

# LAW OFFICE OF MARC CHYTILO, APC

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ENVIRONMENTAL LAW

December 9, 2016

County of Santa Barbara  
Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101

*By hand delivery and by email to*  
[sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

RE: Tajiguas Resource Recovery Project Financing, 12/13/16 Agenda Item #2

Dear Chair Adam and Supervisors,

This office represents the Gaviota Coast Conservancy (GCC) in this matter. While GCC supports the goals of reducing landfill dependence by diverting Municipal Solid Waste (MSW) that is not currently recycled or composted and to reduce GHG emissions, the TRRP is an overpriced and risky solution that unnecessarily prolongs the industrial use of the Gaviota Coast. There are cheaper and more environmentally sustainable solutions that the Final Environmental Impact Report (FEIR) failed to analyze in detail. Specifically, the project's goals could be achieved faster, with greater environmental benefits, and far less expensively through enhanced source separation, traditional composting, and carbon farming. Under this alternative, the County could continue to use Tajiguas Landfill for residual disposal, but would not further industrialize the Gaviota Coast by constructing costly new infrastructure that would virtually guarantee decades more, if no indefinite operations at the Tajiguas Landfill. At the end of its currently permitted capacity, the County should honor the commitment it made to the public in 1999 that Tajiguas Landfill will be responsibly closed.

The Board is poised to take on \$122,000,000 in debt to finance a project that is not well understood by the public, including ratepayers that will face substantial (40%) increases in their trash bills over the next 10 years. Given the dramatic rate increases associated with the TRRP, notification pursuant to Proposition 218 prior to the Board approving the Project financing is warranted and may be legally required. Moreover, County residents should have been clearly presented with the choice of whether to take on \$200 Million in new liabilities, or instead commit to better separating our trash and reducing the waste we produce. Our guess is that most would *not* choose the TRRP.

The Staff Report fails to acknowledge that approval will increase trash disposal rates by over 10% within the year, and over 40% in the next 10 years. Even these drastic increases rely on unreasonable and highly suspect assumptions regarding revenues from recycling (entirely dependent on China's acceptance of recycled materials, which is projected to be adversely affected by Trump) and low interest rates, which are already climbing (due to Trump).

Other jurisdictions have not chosen the same path as the County. Based on our research, we found **no Anaerobic Digestion (AD) project in the state is publicly financed**. No operating AD project in California uses organics originating in a comingled brown bin, contrary to staff's assertions. This includes San Jose, which uses commercial SSOW organics, and organics collected

through a wet/dry system (BioCycle, April 2014, Vol. 55, No.3<sup>1</sup>); and South San Francisco and the CC&R facility at Perris which process SSOW only. Relying on the experience of jurisdictions that have programs for source-separated organic wastes is an apples-to-oranges comparison. Moreover, it appears that jurisdictions that had at one time been pursuing AD are now pursuing lower-cost alternatives. For example, the City of Napa recently approved \$12 million in bond financing to construct an aerated static pile covered compost facility and associated stormwater management improvements, **omitting the previously planned AD facility from its financing.**<sup>2</sup> Palo Alto also **abandoned a previously proposed dry-AD project** in lieu of an alternative using composting and wet-AD.<sup>3</sup>

There are significant technological and financial risks associated with the TRRP that have not been adequately disclosed or taken into consideration. The proposed financing structure puts the very viability of the Project at risk, with the proposed “Installment Purchase Revenue COP” relying on there being sufficient net revenues from the TRRP to make the loan payments (over \$9 million annually). Variables affecting the TRRP’s net revenues include: the fluctuating (and currently declining) recyclables market (which could be decimated should President Trump disrupt relations with China as promised), the volume of trash disposed of (affected by waste reduction and reuse, and alternative organics processing, among other things), operations and maintenance costs – including costs associated with AD failure, the unknown quality and marketability of the compost product, and the changing regulatory landscape.

The County rates **next to last** in its solid waste diversion rates (beating only Solvang and its incomplete program). While Carpinteria diverts 78%, the programs in Lompoc, Santa Maria and Guadalupe exceed 40%. The County’s weak and ineffective programs result in diversion of only 30%.

There is ample opportunity to increase diversion rates through community outreach and education, programs that are **disincentivized by the TRRP.**

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<sup>1</sup> Available at <https://www.biocycle.net/2014/03/28/high-solids-anaerobic-digestion-composting-in-san-jose/>

<sup>2</sup> See <http://www.napa-ca.gov/sirepub/cache/2/m32hujmh0x50qbvme1c3e5na/232169610122016042421586.PDF> for Council agenda report

<sup>3</sup> See <http://www.paloaltoonline.com/news/2014/04/24/years-after-divisive-vote-palo-alto-proposes-sharp-shift-on-composting>

