR, unlike the smaller City of Manhattan Beach. However, BEACON could use the certified LA County EIR as a basis for its EIR. The preparation of an EIR would require considerable cost to BEACON which it does not have budget for. As a result a special assessment from the BEACON member jurisdictions would be required.
- There is a possibility that opposition to the plastic-bag ban will still challenge any EIR that BEACON prepares. Funding the defense of such a challenge would not be possible for BEACON and would require supplemental contributions from the BEACON member jurisdictions. However, the LA County EIR has not been challenged yet.
- There may be BEACON member agencies that would not support the assumed plastic-bag ban or restriction ordinance and there is a risk that these agencies could choose to withdraw from BEACON membership in protest. The depletion of BEACON's member agencies would result in the dilution of the authority and importance of BEACON as a regional agency and would reduce the critical operating budget of BEACON.

Options.

Option A – Consider Adoption of a Plastic Bag Ban or Restriction and move forward with preparation of an EIR.

Within this option, there are a number of variations ranging from a ban on single-use plastic bags to a single-use plastic bag fee, to a ban on single-use plastic bags plus a fee for paper bag use.

Option B – Consider a Resolution Supporting Bans on single-Use Plastic Bags.

Attached is a Resolution for consideration by the Board. The resolution indicates BEACON's support for single-use plastic bag bans within BEACON's jurisdiction. The Resolution is justified by the detrimental impact on the BEACON Coast and Pacific Ocean, of single-use plastic bags.

Option B – Do Nothing.