Jurisdiction	Diversion Rate %	Biennial Review Status	# Programs Implemented
<a href="#">Buellton</a>	39	Board Approved	<a href="#">36</a>
<a href="#">Carpinteria</a>	78	Board Approved	<a href="#">31</a>
<a href="#">Guadalupe</a>	44	Board Approved	<a href="#">30</a>
<a href="#">Lompoc</a>	48	Board Approved	<a href="#">35</a>
<a href="#">Santa Barbara</a>	No Rate	<b>Board Approved:</b> Based on current data a diversion rate cannot be accurately determined due to inaccurate base year data, a CalRecycle approved base year that is later than the report year or other issues.	<a href="#">33</a>
<a href="#">Santa Barbara-Unincorporated</a>	30	Board Approved	<a href="#">33</a>
<a href="#">Santa Maria</a>	46	Board Approved	<a href="#">29</a>
<a href="#">Solvang</a>	20	Board Approved Good Faith Effort	<a href="#">28</a>

<http://www.calrecycle.ca.gov/LGCentral/Reports/jurisdiction/diversiondisposal.aspx>

Specifically, there are an array of waste reduction efforts that are already underway that could substantially decrease the quantity of recyclables and organics sent to the AD, undermining financial projections. These include government-backed efforts such as SB 1383, just signed by Governor Brown in September 2016, which requires that food scraps, a minimum of 20% of the 75% of organics that will be banned from landfills in 2025, be diverted for human consumption. The private sector has also taken considerable initiative toward finding better uses for their organic waste, including repurposing into saleable items, donation to the hungry, and selling “ugly” produce. “[A]ccording to the Department of Agriculture, about a third of the available food supply at retail and consumer levels goes uneaten, which equates to 133 billion pounds and a loss of \$162 billion in value.”<sup>4</sup> The county must reduce its projections of the volume of organics in response to these new mandates.

On the recyclables front, CalRecycle estimates that packaging represents about one quarter of California’s total disposal stream<sup>5</sup>, and launched a “Manufacturers Challenge” for manufacturers and brand owners to reduce packaging to achieve California’s statewide goals<sup>6</sup>. Between the on-going collapse of the market for recyclables, a new era in relations with the world’s biggest recycler China, and a reduction in the packaging that is the majority of the recycled stream, a 22 year contract that relies on unrealistic historical recycling income as the largest source of revenue is extremely risky,

<sup>4</sup> <http://fortune.com/2016/03/08/whole-foods-ugly-fruit-vegetables/>; see

<http://www.npr.org/sections/thesalt/2016/07/20/486664266/walmart-world-s-largest-grocer-is-now-selling-ugly-fruit-and-veg>

<sup>5</sup> <http://www.calrecycle.ca.gov/reducewaste/Packaging/>

<sup>6</sup> <http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1466&aiid=1335>

and if your choice is wrong, ratepayers will pay ever increasing rates for solid waste disposal, until rates cannot be raised further. At that point, **general funds will be needed.**

To implement the carbon sequestration programs contemplated in the Paris Agreement and offset even a portion of local greenhouse gas emissions, Santa Barbara needs a very large volume of high quality compost to apply to local soils. The volume of compost needed to simply offset agricultural carbon emissions is ten times the TRRP's compost volume, assuming landowners are willing to accept the AD-produced compost, which is unlikely.

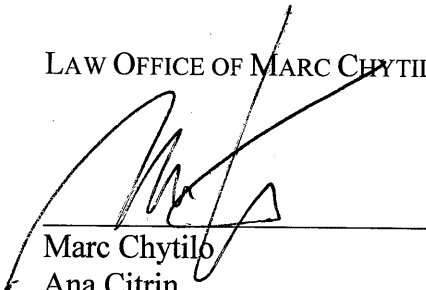
We are deeply concerned that the County has lost objectivity over this process, and is pursuing the TRRP as a means of maintaining control of South Coast MSW and extending the use of the poorly sited and antiquated Tajiguas Landfill at any cost. Given the Project's cost, significant risk of failure, and significant long-term impacts to the Gaviota Coast, it is unacceptable that the Board did not ensure that all potentially feasible alternatives were fully explored.

It should go without saying that the project's class 1 impacts to the Gaviota Coast justify its denial. Siting the Tajiguas Landfill on the Gaviota Coast was clearly a bad choice, but one made years ago. In 1999, the Board of Supervisors directed staff to close Tajiguas Landfill by 2016, but instead, you are considering extending active use of the Tajiguas Landfill for highly impactful and completely inconsistent activities for 40 or more years. Your Board has two choices – exacerbate the desecration of the Gaviota Coast or vote for a low cost, environmentally superior, sustainable, alternative. The EIR failed to even try to achieve mitigation measures to address these long-term impacts upon the Gaviota Coast and simply adopted a set of bland overriding considerations. Approving this project constitutes an abdication of your commitment to the preservation of the Gaviota Coast.

We respectfully request that the Board refrain from approving the financing package and to direct staff to thoroughly evaluate whether the County can achieve waste and carbon reduction targets without saddling the County with \$122 Million in debt, and locking the County in to a technological solution that relies on the production and disposal of consistently high volumes of waste.

Respectfully submitted,

LAW OFFICE OF MARC CHYTILO



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Ana Citrin

For Gaviota Coast Conservancy